



OJC
Office for
Judicial
Complaints

Office for Judicial Complaints
4th Floor Clive House
70 Petty France
London
SW1H 9EX

DX 149800 Westminster 7

Minicom VII 020 7189 2941
(Helpline for the deaf and hard of
hearing)

www.judicialcomplaints.gov.uk

13 May 2008

Dear Mr –,

Freedom of Information Request – Complaints leading to disciplinary action against judges

I am writing in reply to your request for information under the terms of the Freedom of Information Act 2000. You requested full details of all complaints leading to disciplinary action against judicial office holders (formal warning/advice, reprimand, removed from office) in the past three years. More specifically, you requested:

- The name of the judicial office holder;
- The date of the complaint;
- The nature of the complaint – what has the judicial office holder done wrong?
- The finding of the Lord Chancellor and Lord Chief Justice – why have they been disciplined?
- The date the disciplinary action was taken

I can confirm that the Ministry holds information relevant to your request. The Ministry of Justice has now completed its consideration of the public interest test in relation to the information that you have requested. I apologise for the delay in providing a substantive response to your request. The following exemptions apply to the specific information you have requested:

Section 36(2)(b) the free and frank exchange of views for the purposes of deliberation

Section 36(2)(b) of the Freedom of Information Act is an absolute exemption and information can be withheld without consideration of the public interest in disclosure. Section 36(2)(b) exempts information if in the reasonable opinion of a qualified person, disclosure of the information under this Act would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation.

Whilst I consider the above-mentioned exemption to apply to the information you have requested, you may find the tables of information attached of interest. The tables set out the number of times disciplinary action has been taken against magistrates, judges, tribunal members and coroners for 2004 to 2006/07 in relation to eight categories of complaint type. For 2004 and 2005 statistics were collated on a calendar year basis, for 2006/07 the

statistics were collated in accordance with the business plan cycle of the Office for Judicial Complaints, which came into operation on 1 April 2006.

Turning now to your request I should clarify that the Lord Chancellor and Lord Chief Justice are jointly responsible for exercising disciplinary functions in relation to the judiciary. Once a finding has been made with regard to an investigation, decisions as to the publicity to be given to those findings will depend on a number of factors, including, vitally, the need to guarantee the independence and integrity of the judiciary, in the interests of maintaining public confidence in the judiciary and consequently in the administration of justice and rule and of law. In some circumstances, that will require a clear public response to a specific finding. In others, such a course of action would be entirely inappropriate.

Section 36 (2)(c) Prejudice to the Effective Conduct of Public Affairs.

We believe that the information you have requested should be refused under Section 36 (2)(c), as in our view, disclosure of the information in question would prejudice the effective conduct of public affairs

It is extremely important for the effective working of the judicial complaints system that all its participants have confidence in the system. Those charged with investigating complaints need space in which to discuss aspects of an individual's suitability to judicial office, free from external scrutiny and pressure, in order to ensure that all aspects regarding an individual's fitness are considered fully and properly. Disclosure in direct opposition to the assurances of confidentiality that were given to all participants prior to their involvement, would inevitably lead to members of the judiciary and magistracy being increasingly reluctant to play an active role in such processes. Even where they did agree to take part, they would certainly feel less able to provide advice and evidence completely unencumbered by concerns about whether that evidence would enter the public domain.

The Lord Chancellor and the Lord Chief Justice have in the past agreed to reveal the names of specific judges and judicial office holders who have been disciplined in certain circumstances, but only where they believed that it was consistent with the requirements of the public interest in that case. Each case is assessed on its merits before deciding whether to issue a joint public statement. Although in most instances confidentiality will be maintained, there are cases that attract public attention through stories in the media, which would require a statement to be made in order to maintain confidence in the judiciary, either to quash unfounded or exaggerated allegations or alternatively to demonstrate that the Lord Chancellor and Lord Chief Justice have reached a firm decision on a particular disciplinary penalty. However generally in such instances of lesser judicial misconduct it would be entirely disproportionate to make it public because it could undermine the judges in future cases. Their position would become untenable if for instance a minor previous indiscretion were made public which then resulted in them being discredited in the eyes of the litigant when the Lord Chancellor and Lord Chief Justice had previously reached the decision that such minor indiscretion would not impact on their ability to maintain their position in judicial office. Therefore we consider that the public interest in maintaining the exemption outweighs the public interest in disclosure of the information.

I hope this information clarifies why the Office for Judicial Complaints or the Ministry of Justice cannot provide the information requested, but if you are unhappy with the result of your request for information, you can ask for an internal review within two calendar months of the date of this letter by writing to the following address:

Access Rights Unit
Ministry of Justice

Post Point 6.17
Selborne House
54 Victoria Street
London
SW1E 6QW.

If you remain unhappy with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane, Wilmslow
Cheshire
SK9 5AF

Internet: <http://www.ico.gov.uk>

Yours sincerely

Office for Judicial Complaints