



## COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2017

### Report No 12

#### **Basis of Report**

This report covers the period of 1 September 2022 to 31 August 2023. For the purposes of this report we will only be considering valid complaints which were concluded within this period.

During the period of this report, 77 complaints were concluded under the Rules.

The table below provides a breakdown of the stage each complaint reached under the Rules.

#### **Complaints concluded under the Rules (1 September 2022 – 31 August 2023)**

Rule	Outcome	Senator/ Temp Judge	Sheriff Principal/ Temp SP	Scottish Land Court Chairman /Members	Sheriff /Summary Sheriff/PT Sheriff	JP	Total
7	Out of Time and not allowed to proceed	0	0	0	1	0	1
8	Dismissed by Judicial Office	3	0	0	51	1	54
11	Dismissed by Disciplinary Judge	1	0	0	7	1	9
12	Referred to Nominated Judge and resolved	0	0	0	2	0	2
13	Referred to Nominated Judge and not substantiated	0	0	0	5	0	5
16	Complaint Substantiated and report submitted to the Lord President	0	0	0	1	0	1
18	Withdrawn by complainer	0	0	0	5	0	5
20	JOH ceases to hold office	0	0	0	0	0	0
<b>Total</b>		<b>4</b>	<b>0</b>	<b>0</b>	<b>69</b>	<b>2</b>	<b><u>77</u></b>



### **Out of time and not allowed to proceed**

**Rule 7:** The Judicial Office for Scotland (JOS) concluded that 1 complaint was lodged out of time. In this instance, the complainers provided cases for exceptional circumstances. This case was placed before the disciplinary judge in accordance with the Rules. The disciplinary judge concluded that exceptional circumstances did not exist in this case.

### **Dismissed by Judicial Office**

**Rule 8:** The JOS concluded 54 complaints under this Rule.

- 1 complaint was dismissed under Rule 8(4)(a) - *it does not contain sufficient information to enable a proper understanding of the allegation to be achieved*
- 50 complaints were dismissed under Rule 8(4)(b) – *it is about a judicial decision.*
- 2 complaints were dismissed under both Rule 8(4)(a) and 8(4)(b)
- 1 complaint was dismissed under Rule 8(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*

### **Dismissed by Disciplinary Judge**

**Rule 11:** The JOS concluded 9 complaints under this rule.

- 1 complaint was dismissed by the Disciplinary Judge under Rule 11(4)(b) – *it is about a judicial decision*
- 1 complaint was dismissed by the Disciplinary Judge under Rule 11(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*
- 2 complaints were dismissed by the Disciplinary Judge under Rule 11(4)(f) – *it is without substance*
- 5 complaints were dismissed by the Disciplinary Judge under 11(4)(g) - *it is insubstantial, that is to say that even if substantiated, it would not require any disciplinary action to be taken*



### **Referred to Nominated Judge**

In this reporting period, 8 complaints were referred to a nominated judge for investigation.

- 2 complaints were referred to the Nominated Judge and resolved under rule 12
- 5 complaints were investigated by the nominated officer who found these complaints insubstantial.
- 1 complaint was substantiated in part and a report was submitted to the Lord President

### **Withdrawn by Complainer**

**Rule 18:** 5 complaints were withdrawn, or deemed to be withdrawn, by the complainer during this reporting period.

- 2 complainers asked that their complaint be withdrawn, and the file closed.
- 3 complainers failed to respond to correspondence from the JOS within 28 days and were notified that their complaint was deemed to be withdrawn. No further correspondence was received.

### **Outstanding Complaints**

As of 1 September 2023, 4 complaints were still active: 2 complaints are currently under consideration; 1 is suspended pending on-going judicial proceedings and 2 are currently under consideration by the Lord President.

A copy of the Rules and associated guidance can be found on our website:

<https://www.judiciary.scot/home/publications/judicial-complaints>