



COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2017

Report No 10

Basis of Report

This report covers the period of 1 September 2020 to 31 August 2021. 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, 98 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 2020 – 31 August 2021)

Rule	Outcome	Senator/ Temp Judge	Sheriff Principal/ Temp SP	Scottish Land Court Chairman /Members	Sheriff /Summary Sheriff/PT Sheriff	JP	Total
7	Out of Time and not allowed to proceed	0	0	1	1	0	2
8	Dismissed by Judicial Office	6	3	2	67	1	79
11	Dismissed by Disciplinary Judge	0	1	0	4	0	5
12	Referred to Nominated Judge and resolved	0	0	0	2	0	2
13	Referred to Nominated Judge and not substantiated	0	0	0	0	0	0
16	Complaint Substantiated and report submitted to the Lord President	0	0	0	0	0	0
18	Withdrawn by complainer	2	0	0	6	0	8
20	JOH ceases to hold office	0	0	0	2	0	2
Total		8	4	3	82	1	98



Out of time and not allowed to proceed

Rule 7: The Judicial Office for Scotland (JOS) concluded that 2 complaints were lodged out of time. In both complaints, the complainers provided cases for exceptional circumstances. These cases were placed before the disciplinary judge in accordance with the Rules. The disciplinary judge concluded that exceptional circumstances did not exist in either of the cases.

Dismissed by Judicial Office

Rule 8: The JOS concluded 79 complaints under this Rule.

- 73 complaints were dismissed under Rule 8(4)(b) – *it is about a judicial decision.*
- 6 complaints were dismissed under Rule 8(4)(c) – *it raises a matter which has already been dealt with (whether under these Rules or otherwise), and does not present any material new evidence*

Dismissed by Disciplinary Judge

Rule 11: The JOS concluded 5 complaints under this rule. All 5 were dismissed by the Disciplinary Judge under one, or a combination of the following Rules:

- 11(4)(a) – *it does not contain sufficient information to enable a proper understanding of the grounds of the allegation to be achieved;*
- 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, 2 complaints were referred to a nominated judge for investigation.

- Both complaints were resolved to the satisfaction of the person complaining and the judicial office holder concerned without further investigation.

Withdrawn by Complainer

Rule 18: 8 complaints were withdrawn, or deemed to be withdrawn, by the complainer during this reporting period.

- 1 complainer asked that their complaint be withdrawn, and the file closed.
- 7 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: 2 complaints were dismissed under this Rule as the judicial office holders had ceased to hold office by way of retirement.

Outstanding Complaints

As of 1 September 2021, 10 complaints were still active: 2 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:

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