

# COMPLAINTS PROCEDURE FOR THE PENSIONS APPEAL TRIBUNAL SCOTLAND 2024

## Application

1. This procedure applies in relation to complaints about the conduct of a member of the Pensions Appeal Tribunal Scotland (PATS).

## Functions of the President of PATS

2. The President of PATS has appointed the Judicial Office for Scotland to—
- (a) supervise the operation generally of this procedure and report to the President about that matter as appropriate;
  - (b) carry out other functions specified by this procedure.

## Judicial Office

3. References in this procedure to the Judicial Office are to the Judicial Office for Scotland which supports the Lord President as head of the Scottish judiciary.

## Making a complaint

- 4.—(1) A complaint may be made by submitting a complaint document to the Judicial Office.
- (2) A “complaint document” is a document in writing which—
- (a) is legible;
  - (b) contains one or more detailed allegations of misconduct on the part of a named or identifiable member of PATS;
  - (c) gives the date or dates of the alleged misconduct; and
  - (d) states the name of the person alleging misconduct and details of an address to which correspondence may be sent.
- (3) A complaint document is to be accompanied by all documents within the control of the person complaining upon which that person seeks to rely.
- (4) Without delay after receiving a complaint, the Judicial Office will send a written acknowledgement to the complainer.
- (5) If the tribunal member concerned—
- (a) is under investigation by or is subject to an ongoing disciplinary procedure by any other competent professional disciplinary body or tribunal; and
  - (b) the fact of that investigation or procedure is known to the person complaining, the person complaining should include that information in the complaint document.
- (6) A complaint document will not be accepted where it (or any communication associated with it) indicates that the person complaining does not consent to the member concerned to see a copy of the complaint document or any document accompanying it.

## Time limit

- 5.—(1) Subject to this rule, the Judicial Office is to dismiss any allegation which founds on anything said to have occurred more than 3 months before the date on which the complaint document was received.
- (2) The person complaining may make an application in writing to the Judicial Office that there are exceptional circumstances which justify allowing the allegation to continue to be considered under these Rules as if it had been submitted on time.

(3) Where such a case is not made at the time of making the complaint, the Judicial Office is to write to the person complaining inviting them, by such date as may be specified, to make such a case. If such a case is not made by the date specified, the allegation is to be dismissed.

(4) Where such a case is made, the President of PATS is to decide whether the allegation is to be allowed to proceed under these Rules as if it had been submitted on time.

(5) Where an allegation is dismissed under this rule the Judicial Office is to write to the person complaining to that effect.

(6) Where the Judicial Office considers that the allegation falls to be dismissed under rule 6(3), it may decide not to invite representations under paragraph (3) above and proceed directly to deal with the matter under rule 6.

### **Initial assessment of complaint**

6.—(1) The Judicial Office is to carry out an initial assessment of the allegation(s) of misconduct.

(2) If the Judicial Office considers that an allegation falls within paragraph (3), it is to dismiss that allegation.

(3) An allegation falls into this paragraph if—

- (a) it does not contain sufficient information to enable a proper understanding of the allegation to be achieved;
- (b) it is about a decision of PATS;
- (c) it raises a matter which has already been dealt with (whether under this procedure or otherwise), and does not present any material new evidence;

(4) Where an allegation is dismissed under paragraph (3), the Judicial Office is to provide written reasons why the allegation has been dismissed to the person complaining.

(5) Where an allegation is not dismissed under paragraph (3), the Judicial Office is to write to the person complaining to inform that person of that fact and submit the complaint to the President of the PATS for consideration.

### **Assessment of Complaint by President of PATS**

7.—(1) Where a complaint is received by the President of PATS, the President is to carry out an assessment of the allegation(s) of misconduct and will dismiss any complaint they deem frivolous, vexatious or totally without merit.

(2) Where a complaint is not dismissed under rule 7(1), the member to whom the complaint relates will be sent a copy by the President of PATS within 10 working days<sup>i</sup> and will be asked to comment on the allegations made within 7 working days of receipt.

- (a) PATS members must respond without discussing the nature of the complaint, or response to it, with each other.
- (b) Except where the consent of the member is given, copies of the member's response to the complaint will not be copied to the complainer.
- (c) Where appropriate, the President of PATS will seek comments from the case officer or any other people who were present during the conduct complained of.
- (d) The President of PATS may if appropriate, interview any person in relation to the complaint.

### **Notification of Outcome**

8.—(1) The President of PATS is to write to the complainer and the member who was the subject of the complaint, detailing the findings and any action which they propose to take.

(2) In the event that a complaint of a serious nature against the member is upheld, the President of PATS may refer the matter to the Lord President of the Court of Session and under the terms of paragraph 2(3B) of

the schedule to the Pensions Appeal Tribunals Act 1943, as amended, the Lord President may remove any member of a Tribunal appointed under paragraph 2(1)(b) of the schedule.

### **Withdrawal of complaint**

9.—(1) A person complaining may, by writing to the Judicial Office or the President of PATS to that effect, withdraw an allegation at any time before matters are referred to the Lord President under rule 8(2).

(2) Where a person complaining fails to respond to correspondence from the Judicial Office or the President of PATS within 28 working days, the complaint may be deemed to have been withdrawn and may be treated in accordance with this rule.

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<sup>i</sup> The terms “working days” means days which are not, (a) Saturday; (b) Sunday; or (c) a day which is a Public Holiday.