



Public Services Ombudsman (Wales) Act 2019

2019 anaw 3

PART 5

INVESTIGATION OF COMPLAINTS RELATING TO OTHER PERSONS: SOCIAL CARE AND PALLIATIVE CARE

Investigation of complaints

43 Power to investigate complaints

- (1) The Ombudsman may investigate a complaint about a matter to which this Part applies if the complaint has been—
 - (a) duly made to the Ombudsman, or
 - (b) duly referred to the Ombudsman, andin the case of a complaint which relates to an independent palliative care provider, the condition in subsection (2) is met.
- (2) The condition is that the independent palliative care provider has received public funding, within the three years before the date of the action to which the investigation relates, in respect of a palliative care service that it provides in Wales.
- (3) In subsection (2) “public funding” means funding from—
 - (a) the Welsh Ministers,
 - (b) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c.42),
 - (c) an NHS Trust, or
 - (d) a county council or county borough council in Wales.
- (4) A complaint is “duly made” to the Ombudsman if (but only if)—
 - (a) it is made by a person who is entitled under section 47 to make a complaint to the Ombudsman,

Changes to legislation: *Public Services Ombudsman (Wales) Act 2019, Section 43 is up to date with all changes known to be in force on or before 15 April 2024. 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*

- (b) before the complaint is made—
 - (i) the matter to which it relates has been brought, by or on behalf of the person affected, to the notice of the provider to whom it relates, and
 - (ii) the provider has been given a reasonable opportunity to investigate the matter and to respond, and
 - (c) the requirements of section 48(1) are met in respect of it.
- (5) A complaint is “duly referred” to the Ombudsman if (but only if)—
- (a) it is made by a person who is entitled under section 47 to make a complaint to the Ombudsman, and
 - (b) the requirements of section 49(1) are met in respect of it.
- (6) It is for the Ombudsman to determine whether the requirements of subsection (1) have been met in respect of a complaint.
- (7) Where the Ombudsman determines that the requirements of subsection (1) have not been met in respect of a complaint because the requirements of subsection (4)(b), section 48(1) or section 49(1)(b), (c) or (d) have not been met in respect of that complaint, the Ombudsman may nonetheless investigate the complaint if—
- (a) it relates to a matter to which this Part applies, and
 - (b) the Ombudsman thinks it reasonable to do so.
- (8) It is for the Ombudsman to decide whether to begin, continue or discontinue an investigation (but see section 48(5)(a) for a restriction on the power to begin an investigation under subsection (1)(a)).
- (9) The Ombudsman may take any action which the Ombudsman thinks may assist in making a decision under subsection (8).
- (10) The Ombudsman may begin or continue an investigation into a complaint even if the complaint has been withdrawn (but see section 48(5)(a) for a restriction on the power to begin an investigation under subsection (1)(a)).

Commencement Information

II S. 43 in force at 23.7.2019 by S.I. 2019/1096, reg. 2

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act modified by [2023 asc 3 Sch. 2 para. 6](#)
- Act modified by [2023 asc 3 Sch. 12 para. 7\(2\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 65(7)(f) inserted by [2022 c. 30 Sch. 10 para. 6\(2\)\(a\)](#) (Welsh language text)
- s. 65(7)(f) inserted by [2022 c. 30 Sch. 10 para. 6\(2\)\(b\)](#) (English language text)