

ANNEXE 6

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

TRANSITIONAL PROVISION DIRECTION BY THE STANDARDS COMMITTEE

In exercise of the power conferred by section 19(1) of the Scottish Parliamentary Standards Commissioner Act 2002⁴⁸ and by virtue of Rule 3A.3 of the standing orders of the Scottish Parliament, the Standards Committee of the Scottish Parliament directs the Scottish Parliamentary Commissioner for Standards (“the Commissioner”) as follows:

Citation and commencement

1. This direction may be cited as the “Scottish Parliamentary Standards Commissioner Act 2002 (Transitional Provision) Direction 2003” and shall come into force on Thursday 6 February 2003.

Complaints referred to the Standards Adviser prior to 31 January 2003

2. Subject to paragraph 4, the Commissioner shall deal with any complaint to which this direction applies as if it were a complaint made to the Commissioner under section 3(1) of the Scottish Parliamentary Standards Commissioner Act 2002 (“the Act”) on or after 31 January 2003.
3. This direction applies to any complaint which was referred by the Standards Committee to the Standards Adviser prior to 31 January 2003 other than a complaint which has been dismissed or which has been the subject of a report to the Standards Committee by the Standards Adviser.
4. Section 7(1) of the Act shall not apply to any complaint mentioned in paragraph 3 but the Commissioner shall inform the complainer and the member of the Parliament concerned in writing of the fact that, in accordance with this direction, the Commissioner will be dealing with the complaint.
5. In dealing with any complaint in accordance with paragraph 2 the Commissioner may take into account any investigations which have been carried out and findings which have been made by the Standards Adviser.

Mike Rumbles MSP
Convener of the Standards Committee
Committee Chambers
George IV Bridge
5 February 2003

⁴⁸ asp 16

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

SPECIFICATION UNDER SECTION 7(6) DIRECTIONS BY THE STANDARDS COMMITTEE

In exercise of the power conferred by section 7(6) of the Scottish Parliamentary Standards Commissioner Act 2002^(a) and by virtue of Rule 3A.3 of the standing orders of the Scottish Parliament, the Standards Committee of the Scottish Parliament gives the following directions to the Scottish Parliamentary Commissioner for Standards:

Citation and commencement

1. These directions may be cited as the “Scottish Parliamentary Standards Commissioner Act 2002 (Specification Under Section 7(6)) Directions 2002” and shall come into force on 30 January 2003.

Specification

2. The classes of case specified for the purposes of section 7(6) of the Scottish Parliamentary Standards Commissioner Act 2002^(a) are cases in which the complaint fails to meet one or more of the specified requirements because the complaint-

- (a) is not signed by the complainer;
- (b) does not state the name of the complainer;
- (c) does not state the address of the complainer; or
- (d) does not name the member of the Parliament concerned.

Mike Rumbles MSP
Convener of the Standards Committee
Committee Chambers
George IV Bridge
15 January 2003

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002

PROCEDURES, REPORTING AND OTHER MATTERS DIRECTIONS BY THE STANDARDS COMMITTEE

In exercise of the power conferred by section 4 of the Scottish Parliamentary Standards Commissioner Act 2002^(a) and by virtue of Rule 3A.3 of the standing orders of the Scottish Parliament, the Standards Committee of the

^(a) 2002 asp 16
^(a) 2002 asp 16

Scottish Parliament gives the following directions to the Scottish Parliamentary Standards Commissioner:

Citation, commencement and interpretation

1. These directions may be cited as the “Scottish Parliamentary Standards Commissioner Act 2002 (Procedures, Reporting and Other Matters) Directions 2002” and shall come into force on 30 January 2003.

2. In these Directions-

“the Act” means the Scottish Parliamentary Standards Commissioner Act 2002^(a);

“the Committee” means the Standards Committee of the Scottish Parliament;

“document” means anything in which information is recorded in any form;
and

“vulnerable person” means a person who appears to the Commissioner to suffer from a mental illness, mental handicap, significant impairment of intelligence and social functioning or to be vulnerable for any other special reasons.

Information as to name of complainer

3. For the purpose of considering whether it would be inappropriate to inform a member of the name of a complainer under section 7(1)(c) of the Act and without prejudice to any other matter that the Commissioner considers relevant, the Commissioner shall-

(a) have regard to whether or not the complainer is or appears to be a vulnerable person;

(b) have regard to any reasons given by the complainer as to why the member complained about should not be informed of the name of the complainer; and

(c) consider whether informing the member of the name of the complainer would be likely to prejudice an investigation into the complaint.

4. Where the Commissioner receives a complaint about the conduct of a member and considers that it would be inappropriate to inform that member of the name of the complainer under section 7(1)(c) of the Act the Commissioner shall make a report on the matter to the Committee setting out the reasons for that decision.

Interviews

5. At least 48 hours before interviewing any person for the first time in the course of an investigation, the Commissioner shall notify that person in writing of-
 - (a) the purpose of the interview;
 - (b) the powers of the Commissioner under section 13(1) of the Act;
 - (c) the procedure to be followed in connection with the investigation of the complaint, including that the interview will be tape-recorded;
 - (d) the right of that person to have a third party present at the interview;
and
 - (e) the right of that person to have his or her views conveyed through an interpreter.
6. For the purposes of paragraph 5, a notification is to be treated as made in writing where the text of the notification is-
 - (a) transmitted by electronic means;
 - (b) received in legible form; and
 - (c) capable of being used for subsequent reference.
7. If the Commissioner interviews any person in the course of an investigation, the Commissioner shall-
 - (a) have regard to whether or not that person is or appears to be a vulnerable person;
 - (b) allow that person to have a third party present at the interview; and
 - (c) allow that person to have his or her views conveyed through an interpreter.
8. The Commissioner shall make and keep a tape-recorded record of any interviews that are carried out in the course of any investigation.
9. No summary of an interview with a witness shall be included in any report by the Commissioner to the Committee unless the witness has been given a copy of the draft summary and an opportunity to make representations about the draft summary. The Commissioner shall annexe to the report to the Committee any representations which are not given effect to in the summary.

Documents and records

10. The Commissioner shall keep (whether in written or electronic form) details of each interview which is carried out in the course of any investigation.
11. The Commissioner shall keep each document which is considered in the course of any investigation unless the document requires to be returned to the person who provided it. If the Commissioner requires to return any document, the Commissioner shall make and keep a copy of it.
12. All documents and records shall be kept for a minimum period of 5 years from the date on which the complaint was dismissed by the Commissioner or, as the case may be, the Commissioner's report upon the outcome of the investigation was made. If the Commissioner is directed to carry out further investigation under section 10 of the Act, the documents and records shall be kept for a minimum period of 5 years from the date on which the Commissioner's report on the further investigation was made.
13. The Commissioner may destroy the documents and records after the period mentioned in paragraph 12, unless the Committee instructs the Commissioner to keep the documents and records for a further specified period.

Criminal Offences

14. If the Commissioner is satisfied in relation to any complaint that the member has committed the conduct complained about and that the conduct would, if proved, constitute a criminal offence, the Commissioner shall-
 - (a) suspend investigation and consideration of the complaint;
 - (b) submit a report to the Procurator Fiscal; and
 - (c) notify the Committee.
15. The Commissioner shall resume investigation and consideration of a complaint in respect of which investigation and consideration has been suspended under paragraph 14-
 - (a) at the conclusion of any criminal proceedings instituted in consequence of the report by the Commissioner; or
 - (b) on receipt of confirmation from the Procurator Fiscal that no such proceedings will be raised; or
 - (c) on receipt of confirmation from the Procurator Fiscal that the Commissioner may do so.

Reports under sections 7(11) or 8(3) of the Act

16. The Commissioner shall send a copy of any report submitted to the Committee under sections 7(11) or 8(3) of the Act to-

- (a) the complainer (if the complainer's name and address is known), and
- (b) to the member concerned (if the identity of the member is known),

unless the Commissioner considers that doing so would prejudice the outcome of any investigation.

Mike Rumbles MSP
Convener of the Standards Committee
Committee Chambers
George IV Bridge
15 January 2003

SCOTTISH PARLIAMENTARY STANDARDS COMMISSIONER ACT 2002 (ENQUIRIES ABOUT COMPLAINTS) DIRECTION 2004

In exercise of the power conferred by section 4 of the Scottish Parliamentary Standards Commissioner Act 2002⁽⁴⁹⁾ ("the 2002 Act") and by virtue of Rule 3A.3 of the Standing Orders of the Scottish Parliament, the Standards Committee of the Scottish Parliament gives the following Direction:

Citation and commencement

1. This Direction may be cited as the Scottish Parliamentary Standards Commissioner Act 2002 (Enquiries about Complaints) Direction 2004 and shall come into force on 29 December 2004.

Dealing with enquiries about complaints

2. In response to an enquiry about a complaint or alleged complaint, the Commissioner must not confirm nor deny the existence of that complaint or alleged complaint.

Exceptions

The Commissioner may confirm the existence of a complaint-

- (a) for the purpose of, or in connection with, the investigation of the complaint;
- (b) where the complaint has been made public by the Standards Committee;
- (c) in statistical data that does not disclose confidential information (for example, the identity of the complainer, the identity of the

⁽⁴⁹⁾ 2002 asp 16

**Volume 3 – Guidance: Directions made under the Scottish Parliamentary Standards
Commissioner Act 2002**

- member concerned, details of the conduct complained about);
- or
- (d) in a report to the Parliament under the 2002 Act.

Brian Adam MSP
Convener of the Standards Committee
Scottish Parliament
Edinburgh
22 December 2004