



Making a complaint against a Member of the Mental Health Tribunal for Scotland

The President of the Mental Health Tribunal for Scotland (“MHTS”) has appointed the Judicial Office for Scotland to supervise the operation generally of the Complaints Procedure, report to the President about any matters as appropriate and to carry out functions as specified by the procedure.

This guidance document has been approved by the President of MHTS.

Any complaints about a member of the Mental Health Tribunal for Scotland will be dealt with under the Complaints Procedure for the Mental Health Tribunal for Scotland 2024 (“the Complaints Procedure”) – a copy of these Rules, guidance and the complaints form can be found on the MHTS website – www.mhtscotland.gov.uk/mhts/About_Tribunal/Complaints.

All complaints should be sent to the Judicial Office for Scotland; you can send your complaint:

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

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 MHTS. If your complaint is upheld, it will not have any bearing on the progress or outcome of any associated case before MHTS.

Who can I complain about?

Under the Complaints Procedure, we can accept complaints about members of MHTS. If you are unsure if we can deal with your complaint, please contact us using the details on page 1.

What can I complain about?

We can only consider complaints about a member's **personal conduct**. We cannot consider complaints about a decision of MHTS or the way a case has been managed.

The definition of personal conduct covers a wide range of behaviour both in and outside of tribunal hearings. 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• Misusing judicial status for personal gain or advantage• Conflict of interest• Falling asleep during a hearing	<ul style="list-style-type: none">• A decision, such as the outcome of the case or order made The impact of the decision made• What evidence should be, or has been, considered• 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 [Guidance to Judicial Office Holders on Judicial Ethics in Scotland](#) 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.

What do you need to tell us?

While you do not have to use the complaint form to make your complaint, we would encourage you to use the form as it will help to guide you through your complaint to give us the information needed to consider it. A copy of the complaint form can be found on the Mental Health Tribunal website: [www.mhtscotland.gov.uk/mhts/About Tribunal/Complaints](http://www.mhtscotland.gov.uk/mhts/About_Tribunal/Complaints).

If you have any trouble completing this form please email us at: judicialofficeforscotland@scotcourts.gov.uk

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

- your name
- an address we can use to contact you – can be an email address or postal
- the name of the person you are complaining about
- if you do not know the name of the judge, you can contact the tribunal and ask them to provide their name
- the date(s) of when the matter you wish to complain about happened
- where the matter you wish to complain about happened
- as much information as you can give us on the matter
- the case number (not required but it is helpful)

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

It is important that you provide enough information for us to consider your complaint. For example, it is not enough to simply say that “The member 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.

We may ask you to give us more information to help us understand your complaint and you will have 28 days to respond. If we do not hear from you within the 28 days your complaint may be deemed to have been withdrawn.

Time Limits

A complaint must be made within 3 months of the behaviour you wish to complain about. For example, if the matter you wish to complain about happened on 10 April 20XX you must complain about it by 10 July 20XX.

What happens if I make a complaint after the 3 month time limit?

If you make a complaint after 3 months, the complaint should tell us why it is being made late. It is only in exceptional circumstances that we can extend the time limit. If you do not explain in your complaint why it is late, we will ask you why and you will be given 28 days to reply. Please note that not knowing about the rules is not an exceptional circumstance.

What happens when I have complained?

- Each complaint is handled in accordance with the Complaints Procedure for the Mental Health Tribunal for Scotland 2024.
- 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 5 for useful websites.
- The Judicial Office will acknowledge your complaint within 5 working days of receipt.
- If we are unable to accept your complaint we will clearly explain to you why this is.
- If your complaint is dismissed, the Judicial Office will write to you explaining why.
- If your complaint is not dismissed by the Judicial Office, your complaint will be sent to the President of MHTS, who will seek comments on the allegations

from the member you have complained about and any other people as considered appropriate.

- Once your complaint has been investigated by the President of MHTS, the President will write to you detailing the findings and any proposed action to be taken.

Need 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

- Website: www.siaa.org.uk
- Tel: 0131 510 9410
- Email: enquiry@siaa.org.uk
- Post: Scottish Independent Advocacy Alliance
18 York Place
Edinburgh
EH1 3EP

Accessibility

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 contact us by email at: judicialofficeforscotland@scotcourts.gov.uk or by telephone on 0131 240 6677.

Useful Websites

- Scottish Judiciary website: www.judiciary.scot
- Scottish Courts and Tribunals Service: www.scotcourts.gov.uk
- Crown Office and Procurator Fiscal Service (COPFS): www.copfs.gov.uk
- Judicial Conduct Investigations Office for England and Wales:
www.complaints.judicialconduct.gov.uk
- Scottish Legal Complaints Commission:
www.scottishlegalcomplaints.org.uk
- Law Society of Scotland: www.lawscot.org.uk
- Police Scotland: www.scotland.police.uk

Judicial Office for Scotland
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