The Appointments Commission

Appointments Commission Complaints Procedure

1) This procedure applies in respect of complaints against members of Part 1 and Part 2 Tribunals and other bodies to which the Commission is authorised to make appointments (Tribunals Act 2006 Section 5 (3A) and (3B) as amended by the Legislation Act 2015). Throughout, the term "Tribunal" will relate to all such bodies and members thereof.

2) The procedure will apply in relation to circumstances where it is alleged that a member is unable or unfit to discharge his functions as a member of a tribunal (Tribunals Act Section 5 (3)(d)) including allegations of personal misconduct. "Personal misconduct" covers a wide range of behaviour and circumstances both inside and outside of the tribunal environment. It is not possible to provide a definitive list of what constitutes "personal misconduct" however some examples of the type of matters that can and cannot be investigated are shown below:

   We can investigate:

- use of racist, sexist or offensive language
- rudeness
- misuse of status for personal gain or advantage
- criminal convictions
- failure to declare a potential conflict of interest
- falling asleep in session.

   We cannot investigate:

- a judgment, decision or order
- what evidence should be, or has been considered
- awards of costs and damages
- whose attendance before a tribunal is required
- who should be allowed to participate in a hearing
- recusal
- allegations of criminal activity.

   For complainants who believe the decision made by a Tribunal was incorrect or unfair, or that the case was not handled properly or a mistake was made a remedy may be available at law and they must seek advice as to the most appropriate course of action.

3) A complaint must in the first instance be submitted in writing to the Secretary to the Appointments Commission (AC). The submission must include:-

- the complainant's full name, address, telephone number and where available email address
- the name of the tribunal member against whom the complaint is made

- where appropriate the case reference number, the date of the hearing and whether legal proceedings regarding the case have or have not been concluded
- the grounds of the complaint and the specific details supporting the complaint
- a full description of the circumstances or conduct the complainant wishes to complain about giving all relevant particulars and evidence in support, including details of any witnesses to the alleged circumstances or conduct
- other information and copies of documents relevant to the complaint.

4) The complaint must be made as soon as possible and in any event no later than 3 months after the incident giving rise to the complaint or after the complainant becomes aware of the circumstances. The time limit applies when there are ongoing proceedings, although it may not be possible to deal with the matter until all proceedings have been concluded. Complaints submitted outside the time limit will not be considered and the complainant will be notified of this in writing by the Secretary to the Commission.

5) A complaint submitted within the time limit will be forwarded to the Commission which will determine whether there is a prima facie complaint that satisfies the definition in the Tribunals Act 2006 Section 5 (3) (d). The Commission may invite the complainant to provide better particulars and supporting evidence of the complaint within a specified time scale. Where there is no prima facie complaint the Commission will dismiss the complaint and notify the complainant in writing including the reason for dismissal.

6) If the Commission accepts the complaint, it will appoint such person/persons it considers fit to investigate the complaint.

7) The Commission will provide the investigating officer with the original complaint and the terms of reference which will include amongst other things taking evidence from the complainant, the tribunal member against whom the complaint is made and any other persons the investigating officer deems appropriate. The investigating officer will be required to provide a written report of the findings of the investigation including whether or not the complaint is proved and the reasons supporting the conclusions within a specified time period.

8) The Commission will make a decision based on the findings of the investigating officer. The Commission may decide to take no action, give words of advice to the tribunal member or terminate the member's appointment. The Commission will not intervene in, or influence the outcome of proceedings.

Complaints against the Commission and/or its members should be directed to the Council of Ministers.

Chairman.....Hew G. Boon..... Date.....20/6/17.....

Agreed by the Appointments Commission V5 (June 2017)