
EXPLANATORY NOTE

(This note is not part of the Order)

The regulations prescribe the procedures to be followed in the investigation and determination of allegations of misconduct by judicial office holders under chapter 3 of Part 4 of the Constitutional Reform Act 2005 (c. 4). The procedures govern the exercise of the Lord Chancellor's powers to remove judicial office holders and the Lord Chief Justice's statutory powers formally to advise, warn or reprimand them, or to suspend them from office. They also govern the investigation of allegations about judicial office holders appointed by the Lord Chancellor who sit wholly or mainly in Scotland or Northern Ireland. In these cases, the Lord President of the Court of Session or the Lord Chief Justice of Northern Ireland has the same powers as the Lord Chief Justice of England and Wales.

The regulations also form part of the implementation of the Concordat agreed between the Lord Chancellor and the Lord Chief Justice in January 2004. The Concordat sets out the principles governing the allocation of functions between the Lord Chancellor and the Lord Chief Justice, including an outline of the procedures to be followed in judicial disciplinary cases.

Part 1 provides for the citation and commencement of the regulations, defines certain terms used in them, and provides for the designation of dedicated officials in an Office for Judicial Complaints (OJC) to support the Lord Chancellor and the Chief Justices in the investigation and determination of allegations. It also provides for time limits and their extension.

Part 2 deals with the persons to whom complaints are to be made. It provides for the making of rules by the Lord Chief Justice to govern the investigation of complaints (1) against magistrates by local advisory committees, and (2) against members of specified tribunals by their President or other designated senior judicial officer. It provides for complaints to be withdrawn, and for either the Lord Chancellor or the Lord Chief Justice to refer complaints for further investigation.

Part 3 provides for the initial consideration of complaints other than those against magistrates or relevant members of tribunals. It enables the OJC to make enquiries, and to dismiss a complaint to the extent that it falls within criteria set out in the regulations. Nominated judges will be appointed to advise the Lord Chancellor and the Lord Chief Justice on the action to be taken in cases not dismissed by the OJC.

Part 4 deals with the decisions which the Lord Chancellor and the Lord Chief Justice may take after a case has been investigated by the OJC and nominated judges, advisory committees or tribunal Presidents.

Part 5 enables the Lord Chancellor or Lord Chief Justice to refer cases for investigation, for the appointment of investigating judges and the procedures to be followed by them.

Part 6 provides for the Lord Chancellor and the Lord Chief Justice to dismiss cases, or to determine what disciplinary action they propose should be taken, to notify judicial office holders against whom it is proposed to take disciplinary action, and for the taking of final decisions after considering any representations.

Part 7 provides for the establishment of review bodies and for their functions and procedures.

Part 8 contains miscellaneous provisions for: cases to be deferred; procedures on the interim suspension of a judicial office holder; publicity in relation to disciplinary hearings; procedural requirements in relation to investigations by the Judicial Appointments and Conduct Ombudsman, and for the application to Scotland and Northern Ireland of relevant provisions of the Act relating to the Ombudsman; the delegation by the Lord Chief Justice of any of his functions under these

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regulations, apart from the rule-making power contained in regulations 9 and 10; and transitional arrangements for complaints made before the commencement of the regulations.