

NORTHERN IRELAND JUDICIAL APPOINTMENTS (NIJAC)

COMPLAINTS POLICY AND PROCEDURE

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POLICY

1. Background

1.1 Northern Ireland Judicial Appointments Commission (NIJAC) was established on 15 June 2005 as an independent public body under the Justice (Northern Ireland) Acts 2002 & 2004 (the 2002 and 2004 Acts), as amended. Upon the devolution of justice on the 12 April 2010 the Northern Ireland Act 2009 (the 2009 Act) extended NIJAC's statutory duties.

1.2 NIJAC is an appointing body, selecting and appointing to non-crown judicial offices in various Courts and Tribunals throughout Northern Ireland. NIJAC select and make recommendations for crown appointments up to and including High Court Judge.

1.3 NIJAC selects, recommends and appoints on merit, through fair and open competition and by selecting from the widest possible range of eligible applicants. Its work encompasses the principles of:-

- Merit;
- Independence;
- Diversity;
- Fairness;
- Transparency;
- Accountability;
- Partnership.

2. Policy Objectives

2.1 The objectives of the policy are to:

- (i) implement a fair and transparent process with regards the handling of all complaints that are made to NIJAC;
- (ii) ensure that this procedure is applied fairly and consistently to ensure the process is administered fairly and without bias;

- (iii) set out the key roles, responsibilities and procedures for those involved in the assessment and administration of complaints; and
- (iv) ensure any lessons learnt are reported and applied.

3. Scope

3.1 This policy and procedure will apply to:

- Complainants
- NIJAC Commissioners and staff
- Those supporting the work of NIJAC, including Co-opted Members.

3.2 NIJAC classify complaints into two categories:

- a. Commission Complaints relate to complaints associated with Judicial Appointment Schemes.
- b. Non-Commission complaints are complaints associated with any other matters outside of Judicial Appointment Schemes.

3.3 In order to gather as much information as possible NIJAC have included Complaints Forms to aid a complainant making a Commission Complaint (at Annex 1 – Page 15) or a Non-Commission Complaint (at Annex 2 – Page 18). However, it is not necessary to initially fill out a Complaints Form to make a complaint to NIJAC. Complaints can be submitted and are accepted through a variety of channels – by post, telephone, email etc. However, the form will be required to be completed at an early stage of the process as the Complaints Forms are available as a helpful tool in setting out a complaint, supplying information for an investigation and capturing what the complainant would like to see in terms of any resolution. If support is required to fill out a Complaints Form, please communicate with a member of staff at NIJAC.

3.4 Negative comments made via social media will not be treated as a complaint and therefore will fall outside the scope of this policy.

4. Purpose

4.1 NIJAC seeks to develop and promote continuous improvement by a range of means including scheme feedback, comments or complaints. We are committed to dealing with any difficulties that may arise in the delivery of our commitments fairly, thoroughly, impartially and in a timely way. This policy relates to complaints arising from any aspect of NIJAC conducting its function and sets out the arrangements for 'Commission' and 'Non-Commission' Complaints. It also provides a mechanism for informal resolution of all complaints through direct engagement with the Chief Executive or an appropriate nominee.

4.2 NIJAC will investigate all complaints (Commission or Non-Commission) made within 28 days of the matter complained of.

4.3 Pursuant to section 9C(3) of the Justice (Northern Ireland) Act 2002 NIJAC has decided that the arrangements for investigating a Commission complaint, need not apply to a complaint made more than 28 days after the matter complained of. Rather NIJAC has discretion whether or not to investigate complaints made more than 28 days after the matter complained of. NIJAC have adopted such arrangements for investigating non Commission Complaints.

4.4 Ordinarily, in the context of exercising discretion, no weight will be given to whether the complainant had taken time to pursue an alternative remedy, such as Freedom of Information or other routes.

5. Commission Complaints

5.1 'Commission Complaints' are defined by Section 9B of the Justice (Northern Ireland) Act 2002. A Commission Complaint is a complaint by a qualifying complainant of maladministration by the Commission or a committee of the

Commission who claims to be adversely affected, as an applicant for selection or as a person selected, by the maladministration complained of.

5.2 As noted at 3.2 those making a 'Commission Complaint' are required at an early stage in the complaints process to complete the form at Annex 1.

5.3 A Complainant is required to set out the grounds of complaint and sources of information upon which s/he seeks to rely. Complainants are obliged and required to assist the investigation openly and honestly and the Complaints Commissioner ("the CC") or the Complaints Committee ("the CCte") has discretion to dismiss a complaint on the basis of a breach of that obligation. Equivalent discretion exists when a complaint is considered to be vexatious.

5.4 In relation to a Commission Complaint made during the progress of a current scheme ordinarily and unless a 'fatal or fundamental flaw' is apparent the scheme will proceed.

6. Commission Complaint: What is maladministration?

6.1 Maladministration is not defined and it is acknowledged that it is a broad concept. A helpful guide to the meaning of maladministration is aided by the comments of Lord Denning in *Regina v Local Commissioner for Administration for the North and East Area of England, ex parte Bradford Metropolitan City Council* [1979] QB 287 where he said at Page 311:

'So this is the guide suggested to the meaning of the word 'maladministration'. It will cover bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness and so on.'

*'It 'would be a long and interesting list,' clearly open-ended, covering the **manner** in which a decision is reached or discretion is exercised; but excluding the **merits** of the decision itself or the discretion itself. It follows that 'discretionary decision, properly exercised, which the complainant*

dislikes but cannot fault the manner in which it is taken, is excluded': see Hansard, 734 H.C. Deb., col 51.

In other words if there is no maladministration, the Ombudsman may not question any decision taken by the authorities. He/she must not go into the merits of it or intimate any view as to whether it was right or wrong. This is explicitly declared in section 34 (3) of the Act of 1974. He/she can enquire whether there was maladministration or not. If he/she finds none, he/she must go no further. If he/she finds it, he/ she can go on and enquire whether any person has suffered injustice thereby.'

7. Commission Complaint: Role of the Judicial Appointments Ombudsman

7.1 The Judicial Appointments Ombudsman for Northern Ireland (JAO) investigates complaints from applicants for judicial appointments who allege they have been adversely affected by maladministration by NIJAC. This has been set out in legislation as:

"A commission complaint is a complaint by a qualifying complainant of maladministration by the Commission or a committee of the Commission."
(Justice (Northern Ireland) Act 2002)

7.2 The JAO will normally expect the Complainant to exhaust the complaint mechanisms within NIJAC before submitting a complaint to his/her office.

7.3 When NIJAC receives a qualifying 'Commission Complaint' the Chief Executive or her nominee will inform the JAO that a complaint has been received, however, the Complainant will remain unidentified. The JAO will also be informed of the outcome and the date it was issued to the complainant.

7.4 The JAO must prepare a report on any complaint they have investigated and must state findings made, if the complaint should be upheld in whole or part, and if so, what if any, action recommended as a result of the complaint.

7.5 The JAO's recommendation may include payment of compensation relating to loss which appears to the JAO to have been suffered by the complainant as a result of maladministration, and not as a result of any failure to be appointed to an office to which the complaint related.

8. Non-Commission Complaints

8.1 Complaints regarding staff which are not 'Commission Complaints', will be managed by the Chief Executive who will nominate an appropriate individual to conduct an investigation. This will be handled broadly in line with [Northern Ireland Civil Service procedures](#). For complaints about the Chief Executive and legal/lay Commissioners these will be directed to the Chair of NIJAC. Complaints about the conduct of judicial Commissioners, including the Chair of NIJAC, fall outside the scope of this policy and must be directed to: [Judicial Conduct and Complaints | Judiciary NI](#)

8.2 As noted at 3.2 those making a Non-Commission Complaint are required at an early stage in the complaints process to complete the form at Annex 2.

9. The Six Principles of Good Complaints Handling

9.1 Below are The Six Principles of Good Complaints Handling:¹

- (i) Start off right
- (ii) Fix it early
- (iii) Focus on what matters

¹ The Statement of Principles provided by The Northern Ireland Public Services Ombudsman are overarching basic principles that public bodies' complaints handling procedures should reflect and comply with. Further information can be found here: [Model Complaints Handling Procedures | NIPSO](#)

- (iv) Be fair
- (v) Be honest

10. Investigating Complaints

The powers set out in this part of the policy which are to be exercised by the Chair of NIJAC may instead be exercised by another member of NIJAC (“an Appropriate Person”) nominated for that purpose by the Chair either generally or specifically in relation to a particular complaint.

10.1 Investigating ‘Non-Commission Complaints’

10.1.1 The Chief Executive or her nominee will appropriately and proportionately investigate and determine all Non-Commission complaints and advise the Complainant as appropriate.

10.2 Investigating ‘Commission Complaints’

10.2.1 A Commissioner, known as the Complaints Commissioner (CC) will be appointed by the Chair of NIJAC for a three-year period.

10.2.2 Should the CC be of the view that additional members are required to serve on a Complaints Committee (CCte) s/he will make a recommendation through the Chief Executive or her nominee to the Chair of NIJAC.

10.2.3 Where the CC identifies a conflict of interest another CC will be appointed by the Chair of NIJAC to determine the complaint.

10.2.4 NIJAC’s Standing Orders sets out the Code of Practice for members of ad hoc committees such as a CC or a CCte. The 2002 Act provides that any committee or sub-committee may consist of or include persons who are not members of NIJAC.

10.2.5 The CC/CCte in accordance with this policy and the procedure will

appropriately and proportionately investigate, provide analysis and make a determination.

10.2.6 The CC/CCte will be supported by the Chief Executive or their nominee.

10.2.7 Legal advice may be sought.

10.2.8 The CC/CCte has discretion to provide a draft report and/or recommendations, in part or in whole, to any person in NIJAC or to any person about whom the complainant complains, for their comment prior to finalising the report.

10.2.9 The final determination of the CC/CCte is to uphold, or not, the complaint and state if there is adverse impact; it is also to make recommendations to Plenary as to what, if any, action to take.

10.2.10 The final determination will be communicated to Plenary.

10.2.11 Any recommendations will be communicated to Plenary electronically or a special meeting of Plenary may be arranged or the matter may be considered at the next meeting of Plenary.

11. Communicating the Outcome of Complaints

Commission Complaints

11.1 For Commission Complaints, the CC/CCte will set out its findings and final determination. This will be communicated to Plenary. Following this, the report will be issued to the Complainant.

11.2 Complainants will be advised that they have the further option of seeking redress through the JAO if they are not satisfied with the outcome of the complaint investigation. (See contact address at section 3 of the Complaints

Procedure). The JAO will consider the investigation of a complaint made by a qualifying complainant under section 9D of the 2002 Act.

Non-Commission Complaints

11.3 For Non-Commission Complaints, the Chief Executive or her nominee will set out the findings and final determination. This will be communicated to Plenary. Following this, the report will be issued to the Complainant.

11.4 Complainants will be advised they have the option of seeking further redress through an appeal to the Chief Executive or Chair of NIJAC as appropriate. Depending on the nature of the complaint, this will be communicated to the complainant at the beginning of the investigation.

11.5 Complaints about Judicial Commissioners, including the Chair of NIJAC, fall outside the scope of this policy and must be directed to: [Judicial Conduct and Complaints | Judiciary NI](#)

12. Reporting on Complaints

12.1 It should be noted for Commission Complaints that in accordance with section 9I of the 2002 Act, information about judicial appointments is confidential and that, consequently, NIJAC's report to the Complainant of its investigation will not include information which relates to an identified or identifiable individual other than the Complainant. In addition while the Data Protection Act 2018 provides rights of access to personal data, a report should take cognisance of s14 of Part 2 to Schedule 2 which sets out an exemption on the disclosure of personal data that is processed for the purpose of assessing suitability for judicial office. The investigation report is confidential and will not be disclosed except to the Complainant, those investigating and NIJAC.

12.2 Confidentiality will be respected in accordance with the Confidentiality Policy no matter the nature of the complaint, unless there is a statutory or regulatory necessity to share the information.

12.3 All formal complaints are reported in the Annual Report for the accounting period.

12.4 Complaints are anonymised and reported to the and Risk Assurance Committee.

12.5 This policy and procedure does not preclude a complainant referring a complaint to any other relevant external authority.

13. Variation of policy

13.1 This policy, or the arrangements under it, may be varied, amended or adjusted at any time.

14. Policy Review

14.1 This policy and procedure will be reviewed in three years from the date of approval or amendment or as the need arises.

PROCEDURE

Making a Complaint

- 1.1 A complaint should be made within 28 days of the matter complained of and at an early stage of the process on the appropriate form should be completed (Annex 1 – Page 15 or Annex 2 – Page 18) and sent delivered to NIJAC .
- 1.2 The complaint will be acknowledged within 3 working days of receipt.
- 1.3 Upon receipt the Chief Executive or her nominee will confirm whether the complaint is a 'Commission Complaint' and has discretion to consult with the Complaints Commissioner (CC).

Informal Resolution

- 1.4 The Complainant may be invited to discuss with the Chief Executive or her nominee, the nature of the complaint, including:
 - (i) the specifics of the complaint made;
 - (ii) the basis upon which the complaint is made;
 - (iii) any relevant documentation upon which the Complainant wishes to rely in support of their complaint; and
 - (iv) whether an informal route or explanation can be provided to resolve the complaint.

2. Formal Procedure for Commission Complaint

- 2.1 If Informal Resolution is unsuccessful or inappropriate the Complainant will be advised of the steps NIJAC will take.
- 2.2 The Chief Executive or her nominee may consult the CC and if the CC

is of the view that additional members or others are required to assist in reaching a determination, they will follow the arrangements set out in the policy at 10.2.2.

- 2.3 Determinations may be based upon only the information provided. Further information may be sought from others including the Complainant and the Selection Committee.
- 2.4 Where an investigation is to take place the Terms of Reference, should they be required, will be agreed and an anticipated timescale to conclude the investigation will be indicated to the Complainant.
- 2.5 Emphasis will be on achieving as speedy a resolution as the circumstances of the investigation and the nature of the complaint will permit. NIJAC will endeavour to reach a determination in respect of a complaint within 28 days of the commencement of the investigation. Where it is not possible to meet this timescale, the Complainant will be advised and provided with a revised indicative timetable.
- 2.6 In relation to a Commission Complaint made during the progress of a current scheme ordinarily and unless a 'fatal or fundamental flaw' is apparent the scheme will proceed. To continue, to delay or to halt the appointment scheme is the decision of Plenary.
- 2.7 If necessary, the CC/CCte or Plenary will give consideration how best to communicate with other affected applicants. The SC and / or the Chair may be consulted.
- 2.8 It is important to emphasise that information about judicial appointments is **confidential** (section 9 of the 2002 Act, refers) and that, consequently, NIJAC's report to the Complainant of its investigation and determination will not include information which relates to an identified or identifiable individual other than the

Complainant. This report will be treated in confidence.

- 2.9 Confidentiality will be respected in accordance with the Confidentiality Policy no matter the nature of the complaint, unless there is a statutory or regulatory necessity to share the information.

3. Complaints to the Office of the Northern Ireland Judicial Appointments Ombudsman

- 3.1 Complainants who wish to refer a complaint to the Judicial Appointments Ombudsman should do so within 28 days of issue of the Commission's decision. The JAO can be contacted at:

Northern Ireland Judicial Appointments Ombudsman
c/o Northern Ireland Public Service Ombudsman
Progressive House
33 Wellington Place
Belfast
BT1 6HN
Email: nipso@nipso.org.uk

This Complaints Procedure has been adopted by the Plenary Committee of the Northern Ireland Judicial Appointments Commission with effect from 19 June 2025.

Signed:

A handwritten signature in black ink, appearing to read 'Tony Cole', with a stylized flourish at the end.

Chief Executive

19/6/25

Complaints Form for Commission Complaint

Section 9B of the Justice (Northern Ireland) Act 2002 defines a Commission Complaint as a qualifying complaint of maladministration by the Commission or a committee of the Commission and being adversely affected, as an applicant for selection or as a person selected, by the maladministration complained of.

| |
|--------------|
| Name: |
|--------------|

| | |
|----------------------------------|--|
| Mobile Telephone Details: | |
|----------------------------------|--|

| | |
|--------------------------------|--|
| Home Telephone Details: | |
|--------------------------------|--|

| | |
|------------------------|--|
| E Mail Address: | |
|------------------------|--|

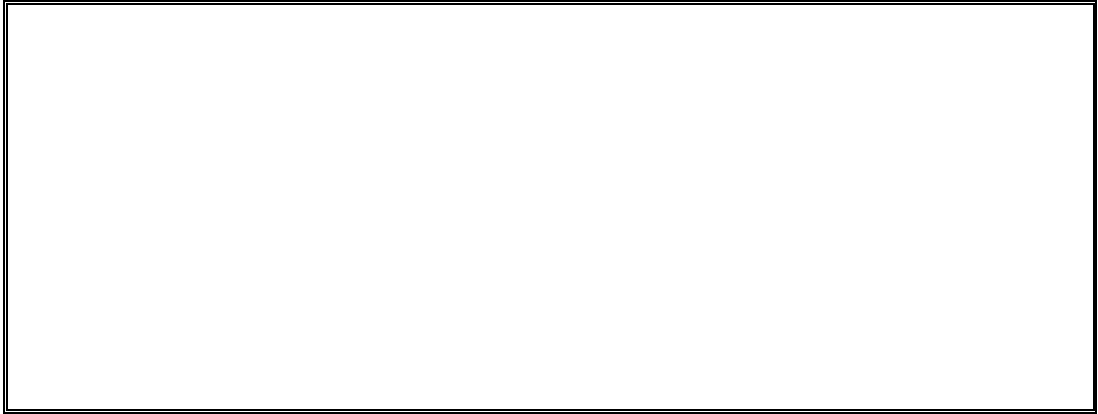
| |
|-----------------|
| Address: |
|-----------------|

Details of Complaint

1 (a): What matters complained of occurred upon what date?
Please identify all the matters that arose on each date.

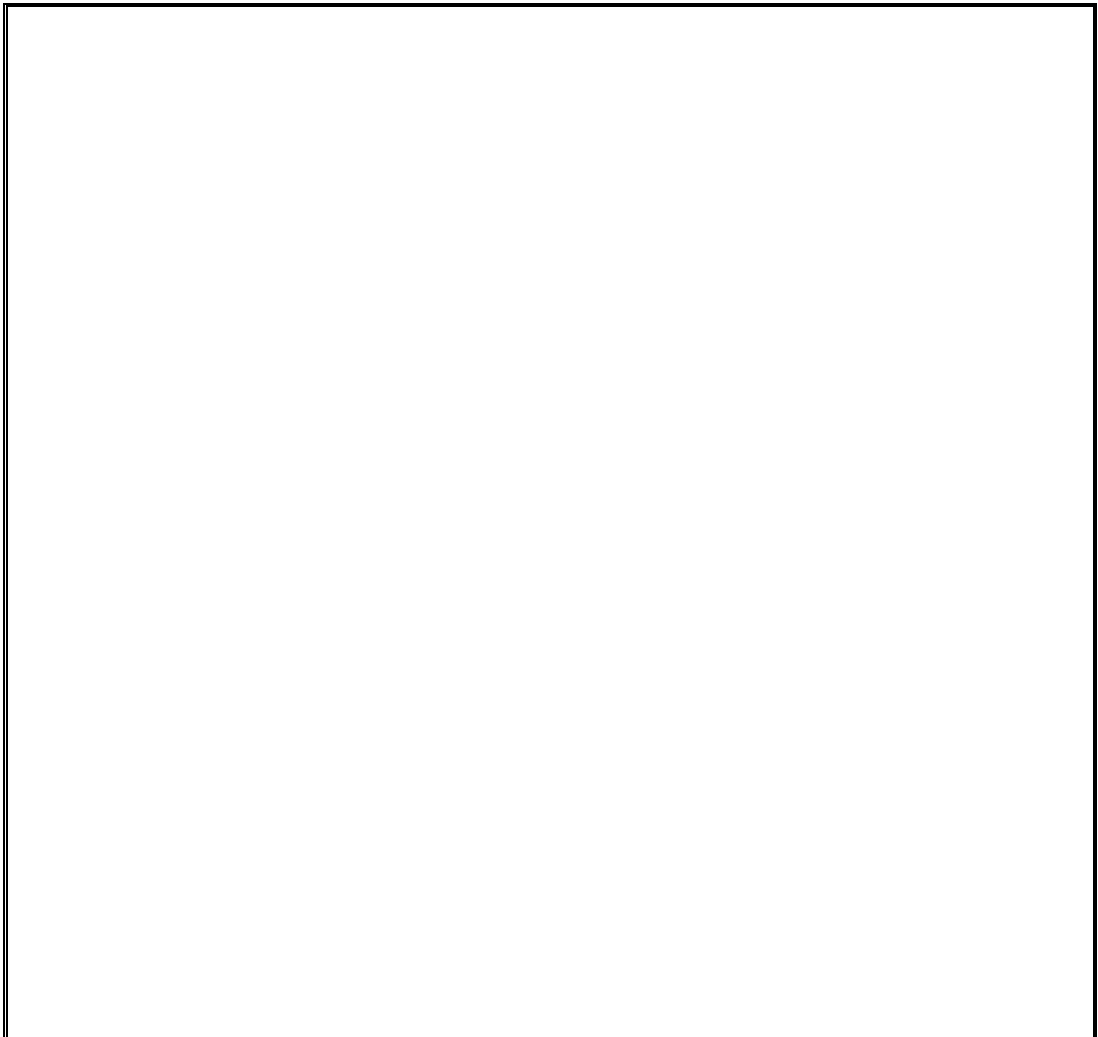
| |
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| |
|--|

If you consider that any matter complained of occurred more than 28 days prior to the making of this complaint or if it could be held that any matter complained of occurred more than 28 days prior to the making of this complaint then state whether you consider that discretion should be exercised to accept and investigate the grounds of complaint or any of them and set out why you consider that discretion should be exercised to do so.



1 (b) Please set out as succinctly as circumstances allow the detail of the matter(s) which you consider may constitute maladministration.

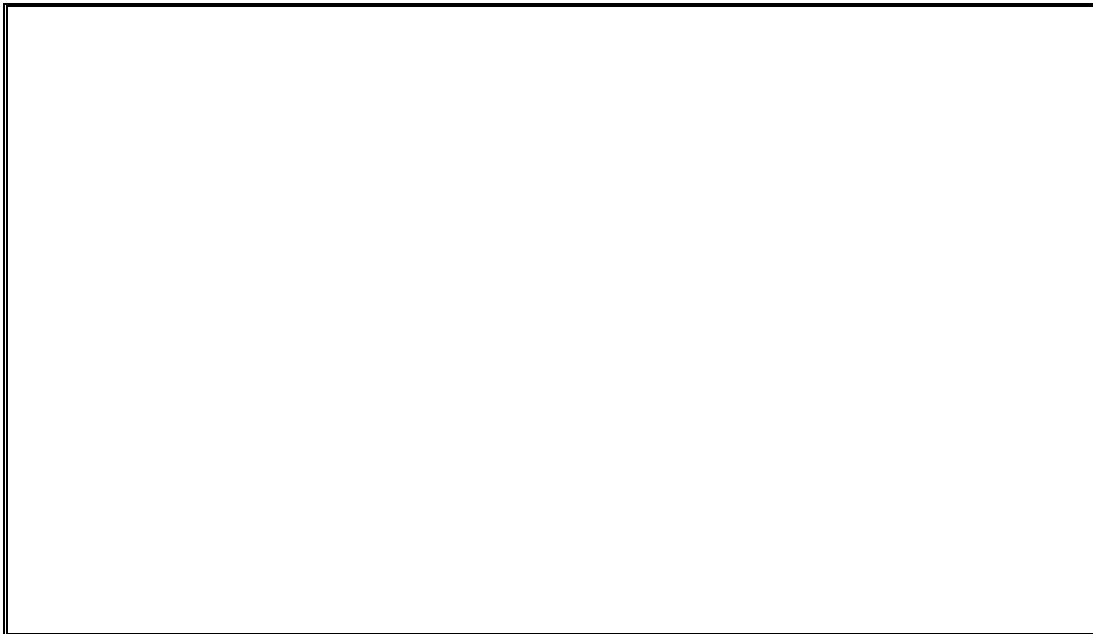
You may attach documents upon which you seek to rely. A determination may be made solely on the information and documents you provide.



- 1 (c)** Please set out as succinctly as circumstances allow the adverse impact you consider to have occurred.



- 2.** Please set out what you consider is a reasonable resolution of your complaint and specify the reasons why you consider such a resolution to be reasonable.



- 3. Signature of Complainant**

Annex 2

Complaints Form for Non-Commission Complaint

Name:

Mobile Telephone Details:

Home Telephone Details:

E Mail Address:

Address:

Please set out, as succinctly as circumstances will allow:

1 (a) the date upon which the matter complained of occurred

| |
|--|
| |
|--|

1 (b) the detail of the complaint.

| |
|--|
| |
|--|

2. Please set out what you consider is a reasonable resolution of your complaint and specify the reasons why you consider such a resolution to be reasonable.

3. Signature of Complainant
