



Scottish Legal Services Ombudsman and Commissioner for Local Administration in Scotland Act 1997

1997 CHAPTER 35

PART I

SCOTTISH LEGAL SERVICES OMBUDSMAN

2 Report and recommendations.

The following section shall be inserted after section 34 of the 1990 Act—

“34A Ombudsman’s final report and recommendations.

- (1) Where the Scottish legal services ombudsman has completed an investigation under this Act he shall make a written report of his conclusions and shall send a copy of the report to—
 - (a) the person who made the handling complaint;
 - (b) the professional organisation concerned; and
 - (c) the practitioner concerned in the conduct complaint to which the handling complaint relates.
- (2) If the ombudsman decides to make a complaint about the practitioner concerned to the appropriate disciplinary body he may include in the report under this section a statement to that effect.
- (3) A report under this section may include one or more of the following recommendations—
 - (a) that the professional organisation concerned provide to the person making the handling complaint such information about the conduct complaint to which the handling complaint relates, and how it was dealt with, as the ombudsman considers appropriate;

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- (b) that the conduct complaint be investigated further by the professional organisation concerned;
 - (c) that the conduct complaint be reconsidered by the professional organisation concerned;
 - (d) that the professional organisation concerned consider exercising their powers in relation to the practitioner concerned;
 - (e) that the professional organisation concerned pay compensation of the stated amount to the person making the handling complaint for loss suffered by him, or inconvenience or distress caused to him, as a result of the way in which the conduct complaint was handled by that organisation;
 - (f) that the professional organisation to whom a recommendation under paragraph (e) above applies pay to the person making the handling complaint an amount specified by the ombudsman by way of reimbursement of the cost, or part of the cost, of making the handling complaint.
- (4) Where a report under this section includes any recommendation, the report shall state the ombudsman's reasons for making the recommendation.
- (5) For the purposes of the law of defamation the publication of any report of the ombudsman under this section and any publicity given under subsection (8) below shall be privileged unless the publication is proved to be made with malice.
- (6) It shall be the duty of any professional organisation to whom a report is sent by the ombudsman under this section to have regard to the conclusions and recommendations set out in the report so far as relating to that organisation.
- (7) Where a report sent to a professional organisation under this section includes a recommendation relating to them, the organisation shall, before the end of the period of three months beginning with the date on which the report was sent, notify the ombudsman, and the person who made the handling complaint, of—
- (a) the action which they have taken to comply with the recommendation or in consequence of further consideration of the matter by them; or
 - (b) their decision not to comply wholly with a recommendation and any reason for that decision.
- (8) Where, at the end of the period of three months mentioned in subsection (7) above, a professional organisation have not wholly complied with a recommendation relating to them in a report under this section, the ombudsman may take such steps as he considers reasonable to publicise that fact; but shall in so publicising it state any reason given to the ombudsman by the organisation for their not having so complied (or a summary by the ombudsman of any such reason).
- (9) Any reasonable expenses incurred by the ombudsman under subsection (8) above may be recovered by him (as a civil debt) from the professional organisation concerned.
- (10) In this section—
- “the stated amount” means such amount as may be specified by the ombudsman, being an amount which does not exceed the prescribed amount; and

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“the prescribed amount” means £1000 or such greater amount as may from time to time be specified by order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

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