



# Legal Services Act 2007

## 2007 CHAPTER 29

### PART 6

#### LEGAL COMPLAINTS

##### *Jurisdiction and operation of the ombudsman scheme*

#### **133 Operation of the ombudsman scheme**

- (1) Scheme rules must set out the procedure for—
  - (a) the making of complaints under the ombudsman scheme, and
  - (b) the investigation, consideration and determination of complaints by an ombudsman.
- (2) Scheme rules—
  - (a) must provide that a complaint is to be entertained under the ombudsman scheme only if the complainant has made the complaint under that scheme before the applicable time limit (determined in accordance with the scheme rules) has expired, and
  - (b) may provide that an ombudsman may extend that time limit in specified circumstances.
- (3) Scheme rules made under subsection (1) may (among other things) make provision—
  - (a) for the whole or part of a complaint to be dismissed, in specified circumstances, without consideration of its merits;
  - (b) for the reference of a complaint, in specified circumstances and with the consent of the complainant, to another body with a view to it being determined by that body instead of by an ombudsman;
  - (c) for a person who, at the relevant time (within the meaning of section 128(7)) was an authorised person in relation to an activity to be treated in specified circumstances, for the purposes of the scheme and this Part, as if that person were a co-respondent in relation to a complaint;

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- (d) about the evidence which may be required or admitted and the extent to which it should be oral or written;
  - (e) for requiring parties to the complaint to attend to give evidence and produce documents, and for authorising the administration of oaths by ombudsmen;
  - (f) about the matters which are to be taken into account in determining whether an act or omission was fair and reasonable;
  - (g) for an ombudsman, in such circumstances as may be specified, to award expenses to persons in connection with attendance at a hearing before an ombudsman;
  - (h) for an ombudsman to award costs against the respondent in favour of the complainant;
  - (i) for an ombudsman to award costs against the complainant or the respondent in favour of the OLC for the purpose of providing a contribution to resources deployed in dealing with the complaint, if in the ombudsman's opinion that person acted so unreasonably in relation to the complaint that it is appropriate in all the circumstances of the case to make such an award;
  - (j) for the purpose of facilitating the settlement of a complaint with the agreement of the parties to it;
  - (k) for specified persons to be notified of complaints, determinations and directions under the ombudsman scheme.
- (4) The circumstances specified under subsection (3)(a) may include the following—
- (a) the ombudsman considers the complaint or part to be frivolous or vexatious or totally without merit;
  - (b) the ombudsman considers that the complaint or part would be better dealt with under another ombudsman scheme, by arbitration or by other legal proceedings;
  - (c) the ombudsman considers that there has been undue delay in the making of the complaint or part, or the provision of evidence to support it;
  - (d) the ombudsman is satisfied that the matter which is the subject of the complaint or part has previously been dealt with under another ombudsman scheme, by arbitration or by other legal proceedings;
  - (e) the ombudsman considers that there are other compelling reasons why it is inappropriate for the complaint or part to be dealt with under the ombudsman scheme.
- (5) No person may be required by scheme rules—
- (a) to provide any information or give any evidence which that person could not be compelled to provide or give in evidence in civil proceedings before the High Court, or
  - (b) to produce any document which that person could not be compelled to produce in such proceedings.
- (6) Scheme rules may authorise an ombudsman making an award of costs in accordance with rules within subsection (3)(h) or (i) to order that the amount payable under the award bears interest, from a time specified in or determined in accordance with the order, at a rate specified in or determined in accordance with the rules.
- (7) An amount due under an award made in favour of a person by virtue of provision made under subsection (3)(g), (h) or (i) is recoverable as a debt due to that person.
- (8) In this section—

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- “party”, in relation to a complaint, means—
- (a) the complainant,
  - (b) the respondent, and
  - (c) any other person who in accordance with scheme rules is to be regarded as a party to the complaint;
- “specified” means specified in scheme rules.