



Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

PART 1

THE SCOTTISH LEGAL COMPLAINTS COMMISSION

Handling by relevant professional organisations of conduct complaints

23 Handling by relevant professional organisations of conduct complaints: investigation by Commission

[^{F1}(1) The Commission may, subject to subsection (4), carry out such investigation as appears to it to be appropriate of a handling complaint.

(1A) In this Act, a “handling complaint” means a complaint which—

- (a) relates to the manner in which a conduct complaint has been dealt with by a relevant professional organisation to which it has been remitted under section 6(2)(a) or 15(5)(a), and—
- (b) is made—
 - (i) by or on behalf of the person by whom or on whose behalf the conduct complaint was made,
 - (ii) by the practitioner concerned in the conduct complaint.]

(2) The Commission may decide—

- (a) not to investigate a handling complaint;
- (b) to discontinue the investigation of a handling complaint.
- [^{F2}(c) to reinstate the investigation of a discontinued handling complaint.]

(3) If the Commission decides not to investigate, or to discontinue [^{F3}or reinstate] the investigation of, a handling complaint it must give notice in writing to—

- (a) the person who made the handling complaint [^{F4}(and, if made on behalf of another person, that other person)];

[^{F5}(aa) the other party to the conduct complaint to which the handling complaint relates;]

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- (b) the relevant professional organisation;
^{F6}(c)
- by sending to each of them a copy of the decision and specifying the reasons for the decision.
- (4) The Commission must not investigate a handling complaint where either—
- (a) the relevant professional organisation has not completed its investigation of the conduct complaint to which the handling complaint relates; or
 - (b) the handling complaint is made after the expiry of the period of 6 months after such date as the Scottish Ministers may specify by order,
- but paragraph (a) does not apply in any of the circumstances mentioned in subsection (5).
- (5) The circumstances are that—
- (a) the handling complaint is that the relevant professional organisation—
 - (i) has acted unreasonably in failing to start an investigation into the complaint; or
 - (ii) having started such an investigation, has failed to complete it within a reasonable time; or
 - (b) the Commission considers that, even though the complaint is being investigated by the organisation, an investigation by the Commission is justified.
- (6) Where the Commission decides that subsection (4)(a) does not prevent it investigating a handling complaint because any of the circumstances referred to in subsection (5) apply, it must give notice in writing to—
- (a) the person who made the handling complaint [^{F7}(and, if made on behalf of another person, that other person)];
 - ^{F8}(aa) the other party to the conduct complaint to which the handling complaint relates;]
 - (b) the relevant professional organisation;
 - ^{F9}(c)
- by sending to each of them a copy of the decision and specifying the reasons for the decision.
- (7) An order under subsection (4)(b) may specify different dates for different purposes.
- (8) Where the Commission is conducting an investigation under this section, it may at any time make a written interim report in relation to the investigation and must send a copy of any such report to—
- (a) the person who made the handling complaint [^{F10}(and, if made on behalf of another person, that other person)];
 - ^{F11}(aa) the other party to the conduct complaint to which the handling complaint relates;]
 - (b) the relevant professional organisation;
 - ^{F12}(c)
- (9) The Scottish Ministers may by order amend the period of time referred to in subsection (4)(b).
- ^{F13}(10) In this section and section 24, “the other party to the conduct complaint to which the handling complaint relates” is—

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- (a) in the case of a handling complaint made in accordance with subsection (1A) (b)(i), the practitioner concerned in the conduct complaint to which the handling complaint relates,
- (b) in the case of a handling complaint made in accordance with subsection (1A) (b)(ii), the complainer in the conduct complaint to which the handling complaint relates.]

Textual Amendments

- F1** S. 23(1)(1A) substituted for s. 23(1) (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(13)(a)** (with reg. 4)
- F2** S. 23(2)(c) inserted (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(13)(b)** (with reg. 4)
- F3** Words in s. 23(3) inserted (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(13)(c)(i)** (with reg. 4)
- F4** Words in s. 23(3)(a) inserted (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(13)(c)(ii)** (with reg. 4)
- F5** S. 23(3)(aa) inserted (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(13)(c)(iii)** (with reg. 4)
- F6** S. 23(3)(c) omitted (1.1.2015) by virtue of The Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014 (S.S.I. 2014/232), regs. 1(2), **2(13)(c)(iv)** (with reg. 4)
- F7** Words in s. 23(6)(a) inserted (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(13)(d)(i)** (with reg. 4)
- F8** S. 23(6)(aa) inserted (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(13)(d)(ii)** (with reg. 4)
- F9** S. 23(6)(c) omitted (1.1.2015) by virtue of The Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014 (S.S.I. 2014/232), regs. 1(2), **2(13)(d)(iii)** (with reg. 4)
- F10** Words in s. 23(8)(a) inserted (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(13)(e)(i)** (with reg. 4)
- F11** S. 23(8)(aa) inserted (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(13)(e)(ii)** (with reg. 4)
- F12** S. 23(8)(c) omitted (1.1.2015) by virtue of The Scottish Legal Complaints Commission (Modification of Duties and Powers) Regulations 2014 (S.S.I. 2014/232), regs. 1(2), **2(13)(e)(iii)** (with reg. 4)
- F13** S. 23(10) inserted (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(13)(f)** (with reg. 4)

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Changes and effects yet to be applied to :

- s. 23(1) word substituted by [S.S.I. 2014/232 reg. 2\(11\)](#) (Amendment not needed - s. 23(1) substituted on same date)

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\(4\)](#)