
**Advisory Committee on
Complaints against Judicial Conduct
Annual Report 2023**

Background

- 1.1 The Judiciary is committed to ensuring that judges and judicial officers observe the highest standards of conduct, displaying integrity and propriety in all matters both in and out of court. There is an established mechanism for dealing with complaints against judicial conduct by the Chief Justice and the Court Leaders at all levels of court.
- 1.2 Further to the improvement measures implemented since 2016 and the additional transparency measures introduced in 2020, the Judiciary conducted a review of the mechanism for handling complaints against judicial conduct in 2021 with a view to enhancing its transparency and accountability. Arising from the review, an enhanced mechanism with a two-tier structure for handling complaints against judicial conduct was introduced in August 2021.
- 1.3 The two-tier system comprises-
 - (a) Tier 1 – A Panel of Judges comprising more than one judge at the High Court level to investigate into serious or complex pursuable complaints against judicial conduct or those which have aroused wide public attention;
 - (b) Tier 2 – The Advisory Committee on Complaints against Judicial Conduct (the Advisory Committee) chaired by the Chief Justice and comprising judges and members from the community to review and advise on these cases before the Chief Justice makes a final decision on each complaint.

Terms of reference

1.4 The terms of reference of the Advisory Committee are:

- (a) To monitor and advise on the handling of complaints against judicial conduct;
- (b) To identify problems in court practices/procedures which lead or might lead to complaints and recommend improvements where appropriate; and
- (c) To make recommendations on improvements to the complaint handling mechanism.

Membership

1.5 The membership of the Advisory Committee from 16 August 2023 to 15 August 2025 is as follows:

Chairman	The Hon Chief Justice Andrew CHEUNG, GBM Chief Justice of the Court of Final Appeal
Members	The Hon Mr Justice Johnson LAM Permanent Judge of the Court of Final Appeal
	The Hon Mr Justice Patrick CHAN, GBM Non-Permanent Judge of the Court of Final Appeal
	The Hon Mr Justice Jeremy POON Chief Judge of the High Court
	The Hon Madam Justice Susan KWAN Vice-President of the Court of Appeal of the High Court
	Dr Christopher CHENG Wai-chee, GBS, JP
	Mr Patrick FUNG Pak-tung, BBS, SC
	Ms Connie LAU Yin-hing, SBS, JP
	Professor LEE Chack-fan, GBS, SBS, JP

Overview

- 2.1 The Judiciary attaches great importance to the fair and proper handling of complaints against judicial conduct while ensuring that the principle of judicial independence is not compromised.
- 2.2 Judicial independence is constitutionally guaranteed by the Basic Law. It is fundamentally important to our judicial system. Each judge or judicial officer at any level of court shall exercise judicial power independently according to the law and legal principles, free from any interference. Complaints against judicial decisions will NOT be entertained under the mechanism. A party who is aggrieved by a judicial decision may, in accordance with the applicable legal procedure, seek redress by appeal or applying for a review.
- 2.3 Under the complaint handling mechanism, complaints against judicial conduct are categorized into “non-pursuable complaints” and “pursuable complaints”:
 - (a) “Non-pursuable complaints” are complaints that do not involve judicial conduct (i.e. complaints against judicial/statutory decisions, or complaints that are in substance complaints against judicial/statutory decisions, etc.), or complaints that are frivolous or vexatious (i.e. when the factual contentions are clearly baseless such as where serious allegations are made which are not supported by any factual evidence, or where the complaints are misconceived or lacking in substance, etc.);
 - (b) “Pursuable complaints” are complaints other than non-pursuable complaints and which are to be dealt with under the complaint handling mechanism as described below.

Mechanism for handling Pursuable Complaints against Judicial Conduct

- 2.4 As from 16 August 2021, all pursuable complaints against judicial conduct are handled under the two-tier structure. For serious or complex pursuable complaints against judicial conduct or those which have aroused wide public attention, the first-tier Panel of Judges will investigate into such complaints. The second-tier Advisory Committee will then review and give advice on how to handle these cases before the Chief Justice makes a final decision on each complaint.
- 2.5 For pursuable complaints directly related to judicial conduct of judges of the Court of Final Appeal and the Court Leaders (i.e. the Chief Judge of the High Court, the Chief District Judge, and the Chief Magistrate)¹, they will also be handled under the two-tier system, irrespective of whether these complaints are of a serious or minor nature.
- 2.6 For other pursuable complaints, they will first be investigated by the relevant Court Leaders and then reviewed by one or more High Court judges before disposal, and the results will be reported to the Advisory Committee in a summary manner. Where justified, the Chief Justice may direct to re-open and review the investigation of any case on the advice of the Advisory Committee.
- 2.7 A flowchart showing the steps for handling pursuable complaints is at *Appendix A*.

Report on Non-pursuable Complaints

- 2.8 The disposal of non-pursuable complaints will be summarily reported to the Advisory Committee from time to time. The Advisory Committee may raise questions and express views on this category of complaints where necessary and appropriate.

¹ These are complaints which are directly related to their own conduct, and are not complaints against the handling of the original complaints or complaints on their neglect of their monitoring role regarding allegations against other judges.

Work of the Advisory Committee

- 3.1 In 2023, the Advisory Committee reviewed the investigation report of the Panel of Judges on one group of pursuable complaints which comprises a large number of similar complaints against a judicial officer in relation to one case (ESCC 2566/2019) and attracts wide public attention.
- 3.2 After a careful examination of the relevant facts and the investigation report put forward by the Panel of Judges, the Advisory Committee considered that these complaints were not substantiated, with which the Chief Justice agreed. In line with the established practice, the investigation outcome and the decision on these complaints have been posted on the Judiciary [website](#) for public perusal.
- 3.3 The Advisory Committee also endorsed the conclusions on:
- (a) two other pursuable complaints against judicial conduct which were found partially substantiated;
 - (b) 49 other pursuable complaints against judicial conduct which were found unsubstantiated or were repeated complaints without new grounds; and
 - (c) 115 non-pursuable complaints which were either complaints against judicial decisions/frivolous complaints or repeated complaints without new grounds.
- 3.4 When reviewing these cases, the Advisory Committee expressed the view that in the course of performing judicial functions, judges and judicial officers should be careful with their words or comments, and the articulation of such comments should be measured to avoid causing any unnecessary misunderstanding or giving an appearance of impropriety.

3.5 The Advisory Committee noted that the Judiciary would continue its efforts in providing judges and judicial officers with appropriate training, particularly on case management skills.



(from left to right) The Hon Madam Justice Susan KWAN; The Hon Mr Justice Jeremy POON; The Hon Mr Justice Johnson LAM; The Hon Chief Justice Andrew CHEUNG; Dr Christopher CHENG Wai-chee; Prof LEE Chack-fan; Ms Connie LAU Yin-hing; Mr Patrick FUNG Pak-tung, SC

4 Complaints Disposed of in 2023

Complaints Disposed of in 2023

- 4.1 In 2023, a total of 462 complaints were disposed of, including 383 pursuable complaints against judicial conduct and 79 non-pursuable complaints that were mainly related to judicial decisions. In accordance with the principle of judicial independence, complaints against judicial decisions cannot and will not be dealt with under the complaint handling mechanism. Any dissatisfaction with judicial decisions can only be dealt with by way of appeal or review through existing legal procedures.
- 4.2 Among these complaints, 348 were related to mass complaints relating to one judicial officer².
- 4.3 There were two partially substantiated pursuable complaints in 2023. Details of the cases are summarised at *Appendix B*.

² Complaints against the judicial officer are related to five court cases. The Judiciary had previously dealt with complaints involving four of the five court cases. The investigation on the complaints involving the remaining case ESCC 2566/2019 was reviewed by the Advisory Committee in 2023.

4.4 Information regarding the complaints disposed of in 2023 is summarised below:

Number of Complaints Disposed of ¹	2023 Total
a) Pursuable complaints against judicial conduct	383
- <i>pursuable complaints comprising a large number of similar complaints and drawing wide public attention</i>	348 ²
- <i>other pursuable complaints against judicial conduct</i>	35 ^{3, 4}
b) Non-pursuable complaints (judicial/statutory decisions or frivolous/vexatious complaints)	79⁵
Total	462⁶

1. Under the enhanced mechanism, the investigation findings of all pursuable complaints are to be reviewed either by the Advisory Committee (for complaints which are serious/complex/drawing wide public attention or directly related to judicial conduct of specific judges) or by High Court judges (for other pursuable complaints) before disposal. In addition, the disposal of other pursuable complaints and non-pursuable complaints is to be summarily reported to the Advisory Committee from time to time.
2. These 348 complaints are related to mass complaints involving one court case and have been reviewed by the Advisory Committee in the year.
3. These pursuable complaints have been or will be summarily reported to the Advisory Committee from time to time.
4. Among these pursuable complaints, there are two partially substantiated cases.
5. These non-pursuable complaints have been or will be summarily reported to the Advisory Committee from time to time.
6. For those identical or similar complaints against a judge / judicial officer involving more than one court case, the number of complaints will only be reported in the above table upon full disposal of complaints of all court cases involved. The number of complaints disposed of only includes complaints provided with the mandatory information (correspondence address and name).

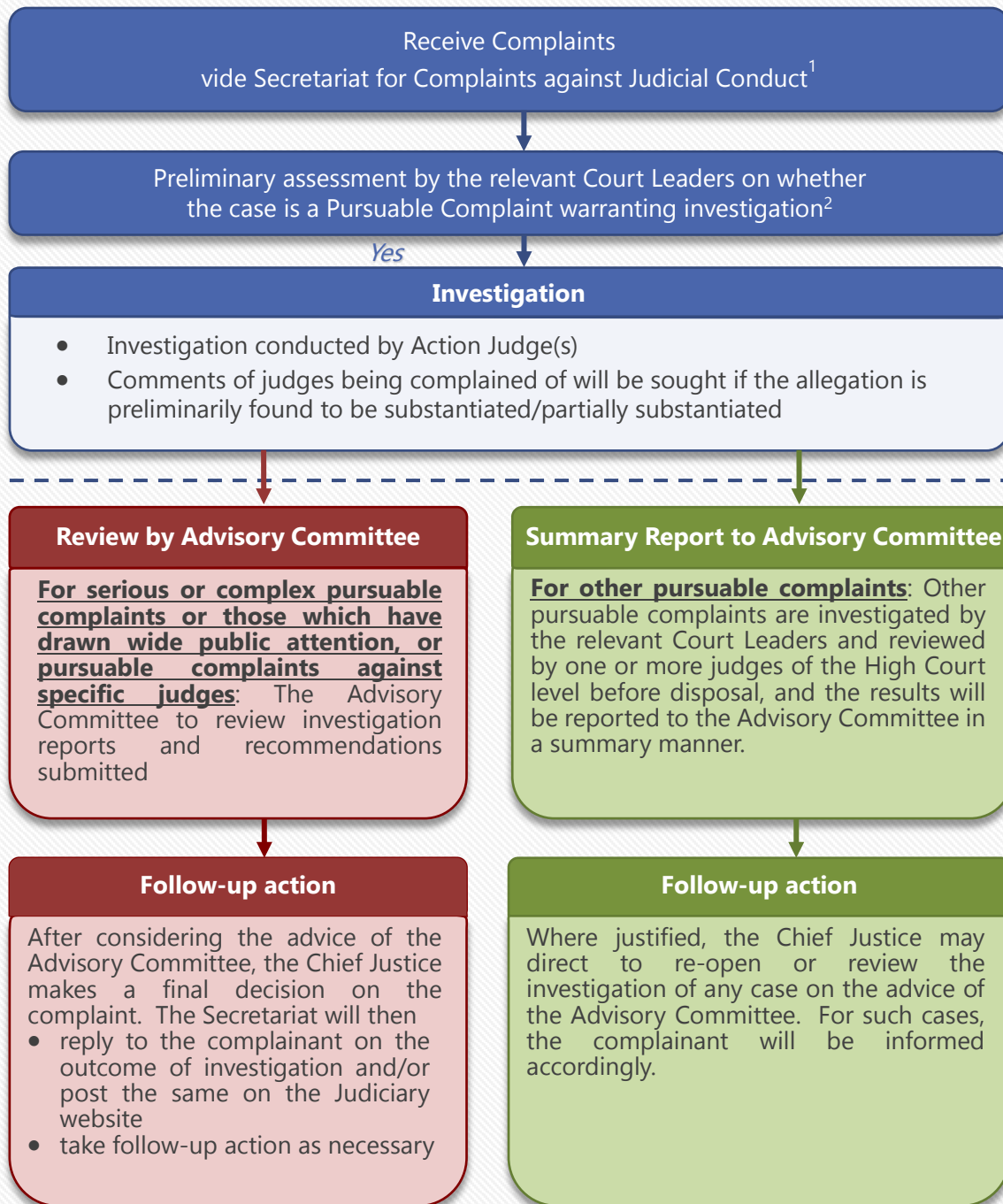
4.5 Complaints related to judicial conduct are broadly classified according to their nature. Among pursuable complaints against judicial conduct, 11 cases were related to attitude and behaviour in court, 365 cases (involving 348 mass complaints relating to one court case) were about the handling of the actual proceedings in court and 7 cases were of a mixed nature.

Period	No. of Complaints disposed of relating to Judicial Conduct	Classification by Nature			
		C1 ¹ (Attitude and Behaviour in Court)	C2 ² (Conduct of Proceedings)	C3 ³ (Conduct Outside Court)	Mixed (Involving more than one category)
2023	383	11	365 ⁴	0	7 [C1+C2]

1. Category 1 ("C1") – allegations of poor or undesirable attitude or behaviour of judges and judicial officers in court e.g. lack of punctuality, rudeness, etc.
2. Category 2 ("C2") – allegations of improper handling of the actual proceedings in court, e.g. bias, excessive intervention, inappropriate comments, lack of preparation, unilateral communication with parties, etc.
3. Category 3 ("C3") – those relating to alleged improper behaviour or conduct which is not directly related to court work; e.g. erecting illegal structures at premises owned by the judges and judicial officers, using judicial stationery when writing in private capacity, etc.
4. Including 348 mass complaints concerning one court case.

Appendix A

Flowchart for Handling of Pursuable Complaints



Note:

1. Where the allegations in a complaint are associated with on-going court proceedings, the investigation will normally be deferred until after the conclusion of all relevant court proceedings.
2. The disposal of non-pursuable complaints will be summarily reported to the Advisory Committee from time to time. Where justified, the Chief Justice may on the advice of the Advisory Committee direct that a complaint be re-opened or reviewed.

Appendix B

Partially Substantiated Pursuable Complaints

In 2023, there were two (out of 35) other pursuable complaints against judicial conduct that were found to be partially substantiated. Details are summarised below:

Case 1

The complainant complained against the Magistrate's manner in commenting on the complainant's approach in filing amendments. The Court Leader found that there was room for improvement on the Magistrate's handling of the court case. For the proper and effective disposal of cases, the Magistrate may, where appropriate, issue case management instructions and comment on the litigants' handling approach. However, care should be taken to ensure that any criticism made is relevant, necessary and reasonable, and tempered with caution and restraint. The relevant Magistrate was reminded to be more careful to avoid making any remarks that might give an unnecessary impression of not allowing the complainant to provide explanations.

Case 2

The complainant complained against the Magistrate's manner in making comments on the complainant's lines of cross-examination. The complainant also questioned that the Magistrate's use of judiciary stationery was inappropriate. The Court Leader found that the Magistrate passed his remarks in an overly severe tone. While a judicial officer may have to intervene where necessary to maintain the proper conduct of the proceedings, the judicial officer should ensure that such comments and interventions are measured and restrained. As regards the use of judicial stationery, it was not inappropriate as it was connected to matters arising from the discharge of the Magistrate's judicial functions.

As set out in paragraph 2.6, the Court Leader's investigation findings on these cases were reviewed by one or more High Court judges and were summarily reported to the Advisory Committee. The Advisory Committee endorsed the conclusions on these cases.