



# Scottish Parliamentary Standards Commissioner Act 2002

2002 asp 16

## *Investigation of complaints*

### **11 Withdrawal of a complaint**

- (1) At any time after a complaint has been made to the Commissioner and before a report is made to the Parliament under section 9, the complaint may be withdrawn by the complainer by notice in writing to the Commissioner<sup>F1</sup>....
- (2) When a complaint has been withdrawn as mentioned in subsection (1) during Stage 1, the Commissioner shall—
  - (a) cease to investigate that complaint; and
  - (b) inform the member of the Parliament concerned that the complaint has been withdrawn, that the investigation into the complaint has ceased and of the reasons given by the complainer for withdrawing the complaint.
- (3) When a complaint has been withdrawn as mentioned in subsection (1) during Stage 2, the Commissioner shall—
  - (a) inform the member of the Parliament concerned that the complaint has been withdrawn and of the reasons given by the complainer for withdrawing the complaint;
  - (b) invite that member to give the Commissioner any views upon whether the investigation should nevertheless continue; and
  - (c) after taking into account any relevant information, including any reasons given by the complainer for withdrawing the complaint and any views expressed by that member, determine whether to recommend to the Parliament that the investigation into the complaint should nevertheless continue.
- (4) If the Commissioner determines not to make any such recommendation as is mentioned in subsection (3), the Commissioner shall—
  - (a) cease to investigate that complaint;
  - (b) inform the complainer and the member of the Parliament concerned the investigation into the complaint has ceased; and

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**Changes to legislation:** There are currently no known outstanding effects for the Scottish Parliamentary Standards Commissioner Act 2002, Section 11. (See end of Document for details)

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- (c) report to the Parliament that the complaint has been withdrawn, that the investigation into the complaint has ceased and the reasons given by the complainer for withdrawing the complaint.
- (5) If the Commissioner determines to make any such recommendation as is mentioned in subsection (3), the Commissioner shall report to the Parliament—
- (a) that the complaint has been withdrawn, the reasons given by the complainer for withdrawing the complaint and the views, if any, expressed by the member concerned as mentioned in subsection (3)(b); and
  - (b) that the Commissioner recommends that the complaint should nevertheless continue to be investigated, together with the reasons for that view.
- (6) After receiving a report under subsection (5), the Parliament shall give the Commissioner a direction under this section either to continue the investigation into the complaint or to cease that investigation; and the Commissioner shall comply with that direction and inform the member of the Parliament concerned and the complainer accordingly.
- (7) Where the Commissioner is required under this section to inform the member of the Parliament concerned of, or to report to the Parliament, the reasons given by the complainer for withdrawing the complaint, the Commissioner may do so by providing a summary of those reasons.
- (8) In any case where the member of the Parliament concerned has not been named in the complaint or the complainer has not given any reasons for withdrawing the complaint, subsections (2) to (7) shall apply only to the extent that they are capable of applying.

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#### **Textual Amendments**

- F1** Words in s. 11(1) repealed (21.10.2021) by [Scottish Parliamentary Standards \(Sexual Harassment and Complaints Process\) Act 2021 \(asp 12\)](#), ss. 3(3), 4(2) (with s. 4(3))

**Changes to legislation:**

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