



Judicial Conduct Investigations Office

**By email only to: [general.enquiries@judicialconduct.gov.uk](mailto:general.enquiries@judicialconduct.gov.uk) and  
[Christopher.Bates@governmentlegal.gov.uk](mailto:Christopher.Bates@governmentlegal.gov.uk)**

Dear Madam/Sir

## **Judicial Review - Letter Before Claim**

**Proposed Defendant:** Judicial Conduct Investigations Office (“JCIO”)

**Proposed Claimants:** As you are aware, we are instructed to act for Ms Susannah Hickman-Gray, Dr Hinaa Toheed and Ms Alison McDermott. Our clients are representatives of a group of individuals who have all made serious allegations of judicial misconduct against Employment Judge Lancaster of the Leeds Employment Tribunal.

**Details of the Matter being Challenged:** The decision of the JCIO dated 4 August 2025 in which the JCIO failed to launch an urgent and adequate investigation into Judge Lancaster’s misconduct, and refused to consider Ms Hickman Gray’s full complaint, and the linked decision of 18 August 2025 to dismiss the single allegation which the JCIO was prepared to address.

### **1. Introduction**

- 1.1 As the experiences of the complainants (all women and/or ethnic minorities) make clear, Judge Lancaster’s misconduct over many years while engaged in his judicial role gives rise to very serious concerns. The alleged misconduct consists of regular bullying of litigants-in-person and legal representatives, including shouting, harsh and inappropriate personal criticisms, intimidation and interruption of evidence. In our letter of 16 June 2025 we set out the evidence of a longstanding pattern of misconduct and requested that a group complaint be investigated to prevent other litigants becoming victims of his conduct, and to avoid the judiciary being brought further into disrepute. We explained that the JCIO has both the power and the duty to conduct this investigation. The regularity, consistency and similarity of the allegations of misconduct raised by multiple different women should alone be sufficient for the JCIO to commence an investigation.
- 1.2 Unfortunately, rather than recognise the need for a thorough investigation of this judge in your response of 4 August 2025 you: i) have dismissed all the complaints on the basis that they have, individually, failed to meet certain thresholds and criteria, all interpreted narrowly and restrictively, ii) decided to investigate just one of the many

allegations made by Ms Susannah Hickman-Gray and iii) refused to consider the group complaint as a whole.

- 1.3 The approach you have taken is unlawful. It exemplifies a series of systemic flaws in the JCIO's interpretation and application of the Judicial Conduct Rules 2023 which cumulatively:
  - 1.3.1 give rise to serious procedural unfairness for complainants;
  - 1.3.2 thwart Parliament's intention in the Constitutional Reform Act 2005 of ensuring an effective system for addressing misconduct in the judiciary; and
  - 1.3.3 result in perverse decisions.
- 1.4 We note that these systemic criticisms of the JCIO's approach to complaints of judicial bullying are corroborated and supported by Independent Review of Harriet Harman published on 8 September 2025 ("**Harman Review**").
- 1.5 All these flaws are illustrated perfectly in your approach to Ms Hickman Gray's case where in the 4 August 2025 and 18 August 2025 decisions:
  - 1.5.1 You have refused to consider the overarching complaint of bullying and misconduct which comprised a number of allegations of misbehaviour arising at a four-day hearing.
  - 1.5.2 You have dismissed complaints on the basis that Ms Hickman-Gray had not particularised or provided precise timings for some of the allegations of misconduct. This decision is obviously unreasonable and unfair given that Ms Hickman-Gray did not, as you were aware, have access to a transcript or audio recording of her hearing. This unreasonable insistence on particularisation is a systemic failing (see Harman Review §329-33 and §335).
  - 1.5.3 You have trivialised and re-characterised complaints of bullying and misconduct as case-management decisions. The Rules properly recognise that bullying and misconduct can take place in the course of case-management, and that case-management tools can be misused to effect bullying. Your decision fails to acknowledge this, which is also a systemic failing (see Harman Review §333)
  - 1.5.4 The single allegation you did agree to address was consequently considered in isolation and out of context in the 18 August 2025 decision.
  - 1.5.5 You have perversely refused to consider that single allegation alongside other examples of bullying in same the four day hearing, including complaints of shouting and banging the table on other days which are plainly relevant to an assessment of the judge's conduct overall.
  - 1.5.6 You have acted unfairly by relying exclusively on a subjective assessment of an audio recording which Ms Hickman Gray was refused access to **by the accused judge**. Ms Hickman Gray has also been unable to obtain a transcript. She is therefore disabled from pointing out why this single allegation formed part of a course of conduct which amounts to bullying, and in responding to your letter of 18 August 2025.
- 1.6 The flaws identified by the Harman Review are also illustrated in your summary refusal to consider the Group Complaint on the grounds that some of the women's complaints had previously been dismissed. Chapter 10 of the Harman Review identifies a series of widespread failings in the JCIO complaints process and in

judicial attitudes to complainants which impede proper investigation of complaints, including deterrents to complaining, thresholds which are set too high and inaccessibility of audio recordings. These thresholds allow well-known bullies to stay in post. The Harman Review stated that (§288):

*“I was told that while the majority of judges behave professionally and courteously, there are particular judges who are widely known for making everyone’s lives a misery, whose courts barristers dread appearing in and which barristers seek to avoid. In some cases, there had been complaints which had not stopped the behaviour, but in most cases no one had complained for fear of repercussions.”*

- 1.7 Judge Lancaster is one of those judges save that his conduct also affects litigants in person, and parties.
- 1.8 The Group Complaint sought, by aggregating the complaints about a particular judge, showing similarities and consistencies, and adducing new materials, to demonstrate the overwhelming evidence that Judge Lancaster’s conduct requires investigation. Rather than acknowledge the new evidence and perspective on his conduct contained in the Group Complaint, you have wrongly dismissed it on the basis that some aspects of the complaint have been rejected in previous decisions in individual cases, without recognising that Rule 23(f) permits re-consideration where there is new material. This is an unlawful and unreasonable approach to the Rules.
- 1.9 This letter puts you on notice that unless you reverse your decision on 4 August 2025 and agree to consider both the Group Complaint and the entirety of Ms Hickman Gray’s complaint, including that dismissed on 18 August 2025, we will bring judicial review proceedings against you. We make plain that we do not consider the avenue of complaint to the Judicial Ombudsman an adequate alternative remedy. The challenge we will bring against you is a systemic challenge which includes a challenge to your interpretation and application of the Judicial Conduct Rules 2023, and allegations of systemic procedural unfairness, and seeks appropriate remedies.

## **2. Factual background**

2.1 We are instructed by the following individuals:

- 2.1.1 **Ms. Susannah Hickman-Gray**, the Claimant in an Employment Tribunal case before Judge Lancaster at Leeds Employment Tribunal where she was representing herself. The final hearing in our client’s case took place over four days from 24 to 27 February 2025. Throughout this hearing our client was the victim of intimidating conduct, including hostile interventions, dismissive remarks, unjustified criticisms of the way in which she was conducting her case, and shouting. Judge Lancaster’s conduct in relation to a Claimant attempting to represent herself was so harsh, aggressive and hostile that it impeded her ability to conduct her case, caused her immense distress and amounted to judicial bullying. A complaint was submitted to the JCIO by our firm on 23 May 2025. In your letter of 4 August 2025, the JCIO agreed only to investigate a single allegation from within her complaint.
- 2.1.2 **Dr. Hinaa Toheed**, a doctor who brought a case of pregnancy and maternity discrimination and sex discrimination in the Employment Tribunal in 2022, and

was shouted at on 16 occasions by Judge Lancaster while she was being cross-examined [B/p.198, 199 and 210]. Dr Toheed has an ongoing complaint against Judge Lancaster which is corroborated by two legal professionals, including a fee-paid Employment Judge and remains unresolved after three years. Your letter of 4 August 2025 wrongly states that our client's complaint was either not upheld or rejected as out of time. Instead, our client's complaint has been held in abeyance since 2022, on the basis as she has an ongoing appeal to the Employment Appeal Tribunal. Please find **enclosed** correspondence which confirms this. This is a material error of fact that in itself invalidates the decision taken in respect of Dr Toheed. It is clear now that the JCIO must proceed with substantive consideration of Dr Toheed's complaint. By way of update, we are aware that the opposing barrister who appeared before Judge Lancaster during Dr Toheed's case has provided a statement in support of our client's position and corroborating her evidence regarding Judge Lancaster's misconduct. Until that statement has been sworn in, our client cannot share that statement without the Employment Appeal Tribunal's permission; however, the JCIO's is asked to request this permission so that it can assess this important new evidence. Please confirm by return whether this step will now be taken.

- 2.1.3 **Ms. Alison McDermott**, a whistleblower regarding nuclear safety at Sellafield, who was unfairly denied an investigation of her complaint regarding Judge Lancaster after requesting a modest extension based on medical evidence and citing JCIO rules concerning connected acts. Part of her complaint received independent validation through critical remarks by the Employment Appeal Tribunal. Your letter of 4 August 2025 simply states that since the matters referred to in respect of Ms McDermott were previously rejected, "*in view of rule 23(f), the JCIO cannot reconsider those matters*".
- 2.1.4 **Additional complainants**: in our letter of 16 June 2025 we also provided detailed information in respect of a number of other individuals who have submitted complaints to the JCIO, which were nonetheless dismissed despite awareness of similar, contemporaneous allegations against the same judge, and others who were deterred from submitting formal complaints within the time limit due to the significant barriers outlined herein. As you are aware, a group of ten individuals including Dr Toheed and Ms McDermott submitted a complaint to the JCIO on 8 January 2025 [B/p32]. On 28 January 2025, the JCIO stated in response that it was not possible to accept the complaint "*because it does not comply with Rule 8(c)*" [B/p36]. Your letter of response stated: "***The onus is on you, as the complainant, to provide details of misconduct on the part of the Judge***". In our letter of 16 June 2025 we therefore provided further particularisation regarding each of these complaints in accordance with Rule 8(c) of the Judicial Conduct Rules 2023 in the form of a detailed chronology and a bundle of supporting documents for each client. However, in your letter of 4 August 2025 you failed to address any of these complaints on the basis that "*is not clear to us from your letters which of the additional complainants you have been instructed by*". We can confirm that we have authority to act on behalf of this group and signed authorities for each of the individuals will be provided if it becomes necessary to issue judicial review proceedings.

- 2.2 In our letter of 16 June 2025 we explained that Rule 8(c) does not preclude the acceptance of group complaints by the JCIO, particularly where they demonstrate a pattern of misconduct. It is instead clear that taking complaints together is helpful in that it can demonstrate: (a) the credibility of the complaints and (b) that the acts complained of raise matters of conduct, not just case management (for example repeated interventions precluding a Claimant's answers to questions can be seen as bullying and hostile, rather than ordinary management of evidence). We also requested an extension of time pursuant to Rule 15 of the Judicial Conduct Rules 2023 for any of the complaints which were considered to be out of time on the grounds that there are exceptional circumstances for extending time.
- 2.3 Further and in any event, we noted that under Rule 132 of the Judicial Conduct Rules 2023, a nominated judge who receives information from any source which raises a question of misconduct by an office holder must refer the case to the JCIO. This indicates the importance of judicial misconduct which is brought to the attention of the judiciary being investigated by the JCIO.
- 2.4 Finally, we explained that the pattern of misconduct revealed in this group complaint constituted significant new evidence for the purposes of Rule 23(f) of the Judicial Conduct Rules 2023 and demonstrated that the complaint cannot properly be dismissed on any of the other bases set out in Rule 23 so that proper inquiries must now be made under Rule 24.
- 2.5 Unfortunately, your client misinterpreted each of these points in its decision of 4 August 2025, and that decision is unlawful for the reasons set out below.

### 3. Alternative remedy

- 3.1 We note the suggestion in the letter of the Government Legal Department ("**GLD**") dated 14 July 2025 that complaints in relation to how the JCIO has handled a complaint should be raised with the independent Judicial Appointments and Conducts Ombudsman ("**JACO**") and that this would provide an "alternative remedy" to any judicial review. As indicated above, given the grounds of challenge that we set out below, which concern the JCIO's erroneous interpretation and application of its powers and duties under the Judicial Conduct Rules 2023, we refute the suggestion that the JACO would provide an adequate alternative remedy to judicial review in this case.
- 3.2 In any event, two of our clients, Dr Hinaa Toheed and Ms Alison McDermott, have previously referred the handling of both their individual complaints and the group complaint to the JACO so the suggestion by the GLD that none of the complaints referred to in our correspondence "*have been raised as a complaint with JACO in relation to the handling of their complaints*" is, in fact, incorrect. Ms McDermott's complaint to the JACO was dismissed on 10 March 2023. On 26 January 2024 and 7 March 2024 the JACO informed Dr Toheed that they could not accept a "Group complaint" or comment on her individual complaint against Judge Lancaster, or her wish for an urgent investigation into Judge Lancaster's conduct while it remained held in abeyance.

#### 4. The Law

- 4.1 Disciplinary powers in relation to judicial office holders were given to the Lord Chancellor by virtue of the provisions of the Constitutional Reform Act 2005.
- 4.2 Section 108 of the 2005 Act provides the power for the Lord Chancellor, or the Lady Chief Justice with the agreement of the Lord Chancellor, to exercise disciplinary powers in respect of judicial office holders in the form of sanctions such as the giving of formal advice, formal warning or reprimand. In furtherance of the exercise of these powers section 115 and 116 of the 2005 Act provide as follows:

*“115 Regulations about procedures*

*The Lord Chief Justice may, with the agreement of the Lord Chancellor, make regulations providing for the procedures that are to be followed in- (a) the investigation and determination of allegations by any person of misconduct by judicial office holders; (b) reviews and investigations (including the making of applications or references) under sections 110 to 112.*

*116 Contents of Regulations*

*(1) Regulations under section 115 (a) may include provision as to any of the following- (a) circumstances in which an investigation must or may be undertaken (on the making of a complaint or otherwise); (b) steps to be taken by a complainant before a complaint is to be investigated; (c) the conduct of an investigation, including steps to be taken by the officeholder under investigation or by a complainant or other person; (d) time limits for taking any step and procedures for extending time limits; (e) persons by whom an investigation or part of an investigation is to be conducted; (f) matters to be determined by the Lord Chief Justice, the Lord Chancellor, the officeholder under investigation or any other person; (g) requirements as to records of investigations; (h) requirements as to confidentiality of communications or proceedings; (i) requirements as to the publication of information or its provision to any person.”*

- 4.3 The then Lord Chief Justice exercised the powers conferred by sections 115, 116, 117, 120 and 121 of the 2005 Act in making the Judicial Discipline (Prescribed Procedures) Regulations 2023. The 2023 Regulations were made on 13 September 2023 and came into force on 13 October 2023. The JCIO is the body designated pursuant to Regulation 4 of the 2023 Regulations for the purpose of performing the functions specified by the Regulations. Regulation 6 requires that complaints about a judicial officeholder must be made to the JCIO. Regulation 7 of the 2023 Regulations makes provision for the Lady Chief Justice, with the agreement of the Lord Chancellor, to make rules about the process to be applied in respect of a complaint to the JCIO.
- 4.4 The Judicial Conduct Rules 2023 are the rules which have been made pursuant to this provision. The 2023 Rules contain provisions in relation to the making of a complaint about misconduct on the part of a judicial officeholder. The provisions of particular relevance are contained within rules 8 to 10 as follows:

*“8. A complaint must- (a) state the name of the person making the complaint; (b) state the address or email address of the person making the complaint; (c) contain an allegation of misconduct on the part of an identified or identifiable person holding an office, which is supported by relevant details as specified in guidance published by the JCIO from time to time; (d) state the date, or dates, that the alleged misconduct took place unless the JCIO decides that this is unnecessary taking into account all the circumstances of the complaint.*

*9. A complaint must be accompanied by copies of all the documents within the control of the complainant to which they intend to refer.*

*10. The JCIO must not accept a complaint in any case where one or both of the following applies- (a) the complaint does not meet the requirements set out in rules 6 to 9; (b) the complainant states that they do not want the officeholder concerned to see a copy of the complaint or of any document accompanying it.”*

- 4.5 Rule 22 of the 2023 rules provides that a complaint “must initially be considered” by the JCIO. Thereafter, rules 23 and 24 of the 2023 rules make the following provisions:

*“23. The JCIO must dismiss a complaint, or part of a complaint, if it falls into one or more of the following categories- (a) the alleged facts are obviously untrue; (b) even if the alleged facts were true, they would not require a disciplinary sanction to be issued; (c) it is about a judicial decision or judicial case management, and raises no question of misconduct; (d) it is vexatious; (e) it is misconceived; (f) it raises a matter which has already been dealt with, whether under these Rules or otherwise, and does not present any significant new evidence; (g) it is about the private life or the professional conduct in a non-judicial capacity of a person holding an office and raises no question of misconduct; (h) for any other reason it does not relate to misconduct by a person holding an office.*

*If it appears, following initial consideration, that none of the criteria for dismissal of a complaint in rule 23 apply **the JCIO must make such enquiries as it considers reasonable and proportionate to establish the facts of the case.*** (emphasis added)

## **5. Grounds of Challenge**

### Ground 1: Misinterpretation of “misconduct” in Rules 8(c) and 23(c) of the 2023 Rules

- 5.1 Rule 23(c) of the 2023 Rules provides that complaints must be dismissed if *“it is about a judicial decision or judicial case management, **and** raises no question of misconduct”*.
- 5.2 The JCIO’s stated reason in its letter of 4 August 2025 for refusing the majority of the complaints is that they *“do not contain an allegation of misconduct as they relate to a judicial decision or judicial case management”*. But bullying and misconduct can be

present in the use or manner in which case-management decisions are taken, as Rule 23(c) acknowledges. A judge who intervenes or interrupts submissions, cross-examination or evidence may be conducting himself properly, subject only to appeal, **but he may not be**. If he intervenes or interrupts repeatedly, harshly, shouts in doing so, bangs the table, rolls his eyes, makes rude or disparaging remarks, or treats one litigant with kindness and another with extreme harshness, there may be misconduct, and not just appealable case-management. The JCIO does not appear aware of that distinction, and has consequently failed to take sufficient note of the clear allegations of misconduct contained in each of the complainants' complaints. The JCIO's approach to Ms Hickman-Gray is indicative of previous JCIO refusals to consider complaints against Judge Lancaster which have also rested on a mischaracterisation of complaints as raising issues solely of case management, rather than conduct, pursuant to Rule 8(c). We note that the Harman Review also highlighted this as a repeated error in the JCIO's application of the Rules (see Harman Review §333).

- 5.3 The JCIO's approach to Rules 8(c) and 23(c) of the 2023 Rules, that any complaint which raises an issue of case management *must* be dismissed for that reason, without going on to consider the second part of the test is an unlawful interpretation of the rules.
- 5.4 It is particularly concerning that the JCIO has taken this approach given that it is aware of multiple complaints raising similar concerns. Notably Employment Appeal Tribunal judges have formally criticised Judge Lancaster's conduct in published judgments at the same time as multiple complaints have been made about similar behaviour. The EAT's criticism in *Ion v Citu Manufacturing Ltd* regarding his interventions, and its description of his comments about Ms McDermott as troubling given that the tribunal was "*avowedly speculating*", corroborate the complaints our clients have made. Our clients brought this convergence of judicial criticism and multiple complaints to the attention of both the President of Employment Tribunals and the JCIO, yet no investigation has been commenced. When appeal judges' formal criticisms align with a pattern of complaints from court users, this would appear to present compelling evidence of misconduct requiring urgent investigation. It is no answer simply to say that these concerns relate to case management: what matters is whether any issue of case management also gives rise to an issue of misconduct. This is a crucial distinction that has been entirely missed by the JCIO.

Ground 2: Unlawful approach of looking at each of the complaints entirely in isolation, and of looking at each complainant in isolation

- 5.5 In our letter of 16 June 2025 our clients clearly put their case on the basis that *collectively* the actions of Judge Lancaster amounted to misconduct. By way of example, at §2.1.2 of our Letter we said in relation to Ms Hickman-Gray that "*[c]ollectively, these repeated criticisms and impediments served to intimidate and undermine our client so that she was distracted, confused and at times in tears*".
- 5.6 It is clearly the case that the overall approach adopted by a Judge can amount to misconduct, even when each individual intervention might not in itself. The overall impression could be one of bullying, hostility or unfairness. Isolating out the individual complaints without taking a step back and viewing them in the round is accordingly not a justified or lawful approach. Doing this risks the JCIO failing to

identify misconduct when it occurs, and demonstrates the JCIO's misinterpretation of the term "misconduct" in the Rules.

- 5.7 Relatedly, the JCIO has seemingly failed to consider evidence from the *other* complainants within the group when making its assessment of whether Ms Hickman-Gray's case warrants investigation. By way of example, the complaints at §§2.6.2 and 2.6.6 of our letter bear remarkable similarities to the allegations made by other women. Excluding consideration of those other allegations unnecessarily makes it far harder for Ms Hickman-Gray to prove her case, and means that systemic issues/patterns are never considered by the JCIO. By ignoring corroborative patterns, the JCIO has excluded relevant context that could demonstrate misconduct. That is unlawful and is indicative of the failures by officials over many years to recognise an emerging pattern of misconduct by Judge Lancaster requiring investigation, despite near-identical concerns being raised by multiple complainants in different proceedings. Treating each complaint over a period of at least seven years (2018-2025) in isolation has resulted in a failure to identify what appears to be a pattern of concerning judicial conduct, thereby missing crucial opportunities for intervention and allowing vulnerable court users to continue experiencing similar treatment.
- 5.8 The 18 August 2025 decision in Ms Hickman-Gray's case is a powerful example of the deficiencies of isolating individual complaints from each other entirely. In particular, it is asserted that the approach adopted ignores the *cumulative* effect that repeated hostile interjections into a party's giving of evidence or conduct of proceedings. While a Judge "*firmly*" intervening to prevent a party from speaking (on two recorded occasions) might be innocuous on its face, a repeat of this pattern of conduct might give cause for concern. The procedural deficiencies of this approach are set out further below.

### Ground 3: Unlawful approach to new evidence and the reopening of cases

- 5.9 The JCIO's refusal to re-consider cases that it says have been dealt with previously is unlawful. If the JCIO is going to reject complaints on the basis that they have already been determined then they need to consider if these were properly investigated and whether the complaint now raises any significant new evidence.
- 5.10 Rule 23(f) requires dismissal of a complaint if "*it raises a matter which has already been dealt with, whether under these Rules or otherwise, and does not present any significant new evidence*". Again, the JCIO has simply ignored the second part of that provision. The JCIO appears simply to have asked itself whether complaints have previously been dealt with, without considering whether significant new evidence has nonetheless been provided. It is clearly essential for the JCIO to consider any significant new evidence, such as the significant detail provided in our letter of 16 June 2025 regarding the group complaint, the substance of which you have failed to engage with. This further represents a failure to consider the power in rule 127 to re-open a complaint that has been dismissed where the JCIO receives relevant new information concerning a complaint.
- 5.11 In relation to Dr Toheed specifically, the JCIO say "*[s]ince the matters you have referred to in respect of Dr Toheed appear to have been dealt with, in view of rule 23(f), the JCIO cannot reconsider those matters.*" As explained above, Dr Toheed's

complaint has not been dealt with and it has instead been held in abeyance for three years. This is a material error of fact that vitiates the decision made in relation to Dr Toheed's complaints. Indeed we have now received a letter dated 16 September 2025 from the President of Employment Tribunals indicating that the deferral has been lifted and that an investigation report has been sent to the JCIO. This illustrates clearly that a material error of fact was made, and the inadequacy of the 4 August 2025 decision.

#### Ground 4: Irrationality and failure to give reasons

5.12 The JCIO's consideration of our clients' complaints is irrational. By way of example, the JCIO has failed to consider all of Ms Hickman-Gray's complaints, and instead has cherry-picked some of them on a seemingly irrational basis. Insofar as a decision has been made in respect of those others complaints, there has been a failure to give reasons.

5.13 Similarly, the JCIO has refused to look at certain allegations made by Ms Hickman-Gray because our client does not have a transcript so was not able to provide exact timings that misconduct by Judge Lancaster occurred. The exception to this is that the JCIO has now agreed to request and listen to "the audio recording of the morning session of the hearing on 24 February 2025" (re §2.6.3) in order to check the audio for one "hostile" comment from 24 February 2025 — but is refusing to review the same audio for other "hostile" incidents reported by Ms Hickman-Gray in that very same hearing. You are aware that our client was refused a transcript at the public expense by Judge Lancaster and that she was a litigant in person so does not have the benefit of notes from a legal team. Accordingly, the decision to only listen to the audio recording for one aspect of her complaint, rather than listening to the rest of the hearing, or alternatively providing the audio files to ourselves as Ms Hickman-Gray's legal representative to listen to is irrational. By choosing not to do so, and rejecting the rest of our client's complaints for "lack of detail," the JCIO is acting inconsistently and irrationally.

5.14 As previously explained, the absence of accessible hearing recordings has created a structural barrier preventing complainants from gathering sufficient evidence, highlighting the critical importance of obtaining judicial notes in this investigation.

#### Ground 5: Procedural unfairness

5.15 Part II of the JCIO's decision, entitled "*Allegations which are not supported by relevant details*", states that "*the JCIO requires a precise time or a close estimate of the time when the alleged misconduct took place*". This is procedurally unfair and/or is irrational in the circumstances, given that the complainants are unable to obtain transcripts, audio-recordings and/or notes of hearings. In such circumstances, the complainants are unable to identify precisely the exact times of the misconduct. It is incumbent on the JCIO to seek to identify such moments within any audio recording to which it has access. Its approach is also *ultra vires* the provisions set out in the Judicial Discipline (Prescribed Procedures) Regulations 2023 and the Judicial Conduct Rules, as the requirement to provide a precise time regarding the allegation is not found within any such provision. In circumstances where the complainants have raised concerns with sufficient levels of particularity to warrant investigation, it cannot be necessary to provide specific times when to do so would plainly be

impossible and/or excessively difficult for the complainants. We note that the JCIO's approach has been heavily criticised by the Harman Review for precisely this reason (see §§329-336).

5.16 The JCIO has been provided with significant information and detail regarding each of the complaints which is clearly sufficient to enable the JCIO to launch a proper investigation. The failure to do so is procedurally unfair and otherwise unlawful.

## **6. Details of the Action that the Defendant is Expected to Take:**

6.1 The JCIO is requested to initiate an urgent and independent investigation into the conduct of Judge Lancaster, taking into account the group complaint as a whole. All relevant evidence must be preserved and we request that available judicial notes and transcripts be released to us without delay to ensure proper scrutiny of the proceedings.

## **7. Disclosure**

7.1 You are asked to provide the following information within fourteen days in accordance with the judicial review pre-action protocol:

7.1.1 Full details of any investigation which has been opened to date into the conduct of Judge Lancaster.

7.1.2 The outcome of any such investigation.

7.1.3 If no such investigation has been opened, the reasons why.

7.1.4 All policies and guidance used by the JCIO in determining whether to investigate patterns of complaints.

7.1.5 Any risk assessments conducted regarding Judge Lancaster continuing to sit as a judge.

7.2 You are also requested to disclose the transcripts, if available, audio-recordings and Judge Lancaster's notes of each of the hearings conducted by Judge Lancaster as referred to in the chronology of events which was enclosed with our letter of 16 June 2025.

7.3 As indicated above, our clients have been severely hampered by being unable to obtain transcripts, audio-recordings and/or notes of hearings even though the onus is placed on them to substantiate their complaints. This has put them at a significant disadvantage. It is noted that these documents are likely to be exempt from standard SAR obligations; however, they are clearly disclosable in accordance with your client's duty of candour, especially when your client has specifically relied on the audio recording of Ms Hickman-Gray's hearing in the letter of 18 August 2025.

7.4 As to the suggestion in GLD's letter of 14 July 2025 that invoking the duty of candour "*at this premature stage is a misuse of the duty of candour and arguably an abuse of the court's process*", we would remind you of the Treasury Solicitors Guidance on the Duty of Candour which provides that:

*"The duty of candour applies as soon as the department is aware that someone is likely to test a decision or action affecting them. It applies to every stage of the*

*proceedings including letters of response under the pre-action protocol, summary grounds of resistance, detailed grounds of resistance witness statements and counsel's written and oral submissions".*

- 7.5 It is entirely proper for our clients to seek limited pre-action disclosure of the transcripts, audio-recordings and Judge Lancaster's notes of their hearings and your suggestion that requesting the same is an abuse of process is, with respect, misconceived.
8. **Details of any Interested Parties:** None. If you consider that there is an interested party who should be served with documents in relation to the proposed proceedings, please provide your reasons and details of the party.
9. **Alternative Dispute Resolution (ADR):** Our clients are open to exploring alternative dispute resolution. Please provide any proposals in respect of the same by return.
10. **Details of the Legal Advisors Dealing with this Claim and address for Reply and service:** Deighton Pierce Glynn, Whitefriars, Lewins Mead, Bristol, BS1 2NT; email: [service@dpglaw.co.uk](mailto:service@dpglaw.co.uk), [esoothill@dpglaw.co.uk](mailto:esoothill@dpglaw.co.uk); reference: EIS/6314/001
11. **Proposed Reply Date:**

Given that Judge Lancaster continues to preside over Employment Tribunal hearings, including those involving vulnerable claimants, we consider that this matter is urgent and we look forward to receiving your Letter of Response by 4pm on **1 October 2025**.

It is sincerely hoped by our clients that judicial review proceedings can be avoided by your client opening a proper investigation into the conduct of Judge Lancaster as, for the reasons set out in detail in our previous correspondence and this Letter Before Claim, his conduct over many years and in many cases gives rise to very serious concern and the failure of your client to properly investigate the same is unlawful.

Yours faithfully



**DEIGHTON PIERCE GLYNN**