



Law Officers' Department

Procedure for responding to complaints against lawyers

Interpretation

- 1) In this procedure, this is what is meant by the following terms or expressions:
 - a) *"Complaint"* means a complaint in writing received about a lawyer working in the Department and includes conduct by a lawyer working in the Department which may constitute a breach of the Code which comes to the attention of the Director or the Attorney General.
 - b) *"A serious breach of the Code"* is a breach of the Code which is considered sufficiently serious that, in the case of an Advocate or Solicitor, it requires a reference to the Royal Court.
 - c) *"Advocate or Solicitor"* means an Advocate or Solicitor of the Royal Court of Jersey.
 - d) *"Attorney General"* shall, unless the context requires otherwise, include reference to the Solicitor General.
 - e) *"a/the Director"* means either the Director of the Civil Division or the Director of the Criminal Division.
 - f) *"the Code"* means the [Code of Conduct of the Law Officers' Department](#)
 - g) *"SEB Disciplinary Policy"* means the States Employment Board ("SEB") approved Disciplinary Policy in force at the time of the complaint.
 - h) *"the Department"* means the Law Officers' Department.
- 2) Unless otherwise specified, the terms used in this procedure have the same meaning that they have in the Code.

General principles

- 3) This document sets out the procedure for responding to a complaint against, or conduct by, a lawyer working in the Law Officers' Department, and the procedure for handling it.
- 4) If at any point in an investigation it appears that disciplinary action may be required, then the SEB approved policy will apply: [Disciplinary policy for public servants](#).
- 5) A complaint should be made to the Director in the first instance who will determine, at each stage of the process, whether it is sufficiently serious to be brought to the attention of the Attorney General.

- 6) Unless the complaint is sufficiently serious to be brought to the attention of the Attorney General, it will be dealt with by the Director who may decide what action should be taken at any stage of the process.
- 7) If a complainant is unsure of which Division the lawyer works in, they should email the enquiries inbox for the Department where it will be treated in confidence and forwarded to the relevant Divisional Director.
- 8) At each stage of the process the Director must consider each of the following:
 - a) whether the complaint or conduct is such that a formal disciplinary procedure must be started;
 - b) whether the complaint requires a reference to the Attorney General so that the Attorney General may consider bringing a matter concerning an Advocate or Solicitor before the Royal Court;
 - c) whether it is appropriate to notify any other regulatory body.
- 9) If the Director considers that reference to a regulatory body is required, then the Attorney General must be consulted before any reference is made and the Lawyer should be given a reasonable opportunity to make representations about the matter before a reference is made.
- 10) A note of the outcome of any complaint should be placed on the lawyer's file in accordance with the relevant SEB policy.

Threshold determinations

- 11) The Director must dismiss a complaint if:
 - a) it does not adequately particularise the matter complained of or is not in writing;
 - b) it is about the private life of the lawyer and could not reasonably be considered to affect their work for the Department;
 - c) it is considered to be vexatious, malicious, frivolous or trivial;
 - d) it does not, even if true, amount to a breach of the Code;
 - e) it is without substance;
 - f) it is untrue, mistaken or misconceived;
 - g) it raises a matter already dealt with and does not raise any material new consideration that would change the way the matter had been disposed of; or
 - h) it is received more than twelve months after the last of the events giving rise to the complaint unless there are exceptional circumstances which justify making the complaint outside that period;
 - i) for any other reason, it does not relate to misconduct by the lawyer.
- 12) A complaint must not be dismissed under 11(a) unless the complainant has been given an opportunity to provide further details of the complaint or an opportunity to

put the complaint in writing. For the complaint to be investigated, a complainant will be asked to provide the further details requested or to put the complaint in writing within 21 calendar days of the request to do so.

- 13) If the Director dismisses a complaint, they must inform the complainant in writing of this and explain why the complaint has been dismissed.
- 14) Unless there is good reason not to do so, the lawyer must be made aware of the complaint within a reasonable time after a complaint is received. If the lawyer is not told about the complaint at the start of the procedure, then they must be notified as soon as it is appropriate to do so. The lawyer must be informed of the decision made under this procedure and the reasons for that.

Informal resolution of minor complaints

- 15) The Director may decide to resolve the complaint or deal with the misconduct informally if the complaint or misconduct is minor. If this is not appropriate, then the complaint must be investigated in accordance with this procedure.
- 16) Informal resolution may include, but is not limited to, the following:
 - a) inviting the lawyer to apologise in writing to a complainant;
 - b) holding an informal meeting to resolve the issues, and/or
 - c) establishing an agreed course of action with the lawyer including setting objectives, identifying timescales for improvement and the provision of additional training.
- 17) If the Director is considering handling a complaint or potential misconduct informally, the Director must:
 - a) seek the views of the complainant and the lawyer concerned about the matter;
 - b) give the lawyer concerned the opportunity to respond to the complaint, orally or in writing; and
 - c) take such other steps as may appear to the Director to be appropriate.

Investigation

- 18) If the Director does not dismiss a complaint, or a complaint or potential misconduct has not been dealt with informally by the Director, the Director must investigate the matter.
- 19) An investigation must consider a statement from the lawyer and any information from a complainant in addition to any other information. The lawyer may be interviewed and has the right to be accompanied at any interview by a legal representative, a workplace colleague or a trade union representative.
- 20) A written complaint will be taken as the statement of any complainant for the purposes of the investigation and, if necessary, the complainant may be invited to a separate interview.

- 21) The investigation will normally start within seven calendar days of a decision that a formal investigation is needed and will normally be completed within 21 calendar days.
- 22) Following the completion of the investigation, the Director must notify the Attorney General of the outcome including whether further action is needed.

Reference to the Royal Court

- 23) If the Attorney General concludes that a reference to the Royal Court is necessary, the Attorney General will generally appoint a Crown Advocate, who is not an employee of the States Employment Board, to bring the matter to the Court's attention in the Attorney General's name.

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