

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 4 – Directions to the Commissioner

37. [Section 4\(1\)](#) requires the Commissioner to comply with any directions that are given to him or her by the Standards Committee. These could include such matters as record keeping.
38. Subsection (2) provides that directions may be given in relation to the procedure that the Commissioner should follow when conducting investigations. Procedural aspects could include requiring the Commissioner to ensure that all persons interviewed by him or her are given a right to have a third party present and are advised of this right. The directions can be general, so as to cover all complaints. In addition, the Standards Committee can make different provision in the directions to cover different classes of complaints. It might, for example, be considered appropriate to make different procedural provision to deal with unusual types of complaints, such as those that are anonymous or in which a member of the Parliament is not named, as compared with the vast majority of complaints which identify the complainer and the member. A direction could also be made under (2)(b) for example to require the Commissioner to report upon the reasons for the dismissal of complaints at Stage 1. Such information could assist in monitoring the efficacy of the relevant provisions. The Standards Committee could also direct the Commissioner to report on the existence, progress and investigation of a particular Stage 1 complaint, and on any decisions taken.
39. Directions may not be given in relation to the specifics of a particular investigation (subsection (3)). This restriction on the limits of the directions that the Standards Committee can give the Commissioner preserves the independence of the Commissioner in relation to the carrying out of individual investigations.