**PROPER INVESTIGATION AND EFFECTIVE HANDLING OF COMPLAINTS, PETITIONS AND REPORTS**

**A PAPER PRESENTED BY**

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It is an honor and privilege to be nominated to present a paper to this intellectual gathering. I give gratitude to Almighty God for making it possible for me to be here today. I also wish to express my sincere appreciation to the Administrator of the National Judicial Institute, Hon. Justice Salisu Garba Abdullahi and the Management team for granting me the opportunity to present the paper titled: **Proper Investigation and Effective Handling of Complaints, Petitions and Reports** to the Directors and Inspectors of Area/Sharia/Customary Courts. I also wish to express my profound gratitude to My Lord, the Hon. President, FCT – Customary Court of Appeal, Abuja – Hon. Justice A.M.A Saddeeq for granting me the permission to make this paper presentation today.

**INTRODUCTION:**

The Judiciary is a system where Courts adjudicate on legal disputes or disagreements and interpret, defend and apply the law in legal Cases[[1]](#footnote-0). It is the branch of government which administers justice according to the law and it is also the fulcrum of good governance in any Country. The Judiciary cannot exist without the trust and confidence of the people. Judges must therefore be accountable to legal and ethical standards. In holding them accountable for their behavior, judicial conduct review must be performed without invading the independence of judicial decision-making[[2]](#footnote-1).

More than any other branch of government, the Judiciary is built on a foundation of public faith. Judges deliver rulings on the law, which the people must believe came from a competent, lawful and independent judicial officer. However, a Judge can commit misconduct by engaging in personal behavior that calls their judicial integrity into question. This is true even if the same behavior would merely be considered as unwise for the average citizen. As the saying goes ‘the robe magnifies the conduct’[[3]](#footnote-2).

The Judiciary needs to be independent of outside pressure or influence, particularly of political and economic entities. Judicial Independence does not mean that Judges and Court officials should have free rein to behave as they please. Indeed, Judicial Independence is founded on public trust and to uphold it, “Judges should maintain the dignity of the office at all times and avoid both impropriety and the appearance of impropriety in their professional and personal lives”[[4]](#footnote-3). They should aspire at all times to conduct that ensure the greatest possible public confidence in their independence, impartiality, integrity and competence. As said by John Marshall “a Judge must be completely independent with nothing to influence him but God and his conscience”[[5]](#footnote-4). Where Judges or Court personnel are suspected of breaching the public’s trust, measures to investigate and sanction the corrupt practices or to implement remedies must be put in place. Public discipline serves the dual purpose of correcting the Judge in question, as well as educating others in the Judiciary[[6]](#footnote-5).

The establishment of Area/Sharia/Customary Courts System in Nigeria came with the hope and expectation of the public that the Courts are created as the last hope of the common man. This assertion by the society makes it mandatory on the part of the Courts to carry out their duties effectively with a view to ensuring that Justice prevail at all times[[7]](#footnote-6).

In order for this purpose to be achieved, the activities of those in charge of the affairs of these Courts have to be monitored by appointed officers of the Courts known as the Directors and Inspectors of these Courts, who in view are the target audience of this important gathering today.

It is important at this juncture to state that, for purposes of exercising supervisory control over the Area/Sharia/Customary Courts, any reference to Inspector in this paper includes a Director or Deputy Chief Registrar in charge of Customary Courts.

In view of the importance of proper investigation and effective handling of complaints, petitions and reports which is primarily the responsibility of the Directors and Inspectors of the Inspectorate Division, it is fundamental to examine in-depth the roles and duties of the Directors and Inspectors of the Inspectorate Division in the Administration of the Area//Sharia/Customary Courts.

However, to accomplish this and do justice to the paper, we shall start by defining each category.

**COMPLAINT:**

A Complaint is a statement that something is unsatisfactory or unacceptable. It is an expression of grievance or dissatisfaction to the appropriate authority on certain issues which a person feels was wrongly done to him. It is also a way of raising concerns about unfair treatment or misconduct by a Judge.

In law, a complaint is the plaintiff’s reasons for proceeding in a civil action. Essentially, it is a document that sets forth the jurisdictional basis for the Court’s power, plaintiff’s cause of action and a demand for judicial relief[[8]](#footnote-7).

Common complaints of ethical misconduct include; improper demeanor, failure to properly disqualify oneself when the Judge has a conflict of interest, failure to execute judicial duties in a timely fashion, engaging in exparte communication or a Judge being bias and favoring one party over the other. Also, a Judge can commit misconduct by engaging in personal behavior that calls their judicial integrity into question[[9]](#footnote-8).

The law permits the filing of a grievance on the basis of such unethical behaviors. Therefore, Court users can file complaints through the appropriate authority.

**PETITION:**

This is a formal written request appealing to an authority in respect of a particular course, to take action either by making a demand or requesting redress on a grievance.

It can also be defined as a complaint containing allegations of corruption or misconduct against a Judicial Officer. In this case, it is more of an administrative request.

A petition may be filed by a person, group or organization and it is typically the first step in a law suit. A petition also may be used to appeal a Court’s decision[[10]](#footnote-9).

In legal terminology, a petition is made to the Court by a Petitioner against a Respondent. It is a legal document formally requesting a Court order and setting out the Petitioner’s version of facts in issue.

In many respects, the terms Complaint and Petition are interchangeable.

**REPORT:**

A report is a spoken or written account of something that one has observed, heard, done or investigated[[11]](#footnote-10). It is an account given on a particular issue, especially in the form of an official document after thorough investigation or consideration by an appointed person or body.

Reports can be academic, technical and future recommendations for specific actions. It is written to present facts about a situation, project or process and will define and analyze the issue at hand. Ultimately, the goal of a report is to relay observation in a clear and concise style.

**DUTY TO HANDLE COMPLAINTS/PETITIONS**

The duty and responsibility to ensure that the Judges perform their functions appropriately lies with the Directors and Inspectors of the Area/Sharia/Customary Courts, whose primary assignment is to oversee the activities of the Judges of these Courts and to handle complaints or petition filed by litigants appearing in the Courts. In addition to that, it is the responsibility of the Directors or Inspectors to immediately investigate allegations made by litigants or Court users and to ensure that if the allegation has merit, they shall stay the proceedings in that case pending the outcome of the investigation. They also have the powers to transfer or recommend the transfer of such case from that Court to another Court where justice will be attained by both parties in the case. These powers of the Inspectors are not exercisable where an appeal has already been lodged by either of the parties to the case. This is to avoid conflict between the constitutional right of appeal of litigants and the right of an Inspector to interfere in any proceedings before a Court of law. Thus, any matter which is a subject of appeal before an appellate Court is outside the confines of the power of an Inspector to investigate[[12]](#footnote-11).

To further clarify on this topic, I would be guided by the provisions of some of the laws establishing the Area/Sharia/Customary Courts. These include Sections 42 and 43 of the Federal Capital Territory Customary Court Act, 2007, Sections 32 to 35 of the Federal Capital Territory Area Courts (Repeal and Enactment) Act, 2010 to mention but a few.

Generally, the establishment of the Inspectorate Division and the duties of the Directors and Inspectors are spelt out in the said laws.

 It is provided in the Federal Capital Territory Customary Court Act, 2007 in

**Section 42:**

1. That there shall be established an Inspectorate Division of the Customary Court which shall consist of:
2. A Chief Inspector of Customary Courts who shall be a Legal practitioner with not less than seven years post-call experience; and
3. Five or more other Inspectors of Customary Courts as the needs of the Court demand who shall be Legal practitioners with not less than two years post-call experience.
4. The appointment of the Inspectors of the Customary Courts shall be made by Judicial Service Committee on the recommendation of the Chief Registrar.

While the functions of the Inspectorate Division of the Customary Courts have been provided in **Section 43(1)** as follows:

1. to monitor the activities of members of Customary Courts,
2. to inspect the records of Customary Courts including revenue;
3. to report any irregularities or excesses of members of Customary Courts to the President of the Customary Court of Appeal;
4. to receive and look into any complaints brought by any party to any proceedings before a Customary Court[[13]](#footnote-12).

(2)Where in the exercise of its powers above, the Inspectorate Division is of the opinion that any complaint received by it lacks merit, it shall regard the matter as closed and inform the parties accordingly.

(3) Where the Inspectorate Division finds that a complaint made to it has merit, it shall report same to the President of the Customary Court of Appeal.

 (4) The President of the Customary Court of Appeal on receipt of a report from the Inspectorate Division may:

1. Cause further investigation to be carried out; or
2. Take any action he may deem appropriate in the circumstances; or
3. If satisfied that no action useful purpose would be served by further investigation, discontinue the matter or
4. file his report to the Judicial Service Committee for appropriate action[[14]](#footnote-13).

In accordance with the Federal Capital Territory Abuja Area Courts (Repeal and Enactment) Act, 2010, **Section 32** provides that;

1. The Judicial Service Committee shall appoint a Chief Inspector of Area Court.
2. The functions of the Chief Inspector of the Area Courts shall include:
3. the advising of the Chief Registrar in respect of the constituent Jurisdiction and Membership of Area Courts[[15]](#footnote-14);

1. subject to the general or special directions of the Chief Registrar of the organization, guidance and supervision of Area Courts;
2. the powers of an inspector under this Act; and
3. any other function as may, from time to time be conferred upon by the Chief Registrar.

Sections 33 to 36 which stipulates the appointment and functions of the Inspectors have been reproduced herein:

 **Section 33**:

The Judicial Service Committee shall, for the purposes of this Act appoint inspectors.

 **Section 34**:

An inspector may require an Area Court to submit a report to him of any case tried in that Court.

 **Section 35**:

An Inspector shall, at all times, have access to all Area Courts within the Federal Capital, Abuja and to the records and proceedings of those Courts.

 **Section 36 (1)**:

An Inspector shall have power, at any stage of the proceedings before final Judgment, either of his own motion or on the application of a party to a cause or matter before an Area Court, by order to stay the hearing of the cause or matter on terms as the Inspector may consider just[[16]](#footnote-15).

While in some jurisdictions, upon reporting a case for review, an Inspector also has the powers to make interim Orders suspending the operation of any Order imposed by the trial Court pending the outcome of the review by the Appeal Court[[17]](#footnote-16).

It suffices to state that from the various laws mentioned above, the office of an Inspector has been statutorily provided for and its functions clearly spelt out to include handling of complaints and petitions and reports.

**INVESTIGATION OF PETITION/COMPLAINT AND MAKING REPORTS**

Investigation is a legally established fact-finding process conducted in an impartial and objective manner, with the aim to establish the relevant facts and make recommendations in this connection. For an investigation to be considered perfect, it shall be in conformity with principles of fair hearing.

In investigating complaint/petition it is important to take note of these key points:

* Consider at an early stage whether any immediate action can be taken to resolve it.
* Conduct a sufficient investigation so as to establish all the relevant and material facts.
* The Inspector must be independent of the complaint that has been brought before him[[18]](#footnote-17).
* Ensure that the Inspector understands the complaint being made.
* Identify the origin of the complaint.
* Appraise the procedural guidelines that establish the Court, if the said complaints are in accordance to it.
* Collect records officially from the Courts, as soon as it is practicably possible.
* Carry out in-depth analysis of records submitted and the substance of the complaint in accordance with the law[[19]](#footnote-18).

The investigation in this case is conducted by the Inspectors of the Area/Sharia/Customary Courts who are empowered with this responsibility, with the goal to ascertain the reasons and veracity of what transpired.

Therefore, it goes without saying that the judicial activities of the officers of these Courts are not entirely immune from the control of the Inspectorate Division. That is why the Inspectorate Division and the Appellate Courts are in existence to rectify errors made and to secure justice.

The Inspectors stand as a bridge between the people, the Courts and the appointing Authority. They investigate Complaints lodged against the conduct of proceedings in the Court. The power to investigate, check over and monitor the conduct of judicial proceedings can be overwhelming, hence the need for Inspection report and review to ensure justice delivery[[20]](#footnote-19).

The administering of official review by the Directors and Inspectors on various issues such as cases pending before the Courts, ascertaining standard of the facilities, checking of records amongst others, requires that at the end of the process an evaluation shall be done and a report prepared and forwarded to the Heads of Court in the High Court, Customary Court of Appeal or the Sharia Court of Appeal as the case may be[[21]](#footnote-20).

In addition, the Federal Capital Territory Abuja Area Court (Repeal and Enactment) Act, 2010 provides in:

**Section 38**

1. An Inspector, if in his opinion there has been a miscarriage of justice in any case before an Area Court to which he has access under the provisions of Section 36 of the Act, may of his own motion or in his discretion or on the application of any person concerned, report that case to the Court to which an appeal in such a case would lie.
2. A report under sub-section (1) of this section shall be made in writing and shall record the particulars of the Judgment, Order or Case, and the reason for it being reported and shall be accompanied by a copy of the record of the case.

 (3)The Court to which the case has been reported shall review it, and may:

1. reverse, vary or confirm the decision given;
2. make an order in the proceedings as the lower Court could have made[[22]](#footnote-21);
3. make a further order, as may be necessary or as the justice of the case may require but no order in a civil proceeding to the prejudice of any party shall be made without an opportunity being given to the party of being heard;
4. set aside the Judgment or other Order of the lower Court; and
5. when it considers it desirable, order the Case to be reheard either by the same Court or any other Area Court of competent Jurisdiction or Magistrate/District Court or Customary Court, or if the case is one that appears proper to be heard by the High Court, report the case to the Sharia Court of Appeal.

(4) In the exercise of its powers of review under this section, a court may hear any additional evidence as it considers necessary for the just disposal of the case.

(5) An Inspector who has reported any case to a court under the provisions of this section shall have power to make an interim order suspending the operation of any order made by the lower court in the case.

(6) A person aggrieved by a decision of the Sharia Court of Appeal in a review under this section, may appeal from the decision to the Court of Appeal as if it were a decision in an appeal brought to the Sharia Court of Appeal from some other Court[[23]](#footnote-22).

In the aforementioned situation, report is an application for review by an Inspector which is placed before the appropriate Appellate Court if he is of the view that there has been a miscarriage of justice in a case.

**WAYS TO EFFECTIVELY HANDLE COMPLAINTS, PETITIONS AND REPORTS**

No organization or individual may retaliate against people lodging petitions or complaints against them. It is clear from the laws establishing the Area/Sharia/Customary Courts that parties or lawyers alike can petition or write complaint against a Judge or the Court. In other to arrive at a decision, it is important that the Inspectorate Division of the various Courts, gives opportunity to the affected Judge to respond to the said petition or complaint before any decision is taken, especially as some of these petitions have been found to be frivolous and unmeritorious.

The Inspectors who come into contact with aggrieved parties or lawyers must strive to perform their functions diligently and must resist the temptation to be influenced by wealthy or influential persons. It is only by so doing that excellence in the administration of justice can be achieved at this level of the judicial hierarchy.

If a Judge or an Inspector compromises his integrity, it would amount to renouncing justice which is unacceptable in any civilization.

Handling of petitions, complaints and reports needs to be done in accordance with the principles of the law even though it can be demanding, since it is impossible to classify precisely the vast range of possible circumstances and human behaviors and interactions in a simple form because the real world is not like that. There are many overlaps between these categories and it may change as evidence emerges or people change their views or recollections. The distinction between human error and wrong doing is not always clear; and the individual’s motivation to make a complaint can vary enormously[[24]](#footnote-23).

In addressing this issue, we would be looking at procedures or processes in which complaints, petitions and reports can be properly handled for efficient service delivery:

1. An outline or strategy should be formulated clearly setting out the framework to be used to handle complaints promptly.
2. It is important to register all the complaints and petitions received in a register and arrange them according to their Courts.
3. Conduct interviews with those involved. This would aid in getting additional information about what transpired.
4. The complaints or petitions should contain all the facts clearly stated therein and should preferably be in a written form.
5. The sanctity of the judicial officer must be observed by the Inspector during the handling of complaints and petitions. This will go a long way in building confidence and fairness in the Administration of justice. The Inspector must have all such qualities and qualifications a Judge ought to possess before appointing same on the bench.
6. All complaints or petitions should be properly recorded and documented.
7. The Inspector should ensure that he is objective and impartial.
8. Conduct a sufficient investigation so as to establish all the relevant and material facts, after which the report should be presented in the following manner:
9. The report must be direct, detailed and present conclusions in a clear and logical manner.
10. The report should not include unproven assumptions or unsubstantiated evidence.
11. The report should be properly filed and documented.
12. It should be written in a language devoid of ambiguity.
13. It should contain a response to all the allegations made and make realistic recommendations.
14. Such recommendations should be practical, proportionate and constructive.
15. The recommendations in the report should clearly set out the decision reached.

**RECOMMENDATIONS**

1. For efficient performance to be achieved, adequate funding and sufficient working tools should be provided for the Inspectorate Division.
2. Substantial number of Inspectors should be employed to avoid overworking the staff.
3. All the Inspectors to be employed should have the requisite qualifications and knowledge on the rules and laws of the Courts.
4. The activities of the Directors and Inspectors should be monitored by the Heads of Courts to ensure diligent performance.
5. Regular trainings and workshops should be organized for the Judges of the Area/Sharia/Customary Courts and also the Directors/Inspectors of these Courts to enable them acquire more knowledge to discharge their duties effectively.

**CONCLUSION**

For excellence to be achieved in the administration of justice, the Judges of these Courts must ensure that their Orders and Judgments are based on laws and established facts. Decisions made by them should be devoid of any sentiment, external consideration or influence.

Thus, the provision of an Inspectorate Division with the power to monitor and supervise the activities of the Judges is paramount in the administration of Justice in the Area/Sharia/Customary Courts in Nigeria.

In the same vein, the Directors and Inspectors of these Courts charged with the duties and responsibility of supervising the Judges must be aware of their sacred role and the devastating implications when they compromise. The improper exercise of their powers could lead to miscarriage of justice.

The powers must be exercised with due diligence and be of the nature of general administrative control and supervision in accordance with the law. Any decision taken must be done judicially and judiciously.

 THANK YOU

1. Wikipedia.org [↑](#footnote-ref-0)
2. David Sachar; Judicial Misconduct and Public Confidence in the Rule of Law [↑](#footnote-ref-1)
3. Ibid [↑](#footnote-ref-2)
4. Arkansas Code of Judicial Conduct [↑](#footnote-ref-3)
5. John Marshall, 4th Chief Justice of US Supreme Court; A Judge on Judging: The Role of a Supreme Court in a democracy [↑](#footnote-ref-4)
6. David Sachar; Judicial Misconduct and Public Confidence in the Rule of Law [↑](#footnote-ref-5)
7. Justice Julia Asabe Kyentu; Effective Court Inspection, the Role of the Directors and Inspectors in Area/Sharia/Customary Courts [↑](#footnote-ref-6)
8. Wex/US Law/Lll/Legal Information Institute [↑](#footnote-ref-7)
9. David Sachar; Judicial Misconduct and Public Confidence in the Rule of Law [↑](#footnote-ref-8)
10. Investopedia.com [↑](#footnote-ref-9)
11. Oxford Advanced Learners Dictionary [↑](#footnote-ref-10)
12. Justice Julia Asabe Kyentu; Effective Court Inspection, the Role of the Directors and Inspectors in Area/Sharia/Customary Courts [↑](#footnote-ref-11)
13. Sections 42 and 43 (1) Federal Capital Territory, Customary Court Act, 2007 [↑](#footnote-ref-12)
14. Section 43 (2), (3) and (4) Federal Capital Territory Customary Court Act, 2007 [↑](#footnote-ref-13)
15. Sections 32 (1) and (2) Federal Capital Territory Abuja, Area Courts (Repeal and Enactment) Act, 2010 [↑](#footnote-ref-14)
16. Sections 33 to 36, Federal Capital Territory Abuja Area Courts (Repeal and Enactment) Act, 2010 [↑](#footnote-ref-15)
17. Justice M.I.Sirajo; The Roles and Powers of Directors And Inspectors In Ensuring Excellence In the Dispensation Of Justice In Area/Sharia/Customary Courts [↑](#footnote-ref-16)
18. Shropshire Council; Effective Complaints Handling [↑](#footnote-ref-17)
19. Shuraihu O. (2018); Effective Supervision and Inspection of Area Courts. [↑](#footnote-ref-18)
20. Justice Julia AsabeKyentu; Effective Court Inspection, the Role of Directors and Inspectors of Area/Sharia/Customary [↑](#footnote-ref-19)
21. Ibid [↑](#footnote-ref-20)
22. Section 38 Federal Capital Territory Abuja Area Court (Repeal and Enactment) Act, 2010 [↑](#footnote-ref-21)
23. Ibid [↑](#footnote-ref-22)
24. gov.scot publications; Complaints Handling Process, Investigations and Misconduct [↑](#footnote-ref-23)