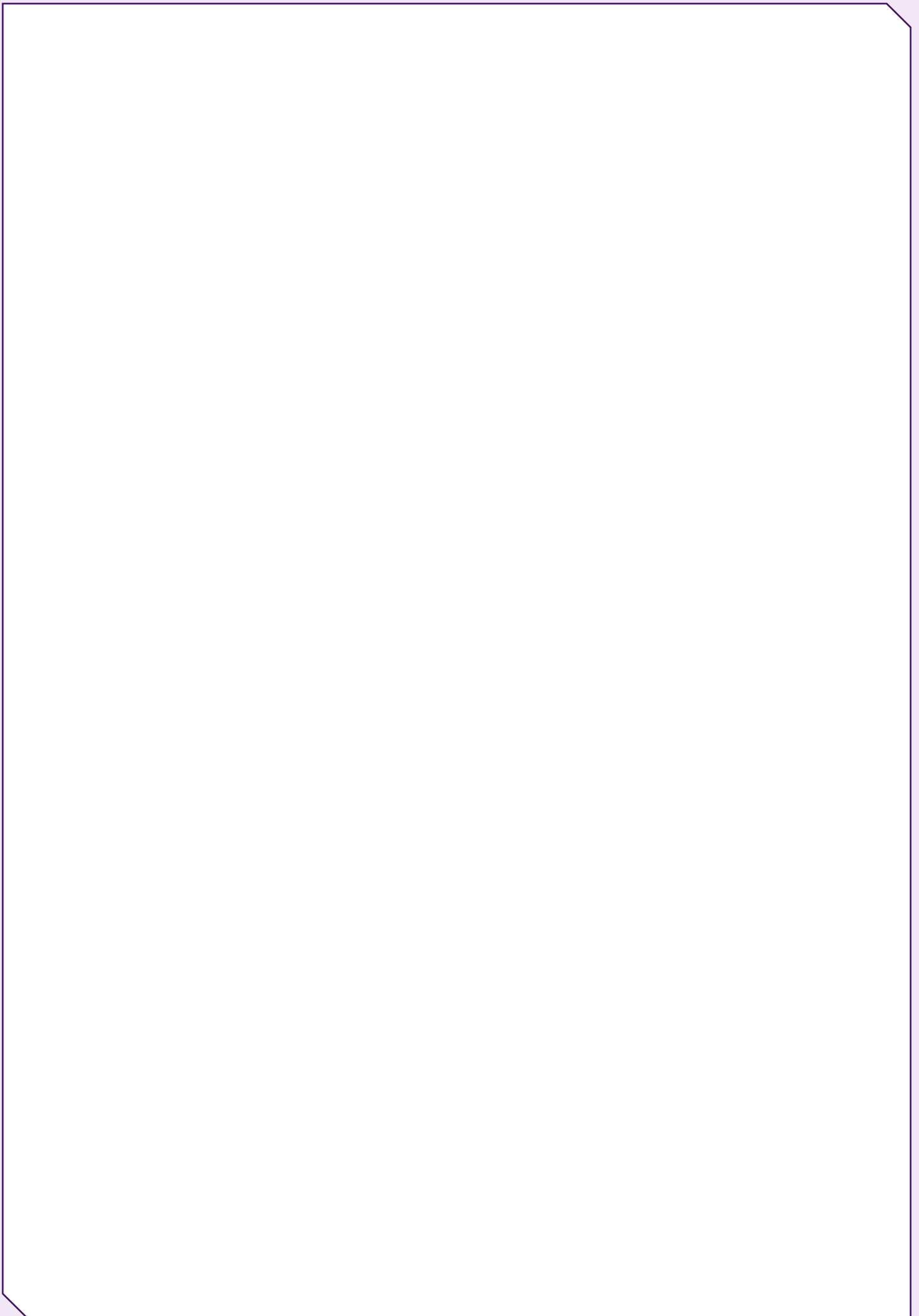


**NORTHERN
IRELAND
JUDICIAL
APPOINTMENTS
OMBUDSMAN**

ANNUAL REPORT

1ST APRIL 2014 TO 31TH MARCH 2015



NORTHERN IRELAND JUDICIAL APPOINTMENTS OMBUDSMAN

ANNUAL REPORT **1ST APRIL 2014 TO 31TH MARCH 2015**

Laid before the Northern Ireland Assembly
under Schedule 3A (15) (4) of the Justice (Northern Ireland) Act 2002
by the Department of Justice

on 26th June 2015



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Preface

I was appointed as the first Judicial Appointments Ombudsman for Northern Ireland in September 2006. This role was created by the statutory framework set out in the Justice (Northern Ireland) Act 2002 and provides an independent and external element for those persons who wish to complain about any administrative aspect of their own experience as applicants during an appointment process for judicial office.

This is my ninth Annual Report to meet the statutory requirement for submission of a report at the conclusion of each financial year and details the performance of my functions. I was reappointed by Her Majesty for a further term in 2013 following a recommendation by the Justice Minister. Since then the Executive has agreed that my role should be subsumed within the forthcoming creation of the Northern Ireland Public Services Ombudsman. This means that the next Annual Report which I shall produce in March 2016 will effectively be my final report. In addition to reporting on any complaints that may have been received during the next year, I will also be giving consideration to what general issues and conclusions I would wish to draw on from the experience of my term of office as well as insights gained from conversations.

The devolution of policing and justice to the Northern Ireland Assembly has meant that my original accountability framework in previously reporting to the Lord Chancellor and through him to the Westminster Parliament was replaced by the Department of Justice and the Assembly. This is the fifth Annual Report following this new framework of accountability.

During the period covered by this report, my Office did not receive any complaints relating to any of the recruitment competitions administered by the Northern Ireland Judicial Appointments Commission. Whilst this may seem surprising to the reader it should be pointed out that the Scottish Public Services Ombudsman (which deals with complaints in that jurisdiction) is yet to receive any complaints and the Judicial Appointments and Conduct Ombudsman for England and Wales receives less than ten per cent of complaints relating to appointments.

I look forward to continuing a constructive dialogue with the Commission and the Department of Justice without in any way compromising our respective roles. I consider that we all have a shared interest in promoting public confidence in

the administration of justice. In terms of my own remit I see this as ensuring that individual complaints are dealt with expeditiously and with as full an explanation as possible. I see my role as Ombudsman as being to ensure that those persons who complain have the opportunity to set out their concerns to me as clearly as possible; to ensure that those complained against have the opportunity to respond as fully as possible; to ensure that my reasoning is clearly explained to both parties whilst respecting the confidentiality of others; and that all appropriate information has been made available in my reports dealing with complaints. Any recommendations arising from complaints in these reports are intended to provide the Commission with an additional dimension for learning.

The assumptions which underpin the comments in previous Annual Reports are repeated here. These are that the independence and impartiality of the judiciary should be continually reinforced; judicial appointments should be free of bias, both in terms of perception and reality; and judicial appointments (and the processes governing them) should not just be of interest to the legal community but also to the wider public. I believe that it is important to ensure that as wide a range of stakeholders in civic society as possible in Northern Ireland, and not just potential or actual candidates, understand the workings of the institutions and processes which relate to judicial appointments and the complaints system.

In conclusion I would also like to take this opportunity to express my appreciation to Mrs Audrey Fowler for her continued commitment and support to my role.



Karamjit Singh CBE
Northern Ireland Judicial Appointments Ombudsman

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Chapter 1

The Background to the Ombudsman Role

Introduction

My appointment as the first Northern Ireland Judicial Appointments Ombudsman by Her Majesty The Queen (following a recommendation by the Lord Chancellor after an openly advertised selection process) formally commenced on 25 September 2006. The key purpose of the Ombudsman's role is to investigate any complaints received from applicants for judicial office who are dissatisfied with any administrative aspect of the appointment process. This is my ninth Annual Report.

Background

A wide ranging review of the criminal justice system in Northern Ireland concluded in March 2000 and its recommendations also included the appointment of a person to oversee, monitor and audit the existing appointment procedures for judicial roles. This in turn led to the creation of the role of Commissioner for Judicial Appointments who carried out a review of the existing processes for appointing judges. Following the passage of legislation, this resulted in the establishment in Northern Ireland of both the Judicial Appointments Commission and my own role as Judicial Appointments Ombudsman (during 2005 and 2006 respectively when the legislation was enacted).

Legislation and Status

The Justice (Northern Ireland) Act 2002 provides the statutory framework for the establishment of the Northern Ireland Judicial Appointments Ombudsman. Sections 9A to 9H of the Act¹ define the arrangements for investigating complaints which are made to both the Judicial Appointments Commission and to the Ombudsman respectively and how they are to be reported.

¹ Sections 9A to 9H of the Justice (Northern Ireland) Act 2002 were inserted by sections 124 to 132 of the Constitutional Reform Act 2005

The Justice (Northern Ireland) Act 2002 provides for the Ombudsman to submit a report at the conclusion of each financial year. Following the devolution of policing and justice matters to the Northern Ireland Assembly in April 2010, such reports are now laid by the Minister of Justice before the Assembly. This constitutes my fifth report under this new procedure. Copies of my previous Annual Reports can be obtained from the website www.nijao.gov.uk.

The statutory role of Office of the Northern Ireland Judicial Appointments Ombudsman is defined as a corporation sole and is independent of the Assembly Government, the judiciary, the Northern Ireland Courts and Tribunals Service or the Department of Justice.

The Ombudsman and his Office

Appointment to the role of Ombudsman is for a period of up to five years each time on a part time basis up to a maximum term of ten years. Schedule 3A of the Justice (Northern Ireland) Act 2002 provides for the role of Ombudsman and states that the post holder must never have practised law nor held judicial office in the United Kingdom and should not currently be a civil servant, a member of either the House of Commons or the Northern Ireland Assembly or be engaged in political activity as a member of a political party. A profile of the Ombudsman, Karamjit Singh CBE, is attached as Appendix 1 to this report.

Expenditure by the Ombudsman in the discharge of his functions and the administrative arrangements for the Ombudsman are met and provided by the Department of Justice, through a separate financial budget which is managed by the Northern Ireland Courts and Tribunals Service. There is a necessary and appropriate degree of confidentiality which allows the Ombudsman to see complainants or other persons as part of his complaints investigations in locations away from the departmental or courts estate. The Ombudsman and his Office is also supported by the provision of dedicated staffing and administrative arrangements by the Department of Justice.

Remit and Relationships

The remit of the Judicial Appointments Ombudsman, under section 9D of the Justice (Northern Ireland) Act 2002, is to consider complaints from candidates for judicial office where maladministration is alleged to have occurred in the handling of their application either by the Northern Ireland Judicial Appointments Commission (the Appointments Commission) or the Lord Chancellor. In considering whether or not maladministration has occurred, the Ombudsman's role is to determine whether the process for assessing the complainant's application ensured that he or she was treated fairly. The Ombudsman is not able to consider the merits of a decision in terms of determining whether the complainant or any other candidate should have been appointed.

The appointments to listed judicial offices covered by the Commission and the complaints process are contained in Schedule 1 to the Justice (Northern Ireland) Act 2002 (see Appendix 2 to this report).

The Ombudsman does not have a remit to investigate complaints relating to judicial conduct and these are dealt with by the Lord Chief Justice of Northern Ireland. This difference with the legislative framework as it exists in England and Wales occurs because complaints relating to judicial conduct were identified as a distinct issue in the review of criminal justice in Northern Ireland, and the process currently in existence was formally legislated for in the Justice (Northern Ireland) Act 2002. The statutory provision for investigating complaints relating to judicial conduct in England and Wales was established within the Constitutional Reform Act 2005 and included within the remit of the Ombudsman for that jurisdiction.

Two documents entitled 'A Memorandum of Understanding'¹ set out the framework within which the relationships between the Ombudsman and the Northern Ireland Judicial Appointments Commission and also with the Northern Ireland Courts and Tribunals Service on behalf of the Ministry of Justice will be managed.

1 The Memorandum of Understanding can be viewed on the NIJAO website

Complaints Procedure

The legislation defines the Ombudsman's remit as covering "Commission complaints" and "Departmental complaints". A "Commission complaint" is one of asserting maladministration has occurred by the Northern Ireland Judicial Appointments Commission in discharging its functions during a specific competition or by a committee of the Commission involved in the process for dealing with that particular judicial appointment. A "Departmental complaint" is one of asserting maladministration by the Lord Chancellor in connection with a recommendation for, or appointment to a listed judicial office.

The legislation defines a "qualifying complainant," as one "...who claims to have been adversely affected, as an applicant for selection or as a person selected...by the maladministration complained of".

Complainants should have exhausted the complaints processes within the Commission (Commission complaint), or those established by the Lord Chancellor (Departmental complaint), before making a complaint to the Ombudsman. Ordinarily such a complaint should be made to the Ombudsman not more than twenty eight days after a complainant is notified of the decision of Commission or Lord Chancellor, but the Ombudsman can exercise his discretion in determining whether a complaint can be registered and investigated after this period if he considers this is consistent with the purposes of the legislation.

The legislation requires the Ombudsman to submit a draft report relating to a Commission complaint to the First Minister and Deputy First Minister and to the Chairman of the Northern Ireland Judicial Appointments Commission. In the case of a Departmental complaint a draft report would be submitted to the Lord Chancellor. In finalising his report the Ombudsman must have regard to any proposal by the First Minister and Deputy First Minister acting jointly or the Commission or the Lord Chancellor, if this is appropriate, for changes to the draft report. The Ombudsman must also include in his report a statement about any proposed changes which are not given effect to. The statutory framework provides for the Ombudsman to issue a copy of his final report to the complainant at this point.

The Ombudsman must state whether or not the complaint is upheld and if so whether in whole or part. If a complaint is upheld he will recommend what action should be taken as a result of the complaint. Any recommendation for payment of compensation will only relate to loss by a complainant as a result of maladministration and not as a result of failure to be appointed to judicial office. Where the complaint has not been upheld, the Ombudsman may also make recommendations for consideration by the body complained of.

Removal Tribunal

Section 8 of the Justice (Northern Ireland) Act 2002, (amended by section 2(2) of the Northern Ireland Act 2009) provides for the setting up of a tribunal to consider the removal of a listed judicial officer from office on the grounds of misbehaviour. Section 8(1)(a) provides for the Lord Chief Justice to consult with the Northern Ireland Judicial Appointments Ombudsman before convening such a tribunal.

In addition, Section 8(2) of the Act provides for the make up of the tribunal and one of its members is designated as a lay member of the Judicial Appointments Commission. Section 8(3) provides for selection of the lay member (who would participate on the panel) by the Northern Ireland Judicial Appointments Ombudsman.

During the period covered by this Annual Report the Ombudsman was consulted by the Lord Chief Justice about his intention to convene a tribunal on three separate occasions and to seek a nomination. The Ombudsman concurred with the need to set up a tribunal on each occasion and subsequently nominated a lay member of the Commission for each of the three potential tribunals.

Developments in Great Britain

The Judicial Appointments and Conduct Ombudsman for England and Wales investigates complaints about the judicial appointments process and also the handling of matters involving the conduct of judicial office holders. His Office was established under the provisions of the Constitutional Reform Act 2005. The Annual Reports published since the establishment of the Ombudsman's Office in 2006 indicate that a majority of the complaints received have been concerned with the conduct of judicial office holders as opposed to complaints about the appointments process.

The Judiciary and Courts (Scotland) Act 2008 provides for the Judicial Appointments Board for Scotland to investigate any complaints of maladministration with a further stage involving the Scottish Public Services Ombudsman should complainants wish to proceed further. In common with Northern Ireland this complaints process is concerned with appointments only and not with conduct.

Chapter 2

Judicial Appointments Processes in Northern Ireland and Great Britain

Introduction

The Northern Ireland Judicial Appointments Commission was established in June 2005 under the provisions of the Justice (Northern Ireland) Acts 2002 and 2004. It is an independent non departmental body with a specific remit to administer the selection processes for judicial appointments in Northern Ireland up to and including the role of High Court Judge

Background

Prior to 2005 (and since 1973) the Lord Chancellor had been responsible for directly appointing or advising on the majority of judicial appointments in Northern Ireland. Until the inception of the Judicial Appointments Commission he was supported on an administrative basis by the Northern Ireland Court Service in the discharge of this duty³. The recommendations which were made following the Review of Criminal Justice⁴ envisaged that a Judicial Appointments Commission would enhance public confidence by providing an appointments process that was “transparent and responsive to society’s needs on the one hand, but on the other must be clearly seen to be insulated from political influence”⁵.

Legislation and Status

The continued suspension of the Assembly at that time led to the passage of the Justice (Northern Ireland) Act 2004 by the Westminster Parliament which enabled the Commission to be established in advance of any arrangements proposed for the devolution of justice.

Following the devolution of policing and justice to the Assembly on 12 April 2010, the Commission was given new responsibilities (under the Northern Ireland Act 2009), including becoming an appointing body, with an ability to influence the overall complement of judicial posts, and to determine certain terms and conditions in

³ The Judicature (NI) Act 1978, gave the Lord Chancellor responsibility for the unified courts administration.

⁴ Review of the Criminal Justice System in Northern Ireland, published March 2000.

⁵ Paragraph 6.102, Review of the Criminal Justice System in Northern Ireland.

agreement with appropriate sponsoring departments holding the budgets for different judicial offices.

As an executive non-departmental public body the Commission has a responsibility for ensuring that its statutory purposes are being met and that the use of resources is appropriate and effective. The Commission is funded through its sponsor department, which is the Office of the First Minister and Deputy First Minister.

Commission Membership

The Commission has a membership of thirteen Commissioners (including the Chairman) and is chaired by the Lord Chief Justice of Northern Ireland. There are five judicial members and two Commissioners with legal professional backgrounds who are all nominated and five non legally qualified or lay Commissioners who are appointed following a process of open advertisement. The Commission is supported in its work by a secretariat, which is headed by a Chief Executive.

The Commission's Roles and Responsibilities

The Commission has defined its key statutory duties in successive Corporate Plans as being:

- to conduct the appointments process and make recommendations to the Lord Chancellor in respect of all listed judicial offices up to and including High Court Judge;
- to recommend candidates solely on the basis of merit;
- to engage in a programme of action to secure, so as far as it is reasonably practicable to do so, that appointments to judicial office are reflective of the community in Northern Ireland;
- to engage in a programme of action to secure, so as far as it is reasonably practicable to do so, that a range of persons reflective of the community in Northern Ireland is available for consideration by the Commission whenever it is required to select a person to be appointed, or recommended for appointment; and
- to publish an annual report setting out the activities and accounts for the past year.

Appointment Procedures

The Commission is responsible for making recommendations of those applicants deemed suitable for appointment to the range of judicial offices that are listed in Appendix 2 to this report.

For each competition, selection panels (comprising a mixture of legal, judicial and non-legally qualified Commissioners) are constituted for the purposes of short listing applicants and then conducting interviews. A feedback process is also available for unsuccessful candidates.

Complaints Procedures

The Commission has a statutory duty to make arrangements for handling complaints from an applicant for appointment who is dissatisfied with some of the selection process. The legislation defines the period during which complaints should be made to the Commission as being not more than twenty eight days after the matter complained of.

Appeals in relation to decisions not to short list for reasons of eligibility or otherwise and complaints are dealt with by panels consisting of Commissioners who were not involved in the short listing or interview panels. In cases where the Commission's internal process has been exhausted and an applicant for judicial appointment still remains dissatisfied, a complaint can be made to the Ombudsman.

The Judicial Appointments Commission includes information on the role of the Ombudsman and contact details for his Office amongst the application materials that are issued to candidates for judicial office.

The Judicial Appointments Process in Great Britain

The Judicial Appointments Commission for England and Wales (JAC) was established in April 2006 by the Constitutional Reform Act 2005 and is an independent non departmental public body sponsored by the Ministry of Justice. The JAC is required by statute to investigate any complaints arising from the judicial appointments process. If the applicant remains dissatisfied a complaint can then be made to the Judicial Appointments and Conduct Ombudsman.

In Scotland, recommendations for judicial appointments are made by the Judicial Appointments Board which was initially established on a non-statutory basis but is now provided for on a statutory basis by the Judiciary and Courts (Scotland) Act 2008. The judicial appointment processes employed by the Board are similar

to those of the Judicial Appointments Commissions in England & Wales and Northern Ireland in terms of open advertisements; explicit competency frameworks; and interviews by panels. A personalised feedback process by telephone is also available to unsuccessful candidates if they wish to take advantage of this. The 2008 Act introduced provisions for dealing with complaints from candidates who are dissatisfied with the manner in which the Board has carried out its functions. The Act also makes provision for the Board's handling of the complaint to be referred subsequently to the Scottish Public Services Ombudsman if candidates wish to take this further.

Chapter 3

Activities During The Year

During the twelve month period covered by this report my office did not receive any complaints relating to any of the recruitment competitions administered by the Northern Ireland Judicial Appointments Commission.

During the year I also considered correspondence and various issues that were raised by the Ombudsman Association which is a professional membership grouping for Ombudsmen and their staff in various sectors throughout England, Scotland, Wales, Northern Ireland and the Republic of Ireland.

Appendices

Appendix 1

Profile of the Ombudsman

Karamjit Singh CBE was appointed as the Judicial Appointments Ombudsman for Northern Ireland on 25 September 2006 and was reappointed in 2013. He was appointed as the Chair of the University Hospitals of Leicester NHS Trust in October 2014.



He was appointed as the Social Fund Commissioner on 1st December 2009 and held two separate positions for both Great Britain and Northern Ireland as head of the independent review process reconsidering decisions made in relation to applications for the Social Fund grants and loans. As a result of legislation passed by the Westminster Parliament the discretionary Social Fund and his statutory role in Great Britain was abolished in July 2013. Similar legislative proposals are being considered by the Assembly. His appointment comes to an end on 30th June 2015.

The early stages of Mr Singh's career have covered academia, casework in the voluntary sector, local government and the Commission for Racial Equality. His previous appointments include membership of the Police Complaints Authority, the Parole Board, the Criminal Cases Review Commission, the Civil Service Commission, the Judicial Studies Board, the Electoral Commission, the Employment Tribunal for England and Wales, the Queen's Counsel Selection Panel for England and Wales and chairing an NHS Mental Health Trust. His previous roles in Northern Ireland include different Commissioner appointments investigating suspected miscarriages of justice and also regulating electoral issues.

His voluntary interests in the past have included being a Trustee of the Citizenship Foundation, the Lloyds TSB Foundation, the British Lung Foundation and organising free medical camps in a North Indian village. He was appointed as a Trustee with the Joseph Rowntree Foundation in 2014. He was awarded the CBE in 1999 for services to the administration of justice.

Appendix 2

SCHEDULE 1

LISTED JUDICIAL OFFICE – these roles all come within the remit of the Judicial Appointments Commission

Judge of the High Court

Temporary judge of the High Court under section 7(3) of the Judicature (Northern Ireland) Act 1978 (c 23)

County court judge

Deputy county court judge

District Judge (Magistrates' Courts)

Deputy District Judge (Magistrates' Courts)

Coroner

Deputy coroner

Statutory officer (within the meaning of section 70(1) of the Judicature (Northern Ireland) Act 1978)

Deputy for a statutory officer under section 74 of that Act

Temporary additional statutory officer under that section

Chief Social Security Commissioner for Northern Ireland

Social Security Commissioner for Northern Ireland

Deputy Social Security Commissioner for Northern Ireland

Chief Child Support Commissioner for Northern Ireland

Child Support Commissioner for Northern Ireland

Deputy Child Support Commissioner for Northern Ireland

President of appeal tribunals (within the meaning of Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998 (SI 1998/1506 (NI 10)))

Member of the panel of persons to act as members of such appeal tribunals

[Member of the panel of persons who may serve as chairmen of the Care Tribunal established by Article 44 of the Health and Personal Social Services (Quality, Improvements and Regulation) (Northern Ireland) Order 2003 (SI 2003/431 (NI 9))]

President of the Industrial Tribunals and the Fair Employment Tribunal

Acting President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998 (SI 1998/3162 (NI 12))

Vice-President of the Industrial Tribunals and the Fair Employment Tribunal

Acting Vice-President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998

Member of the panel of chairmen of the Industrial Tribunals

Member of the panel of chairmen of the Fair Employment Tribunal

President of the Lands Tribunal for Northern Ireland

Deputy President of the Lands Tribunal for Northern Ireland under section 3(1) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c 29 (NI))

Other member of the Lands Tribunal for Northern Ireland

Temporary member of the Lands Tribunal for Northern Ireland under section 3(2) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964

President of the Special Educational Needs and Disability Tribunal for Northern Ireland

Member of the panel of persons who may serve as chairman of that Tribunal

Member of the tribunal established under section 91 of the Northern Ireland Act 1998 (c 47)

Member of the Mental Health Review Tribunal for Northern Ireland

Lay magistrate

Member of the panel of persons who may serve as chairmen of a tribunal established for the purposes of the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 (SR1997/269)

Chairman of a Tribunal appointed under paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 in its application to Northern Ireland

Member of a Tribunal appointed under paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

President or Deputy President of Pensions Appeal Tribunals appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

Chairman of the Plant Varieties and Seeds Tribunal for the purpose of proceedings brought before it in Northern Ireland

Deputy appointed under paragraph 6(1) of Schedule 3 to the Plant Varieties Act 1997 for the purpose of proceedings brought before the Plant Varieties and Seeds Tribunal in Northern Ireland

Member of the panel of persons to act as chairmen of Reinstatement Committees sitting in Northern Ireland (appointed under paragraph 2(1)(a) of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985)

President of the Northern Ireland Valuation Tribunal

Member of the Northern Ireland Valuation Tribunal

President or other member of the Charity Tribunal for Northern Ireland

Adjudicator appointed under Article 7(1)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002

Chairman appointed under Article 7(2)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002

Adjudicator appointed under Article 29 of the Traffic Management (Northern Ireland) Order 2005

Chairman of an Appeal Tribunal for the purposes of the Adoption (Northern Ireland) Order 1987

Appendix 3

Expenditure of the Ombudsman's Office

In the period 1 April 2014 – 31 March 2015 the expenditure of the Office of the Northern Ireland Judicial Appointments Ombudsman was **£40,079** and was made up as follows:

Salaries*		£27,656
Ombudsman	£5,605	
Secretariat*	£22,051	
Travel and subsistence		£410
Design and Printing of Annual Report		£205
Office running costs:		£11,808
Rent and Rates	£2,323	
Managed Services	£7,266	
Other Costs:	£2,219	
Total		£40,079

***This figure includes employer superannuation contributions**

Appendix 4

HOW TO CONTACT THE OMBUDSMAN

Telephone:

028 9072 8930

Fax:

028 9072 8936

Write to:

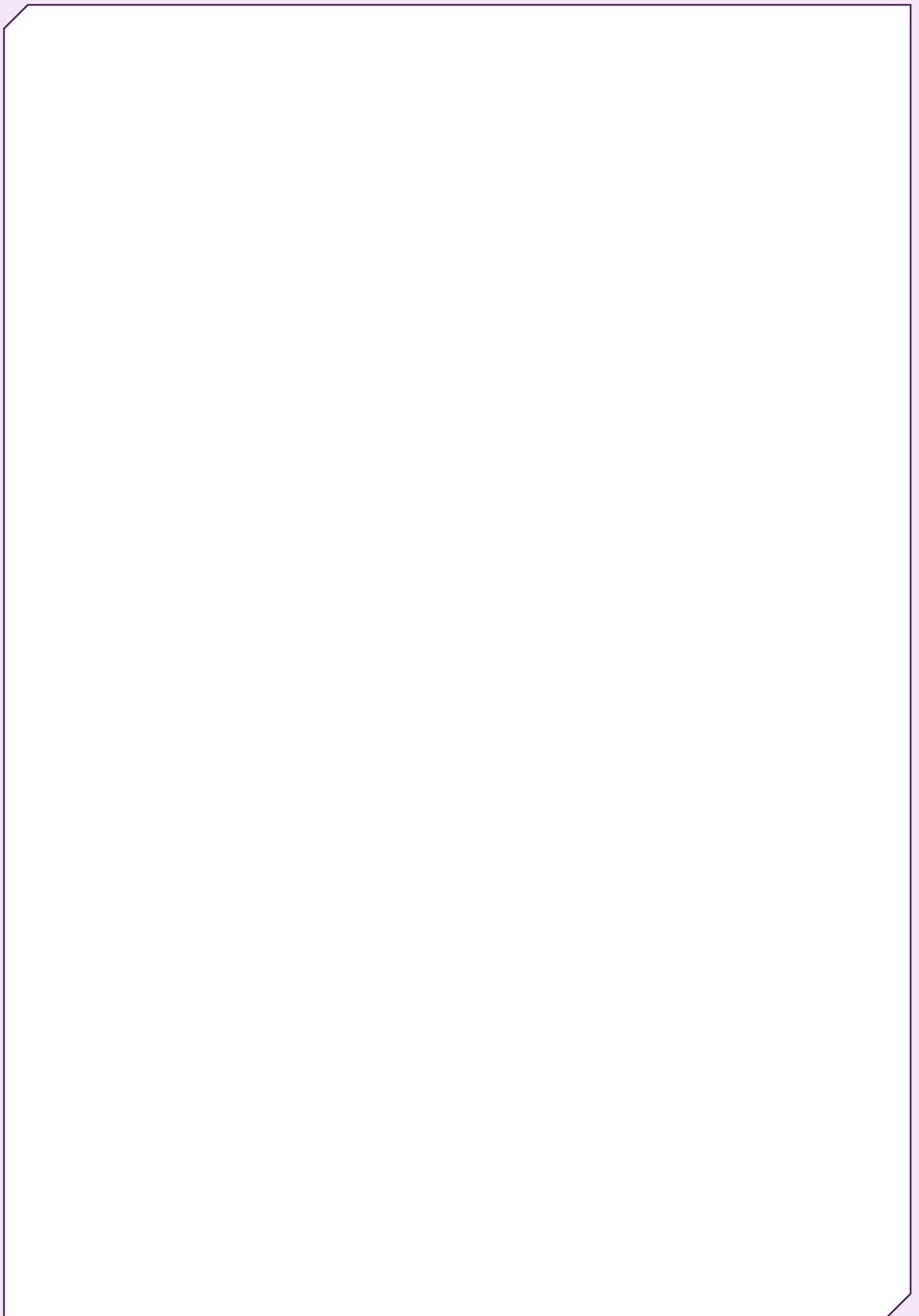
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www.nijao.gov.uk

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Copies can also be obtained from our website.



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