



# Legal Profession and Legal Aid (Scotland) Act 2007

## 2007 asp 5

### PART 1

#### THE SCOTTISH LEGAL COMPLAINTS COMMISSION

##### *Conduct or services complaints against practitioners*

#### **15 Complaint appears during mediation or investigation to fall within different category**

- (1) Where a relevant professional organisation at any time during any mediation by it, or its investigation, of a conduct complaint remitted to it under section [F16(2)(a)] considers that it is reasonably likely that the complaint (or any element of it) may instead constitute a services complaint, it must—
  - (a) suspend the mediation or, as the case may be, the investigation;
  - (b) consult, co-operate and liaise with the Commission as respects the matter;
  - (c) send the complaint and any material which relates to it and which is in the organisation's possession to the Commission;
  - (d) give notice in writing to the complainer and the practitioner that it so considers and is so doing.
- (2) Where the Commission at any time during its mediation by virtue of section 8(5) in relation to, or investigation by virtue of section 9(1) of, a services complaint considers that it is reasonably likely that the complaint (or any element of it) may instead constitute a conduct complaint, it must—
  - (a) suspend the mediation or investigation;
  - (b) send a copy of the complaint and any material which relates to it and which is in the Commission's possession to the relevant professional organisation;
  - (c) consult, co-operate and liaise with the relevant professional organisation as respects the matter;
  - (d) give notice in writing to the complainer, the practitioner and the relevant professional organisation that it so considers and is so doing.

**Changes to legislation:** *Legal Profession and Legal Aid (Scotland) Act 2007, Section 15 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (3) Where, in the circumstances referred to in subsection (1) or (2) the Commission, having regard to the views expressed by the relevant professional organisation as respects the matter, considers that—
- (a) its determination under [F<sup>2</sup>section 2(1A)(a)] as respects the complaint should be confirmed (to any extent), it must so determine; and the determination under this paragraph must specify the extent to which the determination under that section is confirmed;
  - (b) a complaint (or any element of a complaint) which was determined by it under [F<sup>2</sup>section 2(1A)(a)] to constitute—
    - (i) a conduct complaint constitutes instead a services complaint;
    - (ii) a services complaint constitutes instead a conduct complaint,
 it must determine accordingly.
- (4) Where, or to the extent that, the Commission determines under subsection (3)(a) to confirm to any extent its determination under [F<sup>2</sup>section 2(1A)(a)]—
- (a) it must give notice in writing to the complainer, the practitioner and the relevant professional organisation by sending to each of them a copy of the determination and specifying the reasons for the determination;
  - (b) any suspension under subsection (1)(a) or (2)(a) ceases.
- (5) Where the Commission determines under subsection (3)(b) that a complaint (or any element of a complaint) which was determined by it under [F<sup>2</sup>section 2(1A)(a)] to constitute a services complaint constitutes instead a conduct complaint, it must—
- (a) remit the conduct complaint to the relevant professional organisation to deal with (and give to the organisation any material referred to in section [F<sup>3</sup>6(2)(a)]);
  - (b) give notice in writing to the complainer, the practitioner and the relevant professional organisation by sending to each of them a copy of the determination and specifying—
    - (i) the reasons for the determination;
    - (ii) that the conduct complaint is being remitted under paragraph (a);
    - (iii) the relevant professional organisation to which it is being remitted;
    - (iv) that the relevant professional organisation is under a duty under this Act to deal with the conduct complaint.
- (6) Where the Commission determines under subsection (3)(b) that a complaint (or any element of a complaint) which was determined by it under [F<sup>2</sup>section 2(1A)(a)] to constitute a conduct complaint constitutes instead a services complaint—
- (a) it must give notice in writing to the complainer, the practitioner and the relevant professional organisation by sending to each of them a copy of the determination and specifying the reasons for the determination;
  - (b) sections 8 to 12 apply to the services complaint as they apply where a determination is made under [F<sup>2</sup>section 2(1A)(a)] that a complaint constitutes a services complaint.

#### Textual Amendments

- F1** Word in s. 15(1) substituted (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(11)** (with reg. 4)

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- F2** Words in s. 15 substituted (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(8)** (with reg. 4)
- F3** Word in s. 15(5)(a) substituted (1.1.2015) by [The Scottish Legal Complaints Commission \(Modification of Duties and Powers\) Regulations 2014 \(S.S.I. 2014/232\)](#), regs. 1(2), **2(11)** (with reg. 4)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 2(6)(ba) inserted by [2010 asp 16 s. 118\(4\)](#)