



Legal Profession and Legal Aid (Scotland) Act 2007

2007 asp 5

PART 1

THE SCOTTISH LEGAL COMPLAINTS COMMISSION

Conduct or services complaints against practitioners

9 Services complaint: Commission's duty to investigate and determine

(1) Where—

- (a) the Commission does not refer a services complaint back to the practitioner, the practitioner's firm or the employing practitioner under section 8(2) (because it considers that the practitioner, firm or employing practitioner has made a sufficient attempt to achieve a negotiated settlement);
- (b) the Commission refers a services complaint back to the practitioner, the practitioner's firm or the employing practitioner under that section but—
 - (i) no attempt to achieve a negotiated settlement takes place;
 - (ii) such an attempt takes place but is discontinued or a negotiated settlement is not accepted by both the practitioner and the complainer;
- (c) mediation by virtue of section 8(5) in relation to the complaint—
 - (i) does not take place;
 - (ii) takes place but is discontinued or the outcome of the mediation is not accepted by both the complainer and the practitioner;
- (d) the Commission determines under [^{F1}section 2(1A)(a)] that a complaint by or on behalf of any person referred to in sub-paragraphs (ii) to (viii) of section 2(2)(b) is a services complaint,

the Commission must, subject to [^{F2}this section and] section 15(2) and (5), investigate the complaint and after giving the complainer and the practitioner an opportunity to make representations, subject to subsections (2) to (4), determine it by reference to what the Commission considers is fair and reasonable in the circumstances.

[^{F3}(1A) The Commission may decide—

Changes to legislation: Legal Profession and Legal Aid (Scotland) Act 2007, Section 9 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

- (a) to discontinue the investigation of a services complaint;
 - (b) to reinstate the investigation of a discontinued services complaint.
- (1B) Where the Commission discontinues or reinstates the investigation of a services complaint it must give notice in writing to the complainer and the practitioner and specify the reasons for the decision.]
- (2) Where the complainer is a person referred to in section 2(2)(b)(i) the Commission must, subject to subsection (3), propose to the practitioner and the complainer a settlement as respects the complaint which it considers is fair and reasonable in the circumstances.
- (3) Where the practitioner was, at the time the services were provided, an employee of an employing practitioner, a proposal under subsection (2) to the practitioner and the complainer must also be made to the employing practitioner.
- (4) Where the practitioner and the complainer, and where subsection (3) applies the employing practitioner, accept a settlement proposed by the Commission under subsection (2) as respects the complaint, the Commission is not to determine the complaint under subsection (1).

Textual Amendments

- F1** Words in s. 9 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)
- F2** Words in s. 9(1) 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(9)(a)** (with reg. 4)
- F3** S. 9(1A)(1B) 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(9)(b)** (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\(4\)](#)