Health Service Commissioners Act 1993

1993 CHAPTER 46

Matters subject to investigation

3 General remit of [F1Commissioner]. E+W+S

(1) On a complaint duly made to **[**F2the Commissioner**]** by or on behalf of a person that he has sustained injustice or hardship in consequence of—

(a) a failure in a service provided by a health service body,

(b) a failure of such a body to provide a service which it was a function of the body to provide, or

(c) maladministration connected with any other action taken by or on behalf of such a body,

the Commissioner may, subject to the provisions of this Act, investigate the alleged failure or other action.

F3(1YA) . . . . . .

[F4(1ZA) Any failure or maladministration mentioned in subsection (1) may arise from action of—

(a) the health service body,

(b) a person employed by that body,

(c) a person acting on behalf of that body, or

(d) a person to whom that body has delegated any functions.**]**

[F5(1A) Where a family health service provider has undertaken to provide any family health services and a complaint is duly made to **[**F6the Commissioner**]** by or on behalf of a person that he has sustained injustice or hardship in consequence of—

(a) action taken by the family health service provider in connection with the services,

(b) action taken in connection with the services by a person employed by the family health service provider in respect of the services,

(c) action taken in connection with the services by a person acting on behalf of the family health service provider in respect of the services, or

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(d) action taken in connection with the services by a person to whom the family health service provider has delegated any functions in respect of the services,

the Commissioner may, subject to the provisions of this Act, investigate the alleged action.

[F7](1B) . . . . . .

(1C) Where an independent provider has made an arrangement with a health service body or a family health service provider to provide a service (of whatever kind) **[**[F8], or has undertaken to provide direct payment services,**]** and a complaint is duly made to **[**[F9]the Commissioner**]** by or on behalf of a person that he has sustained injustice or hardship in consequence of—

(a) a failure in the service provided by the independent provider,

(b) a failure of the independent provider to provide the service, or

(c) maladministration connected with any other action taken in relation to the service,

the Commissioner may, subject to the provisions of this Act, investigate the alleged failure or other action.

(1D) Any failure or maladministration mentioned in subsection (1C) may arise from action of—

(a) the independent provider,

(b) a person employed by the provider,

(c) a person acting on behalf of the provider, or

(d) a person to whom the provider has delegated any functions.**]**

[[F10](1E) Where a complaint is duly made to **[**[F11]the Commissioner**]** by or on behalf of a person that the person has sustained injustice or hardship in consequence of maladministration by any person or body in the exercise of any function under section 113 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about health care), the Commissioner may, subject to the provisions of this Act, investigate the alleged maladministration.**]**

(2) In determining whether to initiate, continue or discontinue an investigation under this Act, **[**[F12]the Commissioner **]** shall act in accordance with his own discretion.

(3) Any question whether a complaint is duly made to **[**[F13]the Commissioner**]** shall be determined by him.

(4) Nothing in this Act authorises or requires **[**[F14]the Commissioner**]** to question the merits of a decision taken without maladministration by a health service body in the exercise of a discretion vested in that body.

[[F15](5) Nothing in this Act authorises or requires **[**[F16]the Commissioner**]** to question the merits of a decision taken without maladministration by—

(a) a family health service provider,

(b) a person employed by a family health service provider,

(c) a person acting on behalf of a family health service provider, or

(d) a person to whom a family health service provider has delegated any functions.

(6) Nothing in this Act authorises or requires **[**[F17]the Commissioner**]** to question the merits of a decision taken without maladministration by—

(a) an independent provider,

(b) a person employed by an independent provider,

(c) a person acting on behalf of an independent provider, or

(d) a person to whom an independent provider has delegated any functions.**]**

[[F18](7) Subsections (4) to (6) do not apply to the merits of a decision to the extent that it was taken in consequence of the exercise of clinical judgment.**]**

Textual Amendments

F1 Word in s. 3 heading substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 34** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F2 Words in s. 3(1) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F3 S. 3(1YA) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 35(3), **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F4 S. 3(1ZA) inserted (1.4.1998 with effect as mentioned in art. 3(3) of S.I. 1998/631) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 68(5)**; S.I. 1998/631, art. 2(1)(b), **Sch. 2**

F5 S. 3(1A)-(1D) inserted (1.4.1996 with effect as mentioned in art. 2(2) of S.I. 1996/970) by 1996 c. 5, **s. 2(2)**; S.I. 1996/970, **art. 2(1)(2)**

F6 Words in s. 3(1A) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F7 S. 3(1B) repealed (1.10.1999 for E. and S. and 1.4.2000 for W.) by 1999 c. 8, s. 65, Sch. 4 para. 85(3), **Sch. 5**; S.I. 1999/2540, art. 2, **Sch. 1**; S.I. 1999/90, art. 2(b), **Sch. 2**; S.I. 2000/1041, art. 2(d), **Sch.**

F8 Words in s. 3(1C) inserted (19.1.2010) by Health Act 2009 (c. 21), **ss. 12(4)**, 40(1); S.I. 2010/30, art. 2(b)

F9 Words in s. 3(1C) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F10 S. 3(1E) inserted (1.6.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 118**, 199(1)(4); S.I. 2004/759, art. 8

F11 Words in s. 3(1E) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F12 Words in s. 3(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F13 Words in s. 3(3) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F14 Words in s. 3(4) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F15 S. 3(5)(6) inserted (1.4.1996) by 1996 c. 5, **s. 2(3)**; S.I. 1996/970, **art. 2(1)**

F16 Words in s. 3(5) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F17 Words in s. 3(6) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 35(2)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

F18 S. 3(7) inserted (1.4.1996) by 1996 c. 5, **s. 6(2)**; S.I. 1996/970, **art. 2(1)**

Changes to legislation:
Health Service Commissioners Act 1993, Section 3 is up to date with all changes known to be in force on or before 04 July 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.
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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. 3(1F) inserted by 2006 c. 44 s. 15(2)
- s. 7(2)(d) and word inserted by 2006 c. 44 s. 15(4)(b)
- s. 14(2G)(2H) inserted by 2006 c. 44 s. 15(7)
- s. 14(2G)(c) word inserted by 2012 c. 7 Sch. 5 para. 70(6)(a)
- s. 14(2G)(e) and word omitted by 2012 c. 7 Sch. 5 para. 70(6)(b)