



Judicial Conduct Investigations Office

International Association of Judges Questionnaire Responses England and Wales

Introduction

The system of judicial discipline in England and Wales exists to ensure that judicial office-holders maintain the high standards of personal behaviour expected of them. Responsibility for judicial discipline is shared jointly by the Lord Chancellor and Lord Chief Justice. They are supported by the independent Judicial Conduct Investigations Office (JCIO).

The disciplinary system is based around the concept of misconduct, which means improper personal behaviour. Because judges are constitutionally independent, the system cannot be used to challenge judges' decisions.

The processes for considering complaints of misconduct are set down in statutory rules and regulations, which can be viewed on the JCIO website:

www.complaints.judicialconduct.gov.uk

Responses to Questions

1. What kind of allegation can justify disciplinary proceedings against judges in your country:

- a. an individual's behaviour only in the workplace or also in his/her private life?

Judges are expected to behave in ways which uphold the reputation of the judiciary in all areas of their life. Disciplinary proceedings may, therefore, apply to conduct both in and out of the workplace.

- b. Can the content of the decisions taken by judges also lead to disciplinary proceedings?

Only in very limited circumstances. The judiciary is constitutionally independent, which means that the disciplinary system cannot be used to challenge or undermine a judicial decision. However, in the unlikely event that a judge was to use highly inappropriate language in a decision, this could be dealt with via the disciplinary process.

- c. Can judges be charged criminally for the content of their judicial decisions under any circumstance?

The doctrine of judicial immunity means that judges in England and Wales cannot be sued/charged for the content of their decisions. Criminal proceedings would only be feasible in theory if a judge was found to have committed a general crime related to his/her decision, such as taking a bribe to find in favour of a particular party.

2. Which body is responsible for disciplinary proceedings against judges in your country?

The JCIO manages the process of investigating complaints of misconduct against salaried and fee paid courts judges. For tribunals judges, allegations are investigated by the chamber president of the relevant tribunal. (Following a recent review of the disciplinary system, it is expected that JCIO will also be responsible for complaints about tribunals judges in future).

3. Is the body that carries out the disciplinary procedure the same one that imposes the penalties?

No. Only the Lord Chancellor and Lord Chief Justice (or a senior judge acting on his behalf) can, by joint agreement, discipline a judge.

4. What is the composition of the body responsible for disciplinary proceedings?

The JCIO is staffed by civil servants. It currently has 15 staff members. The statutory processes for considering allegations of misconduct also have specific roles for judges and lay people, who are appointed by the Lord Chief Justice and Lord Chancellor respectively.

5. Which disciplinary penalties can be imposed on judges in your country?

- a. Is the disciplinary penalty of removal from office among them?

Yes. The sanctions available for misconduct are, in order of severity: formal advice, formal warning, reprimand and removal from office.

- b. Can a judicial conviction for a crime lead to a penalty or removal from office?

Yes.

6. In the disciplinary proceedings against judges in your country, is a fair trial granted?

- a. Is there an appeal against the decision imposing a disciplinary penalty on judges?

There is no appeal against a disciplinary decision (such a decision would have to be challenged through the courts via Judicial Review). However, the independent Judicial Appointments and Conduct Ombudsman can consider a complaint about how the disciplinary process has been operated. If he finds that the process was not followed correctly in a case,

his powers include overturning the decision and requiring a reinvestigation.

- b. During the disciplinary proceedings, can the judge be suspended from office?

Yes. The Lord Chief Justice can, with the Lord Chancellor's agreement, suspend a judge during a disciplinary investigation. This is called interim suspension. It can also be imposed if a judge is subject to a criminal investigation.

- c. Does the judge who is suspended during disciplinary proceedings continue to earn a salary normally or does the judge suffer any reduction in income?

Interim suspension has no bearing on salary. This is because it is imposed while an investigation is ongoing and before any findings have been made about the judge's conduct.

- 7. Were there any recent changes regarding disciplinary proceedings that may be considered to infringe upon judicial independence in your country?

No