



Making a complaint against a member of the Scottish Tribunals

A complaint to the Judicial Office for Scotland must be made in writing within **3 months** of the alleged incident you are complaining about. We accept complaints by individuals and by organisations.

You can send your complaint:

- By post to:
Judicial Office for Scotland
Parliament House
Edinburgh
EH1 1RQ
- By email: judicialofficeforscotland@scotcourts.gov.uk
- Using the standard complaints form.

Before sending your complaint you should first read the rest of this leaflet. This will ensure that you are contacting the correct place and that you provide the necessary information to allow us to process your complaint.

Please note that we are not able to intervene in, or influence the outcome of proceedings before the tribunals. If your complaint is upheld, it will not have any bearing on the progress or outcome of any associated case before the tribunals.

Who can I complain about?

We can accept complaints about ordinary and legal members of Scottish Tribunals as listed in the table below.

We <u>can</u> investigate	We <u>cannot</u> investigate
<p>Complaints about Ordinary and Legal Members of the following Tribunals:</p> <ul style="list-style-type: none">• General Regulatory Chamber of the First-tier Tribunal for Scotland• Health and Education Chamber of the First-tier Tribunal for Scotland• Housing and Property Chamber of the First-tier Tribunal for Scotland• Social Security Chamber of the First-tier Tribunal for Scotland• Tax Chamber of the First-tier Tribunal for Scotland• Upper Tribunal for Scotland	<p>Complaints about:</p> <ul style="list-style-type: none">• Judges of the Court of Session• Sheriffs Principal• Sheriffs• Summary Sheriffs• Justices of the Peace <p>If you wish to complain about the conduct of a holder of one of the above noted judicial offices, then please see the Complaints About the Judiciary (Scotland) Rules 2017</p>

Ordinary members are the members of the Scottish Tribunals whose professional qualifications, experience and/or training, gives them the necessary knowledge and understanding to sit on tribunals alongside judicial and legal members.

Legal members are the members of Scottish Tribunals appointed because of their qualification in and experience of the legal profession.

What can I complain about?

We can only investigate complaints about a tribunal member's **personal conduct**. We cannot consider complaints about a decision of the Scottish Tribunal or the way a case has been managed. These matters can only be challenged by appeal.

The definition of personal conduct covers a wide range of behaviour both in and outside of tribunals. However, you should understand that on occasions a tribunal member may have to be firm, direct or assertive in his or her management of a case.

It is not possible to provide a definitive list of what is considered personal misconduct. However, below are some examples of the types of matters we can and cannot investigate.

We can investigate	We <u>cannot</u> investigate
<ul style="list-style-type: none">• The use of racist, sexist or offensive language• Falling asleep during a hearing• Misusing judicial status for personal gain or advantage• Conflict of interest	<ul style="list-style-type: none">• A judgment, verdict or order• The impact of the decision made• What evidence should be, or has been considered• The award of expenses or damages• Decisions about hearing programming, case management or conduct of proceedings• Who should be allowed to participate in a hearing• Allegations of criminal activity

For further information on what may be considered misconduct, it may be useful to look at the [Statement of Principles of Judicial Ethics](#) for the Scottish Judiciary. This is a document that describes the principles and standards which tribunal members should adhere to in their personal and professional lives.

Time Limit

A complaint must be made within **3 months** of the incident you wish to complain about. For example if the matter you wish to complain about occurred on 10 April 20XX your complaint must reach the Judicial Office by close of business on 9 July 20XX.

The time limit for making a complaint will be extended only in **exceptional circumstances**. You may seek an extension by providing the reasons behind your delay within your original complaint document. If you do not provide sufficient information, the Judicial Office for Scotland will write to you requesting that you provide this within 4 weeks. If this is not received, your complaint will be closed. **Please note, that we do not regard ignorance of the Rules in itself as an exceptional circumstance.**

On-going Proceedings

If your hearing or appeal is on-going, you must still submit your complaint within the 3 month period. We will seek advice on whether it would be appropriate for consideration under the Rules to continue before the proceedings have concluded.

What do we need from you?

To enable us to investigate your complaint efficiently we ask that you provide as much of the information listed below as possible.

You must provide the following (your complaint will not be accepted without it):

- Your name.
- An address that we can use to contact you (if providing both a postal and email address please indicate your preferred contact method).
- The name of the tribunal member whom you wish to complain about.
- The date or dates of the alleged misconduct you wish to complain about (complaints must be made within **3 months**).
- Specific details of the alleged misconduct you wish to complain about.

Please note we cannot accept a complaint document that indicates that you do not want the tribunal member to see it.

It will also assist us if you could provide the following;

- The building where the tribunal hearing took place (if applicable)
- The relevant case number (if known)
- Copies of any documents that you are relying on to support your complaint

It is important that you provide enough information for us to consider your complaint. For example, it is not enough to simply say that 'Mr X was rude to me'. You will need to explain what was said or done by the member that you felt was rude; providing examples of the language used or behaviour shown.

If we are considering dismissing your complaint because it does not contain sufficient information, you will be offered a further **4 weeks** to provide the necessary details. Failure to provide further information within the time frame specified will result in your complaint being closed.

What happens when I have complained?

- We will acknowledge your complaint within 5 working days on receipt.
- If we are unable to accept your complaint we will clearly explain to you why this is.
- If your complaint is to be investigated we will clearly explain to you what is going to happen.
- We will provide you with a clear and reasoned explanation for the outcome of your complaint.
- If we are unable to help you we will try to direct you to other organisations that may be able to assist. Please see page 6 for useful websites.

Each complaint is handled in accordance with the Complaints about Members of the Scottish Tribunals Rules 2018. These were introduced by the Lord President as Head of the Scottish Tribunals.

To gain a detailed understanding of the complaints handling process, please see our process map.

Getting help to make your complaint

We understand that you may be unable, or reluctant, to make a complaint yourself. We can take complaints from a friend, relative, or someone who will support you, if you have given them your consent to complain for you.

You can find out about Independent Advocacy Support Workers in your area by contacting the Scottish Independent Advocacy Alliance.

Scottish Independent Advocacy Alliance

- Tel: 0131 556 6443
- Fax: 0131 550 9819
- Website: www.siaa.org.uk

We are committed to making our service easy to use for all members of the community. In line with our statutory equalities duties, we will always ensure that reasonable adjustments are made to help people access and use our services. If you have trouble putting your complaint in writing, or want information in another language or format, such as large print, audio or Braille, please tell us in person, or contact us at the addresses on page one.

What if I am unhappy with the way my complaint has been handled?

If you consider that the handling of your complaint has not been carried out in accordance with the 2018 Rules you may write to:

Mr James Mollison
Judicial Complaints Reviewer
Box 124
196 Rose Street
Edinburgh
EH2 4AT

It should be noted, however, that the Judicial Complaints Reviewer has no powers to consider the merits or the disposal of a complaint. Further, please note that the JCR does not accept review requests that are made more than 4 months from the date of this letter, unless there are exceptional circumstances for the delay. Please refer to www.judicialcomplaintsreviewer.org.uk or call 07814919837 for more information.

Useful Websites

- Scottish Judiciary website: <http://www.scotland-judiciary.org.uk/1/0/Home>
- Scottish Courts and Tribunals Service: <http://www.scotcourtribunals.gov.uk/>
- COPFS: <http://www.crownoffice.gov.uk/>
- Judicial Conduct Investigations Office for England and Wales: <http://judicialconduct.judiciary.gov.uk/>
- Scottish Legal Complaints Commission: <http://www.scottishlegalcomplaints.org.uk/>
- Law Society of Scotland: <http://www.lawscot.org.uk/>
- Police Scotland: <http://www.scotland.police.uk/>

