

NHS REDRESS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 14: Complaints

41. This section enables the Secretary of State to make regulations providing for the handling of complaints about maladministration in the exercise of functions under, or relating to proceedings under, a scheme, or about maladministration in connection with settlement agreements under a scheme (*subsection (1)*). The regulations must provide for this procedure to be operated either by the scheme authority or by scheme members. The regulations may also make provision about who may make a complaint, which complaints are and are not covered by the procedure, to whom complaints are to be made, the timeframe within which complainants must receive a response, the form that a response must take, the procedure to be followed, and the action to be taken as a result (*subsection (4)*). The regulations may provide that the body operating the complaints procedure must make information about the procedure available to the public (*subsection (5)*), that different parts of a complaint may be treated differently (for example, for different procedures to apply to different aspects of a complaint) and that documents may be required to be disclosed in order for the complaint to be investigated, subject to any legislative restrictions on disclosure (for example, in the Data Protection Act 1998) (*subsection (6)*). The regulations may also make provision about how complaints that also fall under complaints procedures set up under other legislation, as well as the complaints procedure established under section 14, are to be dealt with (*subsection (7)*).¹
42. The regulations may also make provision for securing that complaints made in connection with the redress scheme but which fall to be considered under other statutory complaints procedures, are referred to the organisation operating those procedures, and that they be treated as if they had been raised as a complaint under those procedures (*subsection (8)*). *Subsection (10)* amends section 31(6) of the Data Protection Act 1998 so that personal data processed for the purpose of dealing with complaints under the redress scheme complaints procedure may be exempt from the subject information provisions of that Act. The subject information provisions of the Data Protection Act 1998 allow for individuals, except in certain defined circumstances, to seek and obtain information about them which is held by others. Section 31 of the Data Protection Act 1998 provides an exemption from these provisions by reference to a number of different categories of regulatory function exercised by public bodies.

¹ The powers under section 14 are similar to the powers under sections 113 and 115 of the [Health and Social Care \(Community Health and Standards\) Act 2003 \(c.43\)](#) (complaints about health care).