

Complaints and Disciplinary Process for Individual Members

Introduction and scope

1. This policy will be agreed and where necessary reviewed with the Ministry of Justice (MoJ).
2. This disciplinary procedure is to be used in the event of an allegation of personal misconduct or impropriety by a Member. These procedures should be followed if there is an alleged or suspected breach of duty by the Chairman and any other Member.
3. In the case of an executive Member, these procedures do not cover his/her appointment as a member of LSB staff. An executive Member's appointment as a member of staff is subject to the LSB's internal disciplinary procedures for staff.
4. The Lord Chancellor may delegate his/her functions under these procedures to any person he/she directs.
5. Nothing in this document restricts the powers of the Lord Chancellor in his/her ability to appoint or terminate individuals to the LSB, as contained in Schedule 1 to the Legal Services Act 2007.

Professional complaints

6. If a complaint in relation to the conduct of a Board member in a professional capacity is made to the relevant professional body, it should be registered immediately with the Chairman and declared at the next Board meeting.
7. If the complaint is relevant to the work of the Board, the member should seek advice from the Chairman to determine whether a fair-minded and well-informed observer might think there was a real possibility that decisions made by the Board were biased by an individual's presence on the Board or participation in discussions. If the Chairman judges that this is a real risk, the member should exclude themselves from discussions that directly relate to the work and disciplinary functions of the relevant Approved Regulator or work by the LSB that could have a unique effect on the governance arrangements of the Approved Regulator concerned.
8. If the member receives a formal disciplinary finding against them, they should declare this immediately to the Chairman and the Lord Chancellor. A view will be formed on whether paragraph 7 of Schedule 1 of the Act is relevant. If the member remains on the Board, the fact of the finding should be declared in the register of interests.
9. If the member chooses to appeal, the member should report the matter to the Chairman and consideration will be given to whether the member concerned should voluntarily stand down until the matter is resolved.

Legal representation

10. At any stage of an investigation into allegations made against a Member, the Member is entitled to legal representation. This representation would be at the Member's expenses. However, in light of the outcome of the investigation, some or all of such costs can be reimbursed at the discretion of the Accounting Officer. The Member will be reminded of this entitlement to advice at each relevant stage of the procedure.
11. If the Member chooses to be legally represented, he/she must inform the Chairman or the Lord Chancellor in writing of the name and address of the legal representative.

Procedure for investigating alleged breaches of duty in relation to Members other than the Chairman

A. Preliminary consideration

12. On receipt of an allegation of a breach of duty by a Member, the Chairman must, having sought such clarification as he/she thinks necessary:
 - (i) inform the Member in writing of the details of the allegation and invite him/her to submit written comments within 14 days, or such other period as may be specified; and
 - (ii) notify the Lord Chancellor that he/she has done so.
13. Following consideration of the Member's written comments, if the Chairman is satisfied, on the basis of all the information available to him/her, that the allegation is unfounded, no further action will be taken. The Chairman must inform the Member, the Lord Chancellor and the person who made the allegation of his/her decision.
14. If the Chairman is satisfied, on the basis of all the information available to him/her, that a breach of duty may have occurred, he/she must immediately write to the Member concerned:
 - (i) stating that the allegation will be investigated;
 - (ii) enclosing a copy of these procedures;
 - (iii) setting a date for the individual to meet the Chairman (preferably within 14 days from receipt of the letter); and
 - (iv) informing the individual of his/her entitlement to be accompanied or legally represented at the meeting and at any subsequent stages of the investigation.

B. Meeting with the Chairman of the Legal Services Board

15. The Chairman of the LSB will meet the Member concerned to discuss the alleged breach of duty and the Chairman will then decide the appropriate course of action to be taken.
16. The Member may be accompanied or legally represented at the meeting by a person of his/her choosing.

17. After the meeting, the LSB Chairman, having regard to all relevant factors, including the outcome of any further investigation he/she may consider necessary, will submit a report to the Lord Chancellor in which he/she may recommend that the Lord Chancellor should take one or more of the following courses of action:
 - (i) dismiss the allegation;
 - (ii) direct further investigation of the allegation;
 - (iii) suspend the individual's appointment to the LSB pending further investigation;
 - (iv) terminate the individual's appointment to the LSB; and
 - (v) direct such other action as the Chairman considers necessary.
18. If the Lord Chancellor suspends the non-executive Member's appointment, he/she may direct whether such suspension is to be with or without remuneration.
19. If the LSB member's appointment is terminated, the Lord Chancellor will consult the Lord Chief Justice before doing so.
20. The Member must be informed in writing without delay of the Lord Chancellor's decision.

C. Further investigation

21. If the Lord Chancellor directs further investigation, he/she may appoint a person of his/her choosing as Investigating Officer. The Investigating Officer may be an official of the Ministry of Justice or any other person at the Lord Chancellor's discretion.
22. Subject to the LSB's whistleblowing policy, the Investigating Officer may seek any further evidence and interview any person, as he/she considers necessary.
23. The Investigating Officer must report his/her findings of fact to the Member concerned and invite his/her comments within 14 days, or such other period as may be specified.
24. At the conclusion of the investigation, the Investigating Officer will report his/her findings together with the Member's comments, if any, to the Lord Chancellor. The Investigating Officer may also make recommendations to the Lord Chancellor.

D. Notification of decision

25. After consideration of the Investigating Officer's report and any recommendations and of any comments made by the Member, the Lord Chancellor will determine the matter.
26. The Lord Chancellor's decision must be communicated to the Chairman and Member either in person or in writing at the earliest opportunity. If the decision is communicated in person, it must be confirmed in writing.

27. At the conclusion of the investigation, the Lord Chancellor may publicly announce his/her final decision. Any such announcement would normally be brought to the attention of the Office of the Commissioner for Public Appointments.

Investigations relating to the Chairman

28. Any allegation of a breach of duty by the Chairman should be made to the Lord Chancellor via the LSB Sponsoring unit.

29. The Lord Chancellor will inform the Chairman of the allegation as soon as possible.

30. Any investigation relating to the Chairman of the LSB will be carried out by the Lord Chancellor, or on the Lord Chancellor's behalf.

31. The procedures set out in this document will apply, save that references to the Chairman in the conduct of the investigation will be substituted by 'the Lord Chancellor' or any person he/she directs.

Approved by the Board on 31 July 2009.