
STATUTORY INSTRUMENTS

2006 No. 676

**The Judicial Discipline (Prescribed
Procedures) Regulations 2006**

PART 7

Review Bodies

Composition of a review body

28.—(1) A review body must consist of—

- (a) a judicial office holder of a higher judicial rank than the subject of the disciplinary proceedings;
- (b) a judicial office holder of the same judicial rank as the subject of the disciplinary proceedings; and
- (c) two other members, neither of whom has been—
 - (i) a judicial office holder, or
 - (ii) a practising lawyer (within the meaning of paragraph 6(1) of Schedule 12 to the Act).

(2) A judicial office holder for the purposes of paragraph (1)(a) or (b) may be a former judicial office holder and reference to his judicial rank means the rank he held immediately before he ceased to hold judicial office.

(3) The Lord Chief Justice with the agreement of the Lord Chancellor shall nominate the members of the review body under paragraphs 1(a) and (b).

(4) The Lord Chancellor with the agreement of the Lord Chief Justice shall nominate the other members.

(5) A person is ineligible for membership of the review body if he has had any previous involvement with the case concerned, other than as a member of a review body.

(6) The judicial office holder nominated under paragraph (1)(a) shall chair the review body and shall have a casting vote if necessary.

Convening a review body

29.—(1) The Lord Chancellor and the Lord Chief Justice shall convene a review body to review a case where—

- (a) they decide to refer the findings of a judicial investigation under Part 5 to a review body;
- (b) the Ombudsman recommends that an investigation or determination should be reviewed by a review body, and the Lord Chancellor and the Lord Chief Justice accept the recommendation;
- (c) the Ombudsman sets aside a determination made in a case in accordance with section 111 of the Act and directs that the case is to be referred to a review body;

(d) the subject of the disciplinary proceedings requests the Lord Chancellor and the Lord Chief Justice to refer the case to a review body in accordance with paragraph (2).

(2) The subject of the disciplinary proceedings may request the Lord Chancellor and the Lord Chief Justice to refer the case to a review body where they notify him under regulation 27 that they propose—

(a) to take disciplinary action against him, or

(b) to record the case in a form which may be referred to in later disciplinary proceedings.

(3) The Lord Chancellor and the Lord Chief Justice may impose a time limit within which the review body must submit its report to them.

(4) Where the subject of the disciplinary proceedings wishes the Lord Chancellor and the Lord Chief Justice to refer the case to a review body under paragraph (1)(d), he must—

(a) request them to do so within ten business days of the notification to him of the decision of the Lord Chancellor and the Lord Chief Justice, and

(b) state in his request the issues that he wishes the review body to consider.

Functions of a review body

30.—(1) A review body may review—

(a) any finding of fact;

(b) any decision or recommendation as to the conduct of a judicial office holder;

(c) any disciplinary action which has been proposed or taken; and

(d) the procedures which have been used to deal with the case, but only so far as necessary to enable the review body to deal with the matters in sub-paragraphs (a) to (c) above.

(2) The review body may consider matters not raised in a request under regulation 29(4)(b).

(3) The scope of review by a review body is not restricted by the findings of any previous investigation, whether under these regulations or not, or of any previous review of the case by a review body.

(4) A review body may recommend the taking of more severe disciplinary action than that previously recommended by an advisory committee, a President, the nominated judge, the investigating judge or a review body in relation to the case, or that which the Lord Chancellor and the Lord Chief Justice had intended to take.

(5) Where the Lord Chancellor and the Lord Chief Justice have proposed the removal from a judicial office of the subject of the disciplinary proceedings, the review body must advise whether removal is justified.

(6) Where a review body is considering whether the subject of the disciplinary proceedings should be suspended from office, the review body must consider that question in relation to each judicial office which he holds.

Review of documents

31.—(1) A review body shall have access to the documents which the Office for Judicial Complaints, an advisory committee, a President, the nominated judge, the investigating judge, the Lord Chancellor and the Lord Chief Justice have used for the purpose of exercising their functions under these regulations or under rules made under these regulations.

(2) The review body must initially review the case on the basis of those documents and of any statement under regulation 29(4)(b) which the judicial office holder has provided (“the regulation 29 statement”).

(3) After considering the documents and any regulation 29 statement, the review body may either proceed under regulation 32 or under regulation 33.

Recommendations without a full review

32.—(1) This regulation applies where—

- (a) the review body considers that one or more of the matters referred to in regulation 30(1) should be reconsidered without a full review under regulation 33; or
- (b) the case was referred to the review body under regulation 29(1)(d) and the review body considers that there is no need to review the case further.

(2) In the circumstances described in paragraph (1)(a), the review body may proceed to prepare a draft report under regulation 34.

(3) In the circumstances described in paragraph (1)(b), the review body must notify the subject of the disciplinary proceedings of its opinion and must invite him to make representations.

(4) The subject of the disciplinary proceedings must make any representations to the review body within ten business days of the notification.

(5) Where the review body remains of the view that there is no need to review the case further after considering any representations from the subject of the disciplinary proceedings, it may proceed to prepare a draft report under regulation 34.

Further procedure of review body

33.—(1) Where regulation 32 does not apply, the review body must—

- (a) determine the procedure it will follow;
- (b) inform the subject of the disciplinary proceedings of the proposed procedure;
- (c) invite him to make representations about the proposed procedure, and, in particular, whether it should take oral evidence from the subject of the disciplinary proceedings.

(2) The subject of the disciplinary proceedings must make any such representations to the review body within ten business days of the invitation under paragraph (2)(c).

(3) A review body must take oral evidence from the subject of the disciplinary proceedings if he requests it to do so, unless it considers it unnecessary to do so.

(4) A review body may take evidence, including oral evidence, from any other person.

Draft report of review body

34.—(1) The review body must prepare a report and show a draft of it to the subject of the disciplinary proceedings.

(2) The review body may disclose a draft of its report to any other person.

(3) The review body must invite each person to whom it discloses its draft report to make representations about it.

(4) Representations to the review body must be made within ten business days of the invitation.

(5) Disclosure of the draft report under paragraph (2)—

- (a) may be of the whole or part,
- (b) may be in the form of a summary, and
- (c) must omit any information the disclosure of which is prohibited under section 139 of the Act.

Completion of the review body's report

35.—(1) After considering any representations made in accordance with regulation 34, the review body must—

- (a) decide whether or not to make any changes requested;
- (b) send its final report to the Lord Chancellor and the Lord Chief Justice, with details of any requested changes which it has not made;
- (c) send a copy of its final report to the subject of the disciplinary proceedings;
- (d) send a copy of its report to the Ombudsman, where the case was referred to the review body under regulation 29(1)(b) or (c), indicating any passages which contain personal information which ought not to be included in any report by the Ombudsman or shown by him to anyone other than the subject of the disciplinary proceedings; and
- (e) send any relevant part of the report in full or in summary to any other person who has been invited to comment on the draft report, omitting any material the disclosure of which would be prohibited under section 139 of the Act.

(2) The Lord Chancellor and the Lord Chief Justice shall make a decision after considering the review body's final report.