



## **Introduction**

1. Advisory committee members are expected to observe the same high standards of personal conduct that are required of magistrates.
2. Complaints against committee members should be referred to the committee chairman. Complaints about chairmen should be referred, in the first instance, to the secretary. Complaints about secretaries should be referred to the relevant HMCTS line manager.
3. All complaints should be dealt with fairly and expeditiously according to the relevant procedures, which will vary depending on the status of the individual.

## **Magistrate members and chairmen**

4. As judicial office holders, complaints about magistrate members (or chairmen who are also magistrates) in their role on the advisory committee should be handled according to the rules that apply to investigating complaints about the personal conduct of magistrates.<sup>1</sup> Where a complaint is made against a magistrate in respect of their magisterial duties or in their personal capacity the investigating committee should also consider the impact of the potential misconduct on their duties on the advisory committee and make recommendations with regard to both roles. The committee may recommend (via the Magistrates HR Team) a member to be suspended from committee duties whilst the investigation is undertaken. Where this occurs the committee secretary will discuss with the member whether they will voluntarily refrain from undertaking magisterial duties whilst the matter is concluded.

## **Non-magistrate members and chairmen**

5. Although the aforementioned rules do not apply to non-magistrates, they can be helpful in providing a framework for the investigation of complaints about non-magistrate members (and non-magistrate chairmen). Committees are therefore advised to adopt a process broadly analogous to that which is set out in the rules when investigating an allegation made against a non-magistrate member or non-magistrate chairman of a committee.

## **Avoiding a conflict of interest or perception of bias**

6. It will often be the case that it is appropriate to ask a neighbouring committee to handle an investigation, to avoid the risk of a conflict of interest or perception of bias. If in doubt, chairmen should consult the Office for Judicial Complaints (OJC) (in the case of magistrates) or Magistrates HR (in the case of non-magistrates).
7. When a complaint is made about a chairman, the committee secretary should arrange for it to be considered by a neighbouring advisory committee.

## **Sanctions**

8. Where a complaint is upheld, sanctions available to the Lord Chancellor include: issuing a written warning, reprimand, or advice; directing a member to undertake further training and/or to give an undertaking as to their future conduct; or, if the misconduct was sufficiently serious, terminating the individual's appointment to the committee. In exceptional cases, the Lord Chancellor may also suspend an individual from the committee whilst a complaint is under investigation.

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<sup>1</sup> The Judicial Discipline (Prescribed Procedures) Regulations 2006 (as amended) and the Complaints (Magistrates) Rules 2008 (available on [www.judicialcomplaints.judiciary.gov.uk](http://www.judicialcomplaints.judiciary.gov.uk))

9. Where, following a local investigation, it is considered appropriate to recommend to the Lord Chancellor that he takes any of the above actions in relation to a non-magistrate member the committee should send its recommendations to Magistrates HR, to prepare the necessary advice for the Lord Chancellor. Recommendations in respect of magistrate members (or chairmen) will be sent either via the OJC (if the seriousness of the matter could warrant disciplinary action to be taken against the member in their capacity as a judicial office-holder) or Magistrates HR if the matter would not warrant recommendation of disciplinary action but could require action analogous to pastoral advice that the bench chairman would give to a magistrate. (For example, this could be a reminder to the magistrate member of the conduct expected of the holder of a public appointment as regulated by the Commissioner for Public Appointments.)

### **Advisory committee secretaries**

10. As noted above, complaints about advisory committee secretaries should be referred to the relevant HMCTS line manager, and will be dealt with according to the MoJ Discipline Policy and Guidance.
11. When appropriate; for example, in the case of a complaint about a secretary in relation to an investigation into a magistrate member, the handling process will have regard to the Memorandum of Understanding between the OJC and HMCTS, which covers the handling of complaints against HMCTS employees arising from their involvement with the judicial discipline process.

### **Further Guidance**

12. Queries about handling complaints against non-magistrate members (or non-magistrate chairmen) should be directed to Magistrates HR. Queries about handling complaints against magistrate members (or chairmen) should be directed to the OJC if the matter is of a sufficiently serious nature that it would ordinarily warrant the convening of a conduct investigation panel. MoJ Human Resources are responsible for advising line managers on the handling of complaints made about secretaries.