

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 8 – Stage 2: Investigation of an admissible complaint

62. [Section 8](#) sets out the purpose and objective of a Stage 2 investigation into admissible complaints. This will include complaints that have satisfied the three tests at Stage 1 as well as those complaints that failed to satisfy the second test but which the Standards Committee decided should be treated as having satisfied the second test. Subsection (1) contains two matters that the Commissioner is required to reach a view upon.
- The first matter is whether the member concerned has committed the conduct which is the subject of the complaint. The Commissioner is required to set out the facts that are found to be established in relation to that conduct.
 - The Commissioner is also required to reach a conclusion as to whether the conduct established under the above is in breach of one of the relevant provisions that he or she identified when deciding that the complaint was relevant.
63. Subsection (2) sets out the standard of proof that the investigation by the Commissioner must meet at stage 2. The test is that of the “balance of probabilities” and is equivalent to the test that applies in civil proceedings in Scotland.
64. Subsection (3) requires the Commissioner to report to the Standards Committee on any investigation that is not completed within six months of Stage 2 commencing. The provision could be utilised where for example an investigation was likely to take or was taking a lengthy period of time to conclude.