



# Public Services Ombudsman (Wales) Act 2005

## 2005 CHAPTER 10

### [<sup>F1</sup>PART 2A

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

#### *[<sup>F1</sup>Special reports*

#### Textual Amendments

- F1** Pts. 2A, 2B inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 2](#) (with [Sch. 3 para. 3](#)); S.I. 2014/2718, art. 2(b)

### **34O** Circumstances in which special reports may be prepared

- (1) The Ombudsman may prepare a special report under section 34P if case 1, 2 or 3 applies.
- (2) Case 1 applies if—
  - (a) the Ombudsman has concluded in an investigation report that the person aggrieved has sustained injustice or hardship as a result of the matter investigated, and
  - (b) one of the circumstances in subsection (3) applies.
- (3) The circumstances are that—
  - (a) the Ombudsman has not received the notification required under section 34M before the end of the period permitted under that section;
  - (b) the Ombudsman has received that notification but is not satisfied with—
    - (i) the action which the provider has taken or proposes to take, or

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

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- (ii) the period before the end of which the provider proposes to have taken that action;
  - (c) the Ombudsman has received that notification but is not satisfied that the provider has, before the end of the permitted period, taken the action that the provider proposed to take.
- (4) In subsection (3)(c) “the permitted period” means—
- (a) the period referred to in section 34M(2)(b), or
  - (b) a longer period specified by the Ombudsman in writing (if any).
- (5) Case 2 applies if—
- (a) the Ombudsman has prepared a report under section 34N by virtue of subsection (2) of that section, and
  - (b) he or she is not satisfied that the provider has implemented the Ombudsman's recommendations before the end of the permitted period.
- (6) In subsection (5)(b) “the permitted period” means—
- (a) the period referred to in section 34N(2)(b), or
  - (b) a longer period specified by the Ombudsman in writing (if any).
- (7) Case 3 applies if—
- (a) a complaint in respect of a provider has been resolved under section 34C,
  - (b) in resolving the complaint, the Ombudsman has concluded that the person aggrieved has sustained injustice or hardship as a result of the matter complained of,
  - (c) the provider has agreed to take particular action before the end of a particular period, and
  - (d) the Ombudsman is not satisfied that the provider has taken that action before the end of the permitted period.
- (8) In subsection (7)(d) “the permitted period” means—
- (a) the period referred to in subsection (7)(c), or
  - (b) a longer period specified by the Ombudsman in writing (if any).

### **34P Special reports**

- (1) A special report must—
- (a) set out the facts which entitle the Ombudsman to prepare the special report (that is, the facts on the basis of which case 1, 2 or 3 of section 34O applies), and
  - (b) make such recommendations as the Ombudsman thinks fit as to the action which, in his or her opinion, should be taken—
    - (i) to remedy the injustice or hardship to the person aggrieved, and
    - (ii) to prevent similar injustice or hardship being caused in the future.
- (2) If the special report is prepared because case 1 of section 34O applies, the Ombudsman must send a copy of the report to each person to whom a copy of the section 34K report was sent under section 34K(2)(b).
- (3) If the special report is prepared because case 2 or 3 of section 34O applies, the Ombudsman must send a copy of the report to the person who made the complaint and the provider to whom the complaint relates.

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- (4) The Ombudsman may send a copy of a special report to any other persons he or she thinks appropriate.
- (5) The Ombudsman may publish a special report.
- (6) The Ombudsman may supply a copy of a published special report, or a part of such a report, to any person who requests it.
- (7) The Ombudsman may charge a reasonable fee for supplying a copy of a special report, or part of such a report, under subsection (6).
- (8) The following information must not be included in a version of a special report sent to a person under subsection (2), (3) or (4) or published under subsection (5)—
  - (a) the name of any person other than the provider in respect of whom the complaint was made;
  - (b) information which, in the opinion of the Ombudsman, is likely to identify any such person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the special report.
- (9) Subsection (8) does not apply if, after taking account of the interests of the person aggrieved and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the special report.

### **34Q Further publicity for special reports**

- (1) The Ombudsman may arrange for a notice about a special report to be published—
  - (a) in one or more newspapers, or
  - (b) by means of broadcast or other electronic media.
- (2) The notice may, for example—
  - (a) provide a summary of the Ombudsman's findings,
  - (b) specify an address or addresses at which a copy of the published report can be inspected during ordinary office hours and from which a copy of that report (or part of that report) may be obtained, and
  - (c) specify a website address at which a copy of the published report can be viewed.
- (3) The provider to whom the report relates must, if required to do so by the Ombudsman, reimburse the Ombudsman for the reasonable costs of arranging the publication of the notice.
- (4) In deciding whether to make arrangements under subsection (1), the Ombudsman must take into account—
  - (a) the public interest,
  - (b) the interests of the person aggrieved, and
  - (c) the interests of any other person the Ombudsman thinks appropriate.]

**Changes to legislation:**

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