



# Public Services Ombudsman (Wales) Act 2005

## 2005 CHAPTER 10

### PART 2

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

##### *Reports of investigations*

#### 16 Reports of investigations

- (1) The Ombudsman must, after conducting an investigation into a complaint in respect of a listed authority—
- (a) prepare a report on his findings, and
  - (b) send a copy of the report to all the appropriate persons.

This is subject to section 21.

- (2) The appropriate persons are—
- (a) the person who made the complaint;
  - (b) the listed authority;
  - (c) any other person who is alleged in the complaint to have taken or authorised the action complained of;
  - (d) if the listed authority is a family health service provider in Wales—
    - (i) any Local Health Board with whom the authority had, at the time of the action which is the subject of the complaint, entered into a contract to provide the family health services which are under investigation;
    - (ii) any person to whom the authority had, at that time, undertaken to provide those services;
    - (iii) any person with whom the authority had, at that time, made arrangements for the provision of those services;
  - (e) if the listed authority is an independent provider in Wales—

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- (i) any Welsh health service body with whom the authority had, at the time of the action which is the subject of the complaint, made arrangements for the provision of the services under investigation;
  - (ii) any family health service provider in Wales with whom the authority had, at that time, made arrangements for the provision of those services;
  - (f) the [<sup>F1</sup>First Minister for Wales](unless the listed authority is itself the [<sup>F2</sup>Welsh Assembly Government] or is a local authority in Wales).
- (3) The Ombudsman may send a copy of the report to any other persons he thinks appropriate.
- (4) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.
- (5) The Ombudsman may supply a copy of a report published under subsection (4), or any part of such a report, to any person who requests it.
- (6) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (5).
- (7) If a report prepared under this section—
- (a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or
  - (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the report,
- that information must not be included in a version of the report sent to a person under subsection (1)(b) or (3) or published under subsection (4), subject to subsection (8).
- (8) Subsection (7) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.
- (9) <sup>F3</sup> .....

**Textual Amendments**

- F1** Words in s. 16(2)(f) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 73\(2\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F2** Words in s. 16(2)(f) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 73\(2\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F3** S. 16(9) repealed by [Government of Wales Act 2006 \(c. 32\), ss. 160\(1\), 163, Sch. 10 para. 73\(3\), Sch. 12](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the

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2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

## 17 Publicising reports

- (1) If an investigation is conducted in respect of a listed authority and the authority receives a copy of a report under section 16(1)(b), the authority must make copies of that version of the report available for a period of at least three weeks—
  - (a) at one or more of the authority's offices, and
  - (b) if the authority has a website, on the website.
- (2) Throughout that period of three weeks, any person may—
  - (a) inspect the copy of the report at the office or offices concerned at any reasonable time without payment;
  - (b) make a copy of the report or any part of it at any reasonable time without payment;
  - (c) require the authority to supply him with a copy of the report or any part of it, on payment of a reasonable sum if requested;
  - (d) if the authority has a website, view the copy of the report on the website without payment.
- (3) Not later than two weeks after the copy of the report is received by the listed authority it must ensure that a notice is published in a newspaper circulating in the part of Wales in which the matter which is the subject of the report arose.
- (4) The notice must specify—
  - (a) the date on which the period of three weeks referred to in subsection (1) will begin,
  - (b) the office or offices at which a copy of the report can be inspected, and
  - (c) the address of the authority's website (if any).
- (5) The Ombudsman may give directions to listed authorities with regard to the discharge of their functions under this section.
- (6) Directions under subsection (5) may relate—
  - (a) to a particular listed authority in respect of a particular report, or
  - (b) generally to the discharge of functions under this section by all or any listed authorities.
- (7) A person commits an offence if—
  - (a) he wilfully obstructs a person in the exercise of a right conferred by subsection (2)(a), (b) or (d), or
  - (b) he refuses to comply with a requirement under subsection (2)(c).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) The Ombudsman may direct that subsections (1) to (4) are not to apply in relation to a particular report.

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- (10) In deciding whether to give a direction under subsection (9), the Ombudsman must take into account—
- (a) the public interest,
  - (b) the interests of the person aggrieved, and
  - (c) the interests of any other persons he thinks appropriate.

## **18 Publicising reports: health care providers**

- (1) If an investigation is conducted in respect of a listed authority which is a family health service provider in Wales, section 17 has effect with the modifications specified in subsections (2) to (4).
- (2) For subsection (1) substitute—
- “(1) A person who has received a copy of a report under section 16 by virtue of section 16(2)(d) must make copies of the report available for a period of at least three weeks—
- (a) at one or more of the person's offices, and
  - (b) if the person has a website, on the website.”
- (3) The references to the listed authority are to be taken to be references to that person.
- (4) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.
- (5) If an investigation is conducted in respect of a listed authority which is an independent provider in Wales, section 17 has effect with the modifications specified in subsections (6) to (8).
- (6) For subsection (1) substitute—
- “(1) A person who has received a copy of a report under section 16 by virtue of section 16(2)(e) must make copies of the report available for a period of at least three weeks—
- (a) at one or more of the person's offices, and
  - (b) if the person has a website, on the website.”
- (7) The references to the listed authority are to be taken to be references to that person.
- (8) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.

## **19 Action following receipt of a report**

- (1) This section applies if, in a report under section 16 of an investigation in respect of a listed authority, the Ombudsman concludes that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated.
- (2) The listed authority must consider the report and notify the Ombudsman before the end of the permitted period of—
- (a) the action it has taken or proposes to take in response to it, and
  - (b) the period before the end of which it proposes to have taken that action (if it has not already done so).

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- (3) The permitted period is—
- (a) the period of one month beginning on the date on which the authority receives the report, or
  - (b) any longer period specified by the Ombudsman in writing.

PROSPECTIVE

## **20 Non-action following receipt of a report**

- (1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a listed authority, he may issue a certificate to that effect to the High Court.
- (2) The condition is that the listed authority has wilfully disregarded his report without lawful excuse.

## **21 Reports: alternative procedure**

- (1) This section applies if, after the Ombudsman has conducted an investigation into a complaint in respect of a listed authority—
  - (a) he concludes that the person aggrieved has not sustained injustice or hardship in consequence of the matter investigated, and
  - (b) he is satisfied that the public interest does not require sections 16 to 19 to apply.
- (2) This section also applies if, after the Ombudsman has conducted an investigation into a complaint in respect of a listed authority—
  - (a) he concludes that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated,
  - (b) the listed authority agrees to implement, before the end of the permitted period, any recommendations he makes, and
  - (c) he is satisfied that the public interest does not require sections 16 to 19 to apply.
- (3) The permitted period is—
  - (a) a period agreed between the Ombudsman, the listed authority and the person who made the complaint, or
  - (b) if the Ombudsman thinks that no such agreement can be reached, the period specified by him in writing.
- (4) The Ombudsman may decide to prepare a report on his findings under this section instead of under section 16.
- (5) If the Ombudsman decides to prepare a report under this section—
  - (a) sections 16 to 19 do not apply;
  - (b) he must send a copy of the report to—
    - (i) the person who made the complaint;
    - (ii) the listed authority;
  - (c) he may send a copy of the report to any other persons he thinks appropriate.

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- (6) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.
- (7) The Ombudsman may supply a copy of a report published under subsection (6), or any part of such a report, to any person who requests it.
- (8) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (7).
- (9) If a report prepared under this section—
  - (a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or
  - (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the report,
 that information must not be included in a version of the report sent to a person under subsection (5) or published under subsection (6), subject to subsection (10).
- (10) Subsection (9) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.
- (11) <sup>F4</sup> .....

**Textual Amendments**

**F4** S. 21(11) repealed by [Government of Wales Act 2006 \(c. 32\)](#), ss. 160(1), 163, [Sch. 10 para. 74](#), [Sch. 12](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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