



Local Government Act 1974

1974 CHAPTER 7

[^{F1}PART 3A

INVESTIGATION OF COMPLAINTS ABOUT PRIVATELY ARRANGED OR FUNDED ADULT SOCIAL CARE

[^{F1}Investigations by a Local Commissioner

Textual Amendments

F1 Pt. 3A inserted (1.10.2010) by [Health Act 2009 \(c. 21\), s. 40\(1\), Sch. 5 para. 2](#); S.I. 2010/1863, art. 2

34F Procedure in respect of investigations

- (1) A Local Commissioner who proposes to investigate a matter under this Part must give the following persons an opportunity to comment on the matter—
 - (a) the adult social care provider concerned;
 - (b) any person who is alleged in the complaint (if any) to have taken or authorised the action which would be the subject of the investigation;
 - (c) any person who otherwise appears to the Local Commissioner to have taken or authorised that action.
- (2) Every investigation under this Part is to be conducted in private.
- (3) Subject to subsection (2), the procedure for conducting an investigation is to be such as the Local Commissioner considers appropriate in the circumstances of the case.
- (4) The Local Commissioner may, in particular—
 - (a) obtain information from such persons and in such manner as the Local Commissioner thinks fit,
 - (b) make such inquiries as the Local Commissioner thinks fit, and
 - (c) determine whether any person may be represented (by counsel, solicitor or otherwise) in the investigation.

Changes to legislation: Local Government Act 1974, Cross Heading: Investigations by a Local Commissioner is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) The Local Commissioner may, if the Local Commissioner thinks fit, pay to the person by whom the complaint (if any) was made, and to any other person who attends or furnishes information for the purposes of an investigation under this Part—
- (a) sums in respect of the expenses properly incurred by them;
 - (b) allowances by way of compensation for the loss of their time.

34G Investigations: further provisions

- (1) For the purposes of an investigation under this Part a Local Commissioner may require the following persons to furnish information or produce documents relevant to the investigation—
 - (a) the adult social care provider concerned;
 - (b) any other person who in the Local Commissioner's opinion is able to furnish any such information or produce any such documents.
- (2) Nothing in subsection (1) affects the restriction imposed by section [F²34X] of the PSOWA 2005.
- (3) For the purposes of an investigation under this Part a Local Commissioner has the same powers as the High Court in respect of—
 - (a) the attendance and examination of witnesses, and
 - (b) the production of documents.
- (4) To assist in any investigation, a Local Commissioner may obtain advice from any person who in the Local Commissioner's opinion is qualified to give it.
- (5) A Local Commissioner may pay to any such person giving advice such fees or allowances as the Local Commissioner may determine.
- (6) A Local Commissioner may appoint and pay a mediator or other appropriate person to assist in the conduct of an investigation under this Part.
- (7) Any person appointed under subsection (6) is to be deemed to be an officer of the Commission in carrying out functions under that appointment.
- (8) No person may be compelled for the purposes of an investigation under this Part to give any evidence or produce any document which the person could not be compelled to give or produce in civil proceedings before the High Court.
- (9) If any person without lawful excuse—
 - (a) obstructs a Local Commissioner in the performance of the Local Commissioner's functions under this Part,
 - (b) obstructs any person discharging or assisting in the discharge of those functions, or
 - (c) is guilty of an act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the High Court, would constitute contempt of court,
 the Local Commissioner may certify the offence to the High Court.
- (10) Where an offence is so certified, the High Court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged (“D”), and after hearing any statement that may be offered in defence, deal with D in

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any manner in which the High Court could deal with D if D had committed the like offence in relation to the High Court.]

Textual Amendments

- F2** Word in s. 34G(2) substituted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 8](#); S.I. 2014/2718, art. 2(b)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(bzb) inserted by [2022 c. 30 Sch. 10 para. 2\(2\)\(a\)](#)
- s. 33(3B) inserted by [2022 c. 30 Sch. 10 para. 2\(4\)](#)
- s. 33ZA(1)(d) and word inserted by [2022 c. 30 Sch. 10 para. 3\(2\)\(b\)](#)
- s. 33ZA(3)(d) and word inserted by [2022 c. 30 Sch. 10 para. 3\(4\)\(b\)](#)
- s. 33ZB(4)(e)(f) inserted by [2022 c. 30 Sch. 10 para. 4\(b\)](#)