



# Scottish Parliamentary Standards Commissioner Act 2002

2002 asp 16

## *Investigation of complaints*

### **6 Stage 1: Admissibility of complaints**

- (1) At Stage 1, the Commissioner shall investigate and determine whether a complaint is admissible.
- (2) A complaint is admissible if it appears to the Commissioner that the following three tests are satisfied, namely—
  - (a) that the complaint is relevant;
  - (b) that the complaint meets all the requirements specified in subsection (5) (“the specified requirements”) or that the Parliament has, as under section 7(7)(b), directed the Commissioner to treat the complaint as if it had met all of those requirements; and
  - (c) that the complaint warrants further investigation.
- (3) The three tests mentioned in paragraphs (a), (b) and (c) of subsection (2) are referred to as the first, second and third tests respectively.
- (4) For the purposes of the first test, a complaint is relevant if—
  - (a) it is about the conduct of a member of the Parliament;
  - (b) it is not an excluded complaint or, if it is, that the Commissioner has been directed under section 12 to investigate it; and
  - (c) it appears at first sight that, if all or part of the conduct complained about is established to have been committed by that member, it might amount to a breach of a relevant provision or provisions identified by the Commissioner.
- (5) For the purposes of the second test, the specified requirements are that the complaint—
  - (a) is made in writing to the Commissioner;
  - (b) is made by an individual person<sup>F1</sup>... and states that person’s name and address;
  - (c) names the member of the Parliament concerned; [<sup>F2</sup>and]
  - (d) sets out the facts relevant to the conduct complained about and is accompanied by any supporting evidence which the complainer wishes to submit,<sup>F3</sup>...

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**Changes to legislation:** There are currently no known outstanding effects for the Scottish Parliamentary Standards Commissioner Act 2002, Section 6. (See end of Document for details)

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F3(e) .....

- (6) For the purposes of the third test, a complaint warrants further investigation if it appears after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.

**Textual Amendments**

- F1** Words in s. 6(5)(b) repealed (21.10.2021) by [Scottish Parliamentary Standards \(Sexual Harassment and Complaints Process\) Act 2021 \(asp 12\)](#), **ss. 3(2)**, 4(2) (with s. 4(3))
- F2** Word in s. 6(5) inserted (21.10.2021) by [Scottish Parliamentary Standards \(Sexual Harassment and Complaints Process\) Act 2021 \(asp 12\)](#), **ss. 2(2)(a)**, 4(2) (with s. 4(3))
- F3** S. 6(5)(e) and word repealed (21.10.2021) by [Scottish Parliamentary Standards \(Sexual Harassment and Complaints Process\) Act 2021 \(asp 12\)](#), **ss. 2(2)(b)**, 4(2) (with s. 4(3))

**Changes to legislation:**

There are currently no known outstanding effects for the Scottish Parliamentary Standards Commissioner Act 2002, Section 6.