



# **JUDICIAL COMPLAINTS PROTOCOL FOR BERMUDA**

**(Revised 4 April 2025)**

## TABLE OF CONTENTS

<b>FOREWORD .....</b>	<b>3</b>
<b>PART I .....</b>	<b>4</b>
<b>CONVENING NOTE - INTRODUCTORY .....</b>	<b>4</b>
<b>BACKGROUND TO FUNCTIONS.....</b>	<b>5</b>
<b>Appointments .....</b>	<b>5</b>
<b>Discipline and security of tenure.....</b>	<b>5</b>
<b>PART II</b>	
<b>JUDICIAL COMPLAINTS PROTOCOL FOR BERMUDA.....</b>	<b>8</b>
<b>INTRODUCTION .....</b>	<b>8</b>
<b>HOW TO COMPLAIN.....</b>	<b>11</b>
<b>Contents and form of complaints .....</b>	<b>11</b>
<b>Time for making complaints.....</b>	<b>11</b>
<b>Withdrawal of complaints.....</b>	<b>11</b>
<b>Reference of information by Heads of Division .....</b>	<b>11</b>
<b>CONSIDERATION OF COMPLAINTS .....</b>	<b>12</b>
<b>Summary dismissal of complaints.....</b>	<b>12</b>
<b>Investigation of complaints which appear valid on their face.....</b>	<b>13</b>
<b>Adjudication of complaints.....</b>	<b>14</b>
<b>Appeals .....</b>	<b>16</b>
<b>Complaints bringing a judicial officer's fitness for office into question.....</b>	<b>17</b>
<b>ANNEX A SCHEDULE .....</b>	<b>18</b>
<b>ANNEX B COMPLAINT FORM.....</b>	<b>19</b>

## **FOREWORD**

This is the 2025 Revision to the Judicial Complaints Protocol for Bermuda.

It is inherent to the office of the Chief Justice and the President of the Court of Appeal as the senior judicial officers of their respective courts, and to the public administration of justice in Bermuda, that the Chief Justice and the President of the Court of Appeal have the authority and power to exercise supervision and control over the judicial conduct of the members of their respective courts in matters which are not so serious as to require the Governor to consider the removal of a judge for misconduct in office. This is central to maintaining the constitutional principle of the separation of powers to ensure that the Judiciary is not subject to the control of the Parliamentary or Executive branches of Government.

The high standards of personal and professional conduct expected of judicial officers must be subject to scrutiny by the public whom they serve. It is therefore important that the system for administering complaints against judicial officers must be efficient, fair and robust to enable complaints to be examined and dealt with in a manner that provides appropriate remedial action where it is justified. In the interests of transparency, consistency and public accountability, the system for reviewing, administering and dealing with complaints concerning judicial officers must be regularly reviewed and publicised. The revised Complaints Protocol has been the subject of consultation and input from the members of the Judiciary, the Registry and the Magistrates, and has received the full support of H E Governor and the members of the Judicial and Legal Services Committee.

The Revised Protocol supercedes and replaces the Judicial Complaints Protocol 2018 and is effective from the date of its formal publication.

**The Rt. Hon. Sir Christopher Clarke, President of the Court of Appeal**

**The Hon. Larry Mussenden, Chief Justice of the Supreme Court**

**4 April 2025**

## JUDICIAL AND LEGAL SERVICES COMMITTEE FOR BERMUDA

### Convening Note and Judicial Complaints Protocols (2018)

#### PART I CONVENING NOTE - Introductory

1. Bermuda is the only British Overseas Territory in the Atlantic and Caribbean region whose judges are not appointed by a constitutionally-established Judicial Service Commission.
2. Anguilla, the British Virgin Islands (BVI) and Montserrat are served by the Eastern Caribbean Judicial and Legal Services Commission; the Cayman Islands and Turks and Caicos Islands (TCI) have had their own constitutional bodies through constitutional amendments implemented in the first decade of the 21<sup>st</sup> century<sup>1</sup>. The Cayman and TCI Commissions both (a) advise the Governor on judicial appointments at all three local court levels; and (b) advise the Governor on the exercise of their disciplinary powers over judges at all court levels. In the Eastern Caribbean judicial appointments for positions other than that of Chief Justice are made exclusively by the Eastern Caribbean Judicial and Legal Services Commission.
3. The United Kingdom has recently established its own Judicial Appointments Commission, and modernised its disciplinary regime through the establishment in 2005 of an Office of Judicial Complaints<sup>2</sup>.
4. In Bermuda, the Justice Review Committee chaired by Justice Wade-Miller recommended in March 2004 that “*a Judicial Service Commission, or some similar body, should be established*”. The Governor originally relied on an *ad hoc* Appointment Committee, which convened each time an appointment had to be made. In November 2013 the Governor created a standing Judicial and Legal Services Committee (“the Committee”) which has operated since January 1, 2014.
5. This present Committee is a standing, non-statutory group which advises the Governor, and where appropriate the Chief Justice and the President of the Court of Appeal (“the President”), on matters relating to both judicial appointments and complaints against the judiciary. Within a non-statutory

---

<sup>1</sup> Cayman Islands Constitution Order-in-Council, UK SI 2009: 1379, Schedule 2, section 106 (“*Functions of Judicial and Legal Service Commission*”); Schedule 2 to the 2006 Turks & Caicos Islands Constitution Order 2006, UK SI 2006: 1913, section 81 (“*Judicial Service Commission*”). The substance of section 81 of the TCI Constitution was not affected by the 2009 suspension of parts of the Constitution.

<sup>2</sup> Constitution Reform Act 2005, Part 4 (“*Judicial appointments and discipline*”).

framework, it broadly follows the pattern of the Cayman Islands, but includes the Chief Justice and two senior overseas judges.

## **BACKGROUND TO FUNCTIONS**

### **Appointments**

6. Under the Bermuda Constitution, the Chief Justice is appointed by the Governor after consulting the Premier, who in turn must consult the Opposition Leader, while Puisne Judges are appointed by the Governor after consulting the Chief Justice (section 73(3), (4)). Court of Appeal Judges are appointed by the Governor acting in their discretion (section 77(3)). Magistrates, somewhat anomalously, are not dealt with under Chapter V of the Constitution (“The Judiciary”) at all. Section 89 in Chapter VI (“The Public Service”) provides that Magistrates, the Registrar of the Supreme Court and any other legally qualified court officers are appointed by the Governor acting in consultation with the Chief Justice. The Committee shall advise the Governor on judicial and legal appointments. The Committee’s role in this respect is strictly advisory and the Governor shall not be bound by any recommendation made by the Committee.

### **Discipline and security of tenure**

7. Following the decision of the Court of Appeal in *Leyoni Junos (on behalf of the Civil Justice Advocacy Group) v. The Governor of Bermuda* [2024] CA (Bda) 4 Civ, the role and powers of the Governor, the Chief Justice, the President and the Committee in relation to the exercise of disciplinary control over magistrates, the registrar of the Supreme Court, judges of the Supreme Court and the judges of the Court of Appeal have been clarified.
8. In relation to Magistrates, members of any civil court subordinate to the Supreme Court and the Registrar of the Supreme Court or the Court of Appeal section 89 of the Constitution expressly provides that the power to remove or exercise disciplinary control over them is vested in the Governor acting after consultation with the Chief Justice.
9. Section 74(3) of the Constitution provides the Governor with the power to remove a judge of the Supreme Court from office for inability to discharge the function of the office or for misbehaviour provided that the procedure set out in section 74(4) has been followed. Section 74(4) requires that if

the Governor considers that the question of removing a judge of the Supreme Court ought to be investigated then (a) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members selected by the Governor from among persons who hold or have held high judicial office; and (b) the tribunal shall inquire into the matter and report to the Governor and advise the Governor whether they should request that the question of the removal of that judge should be referred by His Majesty to the Judicial Committee. An identical position prevails in relation to the removal of a judge of the Court of Appeal from office for inability to discharge the function of the office or for misbehaviour under section 78(3) and (4) of the Constitution.

10. In *Leyoni Junos* the Court of Appeal has clarified that unlike the position of the Magistrates and the Registrar of the Supreme Court, in the absence of express power in the Constitution to that effect, the Governor has no power of disciplinary control over the judges of the Superior Courts for matters which could not lead to removal from office.
11. Determination of any complaints against the judges of the Supreme Court for matters which could not lead to the removal from office is the responsibility of the Chief Justice. In the event of a complaint against the Chief Justice which could not lead to the removal from office or in the event that the Chief Justice is unable to determine a particular complaint which could not lead to the removal from office, any such complaint shall be determined by the President.
12. Determination of any complaints against the judges of the Court of Appeal for matters which could not lead to removal from office is the responsibility of the President. In the event of a complaint against the President which could not lead to the removal from office or in the event the President is unable to determine a particular complaint which could not lead to the removal from office, any such complaint shall be determined by the Chief Justice.
13. Where a complaint is made against a judge of the Supreme Court or the Court of Appeal and the Committee considers that the complaint is of such a serious nature that it could require the Governor's intervention under Section 74 of the Constitution for removal of the judge, the Committee shall so advise the Governor. The Committee's role in this respect is strictly advisory and the Governor shall not be bound by the views expressed by the Committee.
14. Where a complaint is made against a judge of the Supreme Court or the Court of Appeal, and the Committee considers that it is unlikely to lead to removal from office, the Committee shall consider

further whether such a complaint nevertheless requires internal judiciary enquiry and intervention. In respect of any such complaint the Committee shall advise the Chief Justice or the President whether in its view, having regard to the matters disclosed in the complaint, it would be appropriate to impose an intermediate sanction (a sanction other than the removal of a judge). The Committee's role in this respect is strictly advisory and the Chief Justice or the President shall not be bound by any views expressed by the Committee.

15. Paragraph 12 of the Judicial Complaints Protocol ("the Protocol") contemplates that the Committee may be presented with complaints against Judges of the Supreme Court and the Court of Appeal which are "*unmeritorious on their face*". In relation to any such complaint the Committee may express its view to the Chief Justice or the President that having considered the complaint it is the advice of the Committee that such a complaint should be dismissed summarily. However, the Committee's role in this respect is strictly advisory and the Governor, the Chief Justice and the President shall not be bound by the Committee's advice that a particular complaint should be dismissed summarily.

## **PART II JUDICIAL COMPLAINTS PROTOCOL FOR BERMUDA**

*“Section 6 of the Bermuda Constitution entitles all civil and criminal litigants the right to a hearing before an “independent and impartial court”. Such independence and impartiality requires not only the adherence by Judges and Magistrates to supportive ethical principles, but also public awareness of and confidence in the relevant ethical rules.”*

*(‘Guidelines for Judicial Conduct of the Judges of the Supreme Court of Bermuda and the Magistracy’, Preface, paragraph 1)*

### **A. INTRODUCTION**

1. On July 21, 2006, Chief Justice Richard Ground published the Bermudian Judiciary’s ‘Guidelines for Judicial Conduct’ which were strongly influenced by New Zealand’s Guidelines. The Preface to the Guidelines emphasised that:

*“...the guidance provided in these statements and comments is not intended to be a code of conduct. It does not identify judicial misconduct. It is advice. The advice is designed to assist judges to make their own choices informed by a checklist of general principles and illustrations drawn from experience...”*

2. The Preface also pointed out that the only disciplinary regime which existed for the Judiciary in the Commonwealth legal world was that relating to removal from office for serious misconduct. The ground has shifted considerably since those words were written and the Preface to the Guidelines has been updated accordingly.
3. The current trend is clearly in the direction of creating a framework for members of the public to be able to make complaints about the conduct of judges which relates to the propriety of their ethical conduct in cases where no suggestion of serious misconduct calling for removal from office arises. A few examples illustrate this shift in the direction of increasing the accountability of the Judiciary to the public in a way which supports judicial independence:
  - (a) In England and Wales a legislative scheme for judicial complaints was introduced in 2006, the same year our own Guidelines for Judicial Conduct were adopted;
  - (b) In Australia non-statutory judicial complaints procedures have been developed at the Federal and State level in recent years;



- (c) The Cayman Islands 2009 Constitution obliges the Judicial and Legal Service Commission to both create a code of judicial conduct and a procedure for making complaints of judicial misconduct; by an amendment to section 106 of the Constitution made in 2016 the Chief Justice is responsible for matters of internal discipline involving the magistrates and judges of the Grand (High) Court, and the President of the Court of Appeal for such matters involving judges of that court.
  - (d) The Isle of Man Judiciary introduced non-statutory '*Procedural Notes in Respect of Complaints of Personal Misconduct against Members of the Judiciary of the Isle of Man*' in October, 2012;
  - (e) The Caribbean Court of Justice has on its website the court's Judicial Code of Conduct and its Judicial Conduct Regulations, which make provision for members of the public to lodge complaints of ethical violations against any judge of that court and which complaints are to be determined by the Regional Judicial and Legal Services Commission.
4. A unifying feature of all of these judicial complaints procedures is that complaints will not be entertained where in substance a litigant is dissatisfied with whether or not a judicial decision made by a judicial officer is right or wrong. The remedy for such a complaint lies in the appeals process. This non-statutory Protocol is designed to provide members of the public who consider that a judge has acted in a way which is inconsistent with the standards set in the Guidelines for Judicial Conduct with a clear pathway for having their concerns or complaints heard. This not only makes the Judiciary accountable to the public. It also affords judges against whom unmeritorious complaints are made or concerns aired with a mechanism through which they can be vindicated. Consistent with international best practice, the Protocol is also designed to preserve judicial independence by ensuring that the Executive is not directly involved in imposing penalties on serving judicial officers.
5. It is important to emphasise that this complaint procedure is not to be used by disgruntled litigants to express their dissatisfaction with a decision made against them or to gain a tactical advantage in litigious proceedings that are still ongoing. Such a complaint would be liable to be dismissed without full consideration on the grounds that it was vexatious. For example, where a party to legal proceedings believes a judge was biased against them, this complaint should be pursued by way of

appeal<sup>3</sup>. On the other hand, if a party or witness believes that a judge has dealt with them in a rude and disrespectful manner, this would be a complaint of judicial misconduct which could be pursued under this Protocol, assuming the relevant proceedings have concluded.

6. Subject to the Bermuda Constitution, the Governor (i) appoints judicial officers; (ii) exercises disciplinary control over the Magistrates and the Registrar of the Supreme Court; and (iii) has the power to remove a judge of the Supreme Court and the Court of Appeal from office for inability to discharge the function of the office or for misbehaviour, following a decision of the Privy Council to advise His Majesty that the judge should be removed. The Chief Justice and the President retain responsibility for administrative intervention for complaints against Judges of the Supreme Court and the Court of Appeal where it is unlikely that they will be removed from office but where the complaints, nevertheless, appear to require judicial inquiry and intervention.
7. On 1 November 2013, the Governor H.E. Mr. George Fergusson announced the formation of a standing Judicial and Legal Services Committee to advise him on, *inter alia*, judicial complaints. The present Protocol has been voluntarily adopted by the Judiciary of Bermuda with the concurrence of the Judicial and Legal Services Committee. It applies to complaints about matters occurring on or after January 1, 2014, the effective date of this Protocol. The Protocol was amended in 2025, and as amended, applies to all outstanding complaints in relation to matters that have not previously been dealt with under the Protocol.

---

<sup>3</sup> Where a litigant considers a judge is biased based on information known to him before the start of the relevant hearing, the litigant should first raise the issue with the court and ask the judge to step down from the case.

## **HOW TO COMPLAIN**

### **Contents and form of complaints**

8. A complaint against a judicial officer shall be made in writing (see Annex A Schedule) and sent to the Executive Officer at Governor's Residence, Los Zorros, 9 Ingelwood Lane, Paget PG 06, Bermuda (Email: "[executiveofficer@gov.bm](mailto:executiveofficer@gov.bm)"). All complaints shall be submitted using the form (see Annex B Complaint Form) with such modifications as may be required.

### **Time for making complaints**

9. Complaints shall be made as soon as possible but no later than three months after the conduct complained of occurred. The Committee may in exceptional circumstances, upon receipt of a request for an extension of time setting out the reasons for the delay, recommend to the Governor and/or the Chief Justice and/or the President that the time limit for making the complaint be extended.

### **Withdrawal of complaints**

10. Without prejudice to paragraph 11, a complaint will be considered by the Committee to be withdrawn where:
  - (a) the complainant makes a written request to withdraw the complaint;
  - (b) the complainant indicates a desire not to have the complaint or any supporting materials forwarded to the judge complained against; or
  - (c) the complainant fails within a reasonable time to supply any information requested by the Committee.

### **Reference of information by Heads of Division**

11. Where the President, the Chief Justice or Senior Magistrate consider (either on the basis of a complaint that is withdrawn under paragraph 10 or on the basis of other information received in the absence of any formal complaint) that judicial misconduct may have occurred, they may refer that matter to the Committee to be dealt with as a complaint and for the Committee thereafter to provide the appropriate advice to the Governor and/or the Chief Justice and/or the President.

## CONSIDERATION OF COMPLAINTS

### Summary dismissal of complaints

12. A preliminary assessment of the merits of complaints will be carried out by a Complaints (Filtering) Sub-committee comprising the President (or such other member of the Committee, or such other person, as he may determine; and a lay member of the Committee (i.e. a member of the Committee who is not legally qualified). If a lay member is not available the President may designate any other member of the Committee or such other person as he may determine.
13. The Committee may advise the Governor and/or the Chief Justice and/or the President that a particular complaint ought to be dismissed without any full investigation where the complaint is unmeritorious on its face. The Committee's role in this respect is strictly advisory and the Governor and/or the Chief Justice and/or the President shall not be bound by the recommendation made by the Committee. The Committee is likely to recommend that a complaint be summarily dismissed where:
  - (a) it does not adequately particularise the matter complained of;
  - (b) it is about a judicial decision or judicial case management, and raises no question of misconduct;
  - (c) the action complained of was not done or caused to be done by a judicial office-holder;
  - (d) it is vexatious;
  - (e) it is without substance or, even if substantiated, would not require any disciplinary action to be taken;
  - (f) it is untrue, mistaken or misconceived;
  - (g) it raises a matter which has already been dealt with and does not present any material new evidence;
  - (h) it is about a person who no longer holds any judicial office;
  - (i) it is about the private life of a judicial office-holder and could not reasonably be considered to affect their suitability to hold judicial office;
  - (j) it is about the professional conduct in a non-judicial capacity of a judicial office-holder and could not reasonably be considered to affect their suitability to hold judicial office; or
  - (k) for any other reason it does not relate to misconduct by a judicial office- holder.

14. The Committee will not entertain any complaint which is anonymous and/or where the complainant provides no, or insufficient, contact information.

#### **INVESTIGATION OF COMPLAINTS WHICH APPEAR VALID ON THEIR FACE**

15. The Committee will consider all complaints which have been filed in time and which appear to raise a case to answer of judicial misconduct. Receipt of the complaint will be acknowledged and the judge complained of will be given a reasonable time to respond to the complaint.
16. Where the judge complained about is a member of the Committee, that judge shall have no involvement in the Committee's handling of the complaint.
17. Where it appears that a complaint is valid, and the judge against whom the complaint is made admits that it is valid, and then if a Sub-Committee has been appointed under paragraph 19, the Sub-Committee shall report this admission to the Committee and the provisions of paragraphs 20-22 below shall apply as if the Sub-Committee had found that a complaint of judicial misconduct has been substantiated. If no Sub-Committee has been appointed those provisions shall apply as if a Sub-Committee had been appointed and had found that a complaint of judicial misconduct has been substantiated.
18. Where it appears that a complaint may be valid but the misconduct alleged is disputed by the judge complained against, then, in a case concerning a Magistrate, a member of any other civil court subordinate to the Supreme Court, or the Registrar of the Supreme Court, the Committee shall request the Governor to appoint a Sub-Committee to adjudicate the complaint ("the Sub-Committee"). In a case concerning a Puisne Judge, the Chief Justice, and in a case concerning a member of the Court of Appeal, the President, may appoint such a Sub-Committee. In each of those cases the Chief Justice and the President shall consult with each other on such an appointment. If the complaint is against the Chief Justice the appointment of a Sub-Committee shall be made by the President; if the complaint is against the President, the appointment of a Sub-Committee shall be made by the Chief Justice, and, in either case, it shall be the appointor of the Sub-Committee who makes the determination provided for in paragraph 20 or 24 below. The Sub-Committee shall consist of such non-conflicted members of the Committee and other persons as the Committee deems appropriate. The Sub-Committee shall reach its decision as to the facts applying the balance of probabilities test.

### **Adjudication of complaints**

19. The Sub-Committee may in its discretion afford both the complainant and the judge complained against an opportunity to be heard in person before the Sub-Committee arrives at its decision and recommendation on the merits of the complaint. However, the Sub-Committee may, if it considers it just to do so, decide complaints without such a hearing. The Sub-Committee shall not decide on the merits of a complaint without a hearing in person unless satisfied that the complainant and the judge concerned have had a sufficient opportunity to make representations to the Sub-Committee on the merits.
20. Where the Sub-Committee finds that a complaint of judicial misconduct has been substantiated, it shall report this finding to the Committee which may recommend to the Chief Justice or the President or the Governor (depending on which of those three is responsible for internal disciplinary matters in relation to the judge in question) that no further action be taken against the judge or that the judge complained against should be:
  - (a) provided with advice; or ;
  - (b) required to undertake such other remedial measures (such as, but not limited to, a requirement to give an apology or to undertake training) as appear appropriate in all the circumstances of any particular case; or ;
  - (c) admonished privately; or;
  - (d) admonished publicly; that is on the Judiciary website and in the local media; or
  - (e) Subjected to any combination of the above

For the avoidance of doubt, in this section, the Committee may not recommend to the Chief Justice or the President or the Governor a sanction of suspension from duty or loss of salary.

21. The Committee's role in this respect is strictly advisory and neither the Chief Justice, nor the President nor the Governor shall be bound by any conclusion or recommendation of the Committee. The Chief Justice or the President or the Governor upon receipt of such a recommendation, or, if no recommendation is made, upon receipt of the finding of the Sub-Committee or the admission of the judge, and after affording the judge the opportunity to make representations in accordance with paragraph 22, may either:

- (a) accept and implement the recommendation in whole or in part;
  - (b) decide that no action be taken; or
  - (c) decide that some other action should be taken.
- 22. Before the Chief Justice or the President or the Governor determines what, action, if any, should be taken in respect of any complaint, the Chief Justice or the President or the Governor shall communicate the finding of the Sub-Committee and any recommendation of the Committee to the judge and afford the judge the opportunity to make representations as to what action, if any, should be taken in respect of the proven or admitted complaint. Thereafter the Chief Justice or the President or the Governor shall determine what action, if any should be taken.
- 23. After informing the judge complained about of the action to be taken in respect of a proven complaint, the Chief Justice or the President, as the case may be, shall after the period for lodging an appeal under paragraph 24 has expired, and only if there is no appeal, immediately inform the Governor and the Committee. In the event that an appeal is lodged under paragraph 25 within the period allowed, then the Chief Justice or the President, as the case may be, shall abide the outcome of the appeal before informing the Governor or the Committee of the result of the appeal.
- 24. Where the Sub-Committee decides that a complaint has no merit and should be dismissed, the Sub-Committee shall communicate this decision to the Chief Justice or the President or the Governor (depending on which one of them appointed the Sub-Committee) and shall give brief reasons for its decision. The Sub-Committee's role in this respect is strictly advisory and neither the Chief Justice nor the President nor the Governor shall be bound by the decision of the Sub-Committee. The decision of the Chief Justice or the President in respect of the recommendation of the Sub-Committee shall be communicated by the Chief Justice or the President to the Governor, the Complainant, the judge complained against, and the Committee. The decision of the Governor in respect of the recommendation of the Sub Committee shall be communicated by the Governor to the Complainant, the judge complained against and the Committee.

## Appeals

25. The Chief Justice and the President shall establish an Appellate Panel comprising at least five persons each of whom shall be:
- (a) A former member of the Judicial Committee of the Privy Council;
  - (b) A Justice or former Justice of the Caribbean Court of Justice;
  - (c) A judge or former judge of a court of equivalent jurisdiction to the Court of Appeal for Bermuda of any jurisdiction within the British Commonwealth (including any British Overseas Territory) other than Bermuda; or
  - (d) A former judge of the Court of Appeal for Bermuda.
26. If a judge is dissatisfied with the final decision of the Chief Justice or the President (but not the Governor) under this Protocol and wishes to appeal against it, they shall so inform the Chief Justice or the President in writing within 21 days of being informed of the decision.
27. Upon receipt of a notice of appeal, the Chief Justice shall ask the President or the President shall ask the Chief Justice to select from the Appellate Panel three persons to hear the judge's appeal ('the Appeal Panel'). If either the Chief Justice or the President is not able to fulfil this function for any reason, the next most senior member of the Court of Appeal for Bermuda shall make the selection. If there are, for any reason, insufficient members of the Appellate Panel able to hear the appeal, the person who is to select the Appeal Panel may appoint a sufficient number of *ad hoc* members from amongst persons eligible to be members of the Appellate Panel.
28. The Appeal Panel shall hear the judge's appeal and shall report their determination to the Chief Justice or the President and the judge. The Chief Justice and the President shall be bound by that determination and shall accordingly not take any action against the judge that would be inconsistent with the determination of the Appeal Panel. If the Appeal Panel dismisses the judge's appeal, the decision appealed against shall stand.
29. For the avoidance of doubt, no currently serving member of the Judiciary of Bermuda shall be included in the Appellate Panel or otherwise be appointed to hear an appeal.



**Complaints bringing a judicial officer's fitness for office into question**

30. If a complaint appears to be sufficiently serious that, if proved, removal from office might be required, the Committee may recommend to the Governor:
- (a) that the judge complained against should be suspended pending the determination of the complaint; and
  - (b) in the case of complaints against judges of the Supreme Court or Court of Appeal, that a tribunal be established pursuant to the provisions of section 74(4) or 78(4) of the Bermuda Constitution, as the case be.
31. No member of the Bar shall participate in a recommendation to advise the Governor to proceed under section 74(4) or 78(4) of the Constitution.

**Dated this 4<sup>th</sup> day of April 2025**

**The Rt. Hon. Sir Christopher Clarke, President of the Court of Appeal**

**The Hon. Justice Larry Mussenden, Chief Justice**

## **ANNEX A**

## **SCHEDULE**

### **PLEASE READ BEFORE PROCEEDING FURTHER:**

1. Unless there are reasons why it believes that a complaint should be investigated, the Complaints Committee of the Judicial and Legal Services Committee (the JLSC) is likely to recommend to the Chief Justice or the President of the Court of Appeal that a complaint, or part of a complaint, be dismissed if it falls into any of the following categories –
  - (a) it does not adequately particularise the matter complained of;
  - (b) it is about a judicial decision or judicial case management, and raises no question of misconduct;
  - (c) the action complained of was not done or caused to be done by a judicial office-holder;
  - (d) it is vexatious;
  - (e) it is without substance or, even if substantiated, would not require any disciplinary action to be taken;
  - (f) it is untrue, mistaken or misconceived;
  - (g) it raises a matter which has already been dealt with and does not present any material new evidence;
  - (h) it is about a person who no longer holds any judicial office;
  - (i) it is about the private life of a judicial office-holder and could not reasonably be considered to affect their suitability to hold judicial office;
  - (j) it is about the professional conduct in a non-judicial capacity of a judicial office-holder and could not reasonably be considered to affect their suitability to hold judicial office; or
  - (k) for any other reason it does not relate to misconduct by a judicial office-holder.
2. The Complaints Committee will not entertain any complaint which is anonymous and/or where the complainant provides no, or insufficient, contact information.

## **ANNEX B – COMPLAINT FORM**

### **Part A – About You (the Complainant)**

1. Name: Mr/Mrs/Miss/Ms

\_\_\_\_\_

2. Physical Address:

\_\_\_\_\_

3. Mailing Address: \_\_\_\_\_ Postal Code: \_\_\_\_\_

4. Contact numbers: Home: \_\_\_\_\_ Work: \_\_\_\_\_ Cell: \_\_\_\_\_

5. Email: \_\_\_\_\_

**Only fill out this section if someone is assisting you with the complaint – for example a lawyer**

Name of representative: \_\_\_\_\_

Organisation: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Contact numbers:

Work: \_\_\_\_\_ Cell: \_\_\_\_\_

Email: \_\_\_\_\_

**Part B – Your complaint**

About whom are you complaining (the judicial office-holder)?

\_\_\_\_\_

What happened?

Please describe the events that you want to complain about. We need to know what you say happened and where and when it happened. Please give us all the dates and as many specific details as you can remember regarding the behaviour complained of.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### **Part C – Further information**

#### **Supporting evidence**

Please attach copies of any documents that may help us investigate your complaint (for example, letters).

If you cannot do this, please tell us about such documents or other evidence and how it or they can be obtained.

---

---

---

---

Have you made a complaint about this to anyone else? (For example, the office of the Ombudsman)

If so, please provide details of the complaint, to whom it was made and the outcome. Please also attach copies of any correspondence relating to the complaint.

---

---

---

I hereby declare that the above information is accurate to the best of my knowledge.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Consent to Release Information:** I understand that the Governor's office and the JLSC may have to work with various individuals and agencies to investigate my complaint. Therefore, I give my consent to the use and release of my complaint, any or all of its subject-matter and any additional information that the Governor's office, the JLSC or any person investigating my complaint feels is necessary to complete that investigation. I also understand that they will have to be released to the person who is the subject of my complaint.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Remember: to sign and date this document; and to attach copies of any relevant documents.

**FAILURE TO PROVIDE ALL INFORMATION AND DOCUMENTS REQUESTED WILL  
DELAY CONSIDERATION OF YOUR COMPLAINT**

Send your completed form to:

**HE the Governor - Attention: Executive Officer**  
**Governor's Residence**  
**Los Zorros, 9 Inglewood Lane**  
**Paget PG 06**

Or by email to: [executiveofficer@gov.bm](mailto:executiveofficer@gov.bm)