

PUBLIC SERVICES OMBUDSMAN (WALES) ACT 2019

EXPLANATORY NOTES

INTRODUCTION

Part 3

Section 11 - Matters which may be investigated

53. **Section 11(1)** provides that the Ombudsman is entitled (subject to sections 12 to 15) to investigate:
- 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; or
 - c) an alleged failure by a listed authority to provide a ‘relevant service’.
54. ‘Relevant action’ is defined in section 11(4) and ‘relevant service’ is defined in section 11(5). The definitions are designed to ensure that it is only matters relating to the actions taken by listed authorities in their public capacity that can be investigated.
55. In the case of a listed authority that falls within section 11(4)(e), the Ombudsman is entitled to investigate alleged maladministration in the discharge of that authority’s administrative functions. The Welsh Government is one such authority, so the Ombudsman is entitled to investigate alleged maladministration on the Welsh Government’s part in discharging any of its administrative functions. However, the Ombudsman is not entitled to investigate any alleged failures in the Welsh Government’s exercise of its legislative or judicial functions.
56. In the case of a person added to Schedule 3 (“listed authorities”), by regulations under section 31(2), section 11(4)(d) and section 11(5)(d) provide that the Ombudsman is only entitled to investigate action which that person takes or a service which that person provides in the discharge of that person’s functions which have been specified in the regulations as falling within the Ombudsman’s remit.
57. The effect of subsection (7) is that where a listed authority appoints a person as a member of staff of a ‘relevant tribunal’, an administrative function which may be discharged by that person is treated as being an administrative function of the listed authority and so will fall within the remit of the Ombudsman. A ‘relevant tribunal’ is defined in section 78(1) as a tribunal specified by regulations made by the Welsh Ministers.