

November 2018

**Queen's Counsel**

**Complaints Committee Procedure**

**The Complaints Committee**

1. The Complaints Committee is independent of the Queen's Counsel appointment process and is charged with considering and determining complaints raised by an applicant in respect of the treatment of his/her application within that process. No member of the Complaints Committee shall have been a member of the QC Selection Panel for the competition in question.
2. The full Complaints Committee comprises a senior judge nominated by the Lord Chief Justice, a senior member of the Bar nominated by the Chairman of the Bar, a senior solicitor nominated by the President of the Law Society, and a lay (independent) member appointed jointly by the Chairman of the Bar and the President of the Law Society.
3. The Complaints Committee will be chaired by the judicial member, or in his or her absence, by the member nominated by him or her.
4. The quorum for a decision of the Complaints Committee in respect of a complaint is two.
5. In the event that a member of the Complaints Committee acted as an assessor in respect of a complainant, that member of the Complaints Committee will not participate in the consideration and decision of the complaint of that complainant by the Complaints Committee.
6. The Complaints Committee will retain its own reasonable ad hoc or part time secretariat support, the costs of which will be for the joint account of the Bar Council and the Law Society (although the Bar Council and the Law Society may in turn, at their discretion, recoup those costs from Queen's Counsel Appointments Ltd).
7. The purpose of the Complaints Committee is to provide an avenue whereby applicants who consider they have been unfairly treated as a result of the Selection Panel failing to follow its own procedures, or otherwise acting improperly, can obtain an independent adjudication of their complaint. It is not the function of the Complaints Committee to appoint Queen's Counsel (a function reserved to Her Majesty) or to recommend that a complainant be appointed or not be appointed Queen's Counsel (a function reserved to the Queen's Counsel Selection Panel and in turn the Secretary of State for Justice and Lord Chancellor).

**Confirmation that complaint is to proceed**

8. The Complaints Committee will consider complaints arising from a particular competition for Queen's Counsel after the end of that competition. The Complaints Committee will first supply to each complainant a copy of this procedure.

9. The Complaints Committee will then consider the material supplied by the complainant in order to establish whether any further documents or information may be useful to the Complaints Committee.

10. The Complaints Committee will notify the Chief Executive of QCA of the submission of the complaint; copy the complaint to the Chief Executive, and (unless the Complaints Committee is satisfied that the complaint is unfounded) invite QCA to make any observations on the complaint. As part of this process, the Complaints Committee may ask any questions of QCA which it considers appropriate.

### **Further documents or information**

11. If the Complaints Committee considers that further documents or information may be useful to it, it will request the production of the same from:

(a) the complainant; or

(b) the Chief Executive of Queen's Counsel Appointments ("QCA"), acting on behalf of the Queen's Counsel Selection Panel;

as it considers appropriate.

12. Save in the case of assessments (or notes of assessments) or other confidential documents or information, and subject to a decision of the Complaints Committee to the contrary in any particular instance, the complainant will ordinarily be entitled to see any documents or know any information that the Complaints Committee receives from the QCA Secretariat in response to its request. Assessments (or notes of assessments) or other confidential documents or information are dealt with separately at 14 to 18 below.

13. The Complaints Committee may exercise its power to request production of documents or information at any stage, and more than once in the course of its handling of a complaint.

### **Respecting confidentiality**

14. If the Complaints Committee considers that it should seek to have access to a confidential document or other confidential information which originated from outside the QCA (other than assessments), the QCA Secretariat will at the request of the Complaints Committee first seek the consent of the author before providing such material.

15. Any assessment (or note of an assessment), or other confidential document or information, to which the Complaints Committee has had access will (consistently with the basis on which it was provided or prepared originally) be treated as confidential by that Committee and will not be made available to the complainant (or any other person). The identity of the assessor in question will similarly be treated as confidential.

16. Consistently with published information about the application process, a complainant is not entitled to know which assessors (from those listed on his or her

application form, and apart from the applicant's nominated assessors) were selected by the Queen's Counsel Selection Panel through the QCA Secretariat and approached for an assessment.

17. The Complaints Committee does not have discretion to waive the confidentiality applying to assessors and assessments and, unless it has the explicit consent of the assessor concerned, shall ensure that neither the content of any assessment, nor the identity of the assessor who provided it, is made known to the complainant. Subject to that requirement, the Complaints Committee may, if it considers it necessary to do so, supply the complainant with a summary of the points made by one or more assessors, provided it is satisfied, after consultation with QCA, that its proposed summary does not enable the complainant to identify the assessor concerned.

18. Where the Complaints Committee considers that the provisions of Rules 15-17 mean that it could not deal justly with a complaint, the Committee may decline to deal with the complaint.

### **Facility for oral address to the Complaints Committee**

19. In exceptional circumstances, the Complaints Committee may consider it necessary to invite a complainant to address the Complaints Committee orally in respect of the complaint, at a meeting of the Committee. Where it does so, the Complaints Committee shall also invite the Chair of the Selection Panel and the Chief Executive of QCA to attend.

20. Attendance at the meeting will otherwise be limited to those permitted by the Complaints Committee to attend.

21. The Complaints Committee will be free to limit the length of the oral address. With the permission of the Complaints Committee, the address may be given by a representative speaking on behalf of the complainant rather than by the complainant personally.

22. The Complaints Committee shall give the Chair of the Selection Panel and/or the Chief Executive of QCA the opportunity to respond to any points made by the complainant. Where the Complaints Committee has permitted the complainant to be represented rather than address the Committee in person, the same option will be made available to the QCA.

23. The Complaints Committee may ask questions of anyone at the meeting. A record will be kept of what was said at the meeting.

### **Decision**

24. The Complaints Committee will then complete its consideration and decide whether to uphold or reject the complaint.

25. The Complaints Committee will give brief written reasons for its decision.

26. A copy of the decision and reasons will be sent to the following in confidence:-

- (a) the complainant;
- (b) the Chief Executive of QCA;
- (c) the Chair of the Queen's Counsel Selection Panel;
- (d) the Chair of the Bar Council;
- (e) the President of the Law Society.

27. The decision will not be sent to anyone else.

28. If the complainant should wish to make public the decision, he or she may apply to the Complaints Committee for a redacted version of the decision, excluding material which the individuals concerned are entitled to expect to be kept confidential, for that purpose.

### **Remedial steps available, and guidance**

29. If the complaint is upheld the Complaints Committee may then take one or more of the remedial steps set out below:

- (a) inform the Chair of the Queen's Counsel Selection Panel, and the Chief Executive of QCA of its findings in relation to the complaint in order that the Selection Panel and the Secretariat may (i) seek to ensure that the circumstances giving rise to an upheld complaint do not recur and (ii) take such other action as the Selection Panel considers appropriate;
- (b) direct that the complainant shall be entitled to make an application in a (specified) future competition for Queen's Counsel without fee or with a reduced fee;
- (c) direct that all or part of the fees paid by the complainant to QCA be reimbursed;
- (d) direct the Selection Panel to treat the application as if it had been made in the next competition, and to reconsider the application in the light of the observations of the Complaints Committee;
- (e) make such comment or offer such guidance as it thinks fit, whether to the complainant or the QCA Secretariat or the Queen's Counsel Selection Panel or otherwise.

30. Even where the complaint is not upheld the Complaints Committee may make such comment or offer such guidance as it thinks fit, whether to the complainant, to the QCA Secretariat, to the Queen's Counsel Selection Panel, or otherwise.

### **Procedure generally**

31. Except in relation to Rule 17, the Complaints Committee is free to adjust the procedures referred to in this document if it should consider it appropriate to do so in a particular case, subject to prior consultation with the complainant and QCA.

### **Finality**

32. The decision of the Complaints Committee is final.

### **Report**

33. At the end of its determination of all complaints from a Queen's Counsel competition, the Complaints Committee will prepare a short overall report, avoiding any material which might identify individual complainants or assessors, and send a copy to:

- (a) the Secretary of State for Justice and Lord Chancellor;
- (b) the Chair and Chief Executive of the Bar Council;
- (c) the President and Chief Executive of the Law Society; and
- (d) the Chair of the Queen's Counsel Selection Panel and Chief Executive of QCA.

35. These Rules and the Complaints Committee's Annual Reports will be published on the QCA website.

### **Effective Date**

36. This procedure shall apply to all complaints made in respect of the 2018 competition and subsequently, until it is amended.