

*These notes relate to the Legal Profession and Legal Aid
(Scotland) Act (asp 5) which received Royal Assent on 19 January
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LEGAL PROFESSION AND LEGAL AID (SCOTLAND) ACT (ASP 5) WHICH RECEIVED ROYAL ASSENT ON 19 JANUARY 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – the Scottish Legal Complaints Commission

Section 8: local resolution or mediation

19. Where a complaint has been made by a person who appears to the Commission to have been directly affected by alleged inadequate professional services and the Commission has determined the complaint to be a services complaint, the Commission may refer the complaint back to the legal practitioner or the legal practitioner's firm or employing practitioner when it considers the complaint to have been made prematurely, as defined in section 4(4). It may also refer a complaint back where it considers the legal practitioner, the legal practitioner's firm or employing practitioner has made no attempt, or an insufficient attempt, to achieve a negotiated settlement with the complainer.
20. The Commission may offer to mediate between the complainer and the practitioner, but only if both consent. The Commission must discontinue mediation in relation to a complaint if either the complainer or the practitioner withdraws consent and may discontinue mediation for any other reason. If mediation is discontinued, the Commission must give notice in writing to the complainer and the practitioner of the reason for terminating mediation.