



## 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, Section 49. (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))

**Changes to legislation:**

There are currently no known outstanding effects for the Public Services Ombudsman Act (Northern Ireland) 2016, Section 49.