



2016 CHAPTER 4

**PART 4**

MISCELLANEOUS AND GENERAL

*Disclosure*

**Disclosure of information**

- 49.—**(1) The information to which this section applies is—
- (a) information obtained by the Ombudsman—
    - (i) in deciding whether to begin an investigation,
    - (ii) in the course of an investigation,
    - (iii) in resolving a complaint under section 10,
  - (b) information obtained by the Ombudsman which is obtained from a person mentioned in section 51(4),
  - (c) information obtained by the Ombudsman which is obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 (disclosure between Information Commissioner and ombudsmen).
- (2) The information must not be disclosed except—
- (a) for the purposes of deciding whether to begin an investigation,
  - (b) for the purposes of an investigation,
  - (c) for the purposes of resolving a complaint under section 10,
  - (d) for the purposes of a statement or report made in relation to a complaint or investigation,

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*Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman Act (Northern Ireland) 2016, Cross Heading: Disclosure. (See end of Document for details)*

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- (e) for the purposes of any provision of section 51,
  - (f) for the purposes of proceedings for an offence under the Official Secrets Acts 1911 to 1989 [<sup>F1</sup>or sections 1 to 4 or 18 of the National Security Act 2023] alleged to have been committed in respect of information obtained by the Ombudsman,
  - (g) for the purposes of proceedings for an offence of perjury alleged to have been committed in the course of an investigation,
  - (h) for the purposes of an inquiry with a view to the taking of proceedings mentioned in paragraph (f) and (g),
  - (i) for the purposes of proceedings under section 33 or sections 54 and 55,
  - (j) in the case of information to the effect that a person is likely to constitute a threat to the health or safety of one or more persons, to any person to whom the Ombudsman thinks it should be disclosed in the public interest,
  - (k) in the case of information to which subsection (3) applies, to the Information Commissioner.
- (3) This subsection applies to information if it appears to the Ombudsman to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise a power conferred by an enactment mentioned in subsection (4), or
  - (b) the commission of an offence mentioned in subsection (5).
- (4) The enactments are—
- [<sup>F2</sup>(a) sections 142 to 154, 160 to 164 and 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018 (certain provisions relating to enforcement),]
  - (b) section 48 of the Freedom of Information Act 2000 (practice recommendations),
  - (c) Part 4 of that Act (enforcement).
- [<sup>F3</sup>(5) The offences are those under—
- (a) any provision of the Data Protection Act 2018 other than paragraph 15 of Schedule 15 (powers of entry and inspection: offences),
  - (b) section 77 of the Freedom of Information Act 2000 (offence of altering etc records with intent to prevent disclosure).]
- (6) No person may be called upon to give evidence in any proceedings (other than proceedings mentioned in subsection (2)) of information obtained by that person as mentioned in subsection (1).
- [<sup>F4</sup>(7) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]

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### Textual Amendments

- F1** Words in s. 49(2)(f) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), **Sch. para. 30**
- F2** S. 49(4)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 204(2)** (with ss. 117, 209, 210, Sch. 20 para. 47(1)); S.I. 2018/625, reg. 2(1)(g)
- F3** S. 49(5) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 204(3)** (with ss. 117, 209, 210, Sch. 20 para. 47(2)); S.I. 2018/625, reg. 2(1)(g)
- F4** S. 49(7) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 204(4)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

### Modifications etc. (not altering text)

- C1** S. 49 applied (with modifications) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 63(1)(7) (as substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 7 para. 5** (with ss. 23, 50(3), Sch. 2 para. 9))
- C2** S. 49 applied by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 63(7)(a) (as substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 7 para. 5** (with ss. 23, 50(3), Sch. 2 para. 9))
- C3** S. 49 applied (with modifications) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 63(7)(b)(c)(d) (as substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 7 para. 5** (with ss. 23, 50(3), Sch. 2 para. 9))

### Disclosure contrary to public interest

**50.—(1)** A person to whom subsection (2) applies may give written notice to the Ombudsman with respect to—

- (a) any document or information specified in the notice, or
- (b) any class of document or information so specified,

that in the opinion of that person, the disclosure of that document or information, or of documents or information of that class, would be prejudicial to public safety or otherwise contrary to the public interest.

(2) This subsection applies to—

- (a) the First Minister and deputy First Minister acting jointly,
- (b) a Northern Ireland Minister, and
- (c) the Secretary of State.

(3) If a notice is given under subsection (1), nothing in this Act is to be construed as authorising or requiring the Ombudsman to disclose to any person or for any purpose any document or information, or class of document or information, specified in the notice.

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**Changes to legislation:** *There are currently no known outstanding effects for the Public Services Ombudsman Act (Northern Ireland) 2016, Cross Heading: Disclosure. (See end of Document for details)*

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(4) The Ombudsman and the Secretary of State must enter into, and may from time to time revise, a memorandum of understanding concerning the exercise of their functions in relation to this section.

(5) The Ombudsman must lay before the Assembly a copy of this memorandum and any revisions to it.

**Changes to legislation:**

There are currently no known outstanding effects for the Public Services Ombudsman Act (Northern Ireland) 2016, Cross Heading: Disclosure.