



# Public Services Ombudsman (Wales) Act 2019

2019 anaw 3

## PART 3

### INVESTIGATIONS

#### *Complaints*

#### **7 Who can complain**

- (1) The persons entitled to make a complaint to the Ombudsman under this Part are—
- (a) a member of the public (in this Part referred to as “the person aggrieved”) who claims or claimed to have sustained injustice or hardship in consequence of a matter which the Ombudsman is entitled to investigate under sections 11 to 16,
  - (b) a person authorised in writing by the person aggrieved to act on that person’s behalf, or
  - (c) if the person aggrieved is not capable of authorising such a person (for example because the person aggrieved has died), a person who appears to the Ombudsman to be appropriate to act on behalf of the person aggrieved.
- (2) “Member of the public” means any person other than a listed authority acting in its capacity as such.
- (3) It is for the Ombudsman to determine any question of whether a person is entitled under this section to make a complaint to the Ombudsman.

#### **8 Requirements: complaints made to the Ombudsman**

- (1) The requirements mentioned in section 3(2)(b) are that the complaint must—
- (a) be in a form specified by the Ombudsman in guidance;
  - (b) contain such information as specified by the Ombudsman in guidance;

- (c) be made to the Ombudsman before the end of the period of one year starting on the day on which the person aggrieved first had notice of the matter alleged in the complaint.
- (2) The Ombudsman must publish the guidance referred to in subsection (1).
- (3) It is for the Ombudsman to determine any question of whether the requirements of subsection (1) are met in respect of a complaint.
- (4) If a complaint which meets the requirements of subsection (1) is made other than in writing, the Ombudsman must—
  - (a) explain to the person who made the complaint that a complaint has been duly made under this Act and the implications of making such a complaint, and
  - (b) ask the person whether the person wishes the complaint to continue to be treated as a complaint that has been duly made.
- (5) If the person does not wish the complaint to continue to be treated as being duly made, the Ombudsman—
  - (a) must not use the power in section 3(1)(a) to begin an investigation into the matter alleged in the complaint;
  - (b) may use the power in section 4 to investigate the matter alleged in the complaint.
- (6) If the person wishes the complaint to continue to be treated as being duly made, the Ombudsman must ask the person whether the person wishes the complaint to be confirmed in writing.
- (7) If the person wishes the complaint to be confirmed in writing, the Ombudsman must make such arrangements as are necessary for the complaint to be confirmed in writing.

## **9 Requirements: complaints referred to the Ombudsman**

- (1) The requirements mentioned in section 3(3)(b) are that the complaint—
  - (a) must have been made to the listed authority by a person who would have been entitled under section 7 to make the complaint to the Ombudsman;
  - (b) must have been made to the listed authority before the end of the period of one year starting on the day on which the person aggrieved first had notice of the matters alleged in the complaint;
  - (c) must be referred to the Ombudsman in a form and contain such information as specified by the Ombudsman in guidance;
  - (d) must be referred to the Ombudsman before the end of the period of one year starting on the day on which the complaint was made to the listed authority.
- (2) The Ombudsman must publish the guidance referred to in subsection (1)(c).
- (3) It is for the Ombudsman to determine any question of whether the requirements of subsection (1) are met in respect of a complaint.

## **10 Records of complaints**

The Ombudsman must maintain a register of every complaint made or referred to the Ombudsman in respect of a matter which the Ombudsman is entitled to investigate under this Part.