

Judicial Office  
for Scotland

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# **COMPLAINTS ABOUT JUDICIAL CONDUCT**

## **UNACCEPTABLE ACTIONS POLICY**

**Issued by the Judicial Office for Scotland  
1 April 2016**

## **Introduction**

The Lord President of the Court of Session has made rules for the investigation and determination of any matter regarding the conduct of a judicial office holder; [Complaints About the Judiciary \(Scotland\) Rules 2016](#). The Judicial Office for Scotland has produced a [Guidance Leaflet](#) which explains to interested parties, how to complain, what can be complained about and how the complaint will be handled.

This Policy sets out the Judicial Office for Scotland's approach to the relatively few people who make a complaint whose actions or behaviour we consider unacceptable.

Throughout we refer to complainers (i.e. people who make a complaint about judicial conduct) but the approach applies equally to our dealings with people other than complainers.

## **Aims**

We aim in all our dealings to:

- make it clear to all complainers both on initial contact and throughout their dealings with our office, what the Judicial Office can and cannot do in relation to their complaint;
- be open and not raise expectations that we cannot meet;
- deal fairly, honestly, consistently and appropriately with all complainers, even those whose behaviour or actions we consider unacceptable. We believe that all complainers have the right to be heard, understood and respected. We also believe that Judicial Office staff have the same rights;
- provide a service that is accessible to all. However, we retain the right, where we consider a complainer's actions to be unacceptable, to restrict or change access to our service; and
- ensure that other people who use the services of the Judicial Office and Judicial Office staff do not suffer any disadvantage from complainers who act in an unacceptable manner.

## **Defining unacceptable actions**

The Judicial Office understands that people may act out of character in times of trouble or distress. Often complainers have experienced upsetting or distressing circumstances leading up to a complaint being submitted.

We do not view behaviour as unacceptable simply because a complainer is forceful or determined. However, the actions of complainers who are angry, demanding or persistent may result in unreasonable demands on our office or unacceptable behaviour towards our staff. It is these actions that we consider unacceptable and aim to manage under this policy.

The Judicial Office has grouped these actions under the following three broad headings.

### ***Aggressive or abusive behaviour***

Violence and aggression are not restricted to acts which cause physical harm. They also include behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused. Examples of such behaviour include threats, personal verbal abuse, derogatory remarks and rudeness. Inflammatory statements and unsubstantiated allegations can also be abusive behaviour.

We expect our staff to be treated courteously and with respect. Violence and abuse are unacceptable. Our staff understand the difference between aggression and anger, and that the anger felt by many complainers involves the subject matter of their complaint. However, it is unacceptable when anger escalates into aggression directed towards Judicial Office staff.

### ***Unreasonable demands***

Complainers might make what we consider unreasonable demands on our office through the amount of information they seek, the nature and scale of the service they expect or the number of approaches they make. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour.

Examples of such behaviour include demanding responses within an unreasonable time-scale, insisting on speaking to a particular member of staff, continual phone calls, letter or emails or continually raising unrelated concerns.

We consider such demands as unacceptable and unreasonable if they start to impact substantially on the work of the office, such as taking up an excessive amount of staff time to the disadvantage of other complainers or other office functions.

### *Unreasonable persistence*

We recognise that some complainers will not or cannot accept that the Judicial Office cannot provide a level of service other than the one provided already or that it is unable to assist them further. There are rare occasions where complainers contact the office persistently about the same issue. We accept that the way these complainers approach us may be reasonable, but it is the persistent behaviour in continuing to do so that is not.

The actions of persistent complainers are unacceptable when they take up what the Judicial Office considers to be a disproportionate amount of time or resources.

### **Managing Unacceptable Actions**

There are relatively few complainers whose actions we consider unacceptable. How we manage these actions depends on their nature and extent. If it adversely affects our ability to do our work and provide a service to others, we may need to restrict complainers' contact with our office in order to manage the unacceptable action. We will do so in a manner that ensures that the complaint is being, or has been considered according to the [Complaints About the Judiciary \(Scotland\) Rules 2016](#).

We may restrict contact in person, by telephone, letter or electronically or by any combination of these. We will maintain at least one form of contact. In extreme situations, we will tell the complainer in writing that their name is on a "no personal contact" list. This means that they must restrict contact with our office to either written communication or through a third party.

The threat or use of physical violence, verbal abuse or harassment towards Judicial Office staff is not tolerated and is likely to result in the ending of all direct contact with the complainer. Incidents of this nature may be reported to the police. This will always be the case if physical violence is used or threatened.

We do not deal with correspondence (letter or electronic) that is abusive to staff. When this happens we tell the complainer that we consider their language

offensive, unnecessary and unhelpful. We ask them to stop using such language. We may require future contact to be through a third party.

Judicial Office staff will end telephone calls if the caller is considered aggressive, abusive or offensive. The staff member taking the call has the right to make this decision. All Judicial Office staff have the authority to tell a caller that their behaviour is unacceptable and end the call if the behaviour does not stop.

Where a complainer persistently contacts the Judicial Office about an issue which has already been dealt with we will write to the complainer to advise them that future correspondence on this same issue will be read and filed, and only acknowledged or responded to if the complainer is providing significant new information or is making a fresh complaint.

*We will always tell the complainer what action we are taking and why.*

### **Deciding to Restrict Complainer Contact**

Judicial Office staff who experience aggressive or abusive behaviour directly from a complainer have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy.

With the exception of such immediate decisions taken at the time of an incident, decisions to restrict contact with the Judicial Office are taken only after careful consideration of the situation by a senior member of staff. Wherever possible, we give a complainer the opportunity to modify their behaviour or action before a decision is taken. Complainers are told in writing why a decision has been made to restrict future contact and what the restricted contact arrangements are.

### **Appealing a Decision to Restrict Contact**

A complainer can appeal a decision to restrict contact. A senior member of staff who was not involved in the original decision considers the appeal. They advise the complainer in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

## **Recording a Decision to Restrict Contact**

We record all incidents of unacceptable actions by complainers. Where it is decided to restrict complainer contact, an entry noting this is made in the relevant files and/or on appropriate computer records.

A decision to restrict complainer contact may be reconsidered if the complainer demonstrates a more acceptable approach.

## **Further Information**

For further information please contact

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