



COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2017

Report No 8

Basis of Report

This report covers the period of 1 September 2018 to 31 August 2019. 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, 68 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 2018 – 31 August 2019)

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	3	0	3
8	Dismissed by Judicial Office	10	1	0	36	2	49
11	Dismissed by Disciplinary Judge	0	0	0	4	0	4
12	Referred to Nominated Judge and resolved	0	0	0	0	1	1
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	3	0	3
18	Withdrawn by complainer	1	0	0	2	0	3
20	JOH ceases to hold office	0	0	0	0	1	1
Total		11	1	0	52	4	68



Out of time and not allowed to proceed

Rule 7: The Judicial Office for Scotland (JOS) concluded 3 complaints were considered out of time. In these 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 all 3 cases.

Dismissed by Judicial Office

Rule 8: The JOS concluded 49 complaints under this Rule.

- All 49 complaints were dismissed under Rule 8(4)(b) – *it is about a judicial decision.*

Dismissed by Disciplinary Judge

Rule 11: The JOS concluded 4 complaints under this rule. Two of these complaints were dismissed by the Disciplinary Judge under the following Rule:

- 11(4)(g) - *it is insubstantial, that is to say that even if substantiated, it would not require any disciplinary action to be taken.*

The remaining 2 complaints were concluded under Rule 11(10): that is to say that consideration under the Rules ceased as the Lord President indicated, to the Judicial Office, an intention to request the establishment of a tribunal to consider fitness for office of the judicial office holder.

Referred to Nominated Judge

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

- 1 complaint was 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.



- 3 complaints were investigated and subsequently reported to be substantiated. The Lord President thereafter, for disciplinary purposes, in 1 complaint issued formal advice and in another complaint issued a reprimand in terms of 29(1)(b) of the Judiciary and Courts (Scotland) Act 2008. In the remaining complaint, the nominated judge did not recommend that the Lord President exercise a power mentioned in section 29(1)(b) of the 2008 Act. However the Lord President did issue informal advice to the judicial office holder in terms of Section 29(3) of the Judiciary and Courts (Scotland) Act 2008.

Withdrawn by Complainer

Rule 18: 3 complaints were deemed to be withdrawn by the complainer during this reporting period. In all 3 cases the 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.

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 2019, 16 complaints were still active: 1 complaint is currently under consideration; 3 are suspended pending on-going judicial proceedings and 12 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>