

JUDICIAL APPOINTMENTS AND CONDUCT OMBUDSMAN'S REPORT

COMPLAINT BY MARK ANTHONY TAYLOR

Introduction

1. Mr Mark Anthony Taylor asked Sir John Brigstocke KCB to review the investigation by the Judicial Conduct Investigations Office (JCIO) of his complaint against His Honour Judge (HHJ) Brown.
2. This report sets out my findings, as required under section 112 of the Constitutional Reform Act 2005. The Act enables me to consider concerns about the process by which complaints about the personal conduct of judicial office holders are handled (i.e. the regulated disciplinary function) with a view to ascertaining whether there was a failure to comply with prescribed procedures or some other maladministration. My remit also allows me to consider the process by which complaints are rejected on the basis that they do not raise a question of misconduct. However, I cannot comment on whether matters rejected on this basis should have been considered under other provisions.

The complaint

3. Mr Taylor completed a complaint form on 10 September 2015. Sir John Brigstocke KCB agreed to investigate Mr Taylor's concerns as set out below. I was appointed the Judicial Appointments and Conduct Ombudsman on 26 January 2016 and this report reflects my findings.
 - the JCIO failed to consider a key complaint that HHJ Brown violated the Equal Bench-book Rules, and declined to consider all of the documentation that he sent because the caseworker said that she 'imagined' that it dealt with arguments used to appeal HHJ Brown's decision – this was lazy and negligent and showed contempt for his situation and his time;
 - the JCIO failed to ask him for further particularisation of his complaint before dismissing it;
 - the JCIO took over 20 days to respond and misled him by suggesting that it was considering his complaint during this time; and
 - the JCIO failed to obtain a transcript in order to verify his allegations.

Mr Taylor stated that he wanted to understand the scope of the JCIO to investigate the matters he raised and for his complaint to be re-investigated if it were upheld.

My decision

4. I have not upheld this complaint. I have concerns that there were a number of minor issues which occurred during the course of the JCIO's investigation, including a slight delay, a misunderstanding over whether his evidence would be

considered and a failure to dismiss one aspect of his complaint. On balance I am content that these issues, individually and in sum, do not amount to maladministration.

Background

5. Mr Taylor brought a claim against Anshu Jain a former CEO of Deutsche Bank and a number of Banks that he accused of manipulating foreign exchange rates and the precious metals market. Mr Taylor lost money on precious metal trades transacted through Deutsche Bank. His claim was struck out by HHJ Brown and a civil restraint order was made against him with costs. He complained against the Judge to the JCIO; his complaint was dismissed after further information had been considered.

Factors taken into account

6. I have taken the following factors into account in reaching my decision:
 - Mr Taylor's views, as expressed in his correspondence with my office and previously with the JCIO;
 - the information on the JCIO file and its responses to queries raised by my office; and
 - the evidence outlined in the Investigating Officer's report, at Annex A.

My findings

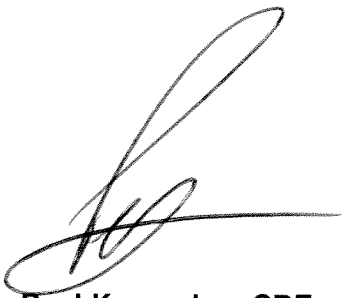
7. I am content that the JCIO properly considered Mr Taylor's complaint and dismissed it without further investigation as it did not raise issues which could be pursued under the regulated disciplinary process. It was reasonable that the JCIO found that the complaint about the Equal Bench-book Rules related to judicial decisions or judicial case management which could only be challenged via an appeal.
8. The caseworker did state that she could not open an appeal document that Mr Taylor sent her, but that she 'imagined that it dealt with arguments used to appeal HHJ Brown's decision'. This phrase was unfortunate as it led Mr Taylor to assume that documents he provided in support of his complaint would not be considered. In fact the documents were re-sent and the caseworker was able to consider them. In her final letter she confirmed that she had reviewed these documents before reaching her decision to dismiss the complaint.
9. The JCIO did ask Mr Taylor to provide particularisation of his allegation that the Judge showed political bias in dismissing his claim. Mr Taylor did not provide any evidence to support his allegation of political interference in his case and so this aspect of his complaint was properly dismissed.
10. Mr Taylor's complaint was dismissed within a reasonable period after the JCIO had considered his further particularisation. Notwithstanding this there was a slight delay in issuing the final decision, for which the caseworker apologised. This was a sensible way to address the issue; I am content that any delay did not amount to maladministration and no further apology or redress is required now.
11. The JCIO did not mislead Mr Taylor when it told him that it was considering his complaint. It did consider his complaint but decided to dismiss it.

12. The JCIO did refuse to obtain a transcript of Mr Taylor’s hearing or listen to a recording of the proceedings. This decision was logical and proportionate as there were no issues of judicial misconduct which required verification.
13. The caseworker summarised Mr Taylor’s complaint in seven points but failed to inform him of the reason for the dismissal of point four of the summary: this was his concern about the lack of time, as a litigant in person, to prepare for the hearing. This was an unfortunate oversight, but I am content that nothing arises from it, as the complaint does not raise a matter of judicial misconduct and the caseworker has confirmed that she meant to dismiss it under Rule 21(b) when she dismissed other aspects of the complaint under this rule. Any failings that I have identified in the JCIO’s handling of the original complaint do not amount to maladministration; I have not therefore upheld Mr Taylor’s complaint to me.

The response to my draft report

14. In accordance with the requirements of section 112 of the Constitutional Reform Act 2005, I have shown this report, in draft, to the Lord Chancellor and to the Lord Chief Justice. The Head of HR Casework has responded on behalf of the Lord Chancellor; she has stated:

“The Lord Chief Justice and I have read your draft report; we note that although there were some failings in the caseworker’s management of the case, they did not amount to maladministration. We accept your findings.”



Paul Kernaghan CBE

 **February 2016**