
WELSH STATUTORY INSTRUMENTS

2007 No. 398

The Commissioner for Older People in Wales Regulations 2007

PART IV

Examination of Cases

Examinations

7. Subject to the following paragraphs in this Part the Commissioner may examine the cases of particular persons who are or who have been older people in Wales.

Cases subject to examination

8. Subject to regulation 9, the Commissioner may examine cases of particular persons who are or have been older people in Wales —

- (a) to or in respect of whom regulated services in Wales are being or have been provided;
- (b) to or in respect of whom services are being or have been provided by any of the persons mentioned in Schedule 3 to the Act or persons providing such services on behalf of or under arrangements with any of those persons; or
- (c) who are ordinarily resident in Wales and who are being or have been affected by the exercise or proposed exercise of any function of the Assembly or a person mentioned in Schedule 2 to the Act,

where the cases relate to issues concerning the provision of such services or the effect on the said person of the exercise of such functions.

Circumstances in which an examination may be made

9. The Commissioner may only examine the case of a particular person who is or has been an older person in Wales where —

- (a) a representation is made to the Commissioner by the person concerned, or if the person concerned is unable for any reason to make such a representation, where a representation is made to the Commissioner on behalf of the person concerned by a person who appears to the Commissioner to be an appropriate person to act on behalf of the person concerned;
- (b) the Commissioner considers that the representation raises a question of principle which has a more general application or relevance to the interests of older people in Wales than in the particular case concerned; and
- (c) the Commissioner has taken into account whether the issues involved in the case have been or are being formally considered in any way by other persons and if they have not or are not whether, in the Commissioner's opinion, they are more suitable for consideration by other persons.

Procedure for conducting an examination

- 10.**—(1) Where the Commissioner decides to conduct an examination he or she must—
- (a) produce terms of reference of the examination;
 - (b) send the terms of reference to the person who made a representation in relation to the case in accordance with paragraph (a) of regulation 9;
 - (c) send written notice of the proposed examination and copies of the terms of reference to the person in respect of whose provision of services or the exercise of whose functions is to be examined (“the person being examined”);
 - (d) afford to the person being examined, and if he or she so desires, his or her representative, an opportunity to make representations in writing or in person in relation to the matters being examined.
- (2) Where the Commissioner decides not to conduct an examination he or she must prepare a statement of reasons for that decision and must send copies of it to —
- (a) the person who made the representation in relation to the case in accordance with paragraph (a) of regulation 9, and
 - (b) such other persons as the Commissioner considers appropriate.

Provision of information in connection with an examination

- 11.**—(1) In conducting an examination the Commissioner may require a person to whom paragraph (3) applies to provide any information which appears to the Commissioner to be necessary for the purposes of —
- (a) the examination, and
 - (b) determining whether a recommendation made in a report following an examination of a case has been complied with.
- (2) In conducting an examination the Commissioner may require any person from whom information is required under paragraph (1) or such other person as may be accountable for the said information, to provide the Commissioner with an explanation of, or assistance in relation to, —
- (a) any matters which are the subject of the examination, or
 - (b) any information provided under paragraph (1).
- (3) The persons to whom this paragraph applies are —
- (a) in relation to the provision of regulated services in Wales, the providers or former providers of such services, employees or former employees of such providers or former providers and persons who work or worked for such providers or former providers in a voluntary capacity and members and employees and former members and employees of the Assembly;
 - (b) members (including elected members), directors, executives, officers and employees of a relevant person, former members, directors, executives, officers and employees of a relevant person and persons who work or worked for a relevant person in a voluntary capacity;
 - (c) the receiver or manager of the property, the liquidator or provisional liquidator or the trustee in bankruptcy, as the case may be, of a person who is or has been a relevant person or who provides or provided services described in paragraph (a).
- (4) for the purposes of sub-paragraphs 3(b) and (c) “relevant person” means the Assembly, any person mentioned in Schedule 2 to the Act, any other person exercising a function of the Assembly or of any person mentioned in the said Schedule 2, or any person providing services to or in respect of

older people in Wales on behalf of or under arrangements with any person mentioned in Schedule 3 to the Act.

Attendance of witnesses

12.—(1) The Commissioner may, if it is considered necessary for the purposes of an examination, require a person to whom paragraph (2) applies to attend before the Commissioner in person to provide information, explanation or assistance.

(2) The persons to whom this paragraph applies are persons who are required —

- (a) to provide information under paragraph (1) of regulation 11, or
- (b) to provide an explanation or assistance under paragraph (2) of regulation 11.

(3) The Commissioner may only require a person to attend in person at any place in accordance with paragraph (1) if reasonable written notice of the proposed date of attendance and the information, explanation or assistance required by the Commissioner has been given to that person.

(4) In connection with such attendance in person, the Commissioner may, subject to section 10(7) and (8) of the Act, issue witness summonses and administer oaths or affirmations and may permit a person to be represented before the Commissioner.