**ROAD USER CHARGING TRIBUNAL COMPLAINTS PROCEDURE**

**Introduction**

This Complaints Procedure has been adopted by the Road User Charging Adjudicators Tribunal (the tribunal) for handling complaints of personal misconduct made against Road User Charging Adjudicators (referred to henceforth as “Adjudicators”) when hearing appellants or other members of the public (such as witnesses) giving evidence in a personal appeal. This procedure has had regard to “The Judicial Conduct Rules 2023”, and the “Judicial Discipline (Prescribed Procedures) Regulations 2023”.

Where a user of the tribunal makes a complaint which is not about personal misconduct (e.g., if they complain about the state of the waiting facilities) then the complaint will not be dealt with under this procedure which is exclusively concerned with personal misconduct. Similarly, if the “complaint” is about the system, the scheme, or a particular process or procedure it will not be dealt with under this procedure but in the ordinary course of the Chief Adjudicator’s correspondence. (The Chief Adjudicator is a Road User Charging Adjudicator appointed by the Greater London Authority as Chief Adjudicator).

Where the complaint is made by tribunal staff against an Adjudicator, or by one adjudicator against another Adjudicator, the internal grievance process will be used rather than this procedure.

# The underpinning principles

Five principles underpin this complaints procedure:

1. Openness – all parties must be given the opportunity to participate and express their views in relation to any complaint. No complaint will be determined against an Adjudicator without giving that individual the opportunity to comment on the complaint.
2. Timeliness – the ability of all parties to recall events accurately will decrease with time. Therefore, clear targets will be set for every stage of the process once a complaint has been received to ensure that complaints are dealt with as promptly as possible. However, if a complaint relates to a case which is ongoing or an issue which may be amenable to review, it may have to be deferred until the case in concluded.
3. Fairness – complaints should be dealt with consistently and the procedure must be fair to both the complainant and the Adjudicator who is the subject of the complaint. This procedure explains the processes and the standards to be used.
4. Accountability –. This means that an investigation into a complaint must be based on evidence. The Chief Adjudicator shall explain the decision made on a complaint by reference to the evidence presented during the investigation which should have been conducted in an inquisitorial manner to the civil standard of proof i.e. on the balance of probabilities.
5. Confidentiality – information gathered during the investigation of a complaint is confidential between the parties involved and the investigating Adjudicator (although disclosure may be permitted under Section 139 of the Constitutional Reform Act 2005 subject to the conditions specified in Section 139(4)).

# The Aims and Scope of the Complaints Procedure

The procedure is not intended to introduce an excessively elaborate approach to dealing with complaints of personal misconduct by Adjudicators during a personal appeal hearing. It aims to:

1. Deal with genuine complaints of personal misconduct fairly and appropriately whilst ensuring that time is not wasted pursuing enquiries into vexatious or malicious complaints.
2. Ensure that Adjudicators are seen to be unbiased and to make decisions that are not affected by prejudice.
3. Maintain the confidence of the public that Adjudicators within the Road User Charging tribunal live up to the very high standards expected of them in discharging their duties.
4. Allow Adjudicators to learn from genuine errors in relation to their personal conduct while ensuring that they have a fair opportunity of responding to a complaint.
5. **What is “personal misconduct”?**

The sort of personal misconduct by an Adjudicator which may be complained about under this Complaints Procedure could include:

1. Discrimination in any form against appellants or other members of the public appearing at a personal hearing before the Adjudicator
2. Inappropriate behaviour and comments, including rude or offensive remarks, shouting, banging the table or speaking in a sarcastic manner
3. Not fulfilling judicial duties in respect of an individual appeal (e.g. unacceptable delay in reaching a decision).

Examples of what is **not** covered by ‘personal misconduct’ include:

1. Complaints about a judicial decision (e.g. the outcome of an appeal hearing)
2. Complaints about case management decisions (e.g. whether a case should have been adjourned)
3. The only way to challenge such matters is through the review process.
4. **What is a complaint?**

In order for the process to begin a complaint must be received and considered by the Chief Adjudicator.

1. A complaint is an expression of dissatisfaction about a particular Adjudicator’s personal misconduct as opposed to someone simply expressing views on ‘the system’ or a particular process or procedure.
2. The complaint must be made or recorded in writing i.e. by letter or e-mail – The complaint must be received in the English language. The complaint must give the name of the complainant and cannot be accepted if it is made anonymously.
3. The complaint must contain an allegation of personal misconduct at a personal appeal hearing; give the time and date of the alleged personal misconduct and provide the name and address of the person making the complaint. For example, a complaint which simply states that the adjudicator was rude is not adequately particularised – the complainant should say what the adjudicator did or said so as to behave inappropriately and at what part of the hearing this occurred.
4. The complaint must not be vexatious – the Chief Adjudicator may decide that a complaint has already been answered or is malicious and so requires no further action, other than a response to that effect.
5. The Chief Adjudicator has the discretion not to accept a complaint where it is phrased in abusive terms.
6. The complaint will not be accepted if the complainant says that they do not wish the subject of the complaint to see a copy of the complaint or for the complainant’s identity to be disclosed.
7. The complaint must be accompanied by the originals or copies of any documents within the control of the complainant to which he or she intends to refer.

# Time Limit for Making a Complaint

1. Any complaint about an Adjudicator’s personal misconduct at a personal appeal hearing must be made within one calendar month of the behaviour occurring.
2. If a complaint is received more than one calendar month after the behaviour is said to have occurred, it will not be investigated save in exceptional circumstances at the discretion of the Chief Adjudicator.

# Action on receipt of a complaint

On receipt of a complaint the Chief Adjudicator shall determine whether or not the allegation constitutes personal misconduct. If the Chief Adjudicator deems there is no arguable complaint of personal misconduct the Chief Adjudicator will dismiss the complaint and write to the complainant informing them of this and no further action will be taken. The Chief Adjudicator will dismiss the complaint if it falls into any of, but not limited to, the following categories:

1. It is about a judicial decision or judicial case management
2. It is vexatious or without substance, untrue, mistaken or misconceived
3. It does not particularise the matter complained of, or is made anonymously
4. Even if true it would not require any action to be taken
5. It is about a person who no longer holds office as Adjudicator
6. Even if the Chief Adjudicator dismisses the complaint, the Chief Adjudicator may still give the Adjudicator such advice as the Chief Adjudicator considers necessary.

# If an arguable complaint is made

1. If the Chief Adjudicator determines that there is an arguable complaint of personal misconduct capable of investigation, then the Chief Adjudicator shall instigate a formal investigation.
2. If the Chief Adjudicator is the subject of the complaint, then the complaint will be passed to an Adjudicator to determine if the complaint is arguable (following the process outlined above) and to conduct the investigation.
3. The subject of the complaint has a duty to co-operate with the investigation process and to respond to requests for comments and information in a timely manner.
4. **When will complaints not be investigated under this procedure?**

A Complaint will not be investigated under this Procedure

1. Where the issue complained about does not fall within the definition of ‘personal misconduct’ given above.
2. If the complaint is received outside the time limits set out above, unless the Chief Adjudicator in their discretion decides that it should be investigated.

# Investigation of a complaint

The investigation shall be an internal investigation and may include such steps as may be appropriate for example:

1. Seeking further clarification or detail from the complainant in writing;
2. Interviewing the Adjudicator that is the subject of the complaint;
3. Interviewing other potential witnesses to the alleged personal misconduct;
4. Listening to any audio recording of a hearing or obtaining a transcript of a hearing;
5. Examining any paperwork relating to the appeal;

# Resolving the complaint

If a complaint has been deemed arguable and has been investigated, a written response to the complaint (the “resolution letter”) shall be sent to the complainant and the subject of the complaint by post or by email. The resolution letter shall:

1. Summarise the nature and substance of the complaint;
2. Describe the investigation process;
3. Summarise the conclusions giving reasons for each conclusion.
4. In any case where a complaint is entirely or partially substantiated the Chief Adjudicator or, if it is a complaint against the Chief Adjudicator, the investigating Adjudicator will decide what further action, if any, needs to be taken.