



COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2011

Statistics 28 February 2011 to 31 March 2012

This report covers the period since the Complaints about the Judiciary (Scotland) Rules 2011 ('the rules') came into force on 28 February 2011. A thirteen month period is reported here and in future annual reports from 1st April to 31st March will be reported.

Only complaints which are validly made under the rules are reported here. The Judicial Office occasionally received correspondence which contained some complaint elements. In such circumstances the Judicial Office invited the correspondent to provide the elements of a valid complaint document, as set out in Rule 5(2), namely:

- A "complaint document" is a document in writing which—
- (a) is legible;
 - (b) contains an allegation of misconduct on the part of a named or identifiable judicial officeholder; and
 - (c) states the name, address and telephone number of the person who is making the complaint.

If the correspondent provided this information, then the correspondence was treated as a valid complaint, was considered and has been included in these statistics.

Complaints received

During the period 28 February 2011 to 31 March 2012, the Judicial Office received **107** complaints from **62** separate complainers under the rules. As each complaint can have a different outcome, complaints are counted per judicial office holder complained about, even if these complaints were sent in the same letter.

Complaint considerations concluded

As at 31 March 2012, 9 complaints were still under consideration, therefore **98** complaints were considered under the Rules during the period of this report.

Number of complaints about different types of Judicial Office Holder

Senator	31
Sheriff Principal/Temporary Sheriff Principal	10
Sheriff/Part time Sheriff	57
Total	98

Outcomes of complaints

Dismissed

out of time (Rule 6)	14
does not contain sufficient information Rule 9 (4) (a)	7
about a judicial decision or judicial case management or judicial management of court programming. Rule 9 (4) (b) or Rule 10 (4) (b)	58
raises a matter which has already been dealt with. Rule 9 (4) (c) -	9
<i>without substance</i> Rule 10 (4) (f) (one after investigation)	7
it is insubstantial, that is to say that even if substantiated, it would not require any disciplinary action to be taken. Rule 10 (4) (g)	3
Total	98

Time Limit - Rule 6

Number of allegations dismissed by the Judicial Office because the complaint is about conduct or events occurring more than 3 months before the date on which the complaint was received.

Senator	6
Sheriff Principal/Temporary Sheriff Principal	1
Sheriff/Part-time Sheriff	7
Total	14

If the complaint is about something which occurred more than three months before the complaint is received, when dismissing the complaint, the Judicial Office asks if there were exceptional circumstances which caused the delay in making the complaint. If the complainer makes a case for exceptional circumstances, this is then passed to the disciplinary judge, who considers whether the allegation can proceed. The number of subsequent re-referrals by complainers setting out a case that there are exceptional circumstances is given below:

Senator	4
Sheriff Principal/Temporary Sheriff Principal	1
Sheriff/Part-time Sheriff	2
Total	7*

**These seven complaints were put before the disciplinary judge who decided that none should be allowed to proceed. All complaints remained dismissed.*

Initial assessment of complaint by Judicial Office - Rule 9 (3).

Number of allegations dismissed by the Judicial Office under Rule 9 (4) (a) – *does not contain sufficient information to enable a proper understanding of the allegation to be achieved*

Senator	-
Sheriff Principal/Temporary Sheriff Principal	1
Sheriff/Part-time Sheriff	6
Total	7

Number of allegations dismissed by the Judicial Office under Rule 9 (4) (b) - *it is about a judicial decision or judicial case management or judicial management of court programming.*

Senator	14
Sheriff Principal/Temporary Sheriff Principal	6
Sheriff/Part-time Sheriff	33
Total	53

Number of allegations dismissed by the Judicial Office under Rule 9 (4) (c) - *it raises a matter which has already been dealt with (whether under these Rules or otherwise), and does not present any material new evidence.*

Senator	9
Sheriff Principal/Temporary Sheriff Principal	-
Sheriff/Part-time Sheriff	-
Total	9

Number of allegations referred to the disciplinary judge where it appears to the Judicial Office that the allegation relates to judicial proceedings which are not concluded, for advice as to whether it would be appropriate for consideration under these Rules to continue before the judicial proceedings are concluded – Rule 9 (6)

Senator	-
Sheriff Principal/Temporary Sheriff Principal	-
Sheriff/Part-time Sheriff	6
Total	6*

*The disciplinary judge agreed that it would be appropriate for these 6 complaints to be considered under these Rules before the judicial proceedings were concluded. The disciplinary judge then went on to consider the allegations in terms of Rule 10.

Consideration by disciplinary judge – Rule 10

Number of allegations dismissed by disciplinary judge under Rule 10 (4) (b) - *it is about a judicial decision or judicial case management or judicial management of court programming.*

Senator	-
Sheriff Principal/Temporary Sheriff Principal	-
Sheriff/Part-time Sheriff	5
Total	5

Number of allegations dismissed by disciplinary judge under Rule 10 (4) (f) – *it is without substance*

Senator	-
Sheriff Principal/Temporary Sheriff Principal	-
Sheriff/Part-time Sheriff	6
Total	6

Number of allegations dismissed by disciplinary judge under Rule 10 (4) (g) – *it is insubstantial, that is to say that even if substantiated, it would not require any disciplinary action to be taken.*

Senator	-
Sheriff Principal/Temporary Sheriff Principal	-
Sheriff/Part-time Sheriff	3
Total	3

One complaint was not dismissed by the disciplinary judge under Rule 10 and was referred to a nominated judge for investigation under Rule 11, 12 and 13. After investigation the nominated judge reported to the Lord President that the allegation was unsubstantiated. The complaint was dismissed under Rule 10 (4) (f).