Public Services Ombudsman (Wales) Act 2005

2005 CHAPTER 10

PART 1

THE PUBLIC SERVICES OMBUDSMAN FOR WALES

1 The Public Services Ombudsman for Wales

(1) There is to be a Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru (in this Act referred to as "the Ombudsman").

(2) Schedule 1 makes further provision about the Ombudsman.

Commencement Information

I1 S. 1 wholly in force at 1.4.2006; s. 1 not in force at Royal Assent see s. 40; s. 1 in force for certain purposes at 12.10.2005 and wholly in force at 1.4.2006 by S.I. 2005/2800, **arts. 3(a)**, 5(1)(3), Sch. 1 Pt. 1

PART 2

INVESTIGATION OF COMPLAINTS [F1 RELATING TO LISTED AUTHORITIES]

Textual Amendments

F1 Words in Pt. 2 heading inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 14**; S.I. 2014/2718, art. 2(b)

Modifications etc. (not altering text)

C1 Pt. 2 applied (with modifications) (22.11.2012) by The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734), regs. 1(1), 3-6, **Sch. Pt. 3**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Public Services Ombudsman (Wales) Act 2005 is up to date with all changes known to be in force on or before 01 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. (See end of Document for details) View outstanding changes*

C2 Pt. 2 applied (11.10.2005) by The Public Services Ombudsman (Wales) Act 2005 (Commencement No. 1 and Transitional Provisions and Savings) Order 2005 (S.I. 2005/2800), **art. 6**

Power of investigation

2 Power of investigation

(1) The Ombudsman may investigate a complaint **[**[F2]under this Part**]** in respect of a matter if—

(a) the complaint has been duly made or referred to him, and

(b) the matter is one which he is entitled to investigate under sections 7 to 11.

(2) A complaint is "duly made" to the Ombudsman if (but only if)—

(a) it is made by a person who is entitled under section 4 to make the complaint to the Ombudsman, and

(b) the requirements of section 5 are met in respect of it.

(3) A complaint is "duly referred" to the Ombudsman if (but only if)—

(a) it is referred to him by a listed authority, and

(b) the requirements of section 6 are met in respect of it.

(4) The Ombudsman may investigate a complaint **[**[F3]under this Part**]** in respect of a matter even if the requirements of section 5(1) or (as the case may be) section 6(1)(b) or (d) are not met in respect of the complaint, if—

(a) the matter is one which he is entitled to investigate under sections 7 to 11, and

(b) he thinks it reasonable to do so.

(5) It is for the Ombudsman to decide whether to begin, continue or discontinue an investigation.

(6) The Ombudsman may take any action which he thinks may assist in making a decision under subsection (5).

(7) The Ombudsman may begin or continue an investigation into a complaint even if the complaint, or the referral of the complaint, has been withdrawn.

Textual Amendments

F2 Words in s. 2(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 15(a)**; S.I. 2014/2718, art. 2(b)

F3 Words in s. 2(4) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 15(b)**; S.I. 2014/2718, art. 2(b)

3 Alternative resolution of complaints

(1) The Ombudsman may take any action he thinks appropriate with a view to resolving a complaint which he has power to investigate under section 2.

(2) The Ombudsman may take action under this section in addition to or instead of conducting an investigation into the complaint.

(3) Any action under this section must be taken in private.

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Complaints

4 Who can complain

(1) The persons entitled to make a complaint to the Ombudsman **[**[F4]under this Part**]** are—

(a) a member of the public (in this **[**[F5]Part**]** referred to as "the person aggrieved") who claims or claimed to have sustained injustice or hardship in consequence of a matter which the Ombudsman is entitled to investigate under sections 7 to 11;

(b) a person authorised by the person aggrieved to act on his behalf;

(c) if the person aggrieved is not capable of authorising a person to act on his behalf (for example because he has died), a person who appears to the Ombudsman to be appropriate to act on behalf of the person aggrieved.

(2) "Member of the public" means any person other than a listed authority acting in its capacity as such.

(3) It is for the Ombudsman to determine any question of whether a person is entitled under this section to make a complaint to him.

Textual Amendments

F4 Words in s. 4(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 16(a)**; S.I. 2014/2718, art. 2(b)

F5 Word in s. 4(1)(a) substituted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 16(b)**; S.I. 2014/2718, art. 2(b)

5 Requirements: complaints made to the Ombudsman

(1) The requirements mentioned in section 2(2)(b) are that—

(a) the complaint must be made in writing;

(b) the complaint must be made to the Ombudsman before the end of the period of one year starting on the day on which the person aggrieved first has notice of the matters alleged in the complaint.

(2) It is for the Ombudsman to determine any question of whether the requirements of subsection (1) are met in respect of a complaint.

6 Requirements: complaints referred to the Ombudsman

(1) The requirements mentioned in section 2(3)(b) are that—

(a) the complaint must have been made to the listed authority by a person who would have been entitled under section 4 to make the complaint to the Ombudsman;

(b) the complaint must have been made to the listed authority before the end of the period of one year starting on the day on which the person aggrieved first had notice of the matters alleged in the complaint;

(c) the complaint must be referred to the Ombudsman in writing;

(d) the complaint must be referred to the Ombudsman before the end of the period of one year starting on the day on which the complaint was made to the listed authority.

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(2) It is for the Ombudsman to determine any question of whether the requirements of subsection (1) are met in respect of a complaint.

Matters which may be investigated

7 Matters which may be investigated

(1) The matters which the Ombudsman is entitled to investigate **[**[F6]under this Part**]** are—

(a) alleged maladministration by a listed authority in connection with relevant action;

(b) an alleged failure in a relevant service provided by a listed authority;

(c) an alleged failure by a listed authority to provide a relevant service.

(2) Subsection (1) is subject to sections 8 to 11.

(3) Relevant action is—

(a) in the case of a listed authority which is a family health service provider in Wales or an independent provider in Wales, action taken by the authority in connection with the provision of a relevant service;

(b) in the case of a listed authority which is a social landlord in Wales or a Welsh health service body other than the **[**[F7]Welsh Ministers**]**, action taken by the authority in the discharge of any of its functions;

(c) in the case of a listed authority which is a person with functions conferred by regulations made under section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), action taken by the authority in the discharge of any of those functions;

(d) in the case of a listed authority which is a listed authority by virtue of an order under section 28(2) adding it to Schedule 3, action taken by the authority in the discharge of any of its specified functions;

(e) in any other case, action taken by the authority in the discharge of any of its administrative functions.

(4) A relevant service is—

(a) in the case of a listed authority which is a family health service provider in Wales, any of the family health services which the authority had, at the time of the action which is the subject of the complaint, entered into a contract, undertaken, or made arrangements, to provide;

(b) in the case of a listed authority which is an independent provider in Wales, any service which the authority had, at that time, made arrangements with a Welsh health service body or a family health service provider in Wales to provide;

(c) in the case of a listed authority falling within subsection (3)(c), any service which it was, at that time, the authority's function to provide in the discharge of any of the functions mentioned in that paragraph;

(d) in the case of a listed authority falling within subsection (3)(d), any service which it was, at that time, the authority's function to provide in the discharge of any of its specified functions;

(e) in any other case, any service which it was, at that time, the authority's function to provide.

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(5) For the purposes of subsections (3)(d) and (4)(d), a listed authority's specified functions are the functions specified in relation to the authority in an order under section 28(2) as falling within the Ombudsman's remit.

(6) An administrative function which may be discharged by a person who is a member of the administrative staff of a relevant tribunal is to be treated as an administrative function of a listed authority for the purposes of subsection (3) if—

(a) the person was appointed by the authority, or

(b) the person was appointed with the consent of the authority (whether as to remuneration and other terms and conditions of service or otherwise).

Textual Amendments

F6 Words in s. 7(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 17**; S.I. 2014/2718, art. 2(b)

F7 Words in s. 7(3)(b) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 68** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

8 Exclusion: matters not relating to Wales

(1) The Ombudsman may not investigate a matter arising in connection with the discharge by a listed authority of any of the authority's functions otherwise than in relation to Wales.

(2) Subsection (1) does not apply in relation to the **[**[F8]Welsh Assembly Government**]**.

(3) To the extent that a function of a listed authority is discharged in relation to the Welsh language or any other aspect of Welsh culture, it is to be regarded for the purposes of subsection (1) as discharged in relation to Wales.

Textual Amendments

F8 Words in s. 8(2) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 69** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

9 Exclusion: other remedies

(1) The Ombudsman may not investigate a matter **[**[F9]under this Part**]** if the person aggrieved has or had—

(a) a right of appeal, reference or review to or before a tribunal constituted under an enactment or by virtue of Her Majesty's prerogative,

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(b) a right of appeal to a Minister of the Crown or the **[**[F10], the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government**]**, or

(c) a remedy by way of proceedings in a court of law.

(2) But subsection (1) does not apply if the Ombudsman is satisfied that, in the particular circumstances, it is not reasonable to expect the person to resort, or to have resorted, to the right or remedy.

(3) The Ombudsman may investigate a matter **[**[F11]under this Part**]** only if he is satisfied that—

(a) the matter has been brought to the attention of the listed authority to which it relates by or on behalf of the person aggrieved, and

(b) the authority has been given a reasonable opportunity to investigate and respond to it.

(4) But subsection (3) does not prevent the Ombudsman from investigating a matter if he is satisfied that it is reasonable in the particular circumstances for him to investigate the matter despite the fact that the requirements of that subsection have not been met.

Textual Amendments

F9 Words in s. 9(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 18(a)**; S.I. 2014/2718, art. 2(b)

F10 Words in s. 9(1)(b) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 70** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F11 Words in s. 9(3) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 18(b)**; S.I. 2014/2718, art. 2(b)

10 Other excluded matters

(1) The Ombudsman may not investigate **[**[F12]under this Part**]** a matter specified in Schedule 2.

(2) The **[**[F13]Welsh Ministers**]** may by order amend Schedule 2 by—

(a) adding an entry;

(b) removing an entry;

(c) changing an entry.

(3) Before making an order under subsection (2), the **[**[F13]Welsh Ministers**]** must consult the Ombudsman.

[[F14](3A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.**]**

(4) Subsection (1) does not prevent the Ombudsman from investigating action of a listed authority in operating a procedure established to examine complaints or review decisions.

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Textual Amendments

F12 Words in s. 10(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 19**; S.I. 2014/2718, art. 2(b)

F13 Words in s. 10 substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 71(2)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F14 S. 10(3A) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 71(3)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

11 Decisions taken without maladministration

(1) The Ombudsman may not question the merits of a decision taken without maladministration by a listed authority in the exercise of a discretion.

(2) Subsection (1) does not apply to the merits of a decision to the extent that the decision was taken in consequence of the exercise of professional judgement which appears to the Ombudsman to be exercisable in connection with the provision of health or social care.

Decisions not to investigate etc.

12 Decisions not to investigate or to discontinue investigation

(1) If the Ombudsman decides under section 2(5)—

(a) not to begin an investigation into a complaint in respect of a listed authority, or

(b) to discontinue such an investigation,

he must prepare a statement of the reasons for his decision.

(2) The Ombudsman must send a copy of the statement to—

(a) the person who made the complaint, and

(b) the listed authority.

(3) The Ombudsman may send a copy of the statement to any other persons he thinks appropriate.

(4) The Ombudsman may publish a statement under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.

(5) The Ombudsman may supply a copy of a statement published under subsection (4), or any part of such a statement, to any person who requests it.

(6) The Ombudsman may charge a reasonable fee for supplying a copy of a statement, or part of a statement, under subsection (5).

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(7) If a statement prepared under subsection (1)—

(a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or

(b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the statement,

that information must not be included in a version of the statement sent to a person under subsection (2) or (3) or published under subsection (4), subject to subsection (8).

(8) Subsection (7) does not apply in relation to a version of the statement if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the statement.

(9) [F15] . . . . . .

Textual Amendments

F15 S. 12(9) repealed by Government of Wales Act 2006 (c. 32), ss. 160(1), 163, Sch. 10 para. 72, **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

Investigation procedure and evidence

13 Investigation procedure

(1) If the Ombudsman conducts an investigation into a complaint in respect of a listed authority, he must—

(a) give the listed authority an opportunity to comment on any allegations contained in the complaint;

(b) give 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 relating to that person.

(2) An investigation must be conducted in private.

(3) Subject to subsections (1) and (2), the procedure for conducting an investigation is to be such as the Ombudsman thinks appropriate in the circumstances of the case.

(4) In particular, the Ombudsman may—

(a) make such inquiries as he thinks appropriate;

(b) determine whether any person may be represented in the investigation by **[**[F16]an authorised person**]** or otherwise.

[[F17](4A) In subsection (4) "authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).**]**

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(5) The Ombudsman may pay to the person who made the complaint and to any other person who attends or supplies information for the purposes of the investigation—

(a) such sums as he may determine in respect of expenses properly incurred by them, and

(b) such allowances as he may determine by way of compensation for the loss of their time,

subject to such conditions as he may determine.

(6) The conduct of an investigation in respect of a listed authority does not affect—

(a) the validity of any action taken by the listed authority, or

(b) any power or duty of the listed authority to take further action with respect to any matter under investigation.

Textual Amendments

F16 Words in s. 13(4)(b) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 211(2), **Sch. 21 para. 151(a)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)**

F17 S. 13(4A) inserted (1.1.2010) by Legal Services Act 2007 (c. 29), ss. 208(1), 211(2), **Sch. 21 para. 151(b)** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)**

14 Information, documents, evidence and facilities

[[F18](A1) This section applies in relation to investigations conducted under this Part.**]**

(1) For the purposes of an investigation the Ombudsman may require a person he thinks is able to supply information or produce a document relevant to the investigation to do so.

(2) For the purposes of an investigation the Ombudsman has the same powers as the High Court in respect of—

(a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and

(b) the production of documents.

(3) For the purposes of an investigation the Ombudsman may require a person he thinks is able to supply information or produce a document relevant to the investigation to provide any facility he may reasonably require.

(4) Subject to subsection (6), no person is to be compelled for the purposes of an investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.

(5) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service, whether imposed by any enactment or rule of law, is to apply to the disclosure of information for the purposes of an investigation.

(6) The Crown is not entitled in relation to an investigation to any privilege in respect of the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.

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Textual Amendments

F18 S. 14(A1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 20**; S.I. 2014/2718, art. 2(b)

15 Obstruction and contempt

(1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, he may issue a certificate to that effect to the High Court.

(2) The condition is that the person—

(a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or

(b) has done an act in relation to an investigation which, if the investigation were proceedings in the High Court, would constitute contempt of court.

(3) But the condition in subsection (2) is not met in relation to a person merely because he has taken action such as is mentioned in section 13(6).

(4) If the Ombudsman issues a certificate under subsection (1), the High Court may inquire into the matter.

(5) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with him in any manner in which it could have dealt with him if he had committed contempt in relation to the High Court.

Reports of investigations

16 Reports of investigations

(1) The Ombudsman must, after conducting an investigation into a complaint in respect of a listed authority—

(a) prepare a report on his findings, and

(b) send a copy of the report to all the appropriate persons.

This is subject to section 21.

(2) The appropriate persons are—

(a) the person who made the complaint;

(b) the listed authority;

(c) any other person who is alleged in the complaint to have taken or authorised the action complained of;

(d) if the listed authority is a family health service provider in Wales—

(i) any Local Health Board with whom the authority had, at the time of the action which is the subject of the complaint, entered into a contract to provide the family health services which are under investigation;

(ii) any person to whom the authority had, at that time, undertaken to provide those services;

(iii) any person with whom the authority had, at that time, made arrangements for the provision of those services;

(e) if the listed authority is an independent provider in Wales—

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(i) any Welsh health service body with whom the authority had, at the time of the action which is the subject of the complaint, made arrangements for the provision of the services under investigation;

(ii) any family health service provider in Wales with whom the authority had, at that time, made arrangements for the provision of those services;

(f) the **[**[F19]First Minister for Wales**]**(unless the listed authority is itself the **[**[F20]Welsh Assembly Government**]** or is a local authority in Wales).

(3) The Ombudsman may send a copy of the report to any other persons he thinks appropriate.

(4) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.

(5) The Ombudsman may supply a copy of a report published under subsection (4), or any part of such a report, to any person who requests it.

(6) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (5).

(7) If a report prepared under this section—

(a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or

(b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the report,

that information must not be included in a version of the report sent to a person under subsection (1)(b) or (3) or published under subsection (4), subject to subsection (8).

(8) Subsection (7) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.

(9) [F21] . . . . . .

Textual Amendments

F19 Words in s. 16(2)(f) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 73(2)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F20 Words in s. 16(2)(f) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 73(2)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F21 S. 16(9) repealed by Government of Wales Act 2006 (c. 32), ss. 160(1), 163, Sch. 10 para. 73(3), **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the

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2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

17 Publicising reports

(1) If an investigation is conducted in respect of a listed authority and the authority receives a copy of a report under section 16(1)(b), the authority must make copies of that version of the report available for a period of at least three weeks—

(a) at one or more of the authority's offices, and

(b) if the authority has a website, on the website.

(2) Throughout that period of three weeks, any person may—

(a) inspect the copy of the report at the office or offices concerned at any reasonable time without payment;

(b) make a copy of the report or any part of it at any reasonable time without payment;

(c) require the authority to supply him with a copy of the report or any part of it, on payment of a reasonable sum if requested;

(d) if the authority has a website, view the copy of the report on the website without payment.

(3) Not later than two weeks after the copy of the report is received by the listed authority it must ensure that a notice is published in a newspaper circulating in the part of Wales in which the matter which is the subject of the report arose.

(4) The notice must specify—

(a) the date on which the period of three weeks referred to in subsection (1) will begin,

(b) the office or offices at which a copy of the report can be inspected, and

(c) the address of the authority's website (if any).

(5) The Ombudsman may give directions to listed authorities with regard to the discharge of their functions under this section.

(6) Directions under subsection (5) may relate—

(a) to a particular listed authority in respect of a particular report, or

(b) generally to the discharge of functions under this section by all or any listed authorities.

(7) A person commits an offence if—

(a) he wilfully obstructs a person in the exercise of a right conferred by subsection (2)(a), (b) or (d), or

(b) he refuses to comply with a requirement under subsection (2)(c).

(8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) The Ombudsman may direct that subsections (1) to (4) are not to apply in relation to a particular report.

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(10) In deciding whether to give a direction under subsection (9), the Ombudsman must take into account—
  (a) the public interest,
  (b) the interests of the person aggrieved, and
  (c) the interests of any other persons he thinks appropriate.

18 Publicising reports: health care providers

(1) If an investigation is conducted in respect of a listed authority which is a family health service provider in Wales, section 17 has effect with the modifications specified in subsections (2) to (4).

(2) For subsection (1) substitute—

"(1) A person who has received a copy of a report under section 16 by virtue of section 16(2)(d) must make copies of the report available for a period of at least three weeks—
  (a) at one or more of the person's offices, and
  (b) if the person has a website, on the website."

(3) The references to the listed authority are to be taken to be references to that person.

(4) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.

(5) If an investigation is conducted in respect of a listed authority which is an independent provider in Wales, section 17 has effect with the modifications specified in subsections (6) to (8).

(6) For subsection (1) substitute—

"(1) A person who has received a copy of a report under section 16 by virtue of section 16(2)(e) must make copies of the report available for a period of at least three weeks—
  (a) at one or more of the person's offices, and
  (b) if the person has a website, on the website."

(7) The references to the listed authority are to be taken to be references to that person.

(8) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.

19 Action following receipt of a report

(1) This section applies if, in a report under section 16 of an investigation in respect of a listed authority, the Ombudsman concludes that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated.

(2) The listed authority must consider the report and notify the Ombudsman before the end of the permitted period of—
  (a) the action it has taken or proposes to take in response to it, and
  (b) the period before the end of which it proposes to have taken that action (if it has not already done so).

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(3) The permitted period is—
- (a) the period of one month beginning on the date on which the authority receives the report, or
- (b) any longer period specified by the Ombudsman in writing.

PROSPECTIVE

20 Non-action following receipt of a report

(1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a listed authority, he may issue a certificate to that effect to the High Court.

(2) The condition is that the listed authority has wilfully disregarded his report without lawful excuse.

21 Reports: alternative procedure

(1) This section applies if, after the Ombudsman has conducted an investigation into a complaint in respect of a listed authority—
- (a) he concludes that the person aggrieved has not sustained injustice or hardship in consequence of the matter investigated, and
- (b) he is satisfied that the public interest does not require sections 16 to 19 to apply.

(2) This section also applies if, after the Ombudsman has conducted an investigation into a complaint in respect of a listed authority—
- (a) he concludes that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated,
- (b) the listed authority agrees to implement, before the end of the permitted period, any recommendations he makes, and
- (c) he is satisfied that the public interest does not require sections 16 to 19 to apply.

(3) The permitted period is—
- (a) a period agreed between the Ombudsman, the listed authority and the person who made the complaint, or
- (b) if the Ombudsman thinks that no such agreement can be reached, the period specified by him in writing.

(4) The Ombudsman may decide to prepare a report on his findings under this section instead of under section 16.

(5) If the Ombudsman decides to prepare a report under this section—
- (a) sections 16 to 19 do not apply;
- (b) he must send a copy of the report to—
  - (i) the person who made the complaint;
  - (ii) the listed authority;
- (c) he may send a copy of the report to any other persons he thinks appropriate.

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(6) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.

(7) The Ombudsman may supply a copy of a report published under subsection (6), or any part of such a report, to any person who requests it.

(8) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (7).

(9) If a report prepared under this section—

(a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or

(b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the report,

that information must not be included in a version of the report sent to a person under subsection (5) or published under subsection (6), subject to subsection (10).

(10) Subsection (9) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.

(11) [F22] . . . . . .

Textual Amendments

F22 S. 21(11) repealed by Government of Wales Act 2006 (c. 32), ss. 160(1), 163, Sch. 10 para. 74, **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

Special reports

22 Special reports

(1) The Ombudsman may prepare a report under this section (a "special report") if subsection (2), (4) or (6) applies.

(2) This subsection applies if, in a report under section 16, the Ombudsman has concluded that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated and—

(a) the Ombudsman has not received the notification required under section 19 before the end of the period permitted under that section,

(b) he has received that notification but he is not satisfied with—

(i) the action which the listed authority has taken or proposes to take, or

(ii) the period before the end of which it proposes to have taken that action, or

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(c) he has received that notification but he is not satisfied that the listed authority has, before the end of the permitted period, taken the action it proposed to take.

(3) The permitted period for the purposes of subsection (2)(c) is—
(a) the period referred to in section 19(2)(b), or
(b) any longer period specified by the Ombudsman in writing.

(4) This subsection applies if the Ombudsman—
(a) has prepared a report under section 21 by virtue of subsection (2) of that section, and
(b) is not satisfied that the listed authority has implemented his recommendations before the end of the permitted period.

(5) The permitted period for the purposes of subsection (4)(b) is—
(a) the period referred to in section 21(2)(b), or
(b) any longer period specified by the Ombudsman in writing.

(6) This subsection applies if—
(a) a complaint in respect of a listed authority has been resolved under section 3,
(b) in resolving the complaint, the Ombudsman has concluded that the person aggrieved has sustained injustice or hardship in consequence of the matter which is the subject of the complaint,
(c) the listed authority has agreed to take particular action before the end of a particular period, and
(d) the Ombudsman is not satisfied that the listed authority has taken that action before the end of the permitted period.

(7) The permitted period for the purposes of subsection (6)(d) is—
(a) the period referred to in subsection (6)(c), or
(b) any longer period specified by the Ombudsman in writing.

(8) A special report must—
(a) set out the facts on the basis of which subsection (2), (4) or (6) applies, and
(b) make such recommendations as the Ombudsman thinks fit with respect to the action which, in his opinion, should be taken—
(i) to remedy the injustice or hardship to the person aggrieved, and
(ii) to prevent similar injustice or hardship being caused in the future.

(9) The Ombudsman must send a copy of a special report—
(a) if the special report is prepared because subsection (2) applies, to each person to whom a copy of the report under section 16 was sent under section 16(1)(b);
(b) if the special report is prepared because subsection (4) or (6) applies, to the person who made the complaint and the listed authority.

(10) The Ombudsman may send a copy of a special report to any other persons he thinks appropriate.

23 Special reports: supplementary

(1) The Ombudsman may—
(a) publish a special report **[**[F23]made under section 22**]** ;

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(b) supply a copy of the published report or any part of it to any person who requests it.

(2) The Ombudsman may charge a reasonable fee for supplying a copy of a report (or part of a report) under subsection (1)(b).

(3) The listed authority in respect of which a special report is made must reimburse the Ombudsman for the cost of publishing a special report if requested to do so by the Ombudsman.

(4) If a special report—

(a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or

(b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the report,

that information must not be included in a version of the report sent to a person under section 22(9) or (10) or published under subsection (1) of this section, subject to subsection (5).

(5) Subsection (4) does not apply in relation to a version of the special report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the special report.

(6) [F24]. . . . . .

(7) Sections 17 and 18 (publicising reports under section 16) apply in relation to a special report **[**[F25]under section 22**]** as they apply in relation to a report under section 16.

Textual Amendments

F23 Words in s. 23(1)(a) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 21(a)**; S.I. 2014/2718, art. 2(b)

F24 S. 23(6) repealed by Government of Wales Act 2006 (c. 32), s. 160(1), 163, Sch. 10 para. 75, **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F25 Words in s. 23(7) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 21(b)**; S.I. 2014/2718, art. 2(b)

24 Special reports relating to the [[F26]Welsh Assembly Government etc.]

(1) This section applies if a special report is made in a case where the complaint was made in respect of the **[**[F27]Welsh Assembly Government or the National Assembly for Wales Commission**]**.

(2) The **[**[F28]relevant person**]** must—

(a) lay a copy of the report before the Assembly, [F29]. . .

(b) [F29]. . . . . .

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[[F30](2A) In subsection (2) "the relevant person" means—

(a) if the complaint was made in respect of the Welsh Assembly Government, the First Minister for Wales, and

(b) if the complaint was made in respect of the National Assembly for Wales Commission, a member of that Commission.**]**

(3) [F31]. . . . . .

Textual Amendments

F26 Words in s. 24 sidenote substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 76(6)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F27 Words in s. 24(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 76(2)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F28 Words in s. 24(2) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 76(3)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F29 S. 24(2)(b) repealed by virtue of Government of Wales Act 2006 (c. 32), ss. 160(1), 163, Sch. 10 para. 76(3)(b), **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F30 S. 24(2A) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 76(4)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F31 S. 24(3) repealed by Government of Wales Act 2006 (c. 32), ss. 160(1), 163, Sch. 10 para. 76(5), **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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F32 **…**

Textual Amendments

F32 S. 25 cross-heading omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 22**; S.I. 2014/2718, art. 2(b)

F33 25 Consultation and co-operation with other ombudsmen

. . . . . .

Textual Amendments

F33 Ss. 25-25B omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 23**; S.I. 2014/2718, art. 2(b)

F33 25A Working jointly with the Commissioner for Older People in Wales

. . . . . .

Textual Amendments

F33 Ss. 25-25B omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 23**; S.I. 2014/2718, art. 2(b)

F33 25B Working collaboratively with the Commissioner for Older People in Wales

. . . . . .

Textual Amendments

F33 Ss. 25-25B omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 23**; S.I. 2014/2718, art. 2(b)

F34 **…**

Textual Amendments

F34 S. 26 cross-heading omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 24**; S.I. 2014/2718, art. 2(b)

F35 26 Disclosure of information

. . . . . .

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Textual Amendments

F35 S. 26 omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 25**; S.I. 2014/2718, art. 2(b)

[F36]27 Disclosure prejudicial to safety of State or contrary to public interest

. . . . . .

Textual Amendments

F36 S. 27 omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 25**; S.I. 2014/2718, art. 2(b)

Listed authorities

28 Listed authorities

(1) The persons specified in Schedule 3 are listed authorities for the purposes of this Act.

(2) The **[**[F37]Welsh Ministers**]** may by order amend Schedule 3 by—

(a) adding a person;

(b) omitting a person;

(c) changing the description of a person.

(3) An order under subsection (2) adding a person to Schedule 3 may provide for this Act to apply to the person with the modifications specified in the order.

(4) Before making an order under subsection (2), the **[**[F37]Welsh Ministers**]** must consult the Ombudsman and any other persons it thinks appropriate.

[[F38](4A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.**]**

(5) Sections 29 and 30 contain further restrictions on the power in subsection (2).

Textual Amendments

F37 Words in s. 28(2)(4) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 78(2)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F38 S. 28(4A) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 78(3)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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29 Restrictions on power to amend Schedule 3

(1) An order under section 28(2) may not omit the **[**[F39]Welsh Assembly Government or the National Assembly for Wales Commission**]** from Schedule 3.

(2) An order under section 28(2) may add a person to Schedule 3 only if—

(a) the person has functions dischargeable in relation to Wales or a part of Wales (whether or not the functions are also dischargeable otherwise than in relation to Wales),

(b) all or some of the person's functions are in a field in which the **[**[F40]Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,**]** functions, and

(c) the person falls within subsection (3), (4) or (5).

(3) A person falls within this subsection if—

(a) it is a body established by or under an enactment or by virtue of Her Majesty's prerogative or in any other way by a Minister of the Crown, a government department, the **[**[F41]Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government**]** or another listed authority,

(b) it is a body wholly or partly constituted by appointment made by Her Majesty, a Minister of the Crown, a government department, the **[**[F41]Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government**]** or another listed authority, and

(c) at least half of its expenditure on the discharge of its functions in relation to Wales is met **[**[F42]out of the Welsh Consolidated Fund or is met directly from payments made by other listed authorities**]**.

(4) A person falls within this subsection if—

(a) it is a body established by or under an enactment, and

(b) it has power to issue a precept or a levy.

(5) A person falls within this subsection if—

(a) it appears to the **[**[F43]Welsh Ministers**]** that the person discharges functions of a public nature, and

(b) at least half of the person's expenditure on the discharge of those functions in relation to Wales is met **[**[F44]out of the Welsh Consolidated Fund or directly or indirectly from payments made by other listed authorities**]**.

(6) An order under section 28(2) may not add to Schedule 3—

(a) a Special Health Authority discharging functions only or mainly in England;

(b) a person who carries on under national ownership an industry or undertaking or part of an industry or undertaking.

Textual Amendments

F39 Words in s. 29(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 79(2)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F40 Words in s. 29(2)(b) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 79(3)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the

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2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F41 Words in s. 29(3)(a)(b) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 79(4)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F42 Words in s. 29(3)(c) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 79(4)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F43 Words in s. 29(5)(a) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 79(5)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F44 Words in s. 29(5)(b) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 79(5)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

30 Provisions in orders adding persons to Schedule 3

(1) If the **[**[F45]Welsh Ministers propose**]** to make an order under section 28(2) adding a person to Schedule 3, **[**[F46]they must**]** also specify in the order—

(a) whether all or only some of the person's functions are to fall within the remit of the Ombudsman under this Part;

(b) if only some of the person's functions are to fall within the remit of the Ombudsman under this Part, which those functions are.

(2) If the person is to be added to Schedule 3 on the basis that the person falls within section 29(3) or (4), the order may specify a function under subsection (1) only if the function is in a field in which the **[**[F47]Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,**]** functions.

(3) If the person is to be added to Schedule 3 on the basis that the person falls within section 29(5), the order may specify a function under subsection (1) only if—

(a) the function is in a field in which the **[**[F48]Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,**]** functions, and

(b) the function appears to the **[**[F49]Welsh Ministers**]** to be a function of a public nature.

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(4) The order may specify all a person's functions under subsection (1) only if all the person's functions satisfy the requirements of subsection (2) or (as the case may be) subsection (3).

Textual Amendments

F45 Words in s. 30(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 80(2)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F46 Words in s. 30(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 80(2)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F47 Words in s. 30(2) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 80(3)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F48 Words in s. 30(3)(a) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 80(4)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F49 Words in s. 30(3)(b) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 80(4)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

Miscellaneous

31 Power to issue guidance

(1) The Ombudsman may issue to one or more listed authorities such guidance about good administrative practice as he thinks appropriate.

(2) Before issuing guidance under this section the Ombudsman must consult such listed authorities, or persons appearing to him to represent them, as he thinks appropriate.

(3) If guidance issued under this section is applicable to a listed authority, the authority must have regard to the guidance in discharging its functions.

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(4) In conducting an investigation in respect of a listed authority, the Ombudsman may have regard to the extent to which the authority has complied with any guidance issued under this section which is applicable to the authority.

(5) The Ombudsman may publish any guidance issued under this section in any manner that he thinks appropriate, including in particular by putting the guidance in an annual or extraordinary report.

(6) Guidance issued under this section may contain different provision for different purposes.

(7) Subject to subsection (8), guidance issued under this section must not—
- (a) mention the name of any person other than the listed authorities to which it is applicable or a listed authority in respect of which a complaint has been made or referred to the Ombudsman under this Act, or
- (b) include any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the guidance.

(8) Subsection (7) does not apply if, after taking account of the interests of any persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in the guidance.

[F50]32 Protection from defamation claims

. . . . . .

Textual Amendments

F50 S. 32 omitted (1.11.2014) by virtue of Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 26**; S.I. 2014/2718, art. 2(b)

33 Publicity for complaints procedures

(1) A listed authority must take reasonable steps to provide information to the public about—
- (a) the right to make a complaint to the Ombudsman in respect of the authority,
- (b) the right of the authority to refer a complaint to the Ombudsman,
- (c) the time limits for making and referring complaints to the Ombudsman, and
- (d) how to contact the Ombudsman.

(2) In particular, information about the matters specified in subsection (1) must be included in or provided with—
- (a) any document published by the listed authority which contains information about—
  - (i) relevant services provided by the authority to members of the public, or
  - (ii) the procedures of the authority for dealing with complaints, and
- (b) any document issued by the listed authority in responding to a complaint made to it by a person who might be entitled to make the complaint to the Ombudsman.

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(3) The Ombudsman may issue guidance to listed authorities with respect to the discharge of their functions under this section.

(4) A listed authority must have regard to guidance given by the Ombudsman under subsection (3).

(5) "Relevant service" has the meaning given in section 7.

[[F51](8) This section applies to a care home provider (see section 34R), a domiciliary care provider (see section 34S) or an independent palliative care provider (see section 34T) as it applies to a listed authority.

(9) But in its application in accordance with subsection (8), the reference to "relevant services" in subsection (2)(a)(i) is to be read as a reference to the matters to which Part 2A applies (see section 34A).**]**

Textual Amendments

F51 S. 33(8)(9) inserted (6.4.2016) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 59**; S.I. 2016/467, art. 2

34 Compensation for the person aggrieved

(1) This section applies if—

(a) a complaint in respect of a matter is made or referred to the Ombudsman, and

(b) the complaint is one which the Ombudsman has power to investigate under section 2.

(2) The listed authority in respect of which the complaint is made may make a payment to, or provide any other benefit for, the person aggrieved in respect of the matter which is the subject of the complaint.

(3) It is immaterial for the purposes of this section that the Ombudsman has decided not to investigate the complaint, has discontinued an investigation of the complaint, has not yet completed an investigation of the complaint or has not upheld the complaint.

(4) The power in subsection (2) does not affect any other power of the listed authority to make the payment or provide the benefit.

[[F52]PART 2A

INVESTIGATION OF COMPLAINTS RELATING TO OTHER PERSONS: SOCIAL CARE AND PALLIATIVE CARE

Textual Amendments

F52 Pts. 2A, 2B inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 2** (with Sch. 3 para. 3); S.I. 2014/2718, art. 2(b)

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Application of this Part

34A Matters to which this Part applies

(1) This Part applies to the following matters—

(a) action taken by a care home provider in connection with the provision of accommodation, nursing or personal care in a care home in Wales;

(b) action taken by a domiciliary care provider in connection with the provision of domiciliary care in Wales;

(c) action taken by an independent palliative care provider in connection with the provision of a palliative care service in Wales.

(2) But this Part does not apply to—

(a) matters which may be investigated under Part 2, or

(b) matters described in Schedule 3A.

(3) The Welsh Ministers may by order amend Schedule 3A by—

(a) adding an entry,

(b) removing an entry, or

(c) changing an entry.

(4) Before making an order under subsection (3), the Welsh Ministers must consult the Ombudsman.

(5) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

(6) For the meaning of the following terms see sections 34R to 34T—

"care home";
"care home provider";
"domiciliary care";
"domiciliary care provider";
"palliative care service";
"independent palliative care provider".

Investigation of complaints

34B Power to investigate complaints

(1) The Ombudsman may investigate a complaint about a matter to which this Part applies if—

(a) the complaint has been duly made or referred to the Ombudsman, and

(b) in the case of a complaint which relates to an independent palliative care provider, the condition in subsection (2) is met.

(2) The condition is that the independent palliative care provider has received public funding, within the three years before the date of the action to which the complaint relates, in respect of a palliative care service that it provides in Wales.

(3) In subsection (2) "public funding" means funding from—

(a) the Welsh Ministers,

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(b) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006,

(c) an NHS Trust, or

(d) a county council or county borough council in Wales.

(4) A complaint is "duly made" to the Ombudsman if (but only if)—

(a) it is made by a person who is entitled under section 34D to make a complaint to the Ombudsman,

(b) before the complaint is made—

(i) the matter to which it relates has been brought, by or on behalf of the person affected, to the notice of the provider to whom it relates, and

(ii) the provider has been given a reasonable opportunity to investigate the matter and to respond, and

(c) the requirements of section 34E are met in respect of it.

(5) A complaint is "duly referred" to the Ombudsman if (but only if)—

(a) it is made by a person who is entitled under section 34D to make a complaint to the Ombudsman, and

(b) the requirements of section 34F are met in respect of it.

(6) It is for the Ombudsman to determine whether the requirements of subsection (1) have been met in respect of a complaint.

(7) Where the Ombudsman determines that the requirements of subsection (1) have not been met in respect of a complaint because the requirements of subsection (4)(b), section 34E or section 34F(1)(a)(ii) or (b)(ii) have not been met in respect of that complaint, the Ombudsman may nonetheless investigate the complaint if—

(a) it relates to a matter to which this Part applies, and

(b) the Ombudsman thinks it reasonable to do so.

(8) It is for the Ombudsman to decide whether to begin, continue or discontinue an investigation.

(9) The Ombudsman may take any action which he or she thinks may assist in making a decision under subsection (8).

(10) The Ombudsman may begin or continue an investigation into a complaint even if the complaint has been withdrawn.

34C Alternative resolution of complaints

(1) The Ombudsman may take any action he or she considers appropriate with a view to resolving a complaint which he or she has the power to investigate under section 34B.

(2) The Ombudsman may take action under this section in addition to or instead of conducting an investigation into the complaint.

(3) Any action under this section must be taken in private.

34D Who can complain

(1) The persons entitled to make a complaint to the Ombudsman are—

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(a) a member of the public (referred to in this Part as "the person aggrieved") who claims or claimed to have sustained injustice or hardship as a result of a matter to which this Part applies,

(b) a person authorised in writing by the person aggrieved to act on that person's behalf, or

(c) if the person aggrieved is not capable of authorising a person to act on his or her behalf (for example because the person has died), a person who appears to the Ombudsman to be appropriate to act on behalf of the person aggrieved.

(2) "Member of the public" does not include a person acting in his or her capacity as—

(a) a care home provider,

(b) a domiciliary care provider,

(c) an independent palliative care provider, or

(d) a listed authority.

(3) It is for the Ombudsman to determine any question of whether a person is entitled under this section to make a complaint.

34E Requirements: complaints made to the Ombudsman

(1) The requirements mentioned in section 34B(4)(c) are that the complaint must be made—

(a) in writing, and

(b) before the end of the permitted period.

(2) In subsection (1)(b) (and in section 34F(1)(a)(ii)) "the permitted period" means—

(a) where the person aggrieved has notice of the matter before the date on which section 34B comes into force, the period of 12 months beginning with the date on which that section comes into force, and

(b) in any other case, the period of 12 months beginning with the day on which the person aggrieved first has notice of the matter.

(3) It is for the Ombudsman to determine whether the requirements of subsection (1) are met in respect of a complaint.

34F Requirements: complaints referred to the Ombudsman

(1) The requirements mentioned in section 34B(5)(b) are that the complaint—

(a) must have been made to the provider to whom it relates—

(i) by a person who would have been entitled under section 34D to make the complaint to the Ombudsman, and

(ii) before the end of the permitted period (within the meaning given by section 34E(2)), and

(b) must be referred to the Ombudsman—

(i) in writing, and

(ii) before the end of the period of 12 months beginning with the day on which the complaint was made to the provider.

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Decisions not to investigate etc

34G Decisions not to investigate complaints or to discontinue investigations

(1) If the Ombudsman decides under section 34B(8) not to begin an investigation into a complaint or to discontinue an investigation, the Ombudsman must prepare a statement of the reasons for that decision.

(2) The Ombudsman must send a copy of the statement to—
  (a) the person who made the complaint, and
  (b) the provider to whom the complaint relates.

(3) The Ombudsman may also send a copy of the statement to any other persons he or she thinks appropriate.

(4) The Ombudsman may publish a statement under this section if, after taking account of the interests of the person aggrieved and any other persons the Ombudsman thinks appropriate, he or she considers that it would be in the public interest to do so.

(5) The Ombudsman may supply a copy of the published statement, or part of that statement, to any person who requests it.

(6) The Ombudsman may charge a reasonable fee for supplying a copy of a statement, or part of a statement, under subsection (5).

(7) The following information must not be included in a version of a statement sent to a person under subsection (2)(b) or (3) or published under subsection (4)—
  (a) the name of a person other than the provider to whom the complaint relates;
  (b) information which, in the opinion of the Ombudsman, is likely to identify such a person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the statement.

(8) Subsection (7) does not apply if, after taking account of the interests of the person aggrieved and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the statement.

Investigation procedure and evidence

34H Investigation procedure

(1) If the Ombudsman decides under section 34B(8) to conduct an investigation into a complaint, he or she must—
  (a) give the provider to whom the complaint relates an opportunity to comment on the allegations contained in the complaint, and
  (b) give any other person who is alleged in the complaint to have taken or authorised the action complained of an opportunity to comment on the allegations relating to that person.

(2) An investigation must be conducted in private.

(3) Subject to subsections (1) and (2), the procedure for conducting an investigation is that which the Ombudsman thinks appropriate in the circumstances of the case.

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(4) The Ombudsman may, among other things—
  (a) make any inquiries which he or she thinks appropriate, and
  (b) determine whether any person may be represented in the investigation by an authorised person or another person.

(5) In subsection (4) "authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).

(6) The Ombudsman may pay to the person who made the complaint and to any other person who attends or supplies information for the purposes of the investigation—
  (a) sums in respect of the expenses properly incurred by them, and
  (b) allowances to compensate for the loss of their time.

(7) The Ombudsman may attach conditions to those payments.

34I Information, documents, evidence and facilities

(1) This section applies for the purposes of an investigation under this Part.

(2) The Ombudsman may require a person he or she thinks is able to supply information or produce a document relevant to the investigation to do so.

(3) The Ombudsman has the same powers as the High Court in relation to—
  (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
  (b) the production of documents.

(4) The Ombudsman may require a person he or she thinks is able to supply information or produce a document relevant to the investigation to provide any facility the Ombudsman may reasonably require.

(5) Subject to subsection (6), no person may be compelled 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.

(6) The Crown is not entitled to any privilege in relation to the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.

(7) Where an obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service has been imposed by an enactment or rule of law, the obligation or restriction does not to apply to the disclosure of information for the purposes of the investigation.

34J Obstruction and contempt

(1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, he or she may issue a certificate to that effect to the High Court.

(2) The condition is that the person—
  (a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or

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(b) has done an act in relation to an investigation which, if the investigation were proceedings in the High Court, would constitute contempt of court.

(3) If the Ombudsman issues a certificate, the High Court may inquire into the matter.

(4) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with that person in the same manner as it may deal with a person who has committed contempt in relation to the High Court.

Reports about investigations

34K Investigation reports

(1) This section applies to investigations under this Part unless section 34N applies.

(2) The Ombudsman must, after conducting an investigation into a complaint about a matter to which this Part applies—
(a) prepare a report on the findings of the investigation ("an investigation report"), and
(b) send a copy of the report to the appropriate persons.

(3) The appropriate persons are—
(a) the person who made the complaint,
(b) the provider to whom it relates,
(c) any other person who is alleged in the complaint to have taken or authorised the action complained of, and
(d) the Welsh Ministers.

(4) The Ombudsman may also send a copy of the report to any other persons he or she thinks appropriate.

(5) The Ombudsman may publish the report if, after taking account of the interests of the person aggrieved and any other persons the Ombudsman thinks appropriate, he or she considers that it would be in the public interest to do so.

(6) The Ombudsman may supply a copy of the published report, or part of that report, to any person who requests it.

(7) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (6).

(8) The following information must not be included in a version of a report sent to a person under subsection (3)(b) or (c) or (4) or published under subsection (5)—
(a) the name of a person other than the provider to whom the complaint relates;
(b) information which, in the opinion of the Ombudsman, is likely to identify such a person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the report.

(9) Subsection (8) does not apply if, after taking account of the interests of the person aggrieved and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the report.

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34L Further publicity for investigation reports

(1) The Ombudsman may arrange for a notice about an investigation report to be published—
  (a) in one or more newspapers, or
  (b) by means of broadcast or other electronic media.

(2) The notice may, for example—
  (a) provide a summary of the Ombudsman's findings,
  (b) specify an address or addresses at which a copy of the published report can be inspected during ordinary office hours and from which a copy of that report (or part of that report) may be obtained, and
  (c) specify a website address at which a copy of the published report can be viewed.

(3) The provider to whom the report relates must, if required to do so by the Ombudsman, reimburse the Ombudsman for the reasonable costs of arranging the publication of the notice.

(4) In deciding whether it is appropriate to make arrangements under subsection (1), the Ombudsman must take into account—
  (a) the public interest,
  (b) the interests of the person aggrieved, and
  (c) the interests of any other persons the Ombudsman thinks appropriate.

34M Action following receipt of investigation reports

(1) This section applies where the Ombudsman has concluded in an investigation report that the person aggrieved has sustained injustice or hardship as a result of the matter investigated.

(2) The provider to whom the matter relates must consider the report and notify the Ombudsman before the end of the permitted period of—
  (a) the action the provider has taken or proposes to take in response to the report, and
  (b) the period before the end of which the provider proposes to take that action (if that action has not already been taken).

(3) In subsection (2) “the permitted period”means—
  (a) the period of one month beginning on the date on which the authority receives the report, or
  (b) a longer period specified by the Ombudsman in writing (if any).

34N Reports: alternative procedure

(1) This section applies if, after the Ombudsman has conducted an investigation under this Part—
  (a) the Ombudsman concludes that the person aggrieved has not sustained injustice or hardship as a result of the matter complained of, and
  (b) the Ombudsman is satisfied that the public interest does not require sections 34K to 34M to apply.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Public Services Ombudsman (Wales) Act 2005 is up to date with all changes known to be in force on or before 01 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. (See end of Document for details) View outstanding changes*

(2) This section also applies if, after the Ombudsman has conducted an investigation under this Part—
  (a) the Ombudsman concludes that the person aggrieved has sustained injustice or hardship as a result of the matter complained of,
  (b) the provider to whom the complaint relates agrees to implement, before the end of the permitted period, any recommendations that the Ombudsman makes, and
  (c) the Ombudsman is satisfied that the public interest does not require sections 34K to 34M to apply.

(3) In subsection (2)(b) "the permitted period"means—
  (a) a period agreed between the Ombudsman, the provider and the person who made the complaint, or
  (b) if the Ombudsman thinks that no such agreement can be reached, a period specified by him or her in writing.

(4) The Ombudsman may decide to prepare a report on his or her findings under this section, rather than under section 34K; and if the Ombudsman decides to do so, sections 34K to 34M do not apply.

(5) If a report is prepared under this section, the Ombudsman—
  (a) must send a copy of the report to the person who made the complaint and the provider to whom the complaint relates, and
  (b) may send a copy of the report to any other persons he or she thinks appropriate.

(6) The Ombudsman may publish the report if, after taking account of the interests of the persons aggrieved and any other persons the Ombudsman thinks appropriate, he or she considers it to be in the public interest to do so.

(7) The Ombudsman may supply a copy of a report published under subsection (6), or a part of that report, to any person who requests it.

(8) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (7).

(9) The following information must not be included in a version of the report sent to a person under subsection (5) or published under subsection (6)—
  (a) the name of a person other than the provider to whom the complaint relates;
  (b) information which, in the opinion of the Ombudsman, is likely to identify such a person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the report.

(10) Subsection (9) does not apply if, after taking account of the interests of the person aggrieved and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the report.

Special reports

34O Circumstances in which special reports may be prepared

(1) The Ombudsman may prepare a special report under section 34P if case 1, 2 or 3 applies.

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(2) Case 1 applies if—

(a) the Ombudsman has concluded in an investigation report that the person aggrieved has sustained injustice or hardship as a result of the matter investigated, and

(b) one of the circumstances in subsection (3) applies.

(3) The circumstances are that—

(a) the Ombudsman has not received the notification required under section 34M before the end of the period permitted under that section;

(b) the Ombudsman has received that notification but is not satisfied with—

(i) the action which the provider has taken or proposes to take, or

(ii) the period before the end of which the provider proposes to have taken that action;

(c) the Ombudsman has received that notification but is not satisfied that the provider has, before the end of the permitted period, taken the action that the provider proposed to take.

(4) In subsection (3)(c) "the permitted period" means—

(a) the period referred to in section 34M(2)(b), or

(b) a longer period specified by the Ombudsman in writing (if any).

(5) Case 2 applies if—

(a) the Ombudsman has prepared a report under section 34N by virtue of subsection (2) of that section, and

(b) he or she is not satisfied that the provider has implemented the Ombudsman's recommendations before the end of the permitted period.

(6) In subsection (5)(b) "the permitted period" means—

(a) the period referred to in section 34N(2)(b), or

(b) a longer period specified by the Ombudsman in writing (if any).

(7) Case 3 applies if—

(a) a complaint in respect of a provider has been resolved under section 34C,

(b) in resolving the complaint, the Ombudsman has concluded that the person aggrieved has sustained injustice or hardship as a result of the matter complained of,

(c) the provider has agreed to take particular action before the end of a particular period, and

(d) the Ombudsman is not satisfied that the provider has taken that action before the end of the permitted period.

(8) In subsection (7)(d) "the permitted period" means—

(a) the period referred to in subsection (7)(c), or

(b) a longer period specified by the Ombudsman in writing (if any).

34P Special reports

(1) A special report must—

(a) set out the facts which entitle the Ombudsman to prepare the special report (that is, the facts on the basis of which case 1, 2 or 3 of section 34O applies), and

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(b) make such recommendations as the Ombudsman thinks fit as to the action which, in his or her opinion, should be taken—

(i) to remedy the injustice or hardship to the person aggrieved, and

(ii) to prevent similar injustice or hardship being caused in the future.

(2) If the special report is prepared because case 1 of section 34O applies, the Ombudsman must send a copy of the report to each person to whom a copy of the section 34K report was sent under section 34K(2)(b).

(3) If the special report is prepared because case 2 or 3 of section 34O applies, the Ombudsman must send a copy of the report to the person who made the complaint and the provider to whom the complaint relates.

(4) The Ombudsman may send a copy of a special report to any other persons he or she thinks appropriate.

(5) The Ombudsman may publish a special report.

(6) The Ombudsman may supply a copy of a published special report, or a part of such a report, to any person who requests it.

(7) The Ombudsman may charge a reasonable fee for supplying a copy of a special report, or part of such a report, under subsection (6).

(8) The following information must not be included in a version of a special report sent to a person under subsection (2), (3) or (4) or published under subsection (5)—

(a) the name of any person other than the provider in respect of whom the complaint was made;

(b) information which, in the opinion of the Ombudsman, is likely to identify any such person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the special report.

(9) Subsection (8) does not apply if, after taking account of the interests of the person aggrieved and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the special report.

34Q Further publicity for special reports

(1) The Ombudsman may arrange for a notice about a special report to be published—

(a) in one or more newspapers, or

(b) by means of broadcast or other electronic media.

(2) The notice may, for example—

(a) provide a summary of the Ombudsman's findings,

(b) specify an address or addresses at which a copy of the published report can be inspected during ordinary office hours and from which a copy of that report (or part of that report) may be obtained, and

(c) specify a website address at which a copy of the published report can be viewed.

(3) The provider to whom the report relates must, if required to do so by the Ombudsman, reimburse the Ombudsman for the reasonable costs of arranging the publication of the notice.

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(4) In deciding whether to make arrangements under subsection (1), the Ombudsman must take into account—
  (a) the public interest,
  (b) the interests of the person aggrieved, and
  (c) the interests of any other person the Ombudsman thinks appropriate.

Interpretation

34R Meaning of "care home" and "care home provider"

(1) This section applies for the purposes of this Act.

(2) "Care home" **[**[F53]means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over;**]**

(3) "Care home provider" means a person who **[**[F54]is a service provider of a care home service within the meaning of Part 1 of that Act where the service is provided wholly or mainly to persons aged 18 or over**]** .

(4) Action is to be treated as action taken by a care home provider if it is taken by—
  (a) a person employed by that provider,
  (b) a person acting on behalf of that provider, or
  (c) a person to whom that provider has delegated any functions.

(5) Action is also to be treated as action taken by a care home provider if—
  (a) that provider provides, by means of an arrangement with another person, accommodation, nursing or **[**[F55]care in a care home in Wales for an individual because of the individual's vulnerability or need,**]** and
  (b) the action is taken by or on behalf of the other person in carrying out the arrangement.

[F56](6) **[** "Care" has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.**]**

Textual Amendments

F53 Words in s. 34R(2) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 26(a)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F54 Words in s. 34R(3) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 26(b)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F55 Words in s. 34R(5) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 26(c)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F56 S. 34R(6) inserted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 26(d)**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

34S Meaning of "domiciliary care" and "domiciliary care provider"

(1) This section applies for the purposes of this Act.

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Changes to legislation: *Public Services Ombudsman (Wales) Act 2005 is up to date with all changes known to be in force on or before 01 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. (See end of Document for details) View outstanding changes*

(2) "Domiciliary care" means personal care provided in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.

(3) "Domiciliary care provider" means a person who carries on an activity which involves the provision of domiciliary care, but it does not include an individual who—
- (a) carries on the activity otherwise than in partnership with others,
- (b) is not employed by a body corporate or unincorporated association to carry it on,
- (c) does not employ any other person to carry out the activity, and
- (d) provides or arranges the provision of domiciliary care to fewer than four persons.

(4) Action is to be treated as action taken by a domiciliary care provider if it is taken by—
- (a) a person employed by that provider,
- (b) a person acting on behalf of that provider, or
- (c) a person to whom that provider has delegated any functions.

(5) Action is also to be treated as action taken by a domiciliary care provider if—
- (a) that provider provides domiciliary care by means of an arrangement with another person, and
- (b) the action is taken by or on behalf of the other person in carrying out the arrangement.

34T Meaning of "palliative care service" and "independent palliative care provider"

(1) This section applies for the purposes of this Act.

(2) "Palliative care service" means a service the main purpose of which is to provide palliative care.

(3) "Independent palliative care provider" means a person who—
- (a) provides a palliative care service, and
- (b) is not a Welsh health service body.

(4) Action is to be treated as action taken by an independent palliative care provider if it is taken by—
- (a) a person employed by that provider,
- (b) a person acting on behalf of that provider, or
- (c) a person to whom that provider has delegated any functions.

(5) Action is also to be treated as action taken by an independent palliative care provider if—
- (a) that provider provides palliative care by means of an arrangement with another person, and
- (b) the action is taken by or on behalf of the other person in carrying out the arrangement.

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PART 2B

INVESTIGATION OF COMPLAINTS: SUPPLEMENTARY

Consultation and co-operation

34U Consultation and co-operation with other ombudsmen

(1) This section applies if, in making a decision under section 2(5) or 34B(8) or conducting an investigation under Part 2 or 2A, the Ombudsman forms the opinion that a matter which is the subject of the complaint or investigation could be the subject of an investigation by an ombudsman mentioned in subsection (7).

(2) The Ombudsman must consult that ombudsman about the matter.

(3) The Ombudsman may co-operate with that ombudsman in relation to the matter.

(4) Consultation under subsection (2), and co-operation under subsection (3), may extend to anything relating to a matter which is the subject of the complaint or investigation, including (among other things)—
- (a) the conduct of an investigation into the complaint, and
- (b) the form, content and publication of a report of the investigation.

(5) If the Ombudsman consults an ombudsman about a matter under subsection (2), the Ombudsman and that ombudsman may—
- (a) conduct a joint investigation into the matter,
- (b) prepare a joint report in relation to the investigation, and
- (c) publish the joint report.

(6) Subsection (5) does not apply if the ombudsman consulted under subsection (2) is the Scottish Public Services Ombudsman.

(7) The ombudsmen referred to in subsection (1) are—
- (a) the Parliamentary Commissioner for Administration;
- (b) the Health Service Commissioner for England;
- (c) a Local Commissioner;
- (d) the Scottish Public Services Ombudsman;
- (e) a housing ombudsman appointed in accordance with a scheme approved under section 51 of the Housing Act 1996;
- (f) the Children's Commissioner for Wales.

(8) The Welsh Ministers may by order amend subsection (7) by—
- (a) adding a person,
- (b) omitting a person, or
- (c) changing the description of a person.

(9) An order under subsection (8) may add a person to subsection (7) only if the person appears to the Welsh Ministers to have functions relating to the investigation of complaints.

(10) No order is to be made under subsection (8) unless a draft of the statutory instrument containing it has been laid before and approved by a resolution of the Assembly.

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34V Working jointly with other Commissioners

(1) This section applies where it appears to the Ombudsman that—

(a) there is a complaint in respect of a matter which he or she is entitled to investigate, and

(b) the matter is one which could also be the subject of an examination by the Commissioner for Older People in Wales or the Welsh Language Commissioner.

(2) Where the Ombudsman considers it appropriate, he or she must (as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner)—

(a) inform the Commissioner about the matter, and

(b) consult him or her in relation to it.

(3) Where the Ombudsman consults a Commissioner under this section, the Ombudsman and the Commissioner may—

(a) co-operate with each other in relation to the matter,

(b) conduct a joint investigation into the matter, and

(c) prepare and publish a joint report in relation to the investigation.

34W Working collaboratively with other Commissioners

(1) This section applies where it appears to the Ombudsman that a complaint relates to or raises a matter which could be the subject of an examination by the Commissioner for Older People in Wales or the Welsh Language Commissioner (“the connected matter”).

(2) Where the Ombudsman considers it appropriate, he or she must (as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner) inform the Commissioner about the connected matter.

(3) Where the Ombudsman considers that the complaint also relates to or raises a matter into which he or she is entitled to conduct an investigation (“the Ombudsman matter”), the Ombudsman must (as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner) also if he or she considers it appropriate—

(a) inform the Commissioner about the Ombudsman's proposals for conducting an investigation into the complaint, and

(b) consult the Commissioner about those proposals.

(4) Where the Ombudsman and the Commissioner consider that they are entitled to investigate, respectively, the Ombudsman matter and the connected matter, they may—

(a) co-operate with each other in the separate investigation of each of those matters,

(b) act together in the investigation of those matters, and

(c) prepare and publish a joint report containing their respective conclusions in relation to the matters they have each investigated.

(5) Where the Ombudsman considers—

(a) that the complaint does not relate to or raise a matter into which he or she is entitled to conduct an investigation, and

(b) that it is appropriate to do so,

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the Ombudsman must (as respects the Commissioner for Older People in Wales) or may (as respects the Welsh Language Commissioner) inform the person who initiated the complaint about how to secure the referral of the connected matter to the Commissioner.

Disclosure

34X Disclosure of information

(1) The information to which this section applies is—

(a) information obtained by the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of his or her functions—

(i) in deciding whether to begin an investigation,

(ii) in the course of an investigation, or

(iii) in resolving a complaint under section 3 or 34C;

(b) information obtained from an ombudsman mentioned in section 34U(7) by virtue of any provision of section 34U or a corresponding provision in an enactment relating to any of those ombudsmen;

(c) information obtained from the Commissioner for Older People in Wales by virtue of section 34V or 34W of this Act or section 16 or 17 of the Commissioner for Older People (Wales) Act 2006 (working with other ombudsmen);

(d) information obtained from the Welsh Language Commissioner by virtue of section 34V or 34W of this Act or section 22 of the Welsh Language (Wales) Measure 2011 (power to disclose information);

(e) information 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 3 or 34C;

(d) for the purposes of a statement or report made in relation to a complaint or investigation;

(e) for the purposes of any provision of section 34U, 34V or 34W;

(f) for the purposes of proceedings for—

(i) an offence under the Official Secrets Act 1911 to 1989 alleged to have been committed by the Ombudsman, a member of the Ombudsman's staff or other person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of his of her functions;

(ii) an offence of perjury alleged to have been committed in the course of an investigation;

(g) for the purposes of an inquiry with a view to the taking of proceedings mentioned in paragraph (f);

(h) for the purpose of proceedings under section 15 or 34J;

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(i) 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;

(j) 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—

[[F57](a) sections 142 to 154, 160 to 164 or 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.

[[F58](5) The offences are those under—

(a) a provision of the Data Protection Act 2018 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc);

(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)(a) or (b).

Textual Amendments

F57 S. 34X(4)(a) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 109(2)** (with ss. 117, 209, 210, Sch. 20 para. 47(1)); S.I. 2018/625, reg. 2(1)(g)

F58 S. 34X(5) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 109(3)** (with ss. 117, 209, 210, Sch. 20 para. 47(2)); S.I. 2018/625, reg. 2(1)(g)

34Y Disclosure prejudicial to safety of State or contrary to public interest

(1) A Minister of the Crown may give notice to the Ombudsman with respect to—

(a) any document or information specified in the notice, or

(b) any class of document or information so specified,

that, in the opinion of the Minister, the disclosure of that document or information, or of documents or information of that class, would be prejudicial to the safety of the State or otherwise contrary to the public interest.

(2) If a notice is given under subsection (1), nothing in this Act is to be construed as authorising or requiring the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of his or her functions to disclose to any person or for any purpose any document or information, or class of document or information, specified in the notice.

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34Z Protection from defamation claims

(1) For the purposes of the law of defamation, the following are absolutely privileged—

(a) the publication of a matter, in the discharge of any of the Ombudsman's functions under this Act, by the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of his or her functions;

(b) the publication of a matter by a person in the discharge of functions under section 17;

(c) the publication of a matter in connection with a complaint made or referred to the Ombudsman under this Act, in communications between—

(i) a listed authority, a member or co-opted member of a listed authority, an officer or member of the staff of a listed authority or another person acting on behalf of a listed authority or assisting it in the discharge of any of its functions, and

(ii) the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of his or her functions;

(d) the publication of a matter in connection with a complaint made or referred to the Ombudsman under this Act, in communications between—

(i) a care home provider, domiciliary care provider or independent palliative care provider, an officer or member of staff of such a provider or another person acting on behalf of such a provider or assisting it in the discharge of any of its functions, and

(ii) the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of his or her functions;

(e) the publication of a matter in connection with a complaint made or referred (or to be made or referred) by or on behalf of a person to the Ombudsman under this Act, in communications between a person and an Assembly member;

(f) the publication of a matter in connection with a complaint made or referred (or to be made or referred) by or on behalf of a person to the Ombudsman under this Act, in communications between—

(i) the person, and

(ii) the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of his or her functions.

(2) For the purposes of subsection (1)(d)(i) a person is an officer of a provider if he or she has control or management of a provider which is not an individual or the affairs of such a provider.**]**

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PART 3

MISCELLANEOUS AND GENERAL

Conduct of local government members and employees

35 Conduct of local government members and employees

Schedule 4 (which confers functions on the Ombudsman in relation to the conduct of local government members and employees) has effect.

Commencement Information

I2 S. 35 wholly in force at 1.4.2006; s. 35 not in force at Royal Assent see s. 40; s. 35 in force for certain purposes at 12.10.2005 and wholly in force at 1.4.2006 by S.I. 2005/2800, **arts. 4(1)(2)**, 5(1)(3) (with art. 4(2)(3))

Abolition of existing bodies and offices

36 Abolition of existing bodies and offices

(1) The Commission for Local Administration in Wales is abolished.

(2) The office of Welsh Administration Ombudsman is abolished.

(3) The office of Health Service Commissioner for Wales is abolished.

(4) The office of Social Housing Ombudsman for Wales is abolished.

37 Transfer of property, staff etc.

Schedule 5 (which provides for the transfer of property, staff etc. to the Ombudsman) has effect.

38 Undetermined complaints

(1) Subsection (2) applies if—

(a) a complaint has been made or referred to an existing Welsh ombudsman before the commencement date, and

(b) the complaint has not been determined by that ombudsman before that date.

(2) On and after the commencement date, the relevant existing enactment continues to apply for the purposes of the complaint despite the other provisions of this Act.

(3) Subsection (4) applies if—

(a) a complaint could (but for the other provisions of this Act) have been made or referred to an existing Welsh ombudsman, and

(b) the complaint relates to action taken by a person before the commencement date.

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Changes to legislation: *Public Services Ombudsman (Wales) Act 2005 is up to date with all changes known to be in force on or before 01 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. (See end of Document for details) View outstanding changes*

(4) On and after the commencement date, the relevant existing enactment continues to apply for the purposes of enabling the complaint to be made or referred, and for the purposes of the complaint if made or referred, despite the other provisions of this Act.

(5) As applied by subsections (2) and (4), the relevant existing enactment has effect as if for references to the existing Welsh ombudsman in relation to which that enactment applies there were substituted references to the Ombudsman.

(6) In this section—

"the commencement date" means the date on which this section comes into force;

"existing Welsh ombudsman" means—

(a) the Welsh Administration Ombudsman;

(b) the Health Service Commissioner for Wales;

(c) a Local Commissioner who is a member of the Commission for Local Administration in Wales;

(d) the Social Housing Ombudsman for Wales;

"the relevant existing enactment"—

(a) if the relevant existing Welsh ombudsman is the Welsh Administration Ombudsman, means Schedule 9 to the Government of Wales Act 1998 (c. 38);

(b) if the relevant existing Welsh ombudsman is the Health Service Commissioner for Wales, means the Health Service Commissioners Act 1993 (c. 46);

(c) if the relevant existing Welsh ombudsman is a Local Commissioner, means Part 3 of the Local Government Act 1974 (c. 7);

(d) if the relevant existing Welsh ombudsman is the Social Housing Ombudsman for Wales, means Part 1 of the Housing Act 1996 (c. 52);

"the relevant existing Welsh ombudsman"—

(a) in relation to a complaint within subsection (1), means the existing Welsh ombudsman to whom the complaint was made or referred;

(b) in relation to a complaint within subsection (3), means the existing Welsh ombudsman to whom the complaint could have been made or referred.

General

39 Amendments and repeals

(1) Schedule 6 (which contains amendments consequential on this Act) has effect.

(2) Schedule 7 (which contains repeals) has effect.

Commencement Information

I3 S. 39 wholly in force at 1.4.2006; s. 39 not in force at Royal Assent see s. 40; s. 39 in force for certain purposes at 12.10.2005 and wholly in force at 1.4.2006 by S.I. 2005/2800, **arts. 3**, 5(1)(3), Sch. 1 (with arts. 5(2), 7, Sch. 2)

Status: *This version of this Act contains provisions that are prospective.*
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40 Commencement

The preceding provisions of this Act come into force in accordance with provision made by the **[**[F59]Welsh Ministers**]** by order.

Subordinate Legislation Made

P1 S. 40 power partly exercised: different dates appointed for specified provisions by {S.I. 2005/2800}, arts. 3, 4(1)(2), 5(1)(3), Sch. 1 (with arts. 4(3), 5(2), 7, Sch. 2)

Textual Amendments

F59 Words in s. 40 substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 81** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

41 Interpretation

(1) In this Act—

"act" and "action" include a failure to act (and related expressions must be construed accordingly);

"annual report" has the meaning given in paragraph 14 of Schedule 1;

[F60] . . . . . .

"the Assembly" means the National Assembly for Wales;

[[F61]"care home" has the meaning given by section 34R(2);**]**

[[F61]"care home provider" has the meaning given by section 34R(3);**]**

"co-opted member", in relation to an authority, means a person who is not a member of the authority but who—

(a) is a member of a committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, a joint committee on which the authority is represented or a sub-committee of such a committee,

and who is entitled to vote on any question which falls to be decided at a meeting of the committee or sub-committee;

[[F61]"domiciliary care" has the meaning given by section 34S(2);**]**

[[F61]"domiciliary care provider" has the meaning given by section 34S(3);**]**

"extraordinary report" has the meaning given in paragraph 14 of Schedule 1;

"family health service provider in Wales" means—

(a) a person who, at the time of action which is the subject of a complaint under this Act, provided services under a contract entered into by that person with a Local Health Board under **[**[F62]section 42 or section 57 of the National Health Service (Wales) Act 2006**]**;

(b) a person who, at that time, had undertaken to provide in Wales general ophthalmic services or pharmaceutical services under [F63]. . . that Act;

(c) an individual who, at that time, provided in Wales **[**[F64]primary medical services or primary dental services**]** in accordance with arrangements made under **[**[F65]section 50 or 64**]** of that Act (except as an employee of,

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or otherwise on behalf of, a Welsh health service body or an independent provider in Wales);

(d) [F66]. . . . . .

"family health services" means services mentioned in any of paragraphs (a) to (d) of the definition of "family health service provider in Wales";

"financial year" means the 12 months ending on 31 March;

[[F61]"independent palliative care provider" has the meaning given by section 34T(3);**]**

"independent provider in Wales" means a person who, at the time of action which is the subject of a complaint under this Act—

(a) provided services of any kind in Wales under arrangements with a Welsh health service body or a family health service provider in Wales, and

(b) was not a Welsh health service body or a family health service provider in Wales;

[[F67]"investigation"—

(a) in relation to the Ombudsman, means an investigation under section 2 **[**[F68]or 34B**]** (and cognate expressions must be construed accordingly);

(b) in relation to another ombudsman or commissioner, includes an examination (and cognate expressions must be construed accordingly;)**]**

"listed authority" has the meaning given in section 28;

"local authority in Wales" means a county council, county borough council or community council in Wales;

"Local Commissioner" has the meaning given in section 23(3) of the Local Government Act 1974 (c. 7);

"NHS trust" has the same meaning as in **[**[F69]the National Health Service (Wales) Act 2006**]**;

"the Ombudsman" has the meaning given in section 1;

[[F61]"palliative care service" has the meaning given by section 34T(2);**]**

"the person aggrieved" **[**[F70]in Part 2**]** has the meaning given in section 4(1)(a) **[**[F71]and in Part 2A has the meaning given in section 34D(1)(a)**]** ;

"publicly-funded dwelling" means—

(a) a dwelling which was provided by means of a grant under—

(i) section 18 of the Housing Act 1996 (c. 52) (social housing grant), or

(ii) section 50 of the Housing Act 1988 (c. 50), section 41 of the Housing Associations Act 1985 (c. 69), or section 29 or 29A of the Housing Act 1974 (c. 44) (housing association grant);

(b) a dwelling which was acquired on a disposal by a public sector landlord (within the meaning of Part 1 of the Housing Act 1996);

"relevant tribunal" means a tribunal (including a tribunal consisting of only one person) specified by order made by the **[**[F72]Welsh Ministers**]**;

"social landlord in Wales" means—

(a) a body which was at the time of action which is the subject of a complaint under this Act registered as a social landlord in the register maintained by the **[**[F73]Welsh Ministers**]** under section 1 of the Housing Act 1996 (or in the register previously maintained under that section by **[**[F74]the Assembly constituted by the Government of Wales Act 1998,**]** the Secretary of State or Housing for Wales);

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(b) any other body which at the time of action which is the subject of a complaint under this Act was registered with Housing for Wales, the Secretary of State **[**[F75], the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers**]** and owned or managed publicly-funded dwellings;

"special report" **[**[F76]in Part 2**]** has the meaning given in section 22 **[**[F77]and in Part 2A has the meaning given in section 34P**]**;

"Wales" has the meaning given in section 155(1) of the Government of Wales Act 1998 (c. 38);

"Welsh health service body" means—

(a) the **[**[F78]Welsh Ministers**]**;

(b) a Local Health Board;

(c) an NHS trust managing a hospital or other establishment or facility in Wales;

(d) a Special Health Authority not discharging functions only or mainly in England.

(2) For the purposes of the definition of "independent provider in Wales", arrangements with the **[**[F79]Welsh Ministers**]** are arrangements with a Welsh health service body only to the extent that they are made in the discharge of a function of the **[**[F79]Welsh Ministers**]** relating to the National Health Service.

[[F80](2A) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of the Assembly.**]**

(3) The **[**[F81]Welsh Ministers**]** may by order amend the definitions of "family health service provider in Wales", "independent provider in Wales" and "social landlord in Wales".

(4) Before making an order under subsection (3), the **[**[F82]Welsh Ministers**]** must consult such persons as **[**[F83]they think**]** appropriate.

[[F84](4A) No order is to be made under subsection (3) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.**]**

(5) Section 13 of the National Audit Act 1983 (c. 44) (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Act as it applies for the purposes of that Act.

(6) For the purposes of this Act, references to action taken by a listed authority include action taken by—

(a) a member, co-opted member, committee or sub-committee of the authority acting in the discharge of functions of the authority;

(b) an officer or member of staff of the authority, whether acting in the discharge of his own functions or the functions of the authority;

(c) any other person acting on behalf of the authority.

Textual Amendments

F60 S. 41(1): definition repealed by Government of Wales Act 2006 (c. 32), ss. 160(1), 163, Sch. 10 para. 82(2)(a), **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial

period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F61 Words in s. 41(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 27(d)**; S.I. 2014/2718, art. 2(b)

F62 S. 41(1): words in definition substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 280(a)(i)** (with Sch. 3 Pt. 1)

F63 S. 41(1): words in definition omitted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 280(a)(ii)** (with Sch. 3 Pt. 1)

F64 S. 41(1): words in definition substituted (1.4.2006) by The Public Services Ombudsman for Wales (Jurisdiction and Transitional Provisions and Savings) Order 2006 (S.I. 2006/363), **art. 4(b)** (with arts. 5-7, Sch. 3 Pt. 1))

F65 S. 41(1): words in definition substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 280(a)(iii)** (with Sch. 3 Pt. 1)

F66 S. 41(1): words in para. (d) in definition of "family health service provider in Wales" omitted (1.4.2006) by virtue of The Public Services Ombudsman for Wales (Jurisdiction and Transitional Provisions and Savings) Order 2006 (S.I. 2006/363), **art. 4(c)** (with arts. 5-7)

F67 S. 41(1): definition substituted (14.10.2006) by Commissioner for Older People (Wales) Act 2006 (c. 30), ss. 22, 23, **Sch. 4 para. 2(4)**; S.I. 2006/2699, **art. 2**

F68 Words in s. 41(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 27(a)**; S.I. 2014/2718, art. 2(b)

F69 S. 41(1): words in definition substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 280(b)**

F70 Words in s. 41(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 27(b)(i)**; S.I. 2014/2718, art. 2(b)

F71 Words in s. 41(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 27(b)(ii)**; S.I. 2014/2718, art. 2(b)

F72 S. 41(1): words in definition substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(2)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F73 S. 41(1): words in definition substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(2)(c)(i)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F74 S. 41(1): words in definition inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(2)(c)(i)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F75 S. 41(1): words in definition substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(2)(c)(ii)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F76 Words in s. 41(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 27(c)(i)**; S.I. 2014/2718, art. 2(b)

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F77 Words in s. 41(1) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 27(c)(ii)**; S.I. 2014/2718, art. 2(b)

F78 S. 41(1): words in definition substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(2)(d)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F79 Words in s. 41(2) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(3)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F80 S. 41(2A) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(4)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F81 Words in s. 41(3) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(5)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F82 Words in s. 41(4) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(6)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F83 Words in s. 41(4) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(6)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F84 S. 41(4A) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 82(7)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

42 Former health care providers [F85social landlords, social care providers and palliative care providers] : modifications

(1) The [F86Welsh Ministers] may by regulations provide for this Act to apply with the modifications specified in the regulations to persons who are—

(a) former family health service providers in Wales;

(b) former independent providers in Wales;

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(c) former social landlords in Wales.

[[F87](d) former care home providers in Wales;

(e) former domiciliary care providers in Wales;

(f) former independent palliative care providers in Wales.**]**

(2) "Former family health service provider in Wales" means a person who—

(a) at the relevant time, provided family health services of a particular description, and

(b) subsequently ceased to provide services of that description (whether or not he has later started to provide them again).

(3) "Former independent provider in Wales" means a person who—

(a) at the relevant time, provided services of a particular description in Wales under arrangements with a Welsh health service body or a family health service provider in Wales,

(b) was not a Welsh health service body or a family health service provider in Wales at that time, and

(c) subsequently ceased to provide services of that description (whether or not he has later started to provide them again).

(4) "Former social landlord in Wales" means a person who—

(a) at the relevant time—

(i) was registered as a social landlord in the register maintained by the **[**[F88]Welsh Ministers**]** under section 1 of the Housing Act 1996 (c. 52) (or in the register previously maintained under that section by the Secretary of State or Housing for Wales), or

(ii) was registered with Housing for Wales, the Secretary of State **[**[F89], the Assembly constituted by the Government of Wales Act 1998 or the Welsh Ministers**]** and owned or managed publicly-funded dwellings, and

(b) subsequently—

(i) ceased to be registered as mentioned in paragraph (a)(i) or (ii) (whether or not he later became so registered again), or

(ii) ceased to own or manage publicly-funded dwellings (whether or not he later did so again).

[[F90](4A) "Former care home provider in Wales" means a person who—

(a) at the relevant time, provided accommodation, nursing or **[**[F91]care of a particular description at a care home in Wales (see section 32R),**]** and

(b) subsequently ceased to do so (whether or not the person has later started to do so again).

(4B) "Former domiciliary care provider in Wales" means a person who—

(a) at the relevant time, provided domiciliary care services of a particular description in Wales, and

(b) subsequently ceased to do so (whether or not the person has later started to provide those services again).

(4C) "Former independent palliative care provider in Wales" means a person who—

(a) at the relevant time, provided a palliative care service of a particular description in Wales, and

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(b) subsequently ceased to do so (whether or not the person has later started to do so again).**]**

(5) "The relevant time" is the time of action which is the subject of a complaint under this Act.

[[F92](6) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.**]**

Textual Amendments

F85 Words in s. 42 heading substituted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 28**; S.I. 2014/2718, art. 2(b)

F86 Words in s. 42(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 83(2)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F87 S. 42(1)(d)-(f) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 29(2)**; S.I. 2014/2718, art. 2(b)

F88 Words in s. 42(4)(a)(i) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 83(3)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F89 Words in s. 42(4)(a)(ii) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 83(3)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F90 S. 42(4A)-(4C) inserted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 29(3)**; S.I. 2014/2718, art. 2(b)

F91 Words in s. 42(4A) substituted (2.4.2018) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 27**; S.I. 2017/1326, art. 2(3)(h), Sch. (with art. 6)

F92 S. 42(6) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 83(4)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

43 Consequential, transitional provisions etc.

(1) The **[**[F93]Welsh Ministers**]** may by order make—

(a) such consequential, incidental or supplemental provision, and

(b) such transitory, transitional or saving provision,

as **[**[F94]they think**]** necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

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Changes to legislation: *Public Services Ombudsman (Wales) Act 2005 is up to date with all changes known to be in force on or before 01 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. (See end of Document for details) View outstanding changes*

(2) An order under subsection (1) may in particular amend, repeal or revoke any enactment other than one contained in an Act passed in a Session after that in which this Act is passed.

(3) The amendments that may be made by virtue of subsection (2) are in addition to those made by or under any other provision of this Act.

[[F95](4) No order is to be made under subsection (1) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.**]**

Textual Amendments

F93 Words in s. 43(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 84(2)(a)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F94 Words in s. 43(1) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 84(2)(b)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F95 S. 43(4) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 84(3)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

44 Orders, regulations and directions

(1) A power of the **[**[F96]Welsh Ministers**]** to make an order or regulations under this Act is exercisable by statutory instrument.

(2) An order or regulations made by the **[**[F96]Welsh Ministers**]** under this Act may—

(a) make different provision for different purposes;

(b) make consequential, incidental, supplemental, transitory, transitional or saving provision.

(3) [F97]. . . . . .

(4) A direction given under this Act—

(a) may be amended or revoked by the person who gave it;

(b) may make different provision for different purposes.

Textual Amendments

F96 Words in s. 44(1)(2) substituted by Government of Wales Act 2006 (c. 32), s. 160(1), **Sch. 10 para. 85(2)** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for

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certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F97 S. 44(3) repealed by Government of Wales Act 2006 (c. 32), s. 160(1), 163, Sch. 10 para. 85(3), **Sch. 12** (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

45 Extent

(1) Subject to subsection (2), this Act extends to England and Wales only.

(2) An amendment or repeal made by this Act has the same extent as the provision amended or repealed.

46 Short title

This Act may be cited as the Public Services Ombudsman (Wales) Act 2005.

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
Public Services Ombudsman (Wales) Act 2005 is up to date with all changes known to be in force on or before 01 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 :

- s. 25A(1)(b) words inserted by 2011 nawm 1 Sch. 3 para. 5(b) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 25A(2) words inserted by 2011 nawm 1 Sch. 3 para. 5(c) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 25B(1) words substituted by 2011 nawm 1 Sch. 3 para. 6(b) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 25B(2) words inserted by 2011 nawm 1 Sch. 3 para. 6(c) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 25B(3) words inserted by 2011 nawm 1 Sch. 3 para. 6(d) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 25B(5) words inserted by 2011 nawm 1 Sch. 3 para. 6(e) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 25B(6) omitted by 2011 nawm 1 Sch. 3 para. 6(f) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 26(2) amendment to earlier affecting provision S.I. 2006/949, Sch. 3 para. 1 by S.I. 2016/211 Sch. 3 para. 73
- Sch. 6 para. 12(3) repealed by 2009 c. 21 Sch. 6

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. 25Atitle words substituted by 2011 nawm 1 Sch. 3 para. 5(a) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))
- s. 25Btitle words substituted by 2011 nawm 1 Sch. 3 para. 6(a) (This amendment not applied to legislation.gov.uk. Sch. 3 paras. 4-6 omitted (1.11.2014) without ever

being in force by virtue of 2014 anaw 4, ss. 179, 199(2), Sch. 3 para. 36(3); S.I. 2014/2718, art. 2(b))