



COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2017

Report No 7

Basis of Report

This report covers the period of 1 September 2017 to 31 August 2018. 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, 97 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 2017 – 31 August 2018)

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	1	0	1	0	2
8	Dismissed by Judicial Office	11	3	0	57	5	76
11	Dismissed by Disciplinary Judge	0	0	0	12	1	13
12	Referred to Nominated Judge and resolved	0	0	0	0	0	0
13	Referred to Nominated Judge and not substantiated	0	0	0	3	0	3
16	Complaint Substantiated and report submitted to the Lord President	0	0	0	1	0	1
18	Withdrawn by complainer	0	0	0	1	0	1
20	JOH ceases to hold office	0	0	0	1	0	1
Total		11	4	0	76	6	<u>97</u>



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; and*
- 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 13 complaints under this rule. All 13 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)(f) - *it is without substance; and*
- 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, 4 complaints were referred to a nominated judge for investigation.

- 3 complaints were investigated and subsequently reported to be unsubstantiated. The reports of the nominated judges in all 3 complaints were reviewed by the disciplinary judge and the Lord President who concurred with the findings they each contained.
- 1 complaint was investigated and subsequently reported to be substantiated. The Lord President, thereafter issued a formal warning in terms of 29(1)(b) of the Judiciary and Courts (Scotland) Act 2008.



Withdrawn by Complainer

Rule 18: 1 complaint was withdrawn by the complainer during this reporting period. 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 2018, 12 complaints were still active: 4 complaints are currently under consideration; 3 are suspended pending on-going judicial proceedings and 5 are currently being investigated by a nominated judge.

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>