

Judicial Recusals

Declinature of jurisdiction, also referred to as recusal, refers to the act of a judicial office holder abstaining from participation in legal proceedings due to a conflict of interest or when his or her impartiality might reasonably be impugned. The table below records those cases in which a senator, temporary judge, sheriff principal, sheriff or summary sheriff grants or refuses a formal motion for recusal in open court. With effect from 1 February 2018 the register was extended to include members of the Scottish Tribunals.

DATE	NAME OF JUDGE (AND COURT/TRIBUNAL)	CASE NAME (AND/OR REF)	MOTION BY & REASON
8/1/18	Sheriff Montgomery (Ayr Sheriff Court)	James McColm v Meiqin McColm (F138/16)	**Ex proprio motu; Knowledge of pursuer's family background
19/1/18	Sheriff Fleetwood (Inverness Sheriff Court)	Ashwin Bantwal v Vrishali Shenoy (INV-SM18-17)	Ex proprio motu; Sheriff previously recused himself in another case involving the parties, having earlier presided over a jury trial involving parties
1/2/18	Lord Justice Clerk (Court of Session)	Petition to the Nobile Officium by Derek Cooney (P115/17)	Petitioner's motion refused; no valid objection stated
6/2/18	Moira Clark (Mental Health Tribunal for Scotland)	8212/SO63*	Ex proprio motu; Personal conflict of interest
12/2/18	Sheriff A Brown (Dundee Sheriff Court)	HMA v M Islam and S Smekramuddin (DUN2017-4074)	Ex proprio motu; Witness known to Sheriff Ex proprio
23/2/18	Dr Ross Hamilton (Mental Health Tribunal for Scotland)	8709/SO63*	motu; Patient known to the Medical Member, having treated a relative
27/2/18	Graham Harding (Housing and Property Chamber)	RP/18/0148	Ex proprio

			<p>motu; Party is a client of the tribunal member's firm</p> <p>Ex proprio</p>
6/3/18	Dr Ross Hamilton (Mental Health Tribunal for Scotland)	7987/S1012b*	<p>motu;</p> <p>Previously provided second opinion on same patient</p> <p>Ex proprio</p>
15/2/18	Linda Reid (Housing and Property Chamber)	EV/17/0480	<p>motu; Potential conflict of interest as the tribunal member has a professional relationship with certain partners and associates of the agents for one of the parties</p> <p>Ex proprio</p>
20/2/18	Nicola Weir (Housing and Property Chamber)	RP/18/0150	<p>motu; One of the parties is the tribunal member's family solicitor</p>
28/2/18	Ian Campbell Matson (Mental Health Tribunal for Scotland)	N/A	<p>Ex proprio motu; Work as locum at same hospital</p> <p>Ex proprio</p>
7/3/18	Andrew Upton (Housing and Property Chamber)	EV/18/0250* and CV/18/0251*	<p>motu; The tribunal member's firm acts for the parent company of one of the parties</p> <p>Ex proprio motu;</p>
13/3/18	Dr James Deans (Mental Health Tribunal for Scotland)	9142/S095*	<p>Previously treated patient on compulsory basis</p>

21/3/18	Sheriff Principal Lewis (Sheriff Appeal Court)	Gabriel Politakis v RBS & Others	Ex proprio motu; Previously presided in appeal involving appellant Ex proprio
23/3/18	Sheriff A Anwar (Glasgow Sheriff Court)	GLW-F417-13	Ex proprio motu; Sheriff personally known to a witness Ex proprio
3/4/18	Graham Harding (Housing and Property Chamber)	PF/18/0233	Ex proprio motu; conflict of interest Ex proprio
9/4/18	Mark Andrew (Housing and Property Chamber)	RP/18/0162	Ex proprio motu; Tribunal member known to tenants involved in the case
9/4/18	Sheriff Fleetwood (Inverness Sheriff Court)	PF v Jade Brown (INV 2017-1048)	Ex proprio Joint motion granted; Sheriff was a longstanding agent of a key witness Ex proprio
17/4/18	Gillian Buchanan (Housing and Property Chamber)	RP/16/0210	Ex proprio motu; Respondent has connection to member's firm
2/4/18	Lady Paton (Court of Session)	XA88/16	Ex proprio Motion by party litigant refused; no good reason for recusal Ex proprio
TBC	Patricia Ann Pryce (Housing and Property Chamber)	RP/16/0210	Ex proprio motu; Conflict Ex proprio
25/4/18	Gillian Buchanan (Housing and Property Chamber)	RP/18/0602	Ex proprio motu; Previously acted for landlord
27/4/18	Graham Harding (Housing	RT/18/0586	Ex proprio

	and Property Chamber)		motu; One of the parties a client of the firm the applicant works for Ex proprio
27/4/18	Gillian Buchanan (Housing and Property Chamber)	RT/18/0586	motu; Respondent known to applicant as client of Member's firm
3/4/18	Sheriff Caldwell (Falkirk Sheriff Court)	SCS/2018-035424	Sheriff heard evidence in a trial with same accused and witnesses Ex proprio
11/5/18	David Preston (Housing and Property Chamber)	PF/17/0315	motu; factor known to applicant Respondent's motion granted; The sheriff, having
11/5/18	Sheriff Fleetwood (Inverness Sheriff Court)	A v B*	previously made a Permancece Order in respect of the child, declined jurisdiction to hear the adoption proof Ex proprio
14/5/18	Ewan Miller (Housing and Property) Chamber	CV/18/0981	motu; Tribunal member's firm acts for one of the parties Ex proprio
14/5/18	Susan Napier (Housing and Property Chamber)	PF/18/0240	motu; Tribunal member's worked for the housing association party when the development concerned was built

			Ex proprio
23/5/18	Elizabeth Currie (Housing and Property Chamber)	CV/18/0599	motu; Tribunal member works for the local authority and is responsible for landlord registration
			Ex proprio
23/5/18	Jacqui Taylor (Housing and Property Chamber)	EV/18/1075 and CV/18/1077	motu; Tribunal member's firm has acted for one of the parties
			Ex proprio
24/5/18	Jim Bauld (Housing and Property Chamber)	RP/18/0961	motu; Tribunal member's firm instructed by one the parties
			Ex proprio
29/5/18	Andrew Cowan (Housing and Property Chamber)	CV/18/1130 and EV/18/1127	motu; Tribunal member's firm acts for the applicant
			Ex proprio
29/5/18	Jim Bauld (Housing and Property Chamber)	PF/18/0571	motu; Tribunal member's firm acts for the landlord
4/6/18	Jim Bauld (Housing and Property Chamber)	LM/18/1073	Ex proprio motu; Tribunal member's firm acts for factor
5/6/18	Rory Cowan (Housing and Property Chamber)	EV/18/1078	Ex proprio motu; Tribunal member previously dealt with one of the parties
12/6/18	Sheriff Cook (Edinburgh Sheriff Court)	PF v Josh Harkness	Defence motion granted; Sheriff had presided over a trial involving same accused and complainer
11/7/18	Lord Brailsford (Court of Session)	Margaret Paterson v SCCR (P376/17)	Ex proprio motu; Lord Brailsford was one of a

			three-judge panel
			who had
			refused the petitioner leave to appeal the criminal conviction at second sift. The reason for refusing leave was germaine
			to the challenge raised in the judicial review.
31/7/18	Helen Miller (Additional Support Needs Tribunal)	AR/18/0006	Case indirectly involves the school attended by tribunal member's son
27/7/18	Sheriff Ward (Dunoon Sheriff Court)	PF v Gavin Murphy	Defence motion refused; Sheriff previously dealt with a children's social work referral in relation to the accused where the complainers were witnesses
2/8/18	Andrew Cowan (Housing and Property Chamber)	PR/18/1159	Tribunal member's firm acted for the landlord's agents in separate matters
14/8/18	Andrew Cowan (Housing and Property Chamber)	RA/18/1621	Potential conflict of interest
19/9/18	Sheriff Fleming (Glasgow Sheriff Court)	National Westminster Bank Plc v Morag Horsey (GLW-B885-18)	Ex proprio motu; prior professional conflict
19/9/18	Sheriff Hamilton QC (Dumbarton Sheriff Court)	DBN-SG155-18 Amir Smoli v John Currie	Ex proprio motu; Sheriff knows the pursuer
21/9/18	Carolyn Hirst (Housing and Property Chamber)	EV/18/1740	Ex proprio motu; Tribunal member has a conflict of

28/9/18	Sheriff Dickson (Tain Sheriff Court)	TAI-F43-13	interest, having worked as an independent consultant for one of the parties Ex proprio motu; The Sheriff has knowledge of one of the parties in the context of criminal proceedings
12/10/18	Alison Kelly (Housing and Property Chamber)	CV/18/1659 and PR/18/1408	Ex proprio motu; Tribunal member knows the letting agent who is acting for the applicant
13/12/18	Temporary Judge Norman Ritchie QC (Glasgow High Court)	HMA v Craig Tonnar (IND 2018/1312)	Ex proprio motu; Material placed before the court may reasonably have impugned the judge's decision on sentence.
13/12/18	Sheriff Berry (Wick Sheriff Court)	PF v William Fernie	Ex proprio motu; Accused is well known to the Sheriff

**Of the judge's own accord