



Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

PART 1

THE SCOTTISH LEGAL COMPLAINTS COMMISSION

Conduct or services complaints against practitioners

8 Services complaint: local resolution or mediation

[^{F1}(1) This section applies where the Commission—

- (a) determines under section 2(1A)(a) that a complaint by or on behalf of a person referred to in section 2(2)(b)(i) is a services complaint, and
- (b) proceeds to determine under section 2(4) whether the complaint is frivolous, vexatious or totally without merit and determines that it is none of these things.]

(2) Where the Commission considers that either—

- (a) the complaint has been made prematurely (within the meaning of section 4(4)); or
- (b) the practitioner, the practitioner's firm or the employing practitioner has made no attempt, or an insufficient attempt, to achieve a negotiated settlement with the complainer,

the Commission may, by notice in writing to the complainer and the practitioner refer the complaint back to the practitioner, the practitioner's firm or, as the case may be, the employing practitioner requesting that the practitioner, the firm or the employing practitioner attempt to achieve such a settlement.

(3) Where the Commission refers a complaint back to the practitioner, the practitioner's firm or the employing practitioner under subsection (2), it may, by notice in writing, require the practitioner, the firm or the employing practitioner to give, before the end of such period being not less than 21 days as the notice specifies, an account and explanation of the steps which the practitioner, firm or employing practitioner has taken to attempt to achieve a negotiated settlement.

Changes to legislation: Legal Profession and Legal Aid (Scotland) Act 2007, Section 8 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

- (4) Where the Commission considers it appropriate to do so, it may, by notice in writing to the complainer and the practitioner, offer to mediate in relation to the complaint.
- (5) The Commission may enter into mediation in relation to a complaint only if both the complainer and the practitioner accept the offer made under subsection (4).
- (6) The Commission must discontinue mediation in relation to a complaint if either the complainer or the practitioner withdraws consent to the mediation and may do so in any other circumstances; and, if mediation is discontinued, the Commission must give notice in writing to the complainer and the practitioner of its decision.

Textual Amendments

- F1** S. 8(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(7)** (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\(4\)](#)