



# Public Services Ombudsman (Wales) Act 2005

## 2005 CHAPTER 10

### PART 2

#### INVESTIGATION OF COMPLAINTS [F1RELATING TO LISTED AUTHORITIES]

##### *Investigation procedure and evidence*

### 13 Investigation procedure

- (1) If the Ombudsman conducts an investigation into a complaint in respect of a listed authority, he must—
  - (a) give the listed authority an opportunity to comment on any allegations contained in the complaint;
  - (b) give any other person who is alleged in the complaint to have taken or authorised the action complained of an opportunity to comment on any allegations relating to that person.
- (2) An investigation must be conducted in private.
- (3) Subject to subsections (1) and (2), the procedure for conducting an investigation is to be such as the Ombudsman thinks appropriate in the circumstances of the case.
- (4) In particular, the Ombudsman may—
  - (a) make such inquiries as he thinks appropriate;
  - (b) determine whether any person may be represented in the investigation by [F1an authorised person] or otherwise.

[F2(4A) In subsection (4) “authorised person” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).]

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*Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Cross Heading: Investigation procedure and evidence. (See end of Document for details)*

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- (5) The Ombudsman may pay to the person who made the complaint and to any other person who attends or supplies information for the purposes of the investigation—
- (a) such sums as he may determine in respect of expenses properly incurred by them, and
  - (b) such allowances as he may determine by way of compensation for the loss of their time,
- subject to such conditions as he may determine.
- (6) The conduct of an investigation in respect of a listed authority does not affect—
- (a) the validity of any action taken by the listed authority, or
  - (b) any power or duty of the listed authority to take further action with respect to any matter under investigation.

#### **Textual Amendments**

- F1** Words in s. 13(4)(b) substituted (1.1.2010) by *Legal Services Act 2007 (c. 29)*, ss. 208(1), 211(2), **Sch. 21 para. 151(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)**
- F2** S. 13(4A) inserted (1.1.2010) by *Legal Services Act 2007 (c. 29)*, ss. 208(1), 211(2), **Sch. 21 para. 151(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)**

## **14 Information, documents, evidence and facilities**

[<sup>F3</sup>(A1) This section applies in relation to investigations conducted under this Part.]

- (1) For the purposes of an investigation the Ombudsman may require a person he thinks is able to supply information or produce a document relevant to the investigation to do so.
- (2) For the purposes of an investigation the Ombudsman has the same powers as the High Court in respect of—
  - (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
  - (b) the production of documents.
- (3) For the purposes of an investigation the Ombudsman may require a person he thinks is able to supply information or produce a document relevant to the investigation to provide any facility he may reasonably require.
- (4) Subject to subsection (6), no person is to be compelled for the purposes of an investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (5) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service, whether imposed by any enactment or rule of law, is to apply to the disclosure of information for the purposes of an investigation.
- (6) The Crown is not entitled in relation to an investigation to any privilege in respect of the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.

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**Changes to legislation:** There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Cross Heading: Investigation procedure and evidence. (See end of Document for details)

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#### Textual Amendments

**F3** S. 14(A1) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 20](#); S.I. 2014/2718, art. 2(b)

## 15 Obstruction and contempt

- (1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, he may issue a certificate to that effect to the High Court.
- (2) The condition is that the person—
  - (a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or
  - (b) has done an act in relation to an investigation which, if the investigation were proceedings in the High Court, would constitute contempt of court.
- (3) But the condition in subsection (2) is not met in relation to a person merely because he has taken action such as is mentioned in section 13(6).
- (4) If the Ombudsman issues a certificate under subsection (1), the High Court may inquire into the matter.
- (5) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with him in any manner in which it could have dealt with him if he had committed contempt in relation to the High Court.

**Changes to legislation:**

There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Cross Heading: Investigation procedure and evidence.