



COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2016/2017

Report No 6

Basis of Report

This report covers the period of 1 September 2016 to 31 August 2017. 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, 95 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 2016 – 31 August 2017)

Rule	Outcome	Senator / Temp Judge	Sheriff Principal/ Temp SP	Scottish Land Court Chairman/ Members	Sheriff /PT Sheriff	JP	Total
7	Out of Time and not allowed to proceed	0	0	0	2	0	2
8	Dismissed by Judicial Office	26	3	0	45	2	76
11	Dismissed by Disciplinary Judge	0	0	0	7	1	8
12	Referred to Nominated Judge and resolved	0	0	0	2	0	2
13	Referred to Nominated Judge and not substantiated	0	0	0	4	0	4
16	Complaint Substantiated and report submitted to the Lord President	0	0	0	0	0	0
18	Withdrawn by complainer	0	0	0	2	0	2
20	JOH ceases to hold office	0	0	0	1	0	1
	Total	26	3	0	63	3	95



Out of time and not allowed to proceed

Rule 7: The Judicial Office for Scotland (JOS) concluded 2 complaints were considered out of time. In both complaints, the complainer provided a case for exceptional circumstances. These were placed before the disciplinary judge in accordance with the Rules. The disciplinary judge concluded that exceptional circumstances did not exist in both cases.

Dismissed by Judicial Office

Rule 8: The JOS concluded 76 complaints under this Rule.

- 75 complaints were dismissed under Rule 8(4)(b) – *it is about a judicial decision.*
- 1 complaint was dismissed under Rule 8(4)(c) - *it raised a matter which has already been dealt with and does not present any material new evidence.*

Dismissed by Disciplinary Judge

Rule 11: The JOS concluded 8 complaints under this rule.

- All 8 complaints were dismissed by the Disciplinary Judge under one or a combination of the following Rules:
- 11(4)(b) – *it is about a judicial decision;*
- 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;*
- 11(4)(f) - *it is without substance;*
- 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, 6 complaints were referred to a nominated judge for investigation.

- 2 complaints were resolved to the satisfaction of the person complaining and the judicial office holder concerned without further investigation.



- 4 complaints were investigated and subsequently reported to be unsubstantiated. The reports of the nominated judges in all 4 complaints were reviewed by the disciplinary judge and the Lord President who concurred with the findings they each contained.
- No complaints were found to be substantiated during this reporting period.

Withdrawn by Complainer

Rule 18: 2 complaints were deemed to be withdrawn by the complainer during this reporting period. In one case the complainer failed to respond to correspondence from the JOS within 28 days. In the other case the complainer withdrew their complaint prior to initial assessment by the JOS.

JOH ceases to hold office

Rule 20: 1 complaint was dismissed under this Rule as the judicial office holder had ceased to hold office by way of retirement.

Outstanding Complaints

As of 1 September 2017, 16 complaints were still active: 6 complaints are currently under consideration; 7 are suspended pending on-going judicial proceedings and 3 are under investigation.

A copy of the Rules and associated guidance can be found on our website: <http://www.scotland-judiciary.org.uk/15/0/Complaints-About-Court-Judiciary> .