



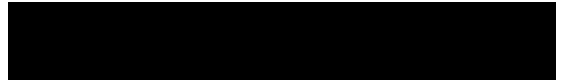
Judicial Conduct
Investigations Office

The Rt Hon Baroness Harriet Harman KC
Chair of the Independent Review of Bullying
and Harassment at the Bar

Bhreview@barcouncil.org.uk

BY EMAIL ONLY

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13 May 2025

Dear Baroness Harman,

JUDICIAL COMPLAINTS PROCESS

Thank you for your letter of 26 March in response to mine of 31 October 2024. I am sorry that due to an oversight on my part, this reply is reaching you later than I would have liked.

The JCIO has treated your request for information as a request under the Freedom of Information Act 2000 (FOIA). The Judicial Office (including the JCIO) is not a public authority within the meaning of section 3 of the FOIA because: a) it is not listed in schedule 1 of the FOIA; b) it has not been designated by order under section 5 of the FOIA; and c) it is not a publicly-owned company as defined by section 6 of the FOIA. However, to be helpful, we have provided as much information as possible on a discretionary basis below.

1. In each of the past five years, how many complaints has the JCIO received per year?

A: This information is available in the JCIO's published [annual reports](#). For your convenience, I have summarised it in the table below:

Year	Total complaints
2019/20	1,292
2020/21	1,236
2021/22	1,817
2022/23	1,620
2023/24	2,394

You may wish to note that the information pertaining to 2023/24 is from the [annual report](#) for that period, which has been published recently.

2. How many of these complaints have been made by barristers in relation to bullying and/or harassment by judges?

A: The JCIO does not record data about complaints in a way which would enable it to automatically differentiate between different types of complainants such as solicitors, barristers, members of public. To provide this information would, therefore, require the manual examination of over 8,000 individual records, which would be a disproportionate use of JCIO staffing resources.

3. In each of the past five years, how many of those complaints made by barristers in relation to bullying and/or harassment have been assessed by the JCIO as eligible complaints?

A: Please see answer to question 2.

4. Of those which have been assessed as eligible, how many have been upheld and resulted in a sanction?

A: In line with my response to question 2, this information is not recorded by complainant. More generally, our annual reports contain information about the total numbers of upheld complaints of all types in each reporting year. For your convenience, I have summarised this information in the table below.

Year	Total upheld
2019/20	42
2020/21	53
2021/22	33
2022/23	36
2023/24	58

5. In each of the last five years, how many JCIO cases concerning barristers resulted in the removal of judges from office? Of these cases, how many concerned the bullying and/or harassment of barristers?

A: Please see answer to question 2.

6. Of those complaints made by barristers which have been rejected, on what basis were they rejected?

A: Please see answer to question 2. More generally, the JCIO is obliged by the Judicial Conduct Rules 2023 to reject complaints which do not meet the criteria set out in rule 8 of those rules:

“8. A complaint must—

- (a) state the name of the person making the complaint;
- (b) state the address or email address of the person making the complaint;
- (c) contain an allegation of misconduct on the part of an identified or identifiable person holding an office, which is supported by relevant details as specified in guidance published by the JCIO from time to time;
- (d) state the date, or dates, that the alleged misconduct took place unless the JCIO decides that this is unnecessary taking into account all the circumstances of the complaint.”

7. In each of the past five years, how many complaints made by barristers have been concluded within the JCIO’s target timeline of twenty weeks?

A: Please see answer to question 2. More generally, the JCIO reports on its performance against publishes key performance indicators in its annual reports.

8. For cases that exceeded the twenty week target, what were the reasons for delay?

A: Please see answer to question 2.

9. In your view, what is the reason for

- a. the small number of complaints made by barristers
- b. the small number of complaints made by barristers that proceed to an investigation; and
- c. the small number of complaints made by barristers that result in sanction?

A: Please see answer to question 2.

10. Does the JCIO undertake any engagement with the profession in order to assist barristers in (a) identifying when judicial misconduct constitutes bullying and/or harassment and (b) how to make complaints against judges?

A: The JCIO's [website](#) contains detailed information about the issues which are within its remit. We also provide information about the complaints process to organisations on request. We have provided the Bar Council with information about the complaints process and the JCIO's remit on request in the past. Should the Bar Council wish to request additional information about the complaints process in future, we will be happy to provide it.

11. Does the JCIO provide any advisory services to barristers considering making a complaint?

A: Please see answer to question 10. More generally, it would not be appropriate for a body such as the JCIO, which must remain neutral, to offer "advisory services" to potential complainants or the subjects of complaints beyond the provision of general information about the complaints process and the JCIO's remit.

12. Does the JCIO have guidance to assist in assessing whether judicial behaviour is proper conduct in the context of a case or whether it constitutes misconduct which may require disciplinary action?

A: The JCIO has produced guidance to assist nominated judges, investigating judges and disciplinary panels to help them decide whether the facts of a particular complaint amount to misconduct and, if so, the appropriate sanction to recommend. This guidance, [Misconduct and Recommending Sanctions](#), is published on our website.

13. Please provide examples of behaviour which has been the subject of complaint that has not met the threshold of misconduct. Please provide examples of behaviour that has crossed the threshold and that has been considered as bullying or harassment.

A: The JCIO does not record information in a way that would enable us to give examples. The [disciplinary statements](#) published on our website provide a source of information about the sorts of conduct for which the Lord Chancellor and the Lady Chief Justice (or one of her senior judicial delegates) have taken disciplinary action.

14. Rule 12 of the Judicial Conduct Rules 2023 requires that a complaint be made within three months of the matter complained of. What is the rationale for not considering complaints based on conduct that occurred more than three months prior to the complaint being made?

A: Before changes were made to the complaints process with publication of the Judicial Discipline (Prescribed Procedures) Regulations 2023 and the Judicial Conduct Rules 2023, the then Lord Chancellor and then Lord Chief Justice agreed that three months strikes the right balance between giving complainants reasonable time to make a complaint and giving office holders a reasonable timeframe for recollection when they are asked to respond. The rules do enable the JCIO to extend the time limit for making a complaint in exceptional circumstances. The JCIO cannot reject a complaint as out of time without first giving the complainant the opportunity to make representations as to exceptional circumstances, which may include that a complaint is about a pattern of behaviour over time.

15. Rule 8c of the Judicial Conduct Rules requires that a complaint must “contain an allegation of misconduct on the part of an identified or identifiable person holding an office, which is supported by relevant details as specified in guidance published by the JCIO from time to time.” How is Rule 8c in respect of ‘relevant details’ applied in practice?

A: JCIO caseworkers assess all complaints on receipt to determine whether they comply with the criteria in Rule 8. This includes carefully considering whether a complaint contains an allegation of misconduct supported by relevant details. Our website contains [guidance about the meaning of relevant details](#) in relation to different types of complaints.

16. Is the JCIO able to obtain the evidence required to undertake effective investigations? If not, please give examples of where accessing the relevant evidence has not been possible.

A: Yes. Regulation 4(3) of the Judicial Discipline (Prescribed Procedures) Regulations 2023 provides that the JCIO may undertake such enquiries as are necessary for it to perform its functions. The Judicial Conduct Rules 2023 also contain provisions regarding the making of enquiries to establish the facts of a complaint.

17. Is the JCIO able to obtain audio recordings of hearings as a matter of right? If not, what is the process for obtaining recordings?

A: While not all types of hearings are recorded, for those which are, depending on the type of hearing, JCIO caseworkers can access some recordings online via a system called ‘DARTS’. If a recording is not available on DARTS, it will be requested from the relevant court office. The JCIO has no record of such a request ever being refused.

18. Does the complainant have an automatic right to listen to audio recordings obtained by the JCIO? Does the JCIO send copies of audio recordings to complainants as a matter of course?

A: It is open to parties to request access to recordings, where available. Individual court offices have their own procedures for the making and considering of such requests.

19. Where there are no audio recordings of a hearing, what is the JCIO’s approach to assessing non verbal communication? What alternative evidence is available, if any, to assess non verbal communication?

A: Please see response to question 16. An example of a line of enquiry in relation to a complaint about non-verbal communication would be seeking comments from other people who were present at the time of the alleged misconduct.

20. Would it assist with JCIO evidence gathering if all courts and tribunals were required to record their proceedings?

A: As noted in response to question 16, the JCIO can obtain the evidence required to undertake effective investigations.

21. Where a court case has been successfully appealed on the basis of judicial misconduct, does the JCIO instigate an investigation as a matter of course? If not, why not?

A: Where the JCIO is aware of information in the absence of a complaint which may raise a question of misconduct, it will invite a nominated judge to consider it under Rule 132 of the *Judicial Conduct Rules 2023*:

“132. Where a nominated judge receives information from any source which raises a question of misconduct by an office holder they must refer the case to the JCIO.”

22. In addition to consideration of complaints and cases referred by the Ombudsman or a nominated judge, is the JCIO able to undertake investigations of its own motion? If not, would the JCIO welcome an expansion of its powers to allow for ‘own motion’ investigations into judicial behaviour in relation to barristers?

A: This issue was considered as part of the review referred to in my previous reply. Please refer to pages 75-77 of the [public consultation response document](#).

23. What support is available to complainant barristers during a JCIO investigation? Is any signposting provided to other services?

A: This is a question which we consider that the Bar Council would be better placed to answer.

24. Does the JCIO take any steps to reduce the risk of victimisation of a complainant barrister by the judge in question (a) while the investigation is ongoing and (b) after conclusion of the investigation? If so, what steps are taken?

A: The JCIO is a neutral investigative body which does not provide support services to the parties to complaints.

25. Does the JCIO take any steps to avoid the judge hearing cases in which the complainant is acting while the investigation is ongoing, and/or provide any information to barrister complainants about making applications for recusal for potential bias?

A: Recusal is a decision for individual judges. The JCIO has no authority to interfere in, or provide advice to complainants about, such matters.

26. What in practice, is the difference between a formal warning and a reprimand?

A: You can find information about the different levels of sanction at pages 13-14 of [Misconduct and Recommending Sanctions](#). While every complaint is considered on its individual merits, a sanction of a certain seriousness carries a risk that any subsequent finding of misconduct related to behaviour of a similar nature will result in a more serious sanction.

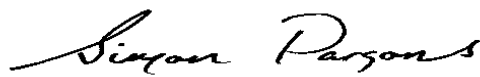
27. In cases involving a complainant barrister which do not reach the threshold for removal, is the JCIO able to impose measures such as mandatory training, court monitoring, increased oversight, or the issuing of apologies?

A: Irrespective of the outcome of a complaint, the JCIO has no powers to impose measures on independent judicial office holders.

28. Why is the database of disciplinary statements on the JCIO website not searchable by name or keyword?

A: This is simply due to the limitations of the platform on which the website was originally built. We expect to relaunch our website in the next year or so. As part of that process, we will be looking into adding a search function.

Yours sincerely,

A handwritten signature in black ink that reads "Simon Parsons". The signature is written in a cursive, flowing style.

Simon Parsons
Head of Operations
Judicial Conduct Investigations Office