

The Judicial Conduct (Tribunals) Rules 2014

Coming into force - -

18th August 2014

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SCHEDULE

The Lord Chief Justice, in exercise of the powers conferred by sections 115, 117, 120 and 121 of the Constitutional Reform Act 2005, and regulation 7 of the Judicial Discipline (Prescribed Procedures) Regulations 2014 and with the agreement of the Lord Chancellor, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, makes the following Rules:

PART 1

General

Citation and commencement

1. These Rules may be cited as the Judicial Conduct (Tribunals) Rules 2014 and come into force on 18th August 2014.

Interpretation

2.—(1) In these Rules—

“the Act” means the Constitutional Reform Act 2005;

“bank holiday” means a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom where service is to take place;

“business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of United Kingdom;

“case” means a complaint or issue of misconduct being considered under these Rules;

“complaint” means a complaint containing an allegation of misconduct by a tribunal member;

“delegated tribunal member” means a tribunal member who has been delegated by a President under rule 8 or a member of the panel of Employment Judges (Scotland) who has been delegated by the President of Employment Tribunals (Scotland) under rule 9;

“disciplinary action” means—

(a) the exercise by the Lord Chancellor of the Lord Chancellor’s power to remove a tribunal member from office; or

(b) the exercise by the Lord Chief Justice of the Lord Chief Justice’s powers under section 108(3), (4)(b) and (c) and (5) of the Act;

“disciplinary panel” has the meaning given by regulation 11 of the Regulations;

“investigating judge” has the meaning given by regulation 10 of the Regulations;

“licensing body” means any body that licenses or regulates any profession;

“President” has the meaning given in rule 5;

“Regulations” means the Judicial Discipline (Prescribed Procedures) Regulations 2014;

“relevant President” has the meaning given in rule 16;

“the relevant Chief Justice” means—

(c) in relation to a tribunal member who exercises functions wholly or mainly in Scotland, the Lord President of the Court of Session;

(d) in relation to a judicial office holder who exercises functions wholly or mainly in Northern Ireland, the Lord Chief Justice of Northern Ireland;

(e) in any other case, the Lord Chief Justice of England and Wales;

“tribunal member” has the meaning given in rule 4;

“tribunal member concerned” means the tribunal member whose conduct is being considered in accordance with these Rules.

Judicial office holders to whom these Rules apply

3. These Rules apply to a tribunal member.

4. A tribunal member is a person who holds an office in column 1 of the Schedule to these Rules.

Presidents: powers to exercise or delegate functions etc.

5. A President is a person who holds an office in column 2 of the Schedule to these Rules or a person acting on the President's behalf.

6. Rule 7 applies where—

- (a) the tribunal member concerned is assigned to more than one chamber of the First-tier Tribunal or of the Upper Tribunal; and
- (b) more than one President may be responsible for dealing with a complaint under these Rules.

7. In those circumstances, the Presidents must agree which President deals with the complaint under these Rules.

8. Subject to rule 12, a President may delegate their functions under these Rules to a tribunal member with suitable experience listed opposite the President in column 2 of the Schedule to these Rules.

9. Subject to rule 12, the President of Employment Tribunals (Scotland) may also delegate their functions to a member of the panel of Employment Judges (Scotland) appointed under regulation 8(2)(a) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 or under regulation 8(3)(a) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 in relation to a complaint about a member of the panels appointed under regulation 8(2)(b) or (c) of the Employment Tribunals Constitution and Rules of Procedure) Regulations 2013 in Scotland or under regulation 8(3)(b) or (c) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 in Scotland.

10. A delegation under rule 8 or 9 may relate to a category of complaints or to all complaints that a President is responsible for dealing with.

11. Before exercising their powers under rules 8 or 9 in respect of any complaint about a tribunal member who sits wholly or mainly in Scotland or Northern Ireland, a President must consult the Lord President of the Court of Session or the Lord Chief Justice of Northern Ireland, as the case may be.

12. A delegated tribunal member may not deal with a complaint about himself or herself.

13. For the purposes of a delegation under rule 8 or rule 9, if none of the tribunal members listed opposite the President in column 2 of the Schedule is available or has suitable experience to deal with a specific complaint—

- (a) where the tribunal member concerned exercises functions wholly or mainly in Scotland, the Lord President of the Court of Session may delegate to—
 - (i) another President or tribunal member listed in the Schedule who exercises functions wholly or mainly in Scotland;
 - (ii) a judge of the Court of Session;
 - (iii) a sheriff or a sheriff principal;
 - (iv) the President or a member of the Lands Tribunal for Scotland;
 - (v) a member of the panel of chairmen of VAT tribunals for Scotland; or
 - (vi) the President, the Vice President or a member of the panel of Employment Judges of Employment Tribunals (Scotland),
to deal with the complaint;
- (b) where the tribunal member concerned exercises functions wholly or mainly in Northern Ireland, the Lord Chief Justice of Northern Ireland may delegate to—
 - (i) another President or tribunal member listed in the Schedule who exercises functions wholly or mainly in Northern Ireland; or

(ii) a holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002,

to deal with the complaint;

(c) in any other case, the President may delegate their function to another President or tribunal member in the Schedule who does not sit wholly or mainly in Scotland or Northern Ireland but who has suitable experience to deal with the complaint.

14. Notwithstanding any delegation under rule 8 or 9, the President may decide to deal personally with a specific complaint.

Making a complaint about judicial misconduct

15. A complaint about a tribunal member must be made to the relevant President.

16. The relevant President is the President in column 2 of the Schedule to these Rules that corresponds to the tribunal member concerned in column 1 of the Schedule.

17. A complaint must contain an allegation of misconduct.

18. A complaint must be made in a complaint document unless the relevant President agrees to accept a complaint in another form.

19. A “complaint document” is a document in writing which—

- (a) is legible;
- (b) contains an allegation of misconduct on the part of a named or identifiable tribunal member;
- (c) states the date, or dates, the alleged misconduct took place; and
- (d) states the name and address of the person who is making the complaint.

20. A complaint document is to be accompanied by the originals or copies of all the documents within the control of the complainant to which he or she intends to refer.

21. The relevant President must not accept a complaint in any case where the complainant states that they do not want the tribunal member concerned to see a copy of the complaint document or of any document accompanying it.

Time limits within which a complaint must be made

22. A complaint must be made within three months of the latest event or matter complained of.

23. Subject to rule 25 (extension of time limits), the relevant President must not accept a complaint if the complaint is made outside the time limit in rule 22.

24. The complainant must be informed—

- (a) that their complaint has not been accepted because it is out of time; and
- (b) that they may make representations within ten business days of the notification that their complaint is out of time to the relevant President for an extension of the time limit.

Extension of time limits

25. The relevant President may extend the time limit for making a complaint only in exceptional circumstances.

26. The fact that a complaint may contain an allegation of misconduct will not, by itself, be sufficient reason for the relevant President to accept a complaint after the three month time limit

27. The relevant President may extend or shorten any other time limit under these Rules, whether or not the time limit has expired, where there is good reason to do so.

28. Where the relevant President has extended a time limit, they must—

- (a) inform the complainant and, if they are aware of the complaint, the tribunal member concerned; and
- (b) keep a record of the reasons for the extension.

Measurement of time for doing an act

29. In these Rules the time for doing any act in response to a notification, invitation or request (“the document”) starts on the day that corresponds to the method of delivery used in relation to the notification, invitation or request in the table below-

Method of delivery	Starting day
First class post (or other method which provides for delivery on the next business day).	The second business day after the day on which the document was posted.
Second class post.	The third business day after the day on which the document was posted.
Delivering the document to or leaving it at a permitted address.	If it is delivered to or left at the permitted address on a business day before 4.30pm, that day; or if delivered at, or after, 4.30pm, the next business day.
Fax.	If the transmission of the fax is completed on a business day before 4.30pm, on that day; or on the next business day transmitted.
Other electronic method.	If the e-mail or other electronic transmission is sent on a business day before 4.30pm, that day; or if delivered at, or after, 4.30pm, the next business day.

PART 2

Initial assessment by the relevant President

Scope

30. This Part applies where—

- (a) a complaint is made to the relevant President;
- (b) the Lord Chancellor and the Lord Chief Justice refer a complaint to the relevant President in accordance with regulation 13 of the Regulations;
- (c) the Ombudsman refers a case to the relevant President to investigate under section 111(7)(b) of the Act; or
- (d) a relevant President decides to deal with a case under rule 115.

Assessment of complaint

31. The relevant President must initially consider whether an allegation of misconduct has been made by the complainant.

32. If not, the relevant President may deal with the matter informally and may give such advice to the tribunal member concerned as the relevant President considers appropriate.

33. Where rule 32 applies, the relevant President must inform the complainant that the matter is being dealt with informally.

34. Otherwise, the relevant President must dismiss the complaint, or part of a complaint, if it falls into any of the following categories—

- (a) it does not adequately particularise the matter complained of;
- (b) it is about a judicial decision or judicial case management, and raises no question of misconduct;
- (c) the action complained of was not done or caused to be done by a tribunal member;
- (d) it is vexatious;
- (e) it is without substance;
- (f) even if true, it would not require any disciplinary action to be taken;
- (g) it is untrue, mistaken or misconceived;
- (h) it raises a matter which has already been dealt with, whether under these Rules or otherwise, and does not present any material new evidence;
- (i) it is about a person who is no longer a tribunal member;
- (j) it is about the private life of a tribunal member and could not reasonably be considered to affect their suitability to hold judicial office;
- (k) it is about the professional conduct in a non-judicial capacity of a tribunal member and could not reasonably be considered to affect their suitability to hold judicial office;
- (l) for any other reason it does not relate to misconduct by a tribunal member.

Procedure

35. The relevant President may not dismiss a complaint under rule 34(a) unless they have given the complainant a reasonable opportunity to provide adequate details of the complaint. A complainant must provide any further details within 15 business days of the request for further details made by the relevant President to the complainant.

36. Where an account of facts given by a complainant differs from an account given by the tribunal member concerned, the relevant President must consider any source of independent evidence which exists and which may help to verify the facts in dispute before the relevant President dismisses a complaint, unless to do so would be disproportionate in all the circumstances.

37. Where the relevant President dismisses a complaint under rule 34, they must inform—

- (a) the complainant of the dismissal and the reasons for it; and
- (b) if they are aware of the complaint, the tribunal member concerned.

38. Where the relevant President does not dismiss a complaint under rule 34, they must—

- (a) deal with the complaint under the summary process; or
- (b) consider the complaint under Part 4 of these Rules.

Interim suspension

39. Regulation 17 of the Regulations governs the procedure relating to the possible interim suspension of a tribunal member.

PART 3

Summary Process

Scope

40. This Part applies where the relevant President has—
- (a) considered a complaint in accordance with rule 31; and
 - (b) concludes that one of the paragraphs in rule 41 applies.

Summary process

41. The relevant President may advise the Lord Chancellor and the relevant Chief Justice that the tribunal member concerned should be removed from office without further investigation where the tribunal member concerned—

- (a) has been convicted in the United Kingdom of a criminal offence and has been sentenced to imprisonment, including a suspended sentence, as defined in section 189(7)(b) of the Criminal Justice Act 2003;
- (b) has been convicted elsewhere of any criminal offence which, if committed in any part of the United Kingdom would constitute a criminal offence, and has been sentenced to imprisonment, including a suspended sentence;
- (c) has been committed to prison for contempt of court (including a suspended committal order);
- (d) has been convicted in the United Kingdom of an offence involving dishonesty, deception, theft or perverting the course of justice;
- (e) has been convicted in the United Kingdom of a sexual offence or of a violent offence;
- (f) has been cautioned in relation to an offence falling within paragraphs (d) and (e) of this rule;
- (g) is an undischarged bankrupt or a person whose estate has had a sequestration awarded in respect of it and who has not been discharged;
- (h) is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order of like effect made in Scotland or Northern Ireland;
- (i) has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
- (j) is subject to—
 - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986;
 - (ii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002; or
 - (iii) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of administration order against an individual);
- (k) has failed to disclose information concerning their suitability to hold judicial office to—
 - (i) the Judicial Appointments Commission; or
 - (ii) to the person who made the appointment or who made the recommendation for the appointment,

- which they knew about before their appointment to their judicial office;
- (l) has at any time been subject to any investigation or proceedings concerning their fitness to practise by any licensing body, the final outcome of which was—
 - (i) the suspension of the tribunal member concerned from a register held by the licensing body, and that suspension has not been terminated,
 - (ii) the erasure of the name of the tribunal member concerned from a register held by the licensing body,
 - (iii) a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body, or
 - (iv) a decision that had the effect of only allowing the subject to the disciplinary proceedings to practise that profession subject to conditions, and those conditions have not been lifted;
 - (m) has been removed from another judicial office in accordance with prescribed procedures;
 - (n) has failed without reasonable excuse to comply with any sitting requirement specified in the terms of appointment to the judicial office concerned;
 - (o) is subject to any form of restriction or restraint in bringing proceedings before a court or a tribunal in any part of the United Kingdom.

Procedure

42. Before advice may be given under rule 41, the relevant President must give the tribunal member concerned an opportunity to make representations as to—

- (a) whether the alleged misconduct took place; and
- (b) if so, why they should not be removed from their judicial office.

43. The tribunal member concerned must provide the representations referred to in rule 42 within 15 business days of the request for them.

44. The relevant President can continue to provide advice under rule 41 only if—

- (a) the tribunal member concerned has provided representations within the time allowed; or
- (b) the time allowed for providing representations has elapsed and the tribunal member concerned has not provided any representations.

Report

45. The relevant President must prepare a report if they intend to advise the Lord Chancellor and the relevant Chief Justice under rule 41.

46. The report must state—

- (a) that one or more of the grounds under rule 41 applies and why; and
- (b) any representations provided by the tribunal member concerned under rule 42.

Reporting procedure

47. Rule 48 applies where a report is prepared by a delegated tribunal member.

48. The delegated tribunal member must submit a draft of their report to the relevant President. The relevant President must consider whether to change the report and communicate any changes to the delegated tribunal member. The delegated tribunal member must accept those changes and produce a final report.

49. The relevant President must provide the report to—

- (a) the Lord Chancellor and the relevant Chief Justice;
- (b) the tribunal member concerned.

PART 4

Further consideration by the relevant President

Scope

50. This Part applies where—

- (a) the relevant President does not—
 - (i) dismiss a complaint under rule 34; or
 - (ii) apply the summary procedure under Part 3;
- (b) the Lord Chancellor and the Lord Chief Justice refer a complaint to a relevant President under regulation 13 of the Regulations; or
- (c) the Ombudsman refers a case to a President under section 111(7)(b) of the Act.

Further consideration by the relevant President

51. The relevant President is to consider a complaint and—

- (a) determine the facts of a case;
- (b) determine whether the facts amount to misconduct; and
- (c) advise as to whether disciplinary action should be taken and if so what.

52. Any question as to whether a fact is established must be decided on the balance of probabilities.

53. For the purposes of considering a complaint the relevant President may—

- (a) make such inquiries into the allegation as they consider appropriate;
- (b) request any documents which appear to be relevant;
- (c) interview any person they consider appropriate.

Dismissal, referral and recommendations

54. The relevant President may—

- (a) advise the Lord Chancellor and the relevant Chief Justice that a complaint should be dismissed;
- (b) dismiss a complaint;
- (c) deal with a complaint informally and direct that it may be considered as a pastoral or training matter;
- (d) recommend that disciplinary action should be taken; or
- (e) request that a complaint is referred to an investigating judge in accordance with rule 57.

55. The relevant President may only dismiss a complaint under rule 54(b) or make a direction under rule 54(c) where the relevant President considers there has been no misconduct.

56. Where the relevant President dismisses a complaint under rule 54(b) or makes a direction under rule 54(c), they must inform—

- (a) the complainant of the dismissal and the reasons for it and, if applicable, that a direction has been given that the complaint is to be resolved as a pastoral or training matter; and
- (b) if they are aware of the complaint, the tribunal member concerned.

57. The relevant President may request that a complaint, or part of a complaint, be referred to an investigating judge to investigate in accordance with Part 5 where the relevant President considers that a complaint is sufficiently serious or complex, or that a detailed investigation is required to establish the facts of a complaint.

58. A request under rule 57 must be considered by the relevant Chief Justice.

59. If the relevant Chief Justice agrees to the request, then the complaint must be referred to an investigating judge to deal with in accordance with Part 5.

60. If the relevant Chief Justice disagrees with the request, then the relevant President must proceed to consider the complaint in accordance with rule 51.

61. Where a complaint is referred to an investigating judge, the relevant President must inform the tribunal member concerned and the complainant accordingly.

62. Before the relevant President can recommend that disciplinary action should be taken, the relevant President must—

- (a) provide the tribunal member concerned with—
 - (i) details of the complaint;
 - (ii) any supporting documents; and
 - (iii) any other information that the relevant President has obtained when considering the complaint.
- (b) invite the tribunal member concerned to comment upon the complaint within 15 business days of the invitation to do so; and
- (c) consider any comments received from the tribunal member concerned.

63. The relevant President may continue to recommend that disciplinary action should be taken only if—

- (a) the tribunal member concerned has provided comments within the time provided; or
- (b) the time has elapsed for providing comments and the tribunal member concerned has not responded.

Report of the relevant President

64. The relevant President must prepare a report if they—

- (a) advise the Lord Chancellor and the relevant Chief Justice under rule 54(a) to dismiss a complaint; or
- (b) recommend that disciplinary action should be taken.

65. Rule 66 applies where a report is prepared by a delegated tribunal member.

66. The delegated tribunal member must submit a draft of their report to the relevant President. The relevant President must consider whether to change the report and communicate any changes to the delegated tribunal member. The delegated tribunal member must accept those changes and produce a final report.

67. Where the relevant President advises dismissal of a complaint, the report must state—

- (a) what findings of fact the relevant President has made; and
- (b) why the relevant President considers that the complaint should be dismissed.

68. Where the relevant President has made a finding of misconduct and considers that the tribunal member concerned should be removed or suspended from office, the report must state—

- (a) what findings of fact the relevant President has made;
- (b) what misconduct there has been; and
- (c) why the relevant President considers removal or suspension from office to be an appropriate sanction; or

69. Where the relevant President has made a finding of misconduct and considers that some other disciplinary action should be taken in relation to the complaint, the report must state—

- (a) what findings of fact the relevant President has made;
- (b) what misconduct there has been;
- (c) what disciplinary action the relevant President considers should be taken and why; and
- (d) why the relevant President considers that further investigation is not necessary.

Reporting procedure and referral to a disciplinary panel

70. The relevant President must send their report to the tribunal member concerned.

71. When sending the report to the tribunal member concerned and where the report recommends removal or suspension from office, the relevant President must ask the tribunal member concerned if they want a disciplinary panel to consider the complaint.

72. The tribunal member concerned may—

- (a) provide comments on the report to the relevant President;
- (b) make representations to the relevant President regarding the need for further investigation into the complaint;
- (c) where the report recommends removal or suspension from office, state whether they want a disciplinary panel to consider the complaint.

73. The tribunal member concerned must respond under rule 72 within 15 business days of the day that the report is sent to the tribunal member concerned.

74. The relevant President must send their report together with any comments or representations received under rule 72 to the Judicial Conduct and Investigations Office.

75. If the tribunal member concerned confirms in accordance with rule 72(c) that they want a disciplinary panel to consider the complaint, the Judicial Conduct Investigations Office must—

- (a) refer the complaint to a disciplinary panel to consider in accordance with Part 6 of these Rules; and
- (b) send the report and any comments or representations received under rule 72 to the disciplinary panel.

76. In all other cases where a report has been prepared under rule 64, the Judicial Conduct Investigations Office must send the report and comments to the Lord Chancellor and the relevant Chief Justice.

PART 5

Judicial Investigation

Scope

77. This Part applies where a referral is made to an investigating judge—

- (a) under rule 59;
- (b) by the Lord Chief Justice and Lord Chancellor under regulation 13 of the Regulations; or
- (c) by the Ombudsman under section 111(7)(b) of the Act.

Nomination of investigating judge

78. The investigating judge must be nominated in accordance with regulation 10 of the Regulations.

Investigation by an investigating judge

79. The investigating judge must consider a complaint and—

- (a) determine the facts of a case;
- (b) determine whether the facts amount to misconduct; and
- (c) advise as to whether disciplinary action should be taken and if so what.

80. Any question as to whether a fact is established must be decided on the balance of probabilities.

81. The investigating judge must—

- (a) decide how to conduct the investigation;
- (b) notify the tribunal member concerned and any complainant of the proposals for the conduct of the investigation, and whether oral evidence will be taken;
- (c) invite the tribunal member concerned to give evidence and make representations about the procedure adopted; and
- (d) record any representations on the proposals that are received.

82. The investigating judge may invite the complainant or any person who may be able to assist the investigation to give evidence about the case.

83. Any evidence or representations from the complainant, the tribunal member concerned or any other person must be provided to the investigating judge within ten business days of an invitation under rules 81(c) or 82.

84. The investigating judge may take oral evidence if it is considered necessary to do so.

85. The investigating judge must disclose any evidence obtained under rule 82 to the tribunal member concerned and must invite them to make representations about the evidence.

86. The tribunal member concerned must make any representations under rule 85 within ten business days of the invitation under that rule.

Report of investigating judge

87. The investigating judge may decide the form of their report.

88. The investigating judge must disclose a draft of their report to the tribunal member concerned and invite the tribunal member concerned to comment on it.

89. The investigating judge may show a draft of their report to any other person, and invite them to comment upon it. The comments may include proposals for changes to the report

90. Disclosure of the draft report under rule 89—

- (a) may be of the whole or part,
- (b) may be in the form of a summary, and
- (c) must omit any information the disclosure of which is prohibited under section 139 of the Act (confidentiality).

91. Any comments must be provided to the investigating judge within ten business days of disclosure of the draft report under rules 88 or 89.

92. After considering any comments received in accordance with rules 88 and 89 the investigating judge must—

- (a) complete their report and submit it to the Lord Chancellor and the relevant Chief Justice with details of any requested changes which the investigating judge has not made.
- (b) send a copy of their report to the tribunal member concerned; and

- (c) send a copy of their report or the relevant part of it to any other person who has been invited to comment upon it, but omitting any material the disclosure of which is prohibited under section 139 of the Act (confidentiality).

PART 6

Disciplinary panel

Scope

93. This Part applies where—

- (a) the Judicial Conduct Investigations Office refers the complaint to a disciplinary panel under rule 75;
- (b) the Lord Chancellor and Lord Chief Justice have referred a complaint to a disciplinary panel under regulations 13 or 14 of the Regulations;
- (c) the Ombudsman refers a case to a disciplinary panel to investigate under section 111(7)(b) of the Act; or
- (d) a referral is made under rule 112(b)(ii).

Disciplinary panel

94. The disciplinary panel must be convened in accordance with regulation 11 of the Regulations.

Functions of a disciplinary panel

95. A disciplinary panel may consider and review—

- (a) any findings of fact;
- (b) any finding as to the conduct of the tribunal member concerned; and
- (c) any proposed disciplinary action.

96. Where a disciplinary panel reviews any findings of fact under rule 95(a), any question as to whether that fact is established must be decided on the balance of probabilities.

97. Where the relevant President has recommended that the tribunal member concerned should be removed or suspended from their office, the disciplinary panel must advise the Lord Chancellor and the relevant Chief Justice whether removal or suspension is justified.

98. Where a disciplinary panel is considering whether the tribunal member concerned should be suspended from office, the disciplinary panel must consider that question in relation to each judicial office held by the tribunal member concerned.

Procedure of disciplinary panel

99. The disciplinary panel may—

- (a) make such inquiries as it considers are appropriate to fulfil its functions;
- (b) request any documents which appear to be relevant.

100. A disciplinary panel must take oral evidence from the tribunal member concerned unless it considers it unnecessary to do so.

101. A disciplinary panel may take evidence, including oral evidence, from any other person.

Report and recommendation

102. The disciplinary panel must prepare a report that sets out—

- (a) the facts of the case;
- (b) whether in its opinion there has been any misconduct;
- (c) whether disciplinary action should be taken and if so what.

Report procedure

103. The disciplinary panel must send its draft report to the tribunal member concerned and to the relevant President who dealt with the complaint under Part 4 of these Rules.

104. The disciplinary panel may disclose its draft report to the complainant or any other person who may be affected by its contents.

105. Disclosure of the report under rule 104—

- (a) may be of the whole or part;
- (b) may be in the form of a summary;
- (c) must omit any information the disclosure of which is prohibited under section 139 of the Act (confidentiality).

106. The disciplinary panel must invite each person to whom it discloses its report to comment on it.

107. Any comments on the report must be made within ten business days of the day on which the report is sent by the disciplinary panel.

108. In finalising its report the disciplinary panel—

- (a) must have regard to any comments received under rule 106;
- (b) must include those comments with its report.

109. The disciplinary panel must send its report to the Lord Chancellor and the relevant Chief Justice.

PART 7

Miscellaneous

Re-opening a case that has been dismissed

110. Exceptionally, a relevant President may re-open a complaint that has been dismissed where they receive new information concerning a complaint.

111. For these purposes, new information means information which—

- (a) relates to judicial misconduct;
- (b) is cogent and credible;
- (c) has not already been considered under these Rules;
- (d) is sufficiently serious to justify re-opening a complaint.

112. If a relevant President decides to re-open a complaint, they may—

- (a) consider the complaint in accordance with Part 4; or
- (b) refer the complaint to—
 - (i) another President to consider under Part 4;
 - (ii) a disciplinary panel to consider under Part 6; or

- (c) request a referral to an investigating judge to consider in accordance with Part 5.

Procedure to be followed when re-opening a case

- 113.** A relevant President may re-open a case of his or her own volition.
- 114.** A complainant may provide new information to a relevant President.

Consideration of matters in absence of a complaint

115. Where a President receives no complaint but receives information from any source which suggests to them that taking disciplinary action might be justified they must consider the information as though it were a complaint and deal with it under these Rules with the exception that any obligation to be discharged in relation to a complainant does not apply.

Withdrawal of a complaint

- 116.** A complainant may withdraw their complaint at any time.
- 117.** Where a complaint is withdrawn, it may still be investigated if rule 118 applies.
- 118.** A withdrawn complaint may continue to be investigated where it is being considered by—
 - (a) the President under Part 2 or Part 4 of these Rules if the President considers it appropriate to continue to investigate the complaint;
 - (b) an investigating judge under Part 5 of these Rules if the investigating judge considers it appropriate to continue to investigate the complaint; or
 - (c) a disciplinary panel under Part 6 of these Rules if the disciplinary panel considers it appropriate to continue to investigate the complaint.

119. Where rule 118 applies, the case is to continue to be considered under these Rules as if the complaint had not been withdrawn and the complainant must be informed of this decision by the President, the investigating judge or the disciplinary panel as the case may be.

Deferral of consideration of a case

- 120.** The relevant President may defer consideration of a case where there is good reason to do so.
- 121.** Where consideration of a complaint is deferred, the relevant President must inform the complainant and, if he or she has been informed of the complaint, the tribunal member concerned.

Designation of a Judicial Office Holder to act as President

122. Where an office of President is vacant or the President is unavailable or incapacitated and a person is acting in the place of the President under any enactment, the relevant Chief Justice may designate any other President or other judicial office holder listed in the Schedule to these Rules to act as the President for the purpose of the Rules.

Delegation

- 123.** The relevant Chief Justice may delegate any of their functions under these Rules.

Transitional provision

124. These Rules apply to any complaint made before these Rules come into force which has not been withdrawn, dismissed or determined.

Revocation

125. The Judicial Conduct (Tribunals) Rules 2013 are revoked.

Date

Lord Chief Justice

I agree

Date

Lord Chancellor

I agree

Date

Lord President of the Court of Session

I agree

Date

Lord Chief Justice of Northern Ireland

SCHEDULE

Rules 4 and 5

Column 1 - Tribunal member	Column 2 - President
Member of panel of deputy-chairmen of the Agriculture Land Tribunal appointed under paragraph 14(1) of Schedule 9 to the Agriculture Act 1947	The most senior of the Chairmen of the Agricultural Land Tribunal as determined by the Lord Chief Justice of England and Wales
Member of panel appointed under paragraph 15(1) of Schedule 9 to the Agriculture Act 1947	The most senior of the Chairmen of the Agricultural Land Tribunal as determined by the Lord Chief Justice of England and Wales
Chairman of the Mental Health Review Tribunal for Wales appointed under paragraph 3 of Schedule 2 to the Mental Health Act 1983	Liaison Judge for the Mental Health Review Tribunal for Wales, designated by the Lord Chief Justice of England and Wales
Member of the Mental Health Review Tribunal for Wales appointed under paragraph 1 of Schedule 2 to the Mental Health Act 1983	Liaison Judge for the Mental Health Review Tribunal for Wales, designated by the Lord Chief Justice of England and Wales
Chairman of the Transport Tribunal appointed under paragraph 2(1)(a) of Schedule 4 to the Transport Act 1985	President of the Transport Tribunal appointed under paragraph 2(1)(a) of Schedule 4 to the Transport Act 1985
Deputy Chairman of the Copyright Tribunal appointed under section 145(2) of the Copyright, Designs and Patents Act 1988	Chairman of the Copyright Tribunal appointed under paragraph 145(2) of the Copyright, Designs and Patents Act 1988
Judge nominated by the Lord Chief Justice of England and Wales from among the judges of the High Court under section 22(1)(a) of the Employment Tribunals Act 1996	President of the Employment Appeal Tribunal appointed under section 22(3) of the Employment Tribunals Act 1996
Temporary judge of the Employment Appeal Tribunal appointed under section 23(2)(a) of the Employment Tribunals Act 1996	President of the Employment Appeal Tribunal appointed under section 22(3) of the Employment Tribunals Act 1996
Temporary additional judge of the Employment Appeal Tribunal appointed under section 24(1A) of the Employment Tribunals Act 1996	President of the Employment Appeal Tribunal appointed under section 22(3) of the Employment Tribunals Act 1996
Member of the Employment Appeal Tribunal appointed under section 22(1)(c) of the Employment Tribunals Act 1996	President of the Employment Appeal Tribunal appointed under section 22(3) of the Employment Tribunals Act 1996
Member of panel of chairmen of the	President of the Competition Appeal

Competition Appeal Tribunal appointed under section 12(2)(b) of the Enterprise Act 2002

Tribunal appointed under section 12(2)(a) of the Enterprise Act 2002; or where appropriate the acting President of the Competition Appeal Tribunal appointed under paragraph 3 of Schedule 2 to the Enterprise Act 2002

Regional Employment Judge appointed under regulation 6(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 or under regulation 6(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004

President of Employment Tribunals (England and Wales) appointed under regulation 5(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013; or where appropriate the acting President of Employment Tribunals (England and Wales) nominated under regulation 5(5) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

Member of panel of Employment Judges (England and Wales) appointed under regulation 8(2)(a) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 or under regulation 8(3)(a) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004

President of Employment Tribunals (England and Wales) appointed under regulation 5(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013; or where appropriate the acting President of Employment Tribunals (England and Wales) nominated under regulation 5(5) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004

Member of panel of persons (England and Wales) appointed under regulation 8(2)(b) or (c) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 or under regulation 8(3)(b) or (c) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004

President of Employment Tribunals (England and Wales) appointed under regulation 5(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013; or where appropriate the acting President of Employment Tribunals (England and Wales) nominated under regulation 5(5) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

Member of panel of persons (Scotland) appointed under regulation 8(2)(b) or (c) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 or under regulation 8(3)(b) or (c) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004

President of Employment Tribunals (Scotland) appointed under regulation 5(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013; or where appropriate the acting President of Employment Tribunals (Scotland) nominated under regulation 5(5) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

Judge of the First-tier Tribunal by appointment under paragraph 1(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Chamber President of the chamber of the First-tier Tribunal to which the First-tier Tribunal judge is assigned

Transferred-in judge, or transferred-in other member, of the First-tier Tribunal by

Chamber President of the chamber of the First-tier Tribunal to which the transferred-

virtue of an order made under section 31(2) of the Tribunals, Courts and Enforcement Act 2007

in judge or other member is assigned

Judge of the Upper Tribunal by appointment under paragraph 1(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Chamber President of the chamber of the Upper Tribunal to which the transferred-in judge or other member is assigned

Transferred-in judge, or transferred-in other member, of the Upper Tribunal by virtue of an order made under section 31(2) of the Tribunals, Courts and Enforcement Act 2007

Chamber President of the chamber of the Upper Tribunal to which the Upper Tribunal judge is assigned

Other member of the First-tier Tribunal by appointment under paragraph 2(1) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007

Chamber President of the chamber of the First-tier Tribunal to which the other member of the First-tier is assigned.

Other member of the Upper Tribunal by appointment under paragraph 2(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Chamber President of the chamber of the Upper Tribunal to which the other member of the Upper Tribunal is assigned

Deputy judge of the Upper Tribunal by appointment under paragraph 7(1) of Schedule 3 to the Tribunals, Courts and Enforcement Act 2007

Chamber President of the chamber of the Upper Tribunal to which the deputy judge of the Upper Tribunal is assigned

Deputy judge of the Upper Tribunal by virtue of appointment under section 31(2) of Tribunals, Courts and Enforcement Act 2007

Chamber President of the chamber of the First-tier Tribunal to which the First-tier Tribunal judge is assigned

Deputy Chamber President of a chamber of the First-tier Tribunal, or of a chamber of the Upper Tribunal unless that person also holds offices as an ordinary judge of the Court of Appeal in England and Wales, as a puisne judge of the High Court in England and Wales, as a judge of the Court of Session, as a Lord Justice of Appeal in Northern Ireland or as a puisne judge of the High Court in Northern Ireland

Chamber President of the chamber of the First-tier Tribunal or of the chamber of the Upper Tribunal to which the Deputy Chamber President is appointed

A judge by request of the First-tier Tribunal or a judge by request of the Upper Tribunal unless that person also holds office as an ordinary judge of the Court of Appeal in England and Wales, as a puisne judge of the High Court in England and Wales, as a judge of the Court of Session, as a sheriff, as a Lord Justice of Appeal in Northern Ireland, a puisne judge of the High Court in Northern Ireland, a puisne judge of the High Court in Northern Ireland, a county court judge in Northern

Chamber President of a chamber of the Upper Tribunal

Ireland, a district judge in Northern Ireland

A judge by request of the First-tier Tribunal or a judge by request of the Upper Tribunal if that person also holds office as an ordinary judge of the Court of Appeal in England and Wales or as a puisne judge of the High Court in England and Wales

Senior President of Tribunals