



**The Supreme Court
and National Court**

National Judiciary Services



Judiciary Complaints PROCEDURE



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Introduction by the Chief Justice

This procedure is the first of its kind to be put in place in the Judiciary. Up until now, there are no internal investigative procedures in place within the Judiciary that makes provision for complaints made against Court staff (judicial and non-judicial) to be investigated internally, in order for appropriate action to be recommended or taken.

These procedures enable complaints to be investigated in a transparent, fair and effective manner. Certain facets of the procedures are designed to observe judicial independence.

The procedures also reflect international trend in judiciaries around the world that have adopted similar procedures.

Sir Salamo Injia, Kt. GCL

Chief Justice

28th March 2014

Papua New Guinea

**NATIONAL JUDICIARY SERVICES
JUDICIARY COMPLAINTS
PROCEDURE**

Purpose

1. These Procedures relate to the investigation of complaints concerning the conduct of the National Judiciary's Court staff.
2. The Procedures are in addition to the formal disciplinary complaints procedures provided by law with regard to Judges, Court registry staff, Court corporate staff and the Court sheriff staff.
3. These Procedures are issued by the Chief Justice pursuant to s 169 (3) of the *Constitution* and consultations with Judges, the Registrar, Secretary for National Judicial Staff Services (NJSS) and the Judicial Council.
4. **Source of complaint:**
Complaints may be made by persons from within and outside the Judiciary who have a genuine interest in the subject matter of the complaint.
5. **To whom a complaint is made**
The complaint may be made to the Executive Officer or the Chairman of the Judiciary of Investigation Committee (JCC) set up for that purpose. Complaints may also be made directly to the office of the Chief Justice, the Registrar or the Secretary, NJSS; who may refer the complaint to the Executive Officer or the Chairman of the JCC
6. **Form of complaint**
 - (1) The complaint must –
 - (a) must be in writing and signed by the person making the complaint;
 - (b) must contain the complainant's name and contact address;
 - (c) set out the nature of the complaint in sufficient detail;
 - (d) may be in a form provided in *Schedule 1* but is not required to be in that form.

(2) Complaints from anonymous sources are not accepted.

7. Court staff

The Judiciary's staff whose conduct may be complained of are as follows:

Judges

Judges' Associates

Judges' other personal staff

Registrar and registry staff appointed under the *National Court Act* and *Supreme Court Act*

Secretary, NJSS and NJSS staff employed under the *National Judicial Staff Services Act*

Sheriff of Papua New Guinea, Sheriff Officers and staff employed under the *Sheriff Act*

Other officers employed on Contracts

8. Judiciary Complaints Committee (JCC)

(1) A Complaints Committee, known as the Judiciary Complaints Committee (JCC) is established. Its main function is to receive and investigate complaints in respect of all Judiciary's staff (Both judicial and non-judicial) and make appropriate recommendations to the appropriate authorities within the Judiciary.

(2) The JCC is established by the Chief Justice pursuant to *Constitution, s 169 (3)*. Members of the Committee shall hold office for a period of three years and are eligible for re-appointment.

(3) The JCC shall comprise of three members as follows: A Judge appointed by the Chief Justice who is the Chairman, a Deputy Registrar and Deputy Secretary, NJSS.

(4) The JCC shall be supported by a Secretariat consisting of an Executive Officer (EO), two investigation officers and such other officers as may be considered necessary.

(5) The JCC shall meet no less than 4 times a year and as often as the Chairman deems necessary.

(6) The JCC shall keep formal minutes of its meetings.

9. Types of complaint

- (1) A complaint may be made with regard to any of the following:
 - (a) unprofessional, unethical or improper conduct of an officer of the judiciary amounting to a breach of Judicial Code of Conduct or any other code of conduct adopted in the judiciary.
 - (b) reckless or negligent performance of duties
 - (c) misbehavior including acts of insubordination
 - (d) criminal activity; and
 - (e) any other conduct of an improper, unethical or unprofessional nature.
- (2) A complaint that concerns the conduct or result of a judicial hearing that may be more appropriately addressed by appeal or other judicial process.

10. Procedure

- (1) The complaint must be addressed to the Chairman or Executive Officer, Judiciary Complaints Committee, P O Box 7018, BOROKO, NCD, Papua New Guinea.
- (2) Upon receiving the complaint, the EO the JCC shall write to the complainant acknowledging receipt of the complaint and advising the next step forward.
- (3) The EO shall open a file on the matter and place all correspondence and notes on the matter on the file.
- (4) The EO shall peruse the complaint and take any of the following steps:
 - (a) Reject a complaint that-
 - (i) does not state the name and signature of the complainant;
 - (ii) does not adequately particularize the matter complained of;
 - (iii) that comes from an anonymous source; or
 - (iv) is not about a staff member of the judiciary; and inform the complainant in writing of the decision and

- reasons for such decision.
- (b) Refer the matter to the JCC to decide whether the complaint should be investigated.
- (5) Upon receipt of a referral from the EO of a complaint, the JCC, may do any of the following:
- (a) Conduct a preliminary assessment of the complaint and without further investigation, dismiss the complaint if –
- (i) the complaint lacks substance or has been instituted without sufficient grounds;
 - (ii) is frivolous, vexatious or harassing in nature;
 - (iii) is about a judicial decision or judicial case management decision that raises no question of wrongful or improper conduct;
 - (iv) is mistaken or misconceived;
 - (v) the complaint has already been dealt with by the JCC as a result of a similar complaint against the same officer by another complainant; or
 - (vi) for other such reasons as it deems fit; and inform the complainant in writing of the decision with reasons.
- (b) instruct the EO to conduct an investigation into the complaint. In conducting the investigation, the EO may engage investigation officers and such other officers as he or she deems necessary to assist in the inquiry and may make any inquiries in any manner he or she thinks fit and appropriate to establish the circumstances of the complaint. Upon completion of the investigations, the EO shall produce a written investigation report on the matter for JCC. The investigation report shall contain information and material relevant to the complaint including witnesses' statement.
- (6) Upon receipt of an investigation report from the EO, the JCC shall -
- (a) Assess the investigation report and dismiss the complaint for any of the reasons set out in paragraph 10 (5)(a) and

inform the complainant in writing of the decision with reasons.

- (b) If the complaint is supported by sufficient information, the JCC must state the case to the person the subject of the complaint and ask him or her to respond by a specified date.

- (7) Upon receiving the officer's response, the JCC shall consider the officer's (if any) response and the investigation report and any other relevant information it considers fit, in reaching its decision.

- (8) The JCC may recommend to the "*appropriate disciplinary authority*" as follows:

- (a) the complaint be sustained or dismissed; and
- (b) if the complaint is sustained, the officer be –

- (i) the officer be cautioned or reprimanded;
- (ii) the officer be provided pastoral advice or remedial training ;
- (iii) the officer be disciplined;
- (iv) the officer be referred to the Ombudsman Commission for investigation under the *Leadership Code*; or
- (v) the officer be prosecuted for a criminal offence by the police or the appropriate prosecuting authority; or
- (vi) recovery action or other court proceedings be commenced by NJSS; or
- (vii) a combination of the any of the above .

- (c) the "*appropriate disciplinary authority*" for purposes of paragraph 10 (8) means:

- (i) In respect of the Chief Justice - Judges Consultative Meeting (JCM), the Registrar and Secretary NJSS;
- (ii) In respect of a Judge, Registrar, Secretary, NJSS; Deputy Registrars; and Judges personal staff - The Chief Justice; and

- (iii) In respect of a complaint concerning all other officers employed under *NJSS Act, National Court Act, Supreme Court Act* and *Sheriff Act - the Secretary NJSS and/or Registrar*.
- (9) The EO shall in writing inform the officer concerned of the decision (with reasons) of the JCC referred to in paragraph 10 (8).
- (10) Upon the receipt of the investigations report, the Chief Justice or the Registrar or the Secretary, NJSS as the case may be, shall consider the matter and make their own decision on the report from the Committee or refer the matter to a formal meeting of the Chief Justice, Registrar and Secretary NJSS (CSR) for its consideration and decision.
- (11) The Chief Justice, Registrar or Secretary, NJSS or CSR as the case may be, shall, after considering the report of the JCC and any other relevant information before reaching their decision. In considering the matter, the Chief Justice, Registrar, Secretary, NSS or the CSR may require further information from the complainant and /or the officer concerned which may also be taken into account in reaching its decision.
- (12) Upon considering the matters referred to in paragraph 10 (11), the Chief Justice, Registrar or the Secretary ,NJSS -
(a) May accept or reject the recommendation; or
(b) Make any other decision that he or she considers fit.
- (13) The EO shall convey the decision (with reasons) of the appropriate authority referred to paragraph 10 (11) to the following-
(a) Chairman of JCC for implementation;
(b) the Complainant ;
(c) the officer who is the subject of the complaint;
- (14) A decision with reasons made under paragraphs 10(11) shall be formally recorded.
- (15) the JCC shall implement the decision of the disciplinary authority without delay.

11. Duty to assist in investigations

It is the duty of all officers employed in the National Judiciary Services to fully co-operate with and assist investigations officers conducting the investigations under these Procedures.

12. Principles of natural justice to be observed

In the course of the investigations, the officer whose conduct is complained of shall be given an opportunity to be heard on the matter before any decision is made by the EO, the JCC or the appropriate authority.

13. Finality

Investigations, recommendations and decisions made under these procedures are for internal purposes only and final.

14. Confidentiality & Privilege

The complaints process under these Procedures including reports and records of investigations shall be kept confidential at all times.

15. Complaints process map

The complaint process map appears in *Schedule 2*.

16. Statistical Report

Within 3 months of the end of each calendar year the Executive Officer shall prepare a report for the Chief Justice on the number of complaints received, the number for each classification of officer, the number dismissed, and the number upheld, in total and by each classification of officer and of those upheld the general nature of the penalty imposed.

ISSUED by the Chief Justice pursuant to s 169 (3) of the *Constitution*.

Sir Salamo Injia, Kt.

Chief Justice

28th March 2014

Schedule 1

JUDICIARY COMPLAINTS FORM

[This Form may be used to lodge a complaint, but a complaint can be lodged in any form of writing]

The Executive Office (or The Chairman),
Judiciary Complaints Committee,
PO Box 7018,
BOROKO
National Capital District
Papua New Guinea

I wish to lodge the following complaint—

Name of the person complained about:

Facts and circumstances of the complaint:

(Where necessary attach supporting document or material)

Complainant's name:

complainant's address:

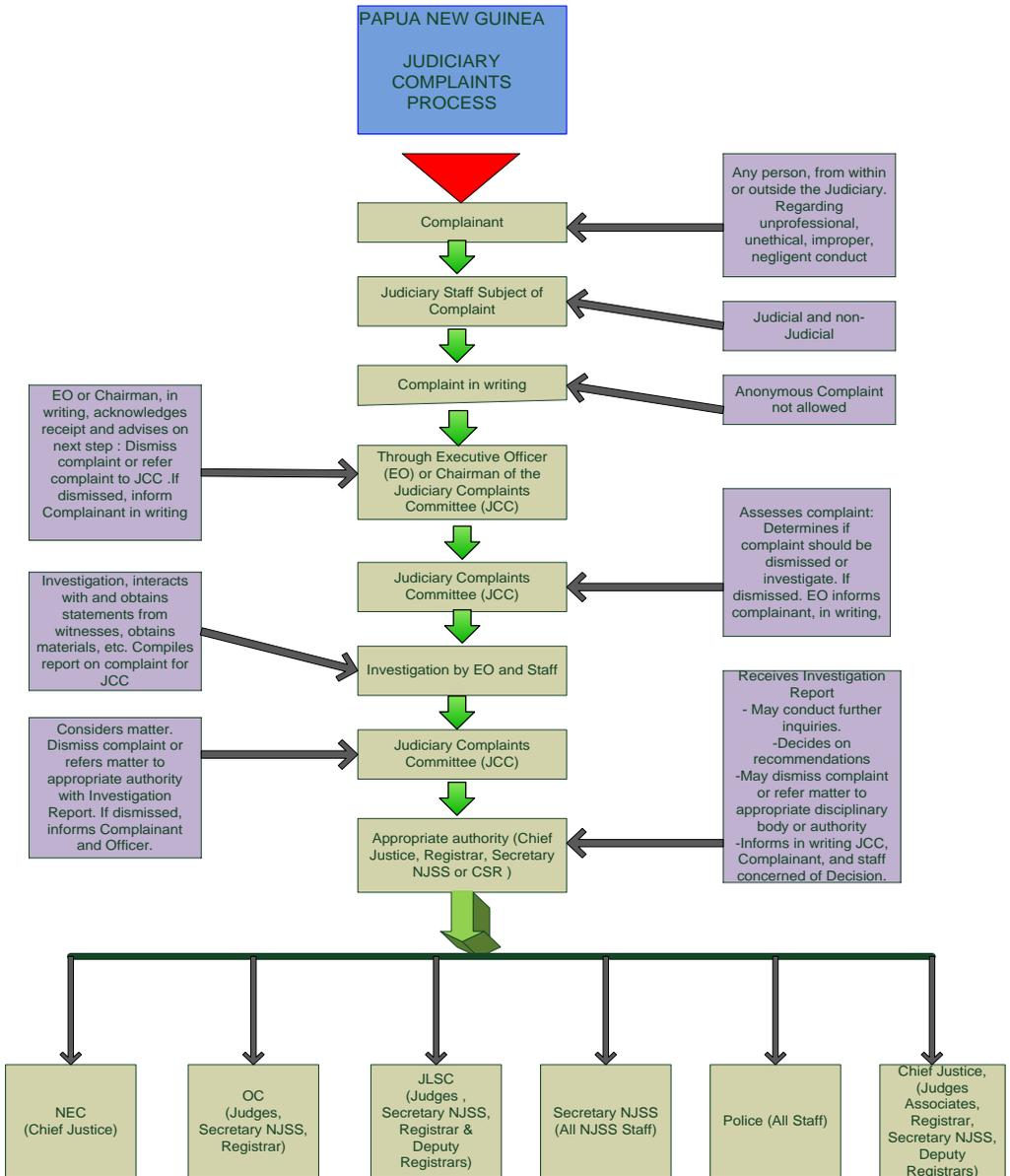
complainant's other contact details:

(telephone, email, fax)

Signature of Complainant:

Date:...../...../..... 20.....

Judiciary Complaints Procedure



ADMINISTRATIVE ARRANGEMENTS

INAUGURAL MEMBERS OF JCC

Chairman: The Hon Justice Ere Kariko MBE

Member: Samuel Ikiso, Deputy Registrar (National Court)

Member: Anna Nenta, Deputy Secretary, NJSS

JCC SECRETARIAT

Executive Officer: Gabriel Karl

Investigator: Aileen Tarube

Investigator : Allan Yaku

CONTACT

Postal address: P O Box 7018, BORKO, NCD

Telephone: 3245700 extension 962 or 3245962 (direct)

Fax: 3257732/3231092 (temporary. Separate fax lines to be installed)

E-mail: Complaints@pngjudiciary.gov.pg

JCC OFFICE

Ground Floor, Supreme Court Building , Waigani

(next to Courtroom No. 1 entrance).



The Supreme Court & National Court
National Judiciary Services
P.O.Box 7018
BOROKO, NCD
Papua New Guinea