



## COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2017

### Report No 9

#### **Basis of Report**

This report covers the period of 1 September 2019 to 31 August 2020. 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 2019 – 31 August 2020)**

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	1	0	1
8	Dismissed by Judicial Office	7	1	0	42	2	52
11	Dismissed by Disciplinary Judge	1	1	0	1	0	3
12	Referred to Nominated Judge and resolved	0	0	0	1	0	1
13	Referred to Nominated Judge and not substantiated	0	0	0	7	0	7
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18	Withdrawn by complainer	0	0	0	2	0	2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	1	0	0	0	1	2
<b>Total</b>		<b>9</b>	<b>2</b>	<b>0</b>	<b>54</b>	<b>3</b>	<b><u>68</u></b>



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

**Rule 7:** The Judicial Office for Scotland (JOS) concluded 1 complaint was considered out of time. In this complaint, the complainer provided a case for exceptional circumstances. This 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 52 complaints under this Rule.

- All 52 complaints were dismissed under Rule 8(4)(b) – *it is about a judicial decision*.

### **Dismissed by Disciplinary Judge**

**Rule 11:** The JOS concluded 3 complaints under this rule. All 3 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, 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.
- 7 complaints were investigated and subsequently reported to be unsubstantiated. The reports of the nominated judges in all 7 complaints were reviewed by the Disciplinary Judge and the Lord President who concurred with the findings they each contained. For two of these complaints, the Lord President issued informal advice in terms of 29(3)(a) of the Judiciary and Courts (Scotland) Act 2008.



### **Withdrawn by Complainer**

**Rule 18:** 2 complaints were deemed to be withdrawn by the complainer during this reporting period. Both 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.

1 further complaint was not accepted, as the judicial office holder had resigned some time ago.

### **Outstanding Complaints**

As of 1 September 2020, 14 complaints were still active: 4 complaints are currently under consideration; 3 are suspended pending on-going judicial proceedings and 7 are currently being investigated by a nominated judge.

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

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