



# Scottish Parliamentary Standards Commissioner Act 2002

2002 asp 16

## *Investigation of complaints*

### **7 Procedures at Stage 1**

- (1) When the Commissioner receives a complaint about the conduct of a member of the Parliament, the Commissioner shall—
  - (a) notify that member that a complaint has been made;
  - (b) inform that member of the nature of the complaint; and
  - (c) except where the Commissioner considers that it would be inappropriate to do so, inform that member of the name of the complainer.
- (2) If the Commissioner considers that the complaint is admissible, the Commissioner shall proceed to Stage 2 of the investigation into the complaint and shall—
  - (a) make a report to the Parliament informing it of that fact and of the relevant provision or provisions identified by the Commissioner for the purposes of the first test; and
  - (b) inform the complainer and the member of the Parliament concerned accordingly.
- (3) If the Commissioner considers that the complaint is inadmissible for failing to satisfy the first or the third test, the Commissioner shall dismiss the complaint and shall inform the complainer and the member of the Parliament concerned accordingly, together with the reasons for that view.
- (4) Subject to subsection (6), where the Commissioner considers that a complaint satisfies the first test but fails to meet one or more of the specified requirements, the Commissioner shall not dismiss the complaint as inadmissible for failing to satisfy the second test without making a report upon the matter to the Parliament and receiving a direction under subsection (7)(a).
- (5) The report under subsection (4) shall set out—
  - (a) the reasons as to why the Commissioner considers that the complaint fails to meet one or more of the specified requirements;
  - (b) the reasons (if known) for that failure;

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**Changes to legislation:** There are currently no known outstanding effects for the Scottish Parliamentary Standards Commissioner Act 2002, Section 7. (See end of Document for details)

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- (c) any other matters which the Commissioner considers relevant; and
  - (d) the recommendation of the Commissioner as to whether, having regard to all the circumstances of the case, the complaint should be dismissed as inadmissible for failing to satisfy the second test or should be treated as if it had met all of those requirements.
- (6) Except in the case of a complaint falling within such class or classes of case as may be specified in any direction by the Parliament under this section, the Commissioner shall, before making the report to the Parliament under subsection (4), investigate whether the complaint satisfies the third test and, if it does, the report shall contain a statement to that effect; but, if the Commissioner considers that the complaint fails to satisfy that test, the Commissioner shall dismiss the complaint accordingly and no report requires to be made under that subsection.
- (7) After receiving a report under subsection (4), the Parliament shall give the Commissioner a direction under this section either—
- (a) to dismiss the complaint as inadmissible for failing to satisfy the second test; or
  - (b) to treat the complaint as if it had met all of the specified requirements.
- (8) Where the Commissioner is directed by the Parliament to dismiss the complaint under subsection (7)(a), the Commissioner shall dismiss the complaint and shall inform the complainer and the member of the Parliament concerned accordingly.
- (9) In any case where the member of the Parliament concerned has not been named in the complaint or the complainer is anonymous, subsections (1), (2), (3) and (8) shall apply only to the extent that they are capable of applying.
- (10) The Commissioner may make a report to the Parliament informing it of any complaint which the Commissioner has dismissed as being inadmissible and of the reasons for the dismissal.
- (11) If the Commissioner has not completed the investigation and determined the admissibility of a complaint within two months of the complaint being received, the Commissioner shall, as soon as possible thereafter, make a report to the Parliament upon the progress of any investigation into the complaint at Stage 1.

**Changes to legislation:**

There are currently no known outstanding effects for the Scottish Parliamentary Standards Commissioner Act 2002, Section 7.