

# **PUBLIC SERVICES OMBUDSMAN (WALES) ACT 2019**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part 6**

#### ***Section 71 - Protection from defamation claims***

261. **Section 71** provides that the following are absolutely privileged for the purposes of defamation, namely:

- a) the publication (which will bear its usual meaning within the law relating to defamation) of any matter by the Ombudsman, a member of the Ombudsman's staff or another person assisting or acting on the Ombudsman's behalf in the discharge of the Ombudsman's functions under this Act;
- b) the publication of any matter in any report published by a person in the discharge of its functions under section 24 of this Act, including section 24 as modified by section 25, and sections 24 and 25 as they apply to special reports by virtue of section 29(6) (requirement on listed authorities to publish the Ombudsman's report of an investigation); and
- c) the publication of a matter in connection with a complaint, where that matter is published in one of the following communications:
  - i. communications between a listed authority (including a member or co-opted member, officer or member of staff or another person acting on behalf of or assisting in the discharge of the functions of that authority) and the Ombudsman (or the Ombudsman's staff or persons assisting or acting on the Ombudsman's behalf in the discharge of the Ombudsman's functions);
  - ii. communications between a care home provider, domiciliary care provider or independent palliative care provider, (including an officer or member of staff or another person acting on behalf of or assisting in the discharge of the functions of that provider) and the Ombudsman (or the Ombudsman's staff or persons assisting or acting on the Ombudsman's behalf in the discharge of the Ombudsman's functions);
  - iii. communications between a person and an elected member of the National Assembly for Wales; and
  - iv. communications between the person aggrieved or a person making the complaint on behalf of the person aggrieved (if any) and the Ombudsman (or the Ombudsman's staff, persons assisting or acting on the Ombudsman's behalf in the discharge of the Ombudsman's functions).

*These notes refer to the Public Services Ombudsman (Wales)  
Act 2019 (c.3) which received Royal Assent on 22 May 2019*

262. This provision generally replicates similar protection under the legislation relating to other ombudsmen.