



## Complaint guidance

The Lord President, as Head of the Scottish Judiciary, has responsibility for making and maintaining appropriate arrangements for the investigation and determination of any matters concerning the conduct of judicial office holders. Accordingly, the Lord President has made the Complaints About the Judiciary (Scotland) Rules 2017. This document will provide guidance on how to lodge a complaint you wish to have considered under these rules.

## Making a complaint

A complaint to the Judicial Office for Scotland must be made in writing within **3 months** of the alleged incident you are complaining about. We accept complaints by individuals and by organisations.

You can send your complaint:

- By post to:  
Judicial Office for Scotland  
Parliament House  
Edinburgh  
EH1 1RQ
- By email: [judicialofficeforscotland@scotcourts.gov.uk](mailto:judicialofficeforscotland@scotcourts.gov.uk)
- Using the [complaints form](#).

**Before sending your complaint you should first read the rest of this leaflet. This will ensure that you are contacting the correct place and that you provide the necessary information to allow us to process your complaint.**

Please note that we are not able to intervene in, or influence the outcome of proceedings before the courts. If your complaint is upheld, it will not have any bearing on the progress or outcome of any associated case before the courts.

## Who can I complain about?

We <u>can</u> investigate under these Rules:	We <u>cannot</u> investigate under these Rules:
<ul style="list-style-type: none"> <li>• Judges of the Court of Session</li> <li>• Re-employed retired judges of the Court of Session</li> <li>• Chairman of the Scottish Land Court</li> <li>• Temporary judges of the Court of Session</li> <li>• Sheriffs Principal</li> <li>• Temporary Sheriffs Principal</li> <li>• Sheriffs</li> <li>• Deputy Chairman of the Scottish Land Court</li> <li>• Summary Sheriffs</li> <li>• Member of the Scottish Land Court</li> <li>• Re-employed retired Sheriffs Principal, Sheriffs and Summary Sheriffs</li> <li>• Part-time sheriffs</li> <li>• Part-time Summary Sheriffs</li> <li>• Justices of the peace</li> </ul> <p>Please note that the term 'judge' will be used throughout this guidance to cover all of the above judicial offices.</p>	<ul style="list-style-type: none"> <li>• Members of the Scottish Tribunals – further information - <a href="https://www.judiciary.scot/home/publications/tribunal-complaints">https://www.judiciary.scot/home/publications/tribunal-complaints</a></li> <li>• Member of court staff – contact Scottish Courts and Tribunals Service - <a href="http://www.scotcourts.gov.uk/about-the-scottish-court-service/complaints-and-feedback/scs-complaints-procedure">http://www.scotcourts.gov.uk/about-the-scottish-court-service/complaints-and-feedback/scs-complaints-procedure</a></li> <li>• Solicitors or Advocates- contact the Scottish Legal Complaints Commission</li> <li>• Judges who are no longer in office</li> </ul>

## What can I complain about?

We can only investigate complaints about a judge's **personal conduct**. We cannot consider complaints about judicial decisions or the way a case has been managed. These matters can only be challenged by appeal.

The definition of personal conduct covers a wide range of behaviour both in and outside of court. However, you should understand that on occasions a judge may have to be firm, direct or assertive in their management of a case.

It is not possible to provide a definitive list of what is considered personal misconduct. However, below are some examples of the types of matters we can and cannot investigate.

We can investigate	We <u>cannot</u> investigate
<ul style="list-style-type: none"><li>• The use of racist, sexist or offensive language</li><li>• Falling asleep in court</li><li>• Misusing judicial status for personal gain or advantage</li><li>• Conflict of interest</li></ul>	<ul style="list-style-type: none"><li>• A judgment, verdict or order</li><li>• Sentencing decisions</li><li>• What evidence should be or has been considered</li><li>• The award of costs and damages</li><li>• Whose attendance is required at court</li><li>• Who should be allowed to participate in a hearing</li><li>• Allegations of criminal activity (criminal allegations should be directed to the police)</li></ul>

For further information on what may be considered misconduct, it may be useful to look at the [Statement of Principles of Judicial Ethics](#) for the Scottish Judiciary. This is a document that describes the principles and standards which judges should adhere to in their personal and professional lives.

## Time Limit

A complaint must be made within **3 months** of the incident you wish to complain about. For example if the matter you wish to complain about occurred on 10 April 20XX your complaint must reach the Judicial Office by 10 July 20XX.

The time limit for making a complaint will be extended only in **exceptional circumstances**. You may seek an extension by providing the reasons behind your delay within your original complaint document. If you do not do this, the Judicial Office for Scotland will write to you requesting that you provide a case for exceptional circumstances within 4 weeks. **Please note, that we do not regard ignorance of the Rules in itself as an exceptional circumstance.**

## On-going Proceedings

If your case or appeal is on-going, you must still submit your complaint within the 3 month period. We will seek advice on whether it would be appropriate for consideration under the Rules to continue before the judicial proceedings have concluded.

## What do we need from you?

To enable us to investigate your complaint efficiently we ask that you provide as much of the information listed below as possible.

### You must provide the following (your complaint will not be accepted without it):

- Your name.
- An address that we can use to contact you (if providing both a postal and email address please indicate your preferred contact method).
- The name of the judicial office holder whom you wish to complain about.
- The date or dates of the alleged misconduct you wish to complain about (complaints must be made within **3 months**).
- Specific details of the alleged misconduct you wish to complain about.

Please note we cannot accept a complaint document that indicates that you do not want the judge to see it.

### It will also assist us if you could provide the following;

- The court where the hearing took place (if applicable)
- The relevant case number (if known)
- Copies of any documents that you are relying on to support your complaint

It is important that you provide enough information for us to consider your complaint. For example, it is not enough to simply say that 'The judge was rude to me'. You will need to explain what was said or done by the judge that you felt was rude; providing examples of the language used or behaviour shown.

If we dismiss your complaint because it does not contain sufficient information, you will be offered a further **4 weeks** to provide the necessary details. Failure to provide further information within the time frame specified will result in your complaint being closed.

## What happens when I have complained?

- We will acknowledge your complaint within 5 working days on receipt.
- If we are unable to accept your complaint we will clearly explain to you why this is.
- If your complaint is to be investigated we will clearly explain to you what is going to happen.
- We will provide you with a clear and reasoned explanation for the outcome of your complaint.
- If we are unable to help you we will try to direct you to other organisations that may be able to assist. Please see page 6 for useful websites.

Each complaint is handled in accordance with the Complaints about the Judiciary (Scotland) Rules 2017. These were introduced by the Lord President as head of the Scottish judiciary.

To gain a detailed understanding of the complaints handling process, please see our process map.

## Getting help to make your complaint

We understand that you may be unable, or reluctant, to make a complaint yourself. We can take complaints from a friend, relative, or an advocate (someone who will support you), if you have given them your consent to complain for you.

You can find out about advocates in your area by contacting the Scottish Independent Advocacy Alliance.

### Scottish Independent Advocacy Alliance

- Tel: 0131 556 6443
- Fax: 0131 550 9819
- Website: [www.siaa.org.uk](http://www.siaa.org.uk)

We are committed to making our service easy to use for all members of the community. In line with our statutory equalities duties, we will always ensure that reasonable adjustments are made to help people access and use our services. If you have trouble putting your complaint in writing, or want information in another language or format, such as large print, audio or Braille, please tell us in person, or contact us at the addresses on page one. We are also contactable by telephone on **0131 240 6677**.

## What if I am unhappy with the way my complaint has been handled?

If you consider that the handling of your complaint has not been carried out in accordance with the Rules you may write to:

Mr James Mollison  
Judicial Complaints Reviewer  
Box 124  
196 Rose Street  
Edinburgh  
EH2 4AT

It should be noted, however, that the Judicial Complaints Reviewer has no powers to consider the merits or the disposal of a complaint. Further, please note that the JCR does not accept review requests that are made more than 4 months from the date of this letter, unless there are exceptional circumstances for the delay. Please refer to [www.judicialcomplaintsreviewer.org.uk](http://www.judicialcomplaintsreviewer.org.uk) or call 07814919837 for more information.

## Useful Websites

- Scottish Judiciary website: <https://www.judiciary.scot/home>
- Scottish Courts and Tribunals Service: <http://www.scotcourtsribunals.gov.uk/>
- COPFS: <http://www.crownoffice.gov.uk/>
- Judicial Conduct Investigations Office for England and Wales: <http://judicialconduct.judiciary.gov.uk/>
- Scottish Legal Complaints Commission: <http://www.scottishlegalcomplaints.org.uk/>
- Law Society of Scotland: <http://www.lawscot.org.uk/>
- Police Scotland: <http://www.scotland.police.uk/>

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