

SCHEDULES

SCHEDULE 1

Section 3.

PROVIDERS OF SERVICES

Introduction

- 1 The 1993 Act shall be amended as mentioned in the following provisions of this Schedule.

Matters excluded from investigation

- 2 (1) Section 7 (Commissioner not to investigate certain matters) shall be amended as follows.
- (2) In subsection (2) the word “and” at the end of paragraph (a) shall be omitted.
- (3) In subsection (2), in paragraph (b) (exception for arrangements between bodies) for the words from “a body which” to the end of the paragraph there shall be substituted “an independent provider for the provision of services by the provider”.
- (4) In subsection (2), after paragraph (b) there shall be inserted “and
- (c) matters arising from arrangements between a family health service provider and an independent provider for the provision of services by the independent provider.”
- (5) After subsection (3) there shall be inserted—
- “(3A) A Commissioner shall not conduct an investigation in pursuance of a complaint if—
- (a) the complaint is in respect of action taken in any matter relating to arrangements made by a health service body and a family health service provider for the provision of family health services,
- (b) the action is taken by or on behalf of the body or by the provider, and
- (c) the complaint is made by the provider or the body.”

Investigations

- 3 (1) Section 11 (procedure in respect of investigations) shall be amended as follows.
- (2) In subsection (1) for “this Act” there shall be substituted “section 3(1)”.
- (3) After subsection (1) there shall be inserted—
- “(1A) Where a Commissioner proposes to conduct an investigation pursuant to a complaint under section 3(1A), he shall afford—
- (a) to the family health service provider, and

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- (b) to any person by reference to whose action the complaint is made (if different from the family health service provider),

an opportunity to comment on any allegations contained in the complaint.

(1B) Where a Commissioner proposes to conduct an investigation pursuant to a complaint under section 3(1C), he shall afford—

- (a) to the independent provider concerned, and
- (b) to any other person who is alleged in the complaint to have taken or authorised the action complained of,

an opportunity to comment on any allegations contained in the complaint.”

(4) In subsection (5) after the word “investigation” (where it first appears) there shall be inserted “pursuant to a complaint under section 3(1)”.

(5) After subsection (5) there shall be inserted—

“(5A) The conduct of an investigation pursuant to a complaint under section 3(1A) or (1C) shall not affect any action taken by the family health service provider or independent provider concerned, or any power or duty of that provider to take further action with respect to any matters subject to the investigation.”

4 (1) Section 12 (evidence) shall be amended as follows.

(2) In subsection (1) after the word “investigation” (where it first appears) there shall be inserted “pursuant to a complaint under section 3(1)”.

(3) After subsection (1) there shall be inserted—

“(1A) For the purposes of an investigation pursuant to a complaint under section 3(1A) or (1C) a Commissioner may require any person who in his opinion is able to supply information or produce documents relevant to the investigation to supply any such information or produce any such document.”

Reports

5 (1) Section 14 (reports by Commissioners) shall be amended as follows.

(2) In subsection (1) for the words from “A Commissioner” to “by him” there shall be substituted “In any case where a Commissioner conducts an investigation pursuant to a complaint under section 3(1) he shall send a report of the results of the investigation”.

(3) In subsection (2) after “investigation” there shall be inserted “pursuant to a complaint under section 3(1)”.

(4) After subsection (2) there shall be inserted—

“(2A) In any case where a Commissioner conducts an investigation pursuant to a complaint under section 3(1A) he shall send a report of the results of the investigation—

- (a) to the person who made the complaint,
- (b) to any member of the House of Commons who to the Commissioner’s knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),

- (c) to any person by reference to whose action the complaint is made,
 - (d) to the family health service provider (if he does not fall within paragraph (c)),
 - (e) to any health service body with whom the family health service provider is subject to an undertaking to provide family health services, and
 - (f) to the Secretary of State.
- (2B) In any case where a Commissioner decides not to conduct an investigation pursuant to a complaint under section 3(1A) he shall send a statement of his reasons—
- (a) to the person who made the complaint, and
 - (b) to any such member of the House of Commons as is mentioned in subsection (2A)(b).
- (2C) In any case where a Commissioner conducts an investigation pursuant to a complaint under section 3(1C) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint,
 - (b) to any member of the House of Commons who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),
 - (c) to any person who is alleged in the complaint to have taken or authorised the action complained of,
 - (d) to the independent provider,
 - (e) to the health service body or family health service provider with whom the independent provider made the arrangement to provide the service concerned, and
 - (f) to the Secretary of State.
- (2D) In any case where a Commissioner decides not to conduct an investigation pursuant to a complaint under section 3(1C) he shall send a statement of his reasons—
- (a) to the person who made the complaint, and
 - (b) to any such member of the House of Commons as is mentioned in subsection (2C)(b)."

(5) In subsection (3)(a) after "3(1)" there shall be inserted ", (1A) or (1C)".

Interpretation

- 6 (1) Section 19 (interpretation) shall be amended as follows.
- (2) After the definition of "action" there shall be inserted—
- ““allotted sum” shall be construed in accordance with section 15 of the National Health Service and Community Care Act 1990 or, in Scotland, section 87B of the National Health Service (Scotland) Act 1978;”.
- (3) After the definition of "Court" there shall be inserted—
- ““family health services” has the meaning given by section 2A;

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“family health service provider” has the meaning given by section 2A;”.

(4) After the definition of “health service body” there shall be inserted—

““independent provider” has the meaning given by section 2B;”.

(5) At the end of the definition of “patient” the word “and” shall be omitted.

(6) In the definition of “person aggrieved” after “3(1)” there shall be inserted “, (1A) or (1C)”.

(7) After the definition of “person aggrieved” there shall be inserted—

““recognised fund-holding practice” shall be construed in accordance with section 14 of the National Health Service and Community Care Act 1990 or, in Scotland, section 87A of the National Health Service (Scotland) Act 1978.”

The Commissioners

7 In Schedule 1 (the Commissioners) the following paragraph shall be inserted after paragraph 3—

“3A (1) A person who is a relevant family health service provider shall not be appointed a Commissioner or acting Commissioner; and a person so appointed shall not, during his appointment, become a relevant family health service provider.

(2) For this purpose a “relevant family health service provider” means—

- (a) in relation to the Health Service Commissioner for England or for Wales or a person appointed to act as such, a person mentioned in section 2A(1) or (2), and
- (b) in relation to the Health Service Commissioner for Scotland or a person appointed to act as such, a person mentioned in section 2A(3).”