



COMPLAINTS ABOUT THE JUDICIARY (SCOTLAND) RULES 2013

Report No 4

Basis of Report

This report covers the period of 01 April 2014 to 31 March 2015. For the purposes of this report we will only be considering valid complaints which were concluded within this period.

Taking account of the 15 complaints which were carried forward from the last reporting year (2013-2014), 95 complaints were concluded under the Rules during the period of this report.

The table below provides a breakdown of the stage each complaint reached under the Rules.

Complaints concluded

Rule	Outcome	Senator / Temp Judge	Sheriff Principal/ Temp SP	Sheriff /PT Sheriff	JP/Stip	Total
6	Out of Time and not allowed to proceed	6	1	3	0	10
9	Dismissed by Judicial Office	28	1	23	3	55
10	Dismissed by Disciplinary Judge	3	0	12	1	16
11	Referred to Nominated Judge and resolved	0	0	0	1	1
12	Referred to Nominated Judge and not substantiated	0	0	2	0	2
15	Complaint Substantiated and report submitted to the Lord President	0	0	3	1	4
17	Withdrawn by complainer	2	0	4	0	6
19	JOH ceases to hold office	1	0	0	0	1
Total		40	2	47	6	95



Rule 6: The Judicial Office for Scotland (JOS) received twelve complaints that were considered out of time. In all twelve complaints, the complainer provided a case for exceptional circumstances. These were all placed before the disciplinary judge in accordance with the Rules. The disciplinary judge concluded that exceptional circumstances existed in two of the twelve complaints.

Rule 9: The JOS dismissed 55 complaints under this Rule.

- *One complaint was dismissed as not containing sufficient information for the JOS to enable a proper understanding. In this case the complainer was given an opportunity to provide further information. No, further information was provided and the complaint was therefore dismissed under Rule 9(4)(a).*
- *Fifty three complaints were dismissed as being about a judicial decision/case management/judicial management of court programming, Rule 9(4)(b).*
- *One complaint was dismissed as it raised a matter that had already been dealt with under the Rules, Rule 9(4)(c).*

Rule 10: 16 complaints were referred to the Disciplinary Judge for consideration.

- *Five complaints were dismissed as being about a judicial decision/case management/judicial management of court programming, Rule 10(4)(b).*
- *Eight complaints were dismissed as they were without substance, Rule 10(4)(f).*
- *Three complaints were dismissed by the disciplinary judge as being insubstantial. That is to say that even if substantiated, it would not require any disciplinary action, Rule 10(4)(g).*

Referred to Nominated Judge

Seven complaints were referred to the Nominated Judge for investigation. Out of those complaints investigated; one complaint was resolved by the Nominated Judge to satisfaction of the complainer and six were the subject of a report to the Lord President. Two reports indicated that the allegations were found to be without substance or unsubstantiated. The Lord President agreed with the findings and recommendations. The remaining four complaints investigated found the complaints to be substantiated. As a result two sheriffs were issued with a reprimand and one Justice of the Peace was issued formal advice. However, in the case of the remaining complaint the nominated judge recommended that the conduct did not require formal action by virtue of the powers conferred on the Lord President under section 29 of the Judiciary and Courts (Scotland) Act 2008.

Rule 17: Six complainers withdrew their complaint.

Rule 19: One complaint was dismissed by the JOS as the Judicial Office Holder was no longer in office.



Outstanding Complaints

On 31 March 2015, 14 complaints were still active: nine were still under consideration; three were suspended pending on-going judicial proceedings and two were still under investigation.

On 01 April 2015, the Lord President published revised rules for the investigation and determination of matters concerning the personal misconduct of judicial office holders. A copy of the Rules and associated guidance can be found on our website: <http://www.scotland-judiciary.org.uk/15/0/Complaints>