

COMPLAINTS PROCEDURE OF THE PROVINCIAL COURT JUDICIAL COUNCIL

The Council will review, investigate and deal with complaints as follows:

- (a) *Complaints which clearly do not engage the jurisdiction of the Council, i.e. complaints which clearly do not allege “misconduct” or “incapacity” as per s. 55(1) of The Provincial Court Act, 1998 – under the direction of the Chief Justice of the Court of King’s Bench, and with his or her approval, the Executive Officer of the Council will prepare and send a letter to the complainant stating that the Council has no jurisdiction to deal with the matter.*

- (b) *Complaints which are either within the jurisdiction of the Council or arguably within the jurisdiction of the Council but which are self-evidently without substance, i.e. complaints which allege, or arguably allege, “misconduct” or “incapacity” but which are devoid of merit. This includes complaints that are trivial, vexatious, manifestly lacking in merit or otherwise clearly not warranting further inquiry – under the direction of the Chief Justice of the Court of King’s Bench, the Executive Officer of the Council will do necessary background work in relation to the complaint by way of requisitioning transcripts, etc. as the case might be. The background material and the complaint will then be considered by the Chief Justice of the Court of King’s Bench. If the Chief Justice concludes that the complaint should be dismissed, he or she will ask the Executive Officer to circulate a package of material to all Council members. The package will include (i) an indication that the Chief Justice has looked into the matter, concluded that it is clearly without merit, and recommends that the complaint be dismissed, (ii) an explanation as to why the complaint is seen to be without merit, (iii) a complete file of relevant background information for Council members to consider when determining if they agree that the complaint is without merit, and (iv) a request that Council members indicate to the Executive Officer, by a date to be specified by the Executive Officer, whether they concur with the recommendation to dismiss the complaint. If the majority of Council members agree that the complaint should be dismissed, the Executive Officer will draft an appropriate*

letter, over his or her signature, for the Chief Justice of the Court of King's Bench to approve. If approved, the letter will then be sent out. If the majority of Council members do not agree with the recommendation to dismiss the complaint, or if the chairperson of the Council otherwise considers it appropriate, the complaint will be dealt with at a meeting of the Council.

- (c) *All other complaints, i.e. complaints which are either clearly or arguably within the jurisdiction of the Council and which have some merit* – complaints falling within this category will be presented to Council for its consideration at a meeting. In advance of the meeting, and at the direction of the Chief Justice of the Court of King's Bench, the Executive Officer of the Council will do such background work as might be appropriate by way of requisitioning transcripts and so forth.

At the conclusion of the review and any investigation of a complaint, the chairperson of the Council will notify the Minister, the complainant and the judge whose conduct or capacity was in issue of the Council's decision, all as per s. 55(3) of *The Provincial Court Act, 1998*.