



Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019

2019 dccc 3

Public Services Ombudsman (Wales) Act 2019

2019 anaw 3



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CYNNWYS

RHAN 1

CYFLWYNIAD

1 Trosolwg

RHAN 2

OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU

2 Ombwdsmon Gwasanaethau Cyhoeddus Cymru

RHAN 3

YMCHWILIADAU

Pŵer i ymchwilio

- 3 Pŵer i ymchwilio i gwynion
- 4 Pŵer i ymchwilio ar ei liwt ei hun
- 5 Meini prawf ar gyfer ymchwilio ar ei liwt ei hun
- 6 Dulliau amgen o ddatrys materion

Cwynion

- 7 Pwy sy'n cael cwyno
- 8 Gofynion: cwynion a wneir i'r Ombwdsmon
- 9 Gofynion: cwynion a atgyfeirir at yr Ombwdsmon
- 10 Cofnodion o gwynion



Public Services Ombudsman (Wales) Act 2019

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CONTENTS

PART 1

INTRODUCTION

- 1 Overview

PART 2

THE PUBLIC SERVICES OMBUDSMAN FOR WALES

- 2 The Public Services Ombudsman for Wales

PART 3

INVESTIGATIONS

Power of investigation

- 3 Power to investigate complaints
4 Power to investigate on own initiative
5 Criteria for own initiative investigations
6 Alternative resolution of matters

Complaints

- 7 Who can complain
8 Requirements: complaints made to the Ombudsman
9 Requirements: complaints referred to the Ombudsman
10 Records of complaints

Materion y caniateir ymchwilio iddynt

- 11 Materion y caniateir ymchwilio iddynt
- 12 Eithrio: materion nad ydynt yn ymwneud â Chymru
- 13 Eithrio: rhwymedïau eraill
- 14 Materion eithriedig eraill
- 15 Penderfyniadau a wnaed heb gamweinyddu

Ymchwiliadau ategol

- 16 Pŵer i ymchwilio i wasanaethau eraill sy'n gysylltiedig ag iechyd

Penderfyniadau i beidio ag ymchwilio etc

- 17 Penderfyniadau i beidio ag ymchwilio neu i roi'r gorau i ymchwiliad

Gweithdrefn ymchwilio a thystiolaeth

- 18 Gweithdrefn ymchwilio
- 19 Gwybodaeth, dogfennau, tystiolaeth a chyfleusterau
- 20 Rhwystro a dirmygu
- 21 Rhwystro a dirmygu: adennill costau
- 22 Cyflwyno hysbysiad adennill costau

Adroddiadau ar ymchwiliadau

- 23 Adroddiadau ar ymchwiliadau
- 24 Rhoi cyhoeddusrwydd i adroddiadau
- 25 Rhoi cyhoeddusrwydd i adroddiadau: darparwyr gofal iechyd
- 26 Camau gweithredu ar ôl cael adroddiad
- 27 Adroddiadau: gweithdrefn amgen

Adroddiadau arbennig

- 28 Adroddiadau arbennig
- 29 Adroddiadau arbennig: atodol
- 30 Adroddiadau arbennig sy'n ymwneud â Llywodraeth Cymru a Chomisiwn Cynulliad Cenedlaethol Cymru

Awdurdodau rhestredig

- 31 Awdurdodau rhestredig
- 32 Cyfyngiadau ar bŵer i ddiwygio Atodlen 3
- 33 Darpariaethau mewn rheoliadau sy'n ychwanegu personau at Atodlen 3
- 34 Pŵer i ddyroddi canllawiau

Digolledu

- 35 Digolledu'r person a dramgwyddwyd

RHAN 4**AWDURDODAU RHESTREDIG: GWEITHDREFNAU AR GYFER YMDRIN Â CHWYNION**

- 36 Ymdrin â chwynion: datganiad o egwyddorion
- 37 Gweithdrefnau enghreifftiol ar gyfer ymdrin â chwynion
- 38 Gweithdrefnau enghreifftiol ar gyfer ymdrin â chwynion: manyleb awdurdodau rhestredig

Matters which may be investigated

- 11 Matters which may be investigated
- 12 Exclusion: matters not relating to Wales
- 13 Exclusion: other remedies
- 14 Other excluded matters
- 15 Decisions taken without maladministration

Ancillary investigations

- 16 Power to investigate other health-related services

Decisions not to investigate etc

- 17 Decisions not to investigate or to discontinue investigation

Investigation procedure and evidence

- 18 Investigation procedure
- 19 Information, documents, evidence and facilities
- 20 Obstruction and contempt
- 21 Obstruction and contempt: costs recovery
- 22 Serving a costs recovery notice

Reports of investigations

- 23 Reports of investigations
- 24 Publicising reports
- 25 Publicising reports: health care providers
- 26 Action following receipt of a report
- 27 Reports: alternative procedure

Special reports

- 28 Special reports
- 29 Special reports: supplementary
- 30 Special reports relating to the Welsh Government and the National Assembly for Wales Commission

Listed authorities

- 31 Listed authorities
- 32 Restrictions on power to amend Schedule 3
- 33 Provisions in regulations adding persons to Schedule 3
- 34 Power to issue guidance

Compensation

- 35 Compensation for the person aggrieved

PART 4

LISTED AUTHORITIES: COMPLAINTS-HANDLING PROCEDURES

- 36 Complaints-handling: statement of principles
- 37 Model complaints-handling procedures
- 38 Model complaints-handling procedures: specification of listed authorities

- 39 Datganiadau o beidio â chydymffurfio
 40 Cyflwyno gweithdrefn ymdrin â chwynion: cyffredinol
 41 Gweithdrefnau ymdrin â chwynion: hybu arferion gorau etc

RHAN 5

YMCHWILIO I GWYNION SY'N YMWNEUD Â PHERSONAU ERAILL: GOFAL CYMDEITHASOL A GOFAL LLINIAROL

Cymhwyso'r Rhan hon

- 42 Materion y mae'r Rhan hon yn gymwys iddynt

Ymchwilio i gwynion

- 43 Pŵer i ymchwilio i gwynion
 44 Pŵer i ymchwilio ar ei liwt ei hun
 45 Meini prawf ar gyfer ymchwilio ar ei liwt ei hun
 46 Dulliau amgen o ddatrys materion
 47 Pwy sy'n cael cwyno
 48 Gofynion: cwynion a wneir i'r Ombwdsmon
 49 Gofynion: cwynion a atgyfeirir at yr Ombwdsmon
 50 Cofnodion o gwynion

Penderfyniadau i beidio ag ymchwilio etc

- 51 Penderfyniadau i beidio ag ymchwilio i gwynion neu i roi'r gorau i ymchwiliad

Gweithdrefn ymchwilio a thystiolaeth

- 52 Gweithdrefn ymchwilio
 53 Gwybodaeth, dogfennau, tystiolaeth a chyfleusterau
 54 Rhwystro a dirmygu

Adroddiadau ar ymchwiliadau

- 55 Adroddiadau ar ymchwiliadau
 56 Cyhoeddusrwydd pellach i adroddiadau ar ymchwiliadau
 57 Camau gweithredu ar ôl cael adroddiadau ar ymchwiliadau
 58 Adroddiadau: gweithdrefn amgen

Adroddiadau arbennig

- 59 Amgylchiadau lle caiff adroddiadau arbennig eu paratoi
 60 Adroddiadau arbennig
 61 Cyhoeddusrwydd pellach i adroddiadau arbennig

Dehongli

- 62 Ystyr "cartref gofal" a "darparwr cartref gofal"
 63 Ystyr "gofal cartref" a "darparwr gofal cartref"
 64 Ystyr "gwasanaeth gofal lliniarol" a "darparwr gofal lliniarol annibynnol"

- 39 Declarations of non-compliance
- 40 Submission of complaints-handling procedure: general
- 41 Complaints-handling procedures: promotion of best practice etc

PART 5

INVESTIGATION OF COMPLAINTS RELATING TO OTHER PERSONS: SOCIAL CARE AND PALLIATIVE CARE

Application of this Part

- 42 Matters to which this Part applies

Investigation of complaints

- 43 Power to investigate complaints
- 44 Power to investigate on own initiative
- 45 Criteria for own initiative investigations
- 46 Alternative resolution of matters
- 47 Who can complain
- 48 Requirements: complaints made to the Ombudsman
- 49 Requirements: complaints referred to the Ombudsman
- 50 Records of complaints

Decisions not to investigate etc

- 51 Decisions not to investigate complaints or to discontinue investigations

Investigation procedure and evidence

- 52 Investigation procedure
- 53 Information, documents, evidence and facilities
- 54 Obstruction and contempt

Reports about investigations

- 55 Investigation reports
- 56 Further publicity for investigation reports
- 57 Action following receipt of investigation reports
- 58 Reports: alternative procedure

Special reports

- 59 Circumstances in which special reports may be prepared
- 60 Special reports
- 61 Further publicity for special reports

Interpretation

- 62 Meaning of “care home” and “care home provider”
- 63 Meaning of “domiciliary care” and “domiciliary care provider”
- 64 Meaning of “palliative care service” and “independent palliative care provider”

RHAN 6**YMCHWILIADAU: ATODOL***Ymgynghori a chydweithredu*

- 65 Ymgynghori a chydweithredu ag ombwdsmyrn eraill
 66 Cydweithio â phersonau a bennir
 67 Cydlafurio â Chomisiynwyr
 68 Gweithio gydag Archwilydd Cyffredinol Cymru

Datgelu

- 69 Datgelu gwybodaeth
 70 Datgeliad niweidiol i ddiogelwch Gwladol neu yn groes i fudd y cyhoedd
 71 Diogelu rhag hawliadau difenwi

RHAN 7**AMRYWIOL A CHYFFREDINOL***Safonau'r Gymraeg*

- 72 Awdurdodiad i roi hysbysiad cydymffurfio i'r Ombwdsmon mewn perthynas â safonau'r Gymraeg

Adolygiad o'r Ddeddf

- 73 Adolygiad o'r Ddeddf

Cymhwyso Deddf 2005 i ymchwiliadau penodol

- 74 Ymchwiliadau a gychwynnir cyn y daw adrannau 3, 4, 43 a 44 i rym

Cyffredinol

- 75 Diddymiadau, arbedion a diwygiadau canlyniadol
 76 Swyddogaethau'r Cynulliad
 77 Cychwyn
 78 Dehongli
 79 Cyn-ddarparwyr gofal iechyd, cyn-landlordiaid cymdeithasol, cyn-ddarparwyr gofal cymdeithasol a chyn-ddarparwyr gofal lliniarol: addasiadau
 80 Darpariaethau canlyniadol, trosiannol etc
 81 Rheoliadau a chyfarwyddydau
 82 Enw byr

Atodlen 1 – Ombwdsmon Gwasanaethau Cyhoeddus Cymru: Penodi etc

Atodlen 2 – Materion Eithriedig: Rhan 3

Atodlen 3 – Awdurdodau Rhestredig

Atodlen 4 – Materion Eithriedig: Rhan 5

Atodlen 5 – Diwygiadau Canlyniadol

Rhan 1 – Ymchwiliadau

Rhan 2 – Amrywiol

PART 6

INVESTIGATIONS: SUPPLEMENTARY

Consultation and co-operation

- 65 Consultation and co-operation with other ombudsmen
- 66 Working jointly with specified persons
- 67 Working collaboratively with Commissioners
- 68 Working with the Auditor General for Wales

Disclosure

- 69 Disclosure of information
- 70 Disclosure prejudicial to safety of State or contrary to public interest
- 71 Protection from defamation claims

PART 7

MISCELLANEOUS AND GENERAL

Welsh language standards

- 72 Authorisation to give compliance notice to the Ombudsman in relation to Welsh language standards

Review of Act

- 73 Review of Act

Application of the 2005 Act to certain investigations

- 74 Investigations commenced before sections 3, 4, 43 and 44 come into force

General

- 75 Repeals, savings and consequential amendments
- 76 Functions of the Assembly
- 77 Commencement
- 78 Interpretation
- 79 Former health care providers, social landlords, social care providers and palliative care providers: modifications
- 80 Consequential, transitional provisions etc
- 81 Regulations and directions
- 82 Short title

- Schedule 1 – Public Services Ombudsman for Wales: Appointment etc
- Schedule 2 – Excluded Matters: Part 3
- Schedule 3 – Listed Authorities
- Schedule 4 – Excluded Matters: Part 5
- Schedule 5 – Consequential Amendments
 - Part 1 – Investigations
 - Part 2 – Miscellaneous



Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019

Deddf Cynulliad Cenedlaethol Cymru i wneud darpariaeth ynghylch swydd Ombwdsmon Gwasanaethau Cyhoeddus Cymru; i wneud darpariaeth ynghylch swyddogaethau Ombwdsmon Gwasanaethau Cyhoeddus Cymru; i wneud darpariaeth ynghylch digolledu; ac at ddibenion cysylltiedig. [22 Mai 2019]

Gan ei fod wedi ei basio gan Gynulliad Cenedlaethol Cymru ac wedi derbyn cydsyniad Ei Mawrhydi, deddfir fel a ganlyn:

RHAN 1

CYFLWYNIAD

1 Trosolwg

- (1) Mae'r Rhan hon o'r Ddeddf yn drosolwg o brif ddarpariaethau'r Ddeddf.
- (2) Mae Rhan 2 yn darparu ar gyfer parhad rôl yr Ombwdsmon.
- (3) Mae Rhan 3 yn gwneud darpariaeth –
 - (a) i'r Ombwdsmon ymchwilio i awdurdodau rhestredig;
 - (b) o ran pwy sy'n cael gwneud cwynion i'r Ombwdsmon ac atgyfeirio cwynion ato;
 - (c) o ran y materion y caiff yr Ombwdsmon ymchwilio iddynt;
 - (d) o ran y gweithdrefnau sy'n gymwys i ymchwiliadau'r Ombwdsmon;
 - (e) o ran pwerau'r Ombwdsmon i ymdrin â rhwystr a dirmyg;
 - (f) i'r Ombwdsmon baratoi adroddiadau ar ymchwiliadau;
 - (g) i'r Ombwdsmon ddyroddi canllawiau i awdurdodau rhestredig ynghylch arferion gweinyddu da;



Public Services Ombudsman (Wales) Act 2019

An Act of the National Assembly for Wales to make provision about the office of the Public Services Ombudsman for Wales; to make provision about the functions of the Public Services Ombudsman for Wales; to make provision about compensation; and for connected purposes.

[22 May 2019]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

PART 1

INTRODUCTION

1 Overview

- (1) This Part of the Act is an overview of the main provisions of the Act.
- (2) Part 2 provides for the continuation of the role of the Ombudsman.
- (3) Part 3 makes provision for –
 - (a) the Ombudsman to investigate listed authorities;
 - (b) who can make and refer complaints to the Ombudsman;
 - (c) the matters that may be investigated by the Ombudsman;
 - (d) the procedures that apply to the Ombudsman's investigations;
 - (e) the Ombudsman's powers to deal with obstruction and contempt;
 - (f) the Ombudsman to prepare reports of investigations;
 - (g) the Ombudsman to issue guidance to listed authorities about good administrative practice;

- (h) i awdurdodau rhestredig ddigolledu personau a dramgwyddwyd.
- (4) Mae Rhan 4 yn gwneud darpariaeth—
- (a) i'r Ombwdsmon gyhoeddi datganiad o egwyddorion ynghylch gweithdrefnau ymdrin â chwynion awdurdodau rhestredig, a'r weithdrefn Cynulliad sy'n gymwys i'r datganiad o egwyddorion;
 - (b) i'r Ombwdsmon gyhoeddi gweithdrefn enghreifftiol ar gyfer ymdrin â chwynion ar gyfer awdurdodau rhestredig;
 - (c) i'w gwneud yn ofynnol i awdurdod rhestredig gydymffurfio â gweithdrefn enghreifftiol ar gyfer ymdrin â chwynion sy'n gymwys i'r awdurdod rhestredig;
 - (d) i'r Ombwdsmon ddatgan nad yw gweithdrefn ymdrin â chwynion awdurdod rhestredig yn cydymffurfio â'r weithdrefn enghreifftiol ar gyfer ymdrin â chwynion;
 - (e) i'r Ombwdsmon hybu arferion gorau o ran y ffordd yr ymdrinnir â chwynion.
- (5) Mae Rhan 5 yn gwneud darpariaeth—
- (a) i'r Ombwdsmon ymchwilio i ddarparwyr gofal cymdeithasol a darparwyr gofal lliniarol;
 - (b) o ran pwy sy'n cael gwneud cwynion i'r Ombwdsmon a'u hatgyfeirio ato ynghylch gofal cymdeithasol a gofal lliniarol;
 - (c) o ran y materion gofal cymdeithasol a gofal lliniarol y caiff yr Ombwdsmon ymchwilio iddynt;
 - (d) o ran y gweithdrefnau sy'n gymwys i ymchwiliadau'r Ombwdsmon i ofal cymdeithasol a gofal lliniarol;
 - (e) i'r Ombwdsmon baratoi adroddiadau ar ymchwiliadau i ofal cymdeithasol a gofal lliniarol.
- (6) Mae Rhan 6 yn gwneud darpariaeth atodol—
- (a) i'r Ombwdsmon weithio gydag ombwdsmy'n a chomisiynwyr eraill etc. mewn perthynas ag ymchwiliadau;
 - (b) o ran datgelu a diogelu gwybodaeth a chyhoeddiadau mewn perthynas ag ymchwiliadau.
- (7) Mae Rhan 7 yn gwneud darpariaeth amrywiol, gan gynnwys ychwanegu'r Ombwdsmon i Atodlen 6 i Reoliadau Safonau'r Gymraeg (Rhif 2) 2016 a'i gwneud yn ofynnol i'r Cynulliad adolygu gweithrediad y Ddeddf hon.

RHAN 2

OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU

2 Ombwdsmon Gwasanaethau Cyhoeddus Cymru

- (1) Mae swydd Ombwdsmon Gwasanaethau Cyhoeddus Cymru neu Public Services Ombudsman for Wales (y cyfeirir ato yn y Ddeddf hon fel "yr Ombwdsmon") i barhau.
- (2) Mae Atodlen 1 yn gwneud darpariaeth bellach ynghylch yr Ombwdsmon.

- (h) listed authorities to compensate persons aggrieved.
- (4) Part 4 makes provision for –
 - (a) the Ombudsman to publish a statement of principles about the complaints-handling procedures of listed authorities, and the Assembly procedure that applies to the statement of principles;
 - (b) the Ombudsman to publish model complaints-handling procedures for listed authorities;
 - (c) requiring a listed authority to comply with a model complaints-handling procedure that applies to the listed authority;
 - (d) the Ombudsman to declare that the complaints-handling procedure of a listed authority does not comply with the model complaints-handling procedure;
 - (e) the Ombudsman to promote best practice in relation to complaints-handling.
- (5) Part 5 makes provision for –
 - (a) the Ombudsman to investigate social care providers and palliative care providers;
 - (b) who can make and refer complaints to the Ombudsman about social care and palliative care;
 - (c) the social care and palliative care matters that may be investigated by the Ombudsman;
 - (d) the procedures that apply to the Ombudsman’s investigations into social care and palliative care;
 - (e) the Ombudsman to prepare reports of investigations into social care and palliative care.
- (6) Part 6 makes supplementary provision for –
 - (a) the Ombudsman to work with other ombudsmen and commissioners etc. in relation to investigations;
 - (b) the disclosure and protection of information and publications in relation to investigations.
- (7) Part 7 makes miscellaneous provision, including adding the Ombudsman to Schedule 6 to the Welsh Language Standards (No. 2) Regulations 2016 and a requirement for the review of the operation of this Act by the Assembly.

PART 2

THE PUBLIC SERVICES OMBUDSMAN FOR WALES

2 The Public Services Ombudsman for Wales

- (1) The office of the Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru (in this Act referred to as “the Ombudsman”) is to continue.
- (2) Schedule 1 makes further provision about the Ombudsman.

RHAN 3**YMCHWILIADAU***Pŵer i ymchwilio***3 Pŵer i ymchwilio i gwynion**

- (1) Caiff yr Ombwdsmon ymchwilio i gŵyn o dan y Rhan hon mewn perthynas â mater os yw'r gŵyn—
 - (a) wedi'i gwneud yn briodol i'r Ombwdsmon, neu
 - (b) wedi'i hatgyfeirio'n briodol at yr Ombwdsmon, acos yw'r mater yn un y mae gan yr Ombwdsmon hawl i ymchwilio iddo o dan adrannau 11 i 16.
- (2) Mae cwyn wedi'i "gwneud yn briodol" i'r Ombwdsmon os (ond dim ond os)—
 - (a) caiff ei gwneud gan berson sydd â hawl o dan adran 7 i wneud y gŵyn i'r Ombwdsmon, a
 - (b) caiff gofynion adran 8(1) eu bodloni mewn perthynas â hi.
- (3) Mae cwyn wedi'i "hatgyfeirio'n briodol" at yr Ombwdsmon os (ond dim ond os)—
 - (a) caiff ei chyfeirio at yr Ombwdsmon gan awdurdod rhestredig, a
 - (b) caiff gofynion adran 9(1) eu bodloni mewn perthynas â hi.
- (4) Caiff yr Ombwdsmon ymchwilio i gŵyn o dan y Rhan hon mewn perthynas â mater hyd yn oed os nad yw gofynion adran 8(1) neu (yn ôl y digwydd) adran 9(1)(b), (c) neu (d) wedi eu bodloni o ran y gŵyn—
 - (a) os yw'r mater yn un y mae gan yr Ombwdsmon hawl i ymchwilio iddo o dan adrannau 11 i 16, a
 - (b) os yw'r Ombwdsmon o'r farn ei bod yn rhesymol gwneud hynny.
- (5) Mater i'r Ombwdsmon yw penderfynu pa un ai i gychwyn ymchwiliad, i barhau ag ymchwiliad ai i roi'r gorau i ymchwiliad (ond gweler adran 8(5)(a) am gyfyngiad ar y pŵer i gychwyn ymchwiliad o dan is-adran (1)(a)).
- (6) Caiff yr Ombwdsmon gymryd unrhyw gamau gweithredu a all, ym marn yr Ombwdsmon, helpu i wneud penderfyniad o dan is-adran (5).
- (7) Caiff yr Ombwdsmon gychwyn ymchwiliad i gŵyn neu barhau ag ymchwiliad i gŵyn hyd yn oed os yw'r gŵyn wedi'i thynnu'n ôl, neu hyd yn oed os yw'r atgyfeiriad sy'n ymwneud â'r gŵyn wedi'i dynnu'n ôl (ond gweler adran 8(5)(a) am gyfyngiad ar y pŵer i gychwyn ymchwiliad o dan is-adran (1)(a)).

4 Pŵer i ymchwilio ar ei liwt ei hun

- (1) Caiff yr Ombwdsmon ymchwilio i fater o dan y Rhan hon, y mae ganddo hawl i ymchwilio iddo o dan adrannau 11 i 16, pa un a oes cwyn wedi'i gwneud yn briodol neu wedi'i hatgyfeirio'n briodol at yr Ombwdsmon ai peidio.
- (2) Cyn i'r Ombwdsmon gychwyn ymchwiliad o dan yr adran hon, rhaid i'r Ombwdsmon—

PART 3

INVESTIGATIONS

Power of investigation

3 Power to investigate complaints

- (1) The Ombudsman may investigate a complaint under this Part in respect of a matter if the complaint has been –
 - (a) duly made to the Ombudsman, or
 - (b) duly referred to the Ombudsman, andthe matter is one which the Ombudsman is entitled to investigate under sections 11 to 16.
- (2) A complaint is “duly made” to the Ombudsman if (but only if) –
 - (a) it is made by a person who is entitled under section 7 to make the complaint to the Ombudsman, and
 - (b) the requirements of section 8(1) are met in respect of it.
- (3) A complaint is “duly referred” to the Ombudsman if (but only if) –
 - (a) it is referred to the Ombudsman by a listed authority, and
 - (b) the requirements of section 9(1) are met in respect of it.
- (4) The Ombudsman may investigate a complaint under this Part in respect of a matter even if the requirements of section 8(1) or (as the case may be) section 9(1)(b), (c) or (d) are not met in respect of the complaint, if –
 - (a) the matter is one which the Ombudsman is entitled to investigate under sections 11 to 16, and
 - (b) the Ombudsman thinks it reasonable to do so.
- (5) It is for the Ombudsman to decide whether to begin, continue or discontinue an investigation (but see section 8(5)(a) for a restriction on the power to begin an investigation under subsection (1)(a)).
- (6) The Ombudsman may take any action which the Ombudsman thinks may assist in making a decision under subsection (5).
- (7) The Ombudsman may begin or continue an investigation into a complaint even if the complaint, or the referral of the complaint, has been withdrawn (but see section 8(5)(a) for a restriction on the power to begin an investigation under subsection (1)(a)).

4 Power to investigate on own initiative

- (1) The Ombudsman may investigate a matter under this Part, which the Ombudsman is entitled to investigate under sections 11 to 16, whether a complaint has been duly made or referred to the Ombudsman or not.
- (2) Before the Ombudsman begins an investigation under this section, the Ombudsman must –

- (a) rhoi sylw i fudd y cyhoedd wrth gychwyn ymchwiliad,
 - (b) amau'n rhesymol—
 - (i) bod camweinyddu systemig, neu
 - (ii) mewn achos pan fo'r mater yn un y caniateir ymchwilio iddo yn rhinwedd adran 15(2), fod anghyfiawnder systemig wedi ei ddiodef o ganlyniad i arfer barn broffesiynol,
 - (c) ymgynghori â'r cyfryw bersonau y mae'r Ombwdsmon o'r farn ei bod yn briodol ymgynghori â hwy (ond gweler adran 66 am ddyletswyddau pellach o ran ymgynghori), a
 - (d) rhoi sylw i'r meini prawf ar gyfer ymchwiliadau ar ei liwt ei hun a gyhoeddir o dan adran 5.
- (3) Yn ddarostyngedig i ddarpariaethau eraill yr adran hon—
- (a) mater i'r Ombwdsmon yw penderfynu pa un ai i gychwyn ymchwiliad, i barhau ag ymchwiliad neu i roi'r gorau i ymchwiliad o dan yr adran hon;
 - (b) caiff yr Ombwdsmon gymryd unrhyw gamau gweithredu a all, ym marn yr Ombwdsmon, helpu i wneud penderfyniad o dan is-adran (3)(a).

5 Meini prawf ar gyfer ymchwilio ar ei liwt ei hun

- (1) Rhaid i'r Ombwdsmon gyhoeddi meini prawf i'w defnyddio i benderfynu pa un ai i gychwyn ymchwiliad o dan adran 4.
- (2) Rhaid i'r Ombwdsmon osod drafft o'r meini prawf cyntaf gerbron y Cynulliad.
- (3) Os yw'r Cynulliad yn penderfynu peidio â chymeradwyo'r meini prawf drafft cyn diwedd y cyfnod o 40 diwrnod, ni chaiff yr Ombwdsmon gyhoeddi'r meini prawf ar eu ffurf drafft.
- (4) Os na wneir y cyfryw benderfyniad cyn diwedd y cyfnod hwnnw, rhaid i'r Ombwdsmon gyhoeddi'r meini prawf ar eu ffurf drafft.
- (5) O ran y cyfnod o 40 diwrnod—
 - (a) mae'n dechrau ar y diwrnod pryd y gosodir y drafft gerbron y Cynulliad, a
 - (b) nid yw'n cynnwys unrhyw amser pryd y bydd y Cynulliad wedi ei ddiddymu neu ar doriad am fwy na phedwar diwrnod.
- (6) Nid yw is-adran (3) yn atal meini prawf drafft newydd rhag cael eu gosod gerbron y Cynulliad.
- (7) Cyn gosod y meini prawf drafft gerbron y Cynulliad, rhaid i'r Ombwdsmon ymgynghori â'r canlynol—
 - (a) Gweinidogion Cymru,
 - (b) yr awdurdodau rhestredig yn Atodlen 3, ac
 - (c) y cyfryw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (8) Rhaid i'r Ombwdsmon, wrth baratoi'r meini prawf drafft i'w gosod gerbron y Cynulliad, roi sylw i unrhyw sylwadau a wnaed yn ystod yr ymgynghoriad a grybwyllir yn is-adran (7).

- (a) have regard to the public interest in beginning an investigation,
 - (b) have a reasonable suspicion—
 - (i) that there is systemic maladministration, or
 - (ii) in a case where the matter is one which may be investigated by virtue of section 15(2), that systemic injustice has been sustained as a result of the exercise of professional judgement,
 - (c) consult such persons as the Ombudsman considers appropriate (but see section 66 for further duties around consultation), and
 - (d) have regard to the criteria for own initiative investigations published under section 5.
- (3) Subject to the other provisions of this section—
- (a) it is for the Ombudsman to decide whether to begin, continue or discontinue an investigation under this section;
 - (b) the Ombudsman may take any action the Ombudsman thinks may assist in making a decision under subsection (3)(a).

5 Criteria for own initiative investigations

- (1) The Ombudsman must publish criteria to be used in determining whether to begin an investigation under section 4.
- (2) The Ombudsman must lay a draft of the first criteria before the Assembly.
- (3) If, before the end of the 40 day period, the Assembly resolves not to approve the draft criteria, the Ombudsman must not publish the criteria in the form of the draft.
- (4) If no such resolution is made before the end of that period, the Ombudsman must publish the criteria in the form of the draft.
- (5) The 40 day period—
 - (a) begins on the day on which the draft is laid before the Assembly, and
 - (b) does not include any time during which the Assembly is dissolved or is in recess for more than four days.
- (6) Subsection (3) does not prevent new draft criteria from being laid before the Assembly.
- (7) Before laying the draft criteria before the Assembly, the Ombudsman must consult—
 - (a) the Welsh Ministers,
 - (b) the listed authorities in Schedule 3, and
 - (c) such other persons as the Ombudsman thinks appropriate.
- (8) The Ombudsman must, in preparing the draft criteria to be laid before the Assembly, have regard to any representations made during the consultation mentioned in subsection (7).

- (9) Daw'r meini prawf i rym pan gânt eu cyhoeddi gan yr Ombwdsmon.
- (10) O dro i dro, caiff yr Ombwdsmon adolygu ac ailgyhoeddi'r meini prawf.
- (11) Os, ym marn yr Ombwdsmon, yw adolygiadau a wneir o dan is-adran (10) yn effeithio ar unrhyw newid perthnasol i'r meini prawf, rhaid i'r Ombwdsmon osod drafft o'r adolygiadau hynny gerbron y Cynulliad.
- (12) Mae is-adrannau (3) i (9) yn gymwys i adolygiadau drafft a osodir gerbron y Cynulliad o dan is-adran (11) fel y maent yn gymwys i'r meini prawf cyntaf.
- (13) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio'r meini prawf a gyhoeddir gan yr Ombwdsmon o dan yr adran hon drwy ychwanegu meini prawf, dileu meini prawf neu newid y meini prawf.
- (14) Pan fo Gweinidogion Cymru yn gwneud rheoliadau o dan is-adran (13), rhaid i'r Ombwdsmon gyhoeddi'r meini prawf, fel y'u diwygiwyd gan y rheoliadau, ar y diwrnod y daw'r rheoliadau i rym.
- (15) Cyn gwneud rheoliadau o dan is-adran (13), rhaid i Weinidogion Cymru ymgynghori â'r canlynol –
 - (a) yr Ombwdsmon,
 - (b) yr awdurdodau rhestredig yn Atodlen 3, ac
 - (c) y cyfryw bersonau eraill sy'n briodol ym marn Gweinidogion Cymru.
- (16) Ni chaniateir gwneud rheoliadau o dan is-adran (13) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.

6 Dulliau amgen o ddatrys materion

- (1) Caiff yr Ombwdsmon gymryd unrhyw gamau gweithredu sydd, ym marn yr Ombwdsmon, yn briodol er mwyn datrys mater y mae gan yr Ombwdsmon bŵer i ymchwilio iddo o dan y Rhan hon.
- (2) Caiff yr Ombwdsmon gymryd camau gweithredu o dan yr adran hon yn ychwanegol at gynnal ymchwiliad neu yn lle hynny.
- (3) Rhaid cymryd unrhyw gamau gweithredu o dan yr adran hon yn breifat.

Cwynion

7 Pwy sy'n cael cwyno

- (1) Y personau sydd â hawl i gwyno i'r Ombwdsmon o dan y Rhan hon yw –
 - (a) aelod o'r cyhoedd (y cyfeirir ato yn y Rhan hon fel "y person a dramgwyddwyd") sy'n honni neu sydd wedi honni ei fod wedi dioddef anghyfiawnder neu galedi o ganlyniad i fater y mae gan yr Ombwdsmon hawl i ymchwilio iddo o dan adrannau 11 i 16;
 - (b) person a awdurdodwyd yn ysgrifenedig gan y person a dramgwyddwyd i weithredu ar ran y person hwnnw;

- (9) The criteria come into force when they are published by the Ombudsman.
- (10) The Ombudsman may from time to time revise and re-publish the criteria.
- (11) If, in the opinion of the Ombudsman, revisions made under subsection (10) effect any material change to the criteria, the Ombudsman must lay a draft of those revisions before the Assembly.
- (12) Subsections (3) to (9) apply to draft revisions laid before the Assembly under subsection (11) as they apply to the first criteria.
- (13) The Welsh Ministers may by regulations amend the criteria published by the Ombudsman under this section by adding criteria, removing criteria or changing the criteria.
- (14) Where the Welsh Ministers make regulations under subsection (13), the Ombudsman must publish the criteria, as amended by the regulations, on the day the regulations come into force.
- (15) Before making regulations under subsection (13), the Welsh Ministers must consult—
 - (a) the Ombudsman,
 - (b) the listed authorities in Schedule 3, and
 - (c) such other persons as the Welsh Ministers think appropriate.
- (16) No regulations are to be made under subsection (13) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.

6 Alternative resolution of matters

- (1) The Ombudsman may take any action the Ombudsman thinks appropriate with a view to resolving a matter which the Ombudsman has power to investigate under this Part.
- (2) The Ombudsman may take action under this section in addition to or instead of conducting an investigation.
- (3) Any action under this section must be taken in private.

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) os nad yw'r person a dramgwyddwyd yn gallu awdurdodi'r cyfryw berson (er enghraifft, oherwydd bod y person a dramgwyddwyd wedi marw), person sydd, ym marn yr Ombwdsmon, yn briodol i weithredu ar ran y person a dramgwyddwyd.
- (2) Ystyr "aelod o'r cyhoedd" yw unrhyw berson, heblaw awdurdod rhestredig sy'n gweithredu yn rhinwedd ei swydd fel y cyfryw.
- (3) Mater i'r Ombwdsmon yw penderfynu ar unrhyw gwestiwn ynghylch a oes gan berson hawl i wneud cwyn i'r Ombwdsmon o dan yr adran hon.

8 Gofynion: cwynion a wneir i'r Ombwdsmon

- (1) Y gofynion a grybwyllir yn adran 3(2)(b) yw bod yn rhaid i'r gŵyn—
 - (a) bod ar ffurf a bennir gan yr Ombwdsmon mewn canllawiau;
 - (b) cynnwys y cyfryw wybodaeth a bennir gan yr Ombwdsmon mewn canllawiau;
 - (c) cael ei gwneud i'r Ombwdsmon cyn diwedd y cyfnod o flwyddyn sy'n dechrau ar y diwrnod y cafodd y person a dramgwyddwyd ei hysbysu gyntaf am y mater a honnir yn y gŵyn.
- (2) Rhaid i'r Ombwdsmon gyhoeddi'r canllawiau y cyfeirir atynt yn is-adran (1).
- (3) Mater i'r Ombwdsmon yw penderfynu a yw gofynion is-adran (1) wedi eu bodloni o ran cwyn.
- (4) Os caiff cwyn sy'n bodloni gofynion is-adran (1) ei gwneud heblaw yn ysgrifenedig, rhaid i'r Ombwdsmon—
 - (a) esbonio i'r person a wnaeth y gŵyn fod cwyn wedi'i gwneud yn briodol yn unol â'r Ddeddf hon, a goblygiadau gwneud cwyn o'r fath, a
 - (b) gofyn i'r person a yw'n awyddus i'r gŵyn barhau i gael ei thrin yn gŵyn a wnaed yn briodol.
- (5) Os nad yw'r person yn awyddus i'r gŵyn barhau i gael ei thrin yn gŵyn a wnaed yn briodol—
 - (a) ni chaiff yr Ombwdsmon ddefnyddio'r pŵer yn adran 3(1)(a) i ddechrau ymchwiliad i'r mater a honnir yn y gŵyn;
 - (b) caiff yr Ombwdsmon ddefnyddio'r pŵer yn adran 4 i ymchwilio i'r mater a honnir yn y gŵyn.
- (6) Os yw'r person yn awyddus i'r gŵyn barhau i gael ei thrin yn gŵyn a wnaed yn briodol, rhaid i'r Ombwdsmon ofyn i'r person a yw am gadarnhau'r gŵyn yn ysgrifenedig.
- (7) Os yw'r person yn awyddus i gadarnhau'r gŵyn yn ysgrifenedig, rhaid i'r Ombwdsmon wneud y cyfryw drefniadau angenrheidiol i gadarnhau'r gŵyn yn ysgrifenedig.

9 Gofynion: cwynion a atgyfeirir at yr Ombwdsmon

- (1) Y gofynion a grybwyllir yn adran 3(3)(b) yw bod yn rhaid i'r gŵyn—
 - (a) bod wedi cael ei gwneud i'r awdurdod rhestredig gan berson a fyddai wedi bod â hawl o dan adran 7 i wneud y gŵyn i'r Ombwdsmon;

- (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) bod wedi cael ei gwneud i'r awdurdod rhestredig cyn diwedd y cyfnod o flwyddyn sy'n dechrau ar y diwrnod y cafodd y person a dramgwyddwyd ei hysbysu gyntaf am y materion a honnir yn y gŵyn;
 - (c) cael ei hatgyfeirio at yr Ombwdsmon ar ffurf a bennir gan yr Ombwdsmon mewn canllawiau a chynnwys yr wybodaeth a bennir gan yr Ombwdsmon mewn canllawiau;
 - (d) cael ei hatgyfeirio at yr Ombwdsmon cyn diwedd y cyfnod o flwyddyn sy'n dechrau ar y diwrnod y cafodd y gŵyn ei gwneud i'r awdurdod rhestredig.
- (2) Rhaid i'r Ombwdsmon gyhoeddi'r canllawiau y cyfeirir atynt yn is-adran (1)(c).
- (3) Mater i'r Ombwdsmon yw penderfynu a yw gofynion is-adran (1) wedi eu bodloni o ran cwyn.

10 Cofnodion o gwynion

Rhaid i'r Ombwdsmon gadw cofrestr o bob cwyn a wnaed i'r Ombwdsmon neu a atgyfeiriwyd at yr Ombwdsmon mewn perthynas â mater y mae gan yr Ombwdsmon hawl i ymchwilio iddo o dan y Rhan hon.

Materion y caniateir ymchwilio iddynt

11 Materion y caniateir ymchwilio iddynt

- (1) Y materion y mae gan yr Ombwdsmon hawl i ymchwilio iddynt o dan y Rhan hon yw –
- (a) camweinyddu honedig gan awdurdod rhestredig mewn cysylltiad â chamau gweithredu perthnasol;
 - (b) methiant honedig mewn gwasanaeth perthnasol a ddarperir gan awdurdod rhestredig;
 - (c) methiant honedig gan awdurdod rhestredig i ddarparu gwasanaeth perthnasol.
- (2) Caiff y materion ymwneud â chamau gweithredu a gymerwyd cyn i'r Ddeddf hon gael Cydsyniad Brenhinol neu wedi hynny.
- (3) Mae is-adran (1) yn ddarostyngedig i adrannau 12 i 15.
- (4) Camau gweithredu perthnasol yw –
- (a) yn achos awdurdod rhestredig sy'n ddarparwr gwasanaeth iechyd teulu yng Nghymru neu'n ddarparwr annibynnol yng Nghymru, camau gweithredu a gymerwyd gan yr awdurdod mewn cysylltiad â darparu gwasanaeth perthnasol;
 - (b) yn achos awdurdod rhestredig sy'n landlord cymdeithasol yng Nghymru neu'n gorff gwasanaeth iechyd yng Nghymru heblaw Gweinidogion Cymru, camau gweithredu a gymerwyd gan yr awdurdod wrth iddo gyflawni unrhyw un neu ragor o'i swyddogaethau;
 - (c) yn achos awdurdod rhestredig sy'n berson â swyddogaethau a roddir gan reoliadau a wnaed o dan adran 113(2) o Ddeddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p.43), camau gweithredu a gymerwyd gan yr awdurdod wrth gyflawni unrhyw un neu ragor o'r swyddogaethau hynny;

- (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.

Matters which may be investigated

11 Matters which may be investigated

- (1) The matters which the Ombudsman is entitled to investigate under this Part are –
 - (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;
 - (c) an alleged failure by a listed authority to provide a relevant service.
- (2) The matters may relate to action taken before or after this Act receives Royal Assent.
- (3) Subsection (1) is subject to sections 12 to 15.
- (4) Relevant action is –
 - (a) in the case of a listed authority which is a family health service provider in Wales or an independent provider in Wales, action taken by the authority in connection with the provision of a relevant service;
 - (b) in the case of a listed authority which is a social landlord in Wales or a Welsh health service body other than the Welsh Ministers, action taken by the authority in the discharge of any of its functions;
 - (c) in the case of a listed authority which is a person with functions conferred by regulations made under section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003 (c.43), action taken by the authority in the discharge of any of those functions;

- (d) yn achos awdurdod rhestredig sy'n awdurdod rhestredig yn rhinwedd rheoliadau o dan adran 31(2) sy'n ei ychwanegu at Atodlen 3, camau gweithredu a gymerwyd gan yr awdurdod wrth iddo gyflawni unrhyw un neu ragor o'i swyddogaethau penodedig;
 - (e) mewn unrhyw achos arall, camau gweithredu a gymerwyd gan yr awdurdod wrth iddo gyflawni unrhyw un neu ragor o'i swyddogaethau gweinyddol.
- (5) Gwasanaeth perthnasol yw –
- (a) yn achos awdurdod rhestredig sy'n ddarparwr gwasanaeth iechyd teulu yng Nghymru, unrhyw un neu ragor o'r gwasanaethau iechyd teulu y gwnaeth yr awdurdod, ar adeg y camau gweithredu sy'n destun yr ymchwiliad, ymrwymo i gontract i'w ddarparu, ymgymryd i'w ddarparu neu wneud trefniadau i'w ddarparu neu i'w darparu;
 - (b) yn achos awdurdod rhestredig sy'n ddarparwr annibynnol yng Nghymru, unrhyw wasanaeth yr oedd yr awdurdod, bryd hynny, wedi gwneud trefniadau gyda chorff gwasanaeth iechyd yng Nghymru neu ddarparwr gwasanaeth iechyd teulu yng Nghymru i'w ddarparu;
 - (c) yn achos awdurdod rhestredig sy'n dod o fewn is-adran (4)(c), unrhyw wasanaeth a oedd, bryd hynny, yn swyddogaeth yr awdurdod i'w ddarparu wrth gyflawni unrhyw un neu ragor o'r swyddogaethau a grybwyllir yn yr is-adran honno;
 - (d) yn achos awdurdod rhestredig sy'n dod o fewn is-adran (4)(d), unrhyw wasanaeth a oedd, bryd hynny, yn swyddogaeth yr awdurdod i'w ddarparu wrth gyflawni unrhyw un neu ragor o'i swyddogaethau penodedig;
 - (e) mewn unrhyw achos arall, unrhyw wasanaeth a oedd, bryd hynny, yn swyddogaeth yr awdurdod i'w ddarparu.
- (6) At ddibenion is-adrannau (4)(d) a (5)(d), swyddogaethau penodedig awdurdod rhestredig yw'r swyddogaethau a bennir mewn perthynas â'r awdurdod mewn rheoliadau o dan adran 31(2) yn rhai sy'n dod o fewn cylch gwaith yr Ombwdsmon.
- (7) Mae swyddogaeth weinyddol y caniateir i berson sy'n aelod o staff gweinyddol tribiwnlys perthnasol ei chyflawni i'w thrin yn swyddogaeth weinyddol awdurdod rhestredig at ddibenion is-adran (4) –
- (a) os cafodd y person ei benodi gan yr awdurdod, neu
 - (b) os cafodd y person ei benodi gyda chydysyniad yr awdurdod (pa un ai o ran cydnabyddiaeth ariannol a thelerau ac amodau gwasanaeth eraill ai fel arall).

12 Eithrio: materion nad ydynt yn ymwneud â Chymru

- (1) Ni chaniateir i'r Ombwdsmon ymchwilio i fater sy'n codi mewn cysylltiad ag awdurdod rhestredig sy'n cyflawni neu'n darparu unrhyw un neu ragor o swyddogaethau neu wasanaethau'r awdurdod heblaw o ran Cymru.
- (2) Nid yw is-adran (1) yn gymwys o ran Llywodraeth Cymru.
- (3) I'r graddau bod un o swyddogaethau awdurdod rhestredig yn cael ei chyflawni o ran y Gymraeg neu unrhyw agwedd arall ar ddiwylliant Cymru, mae i'w hystyried at ddibenion is-adran (1) yn swyddogaeth a gyflawnir o ran Cymru.

- (d) in the case of a listed authority which is a listed authority by virtue of regulations under section 31(2) adding it to Schedule 3, action taken by the authority in the discharge of any of its specified functions;
 - (e) in any other case, action taken by the authority in the discharge of any of its administrative functions.
- (5) A relevant service is –
- (a) in the case of a listed authority which is a family health service provider in Wales, any of the family health services which the authority had, at the time of the action which is the subject of the investigation, entered into a contract, undertaken, or made arrangements, to provide;
 - (b) in the case of a listed authority which is an independent provider in Wales, any service which the authority had, at that time, made arrangements with a Welsh health service body or a family health service provider in Wales to provide;
 - (c) in the case of a listed authority falling within subsection (4)(c), any service which it was, at that time, the authority's function to provide in the discharge of any of the functions mentioned in that subsection;
 - (d) in the case of a listed authority falling within subsection (4)(d), any service which it was, at that time, the authority's function to provide in the discharge of any of its specified functions;
 - (e) in any other case, any service which it was, at that time, the authority's function to provide.
- (6) For the purposes of subsections (4)(d) and (5)(d), a listed authority's specified functions are the functions specified in relation to the authority in regulations under section 31(2) as falling within the Ombudsman's remit.
- (7) An administrative function which may be discharged by a person who is a member of the administrative staff of a relevant tribunal is to be treated as an administrative function of a listed authority for the purposes of subsection (4) if –
- (a) the person was appointed by the authority, or
 - (b) the person was appointed with the consent of the authority (whether as to remuneration and other terms and conditions of service or otherwise).

12 Exclusion: matters not relating to Wales

- (1) The Ombudsman may not investigate a matter arising in connection with the discharge or provision by a listed authority of any of the authority's functions or services otherwise than in relation to Wales.
- (2) Subsection (1) does not apply in relation to the Welsh Government.
- (3) To the extent that a function of a listed authority is discharged in relation to the Welsh language or any other aspect of Welsh culture, it is to be regarded for the purposes of subsection (1) as discharged in relation to Wales.

13 Eithrio: rhwymedïau eraill

- (1) Ni chaiff yr Ombwdsmon ymchwilio i fater o dan adran 3 os oes gan y person a dramgwyddwyd y canlynol neu os yw wedi cael y canlynol—
 - (a) hawl i apelio i dribiwnlys a gyfansoddwyd o dan ddeddfiad neu yn rhinwedd uchelfraint Ei Mawrhydi, neu i gael ei atgyfeirio at dribiwnlys o'r fath, neu i gael adolygiad gerbron tribiwnlys o'r fath,
 - (b) hawl i apelio i Weinidog y Goron, Gweinidogion Cymru, Prif Weinidog Cymru neu Gwnsler Cyffredinol Llywodraeth Cymru, neu
 - (c) rhwymedi drwy gyfrwng achos mewn llys barn.
- (2) Ond nid yw is-adran (1) yn gymwys os yw'r Ombwdsmon yn fodlon, yn yr amgylchiadau penodol, nad yw'n rhesymol disgwyl i'r person arfer yr hawl neu'r rhwymedi, neu ddisgwyl iddo fod wedi arfer yr hawl neu'r rhwymedi.
- (3) Caiff yr Ombwdsmon ymchwilio i fater o dan adran 3 dim ond os yw'r Ombwdsmon wedi ei fodloni—
 - (a) bod y mater wedi ei ddwyn i sylw'r awdurdod rhestredig y mae'r mater yn ymwneud ag ef gan y person a dramgwyddwyd neu ar ei ran, a
 - (b) bod yr awdurdod wedi cael cyfle rhesymol i ymchwilio i'r mater ac ymateb iddo.
- (4) Ond nid yw is-adran (3) yn atal yr Ombwdsmon rhag ymchwilio i fater os yw'r Ombwdsmon yn fodlon ei bod yn rhesymol yn yr amgylchiadau penodol i'r Ombwdsmon ymchwilio i'r mater er gwaethaf y ffaith nad yw gofynion yr is-adran honno wedi'u bodloni.

14 Materion eithriedig eraill

- (1) Ni chaniateir i'r Ombwdsmon ymchwilio, o dan y Rhan hon, i fater a bennir yn Atodlen 2.
- (2) Caiff Gweinidogion Cymru, drwy reoliadau, ddiwygio Atodlen 2 drwy—
 - (a) ychwanegu cofnod;
 - (b) dileu cofnod;
 - (c) newid cofnod.
- (3) Cyn gwneud rheoliadau o dan is-adran (2), rhaid i Weinidogion Cymru ymgynghori â'r Ombwdsmon.
- (4) Ni chaniateir gwneud rheoliadau o dan is-adran (2) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.
- (5) Nid yw is-adran (1) yn atal yr Ombwdsmon rhag ymchwilio i gamau gweithredu a gymerwyd gan awdurdod rhestredig wrth weithredu gweithdrefn a sefydlwyd i archwilio cwynion neu i adolygu penderfyniadau.

15 Penderfyniadau a wnaed heb gamweinyddu

- (1) Ni chaniateir i'r Ombwdsmon gwestiynu rhinweddau penderfyniad a wnaed heb gamweinyddu gan awdurdod rhestredig wrth arfer disgresiwn.

13 Exclusion: other remedies

- (1) The Ombudsman may not investigate a matter under section 3 if the person aggrieved has or had –
 - (a) a right of appeal, reference or review to or before a tribunal constituted under an enactment or by virtue of Her Majesty's prerogative,
 - (b) a right of appeal to a Minister of the Crown, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, or
 - (c) a remedy by way of proceedings in a court of law.
- (2) But subsection (1) does not apply if the Ombudsman is satisfied that, in the particular circumstances, it is not reasonable to expect the person to resort, or to have resorted, to the right or remedy.
- (3) The Ombudsman may investigate a matter under section 3 only if the Ombudsman is satisfied that –
 - (a) the matter has been brought to the attention of the listed authority to which the matter relates by or on behalf of the person aggrieved, and
 - (b) the authority has been given a reasonable opportunity to investigate and respond to it.
- (4) But subsection (3) does not prevent the Ombudsman from investigating a matter if the Ombudsman is satisfied that it is reasonable in the particular circumstances for the Ombudsman to investigate the matter despite the fact that the requirements of that subsection have not been met.

14 Other excluded matters

- (1) The Ombudsman may not investigate under this Part a matter specified in Schedule 2.
- (2) The Welsh Ministers may by regulations amend Schedule 2 by –
 - (a) adding an entry;
 - (b) removing an entry;
 - (c) changing an entry.
- (3) Before making regulations under subsection (2), the Welsh Ministers must consult the Ombudsman.
- (4) No regulations are to be made under subsection (2) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.
- (5) Subsection (1) does not prevent the Ombudsman from investigating action of a listed authority in operating a procedure established to examine complaints or review decisions.

15 Decisions taken without maladministration

- (1) The Ombudsman may not question the merits of a decision taken without maladministration by a listed authority in the exercise of a discretion.

- (2) Nid yw is-adran (1) yn gymwys i rinweddau penderfyniad i'r graddau bod y penderfyniad wedi ei wneud o ganlyniad i arfer barn broffesiynol sydd, ym marn yr Ombwdsmon, yn arferadwy mewn cysylltiad â darparu gofal cymdeithasol neu iechyd.

Ymchwiliadau ategol

16 Pŵer i ymchwilio i wasanaethau eraill sy'n gysylltiedig ag iechyd

- (1) Mae'r adran hon yn gymwys fel a ganlyn –
- (a) pan fo gan yr Ombwdsmon bŵer o dan y Rhan hon i ymchwilio –
- (i) i gamweinyddu honedig gan awdurdod rhestredig perthnasol mewn cysylltiad â chamau gweithredu perthnasol a gymerwyd gan yr awdurdod mewn perthynas â pherson,
 - (ii) i fethiant honedig mewn gwasanaeth perthnasol a ddarperir i berson gan awdurdod rhestredig perthnasol, neu
 - (iii) i fethiant honedig gan awdurdod rhestredig perthnasol i ddarparu gwasanaeth perthnasol i berson, a
- (b) pan fo gwasanaeth sy'n gysylltiedig ag iechyd nad yw'n wasanaeth perthnasol hefyd wedi'i ddarparu i'r person.
- (2) Os yw'r Ombwdsmon o'r farn na ellir ymchwilio'n effeithiol nac yn gyflawn i'r camweinyddu honedig neu'r methiant honedig heb hefyd ymchwilio i'r gwasanaeth sy'n gysylltiedig ag iechyd a grybwyllir yn is-adran (1)(b), caiff yr Ombwdsmon ymchwilio i'r gwasanaeth hwnnw fel rhan o'r ymchwiliad mewn perthynas â'r awdurdod rhestredig perthnasol.
- (3) Os gwnaiff yr Ombwdsmon hynny, mae unrhyw gyfeiriad at awdurdod rhestredig yn adran 17, 18, 23(2)(b) neu (7)(a), 27, 28(4)(b), (6)(c), (6)(d) neu (9)(b)(ii) neu 29(4)(a) yn cynnwys hefyd gyfeiriad at y person a ddarparodd y gwasanaeth sy'n gysylltiedig ag iechyd a grybwyllir yn is-adran (1)(b).
- (4) Yn yr adran hon –
- ystyr "awdurdod rhestredig perthnasol" ("*relevant listed authority*") yw –
- (a) Bwrdd Cyngorau Iechyd Cymuned yng Nghymru;
 - (b) Bwrdd Iechyd Lleol;
 - (c) Ymddiriedolaeth GIG sy'n rheoli ysbyty neu sefydliad neu gyfleuster arall yng Nghymru;
 - (d) Awdurdod Iechyd Arbennig nad yw'n cyflawni swyddogaethau yn Lloegr yn unig neu'n bennaf;
 - (e) Cyngor Iechyd Cymuned;
 - (f) darparwr annibynnol yng Nghymru;
 - (g) darparwr gwasanaeth iechyd teulu yng Nghymru;
 - (h) person â swyddogaethau a roddir gan reoliadau a wneir o dan adran 113(2) o Ddeddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p.43);
 - (i) Pwyllgor Gwasanaethau Iechyd Arbenigol Cymru;

- (2) Subsection (1) does not apply to the merits of a decision to the extent that the decision was taken in consequence of the exercise of professional judgement which appears to the Ombudsman to be exercisable in connection with the provision of health or social care.

Ancillary investigations

16 Power to investigate other health-related services

- (1) This section applies where –
- (a) the Ombudsman has power under this Part to investigate –
 - (i) alleged maladministration by a relevant listed authority in connection with relevant action taken by the authority in relation to a person,
 - (ii) an alleged failure in a relevant service provided to a person by a relevant listed authority, or
 - (iii) an alleged failure by a relevant listed authority to provide a relevant service to a person, and
 - (b) a health-related service which is not a relevant service has also been provided to the person.
- (2) If the Ombudsman considers that the alleged maladministration or failure cannot be investigated effectively or completely without also investigating the health-related service mentioned in subsection (1)(b), the Ombudsman may investigate that service as part of the investigation in respect of the relevant listed authority.
- (3) If the Ombudsman does so, any reference to a listed authority in section 17, 18, 23(2)(b) or (7)(a), 27, 28(4)(b), (6)(c), (6)(d) or (9)(b)(ii) or 29(4)(a) includes, in addition, a reference to the person who provided the health-related service mentioned in subsection (1)(b).
- (4) In this section –
- “health-related service” (“*gwasanaeth sy’n gysylltiedig ag iechyd*”) includes –
- (a) any medical, dental, ophthalmic, nursing, midwifery or pharmaceutical service, and
 - (b) any other service which is provided in connection with a person’s physical or mental health,
- other than a special procedure performed under the authority of a special procedure licence (within the meaning of Part 4 of the Public Health (Wales) Act 2017 (anaw 2);
- “relevant action” (“*camau gweithredu perthnasol*”) has the meaning given in section 11(4);
- “relevant listed authority” (“*awdurdod rhestredig perthnasol*”) means –
- (a) the Board of Community Health Councils in Wales;
 - (b) a Local Health Board;
 - (c) an NHS Trust managing a hospital or other establishment or facility in Wales;
 - (d) a Special Health Authority not discharging functions only or mainly in England;

mae i “camau gweithredu perthnasol” (“*relevant action*”) yr ystyr a roddir yn adran 11(4);

mae i “gwasanaeth perthnasol” (“*relevant service*”) yr ystyr a roddir yn adran 11(5);

mae “gwasanaeth sy’n gysylltiedig ag iechyd” (“*health-related service*”) yn cynnwys –

- (a) unrhyw wasanaeth meddygol, deintyddol, offthalmig, nyrsio, bydwreigiaeth neu fferyllol, a
- (b) unrhyw wasanaeth arall a ddarperir mewn cysylltiad ag iechyd corfforol neu feddyliol person,

heblaw triniaeth arbennig a gyflawnir o dan awdurdod trwydded triniaeth arbennig (o fewn ystyr Rhan 4 o Ddeddf Iechyd y Cyhoedd (Cymru) 2017 (dccc2);

- (5) Nid yw’r adran hon yn effeithio ar bŵer yr Ombwdsmon o dan adran 19.

Penderfyniadau i beidio ag ymchwilio etc

17 Penderfyniadau i beidio ag ymchwilio neu i roi’r gorau i ymchwiliad

- (1) Os yw’r Ombwdsmon –

- (a) yn penderfynu peidio â chychwyn ymchwiliad neu roi’r gorau i ymchwiliad, i fater o dan adran 3(5), neu
- (b) pan fo’r Ombwdsmon wedi ymgynghori â pherson o dan adran 4(2)(c), yn penderfynu peidio â chychwyn ymchwiliad, neu roi’r gorau i ymchwiliad, i fater o dan adran 4(3)(a),

rhaid i’r Ombwdsmon baratoi datganiad o’r rhesymau dros y penderfyniad.

- (2) Rhaid i’r Ombwdsmon anfon copi o’r datganiad at –

- (a) unrhyw berson a wnaeth gŵyn i’r Ombwdsmon mewn perthynas â’r mater, a
- (b) yr awdurdod rhestredig y mae’r mater yn ymwneud ag ef.

- (3) Caiff yr Ombwdsmon anfon copi o’r datganiad at unrhyw bersonau eraill sy’n briodol ym marn yr Ombwdsmon.

- (4) Caiff yr Ombwdsmon gyhoeddi datganiad o dan yr adran hon os yw’r Ombwdsmon, ar ôl ystyried buddiannau’r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy’n briodol ym marn yr Ombwdsmon, o’r farn ei bod er budd y cyhoedd i wneud hynny.

- (5) Caiff yr Ombwdsmon roi copi o ddatganiad a gyhoeddir o dan is-adran (4), neu unrhyw ran o ddatganiad o’r fath, i unrhyw berson sy’n gofyn amdano.

- (6) Caiff yr Ombwdsmon godi ffi resymol am roi copi o ddatganiad, neu ran o ddatganiad, o dan is-adran (5).

- (7) Os yw datganiad a baratowyd o dan is-adran (1) –

- (a) yn crybwyll enw unrhyw berson heblaw’r awdurdod rhestredig y mae’r mater yn ymwneud ag ef, neu

- (e) a Community Health Council;
- (f) an independent provider in Wales;
- (g) a family health service provider in Wales;
- (h) a person with functions conferred by regulations made under section 113(2) of the Health and Social Care (Community Health Standards) Act 2003 (c.43);
- (i) the Welsh Health Specialised Services Committee;

“relevant service” (“*gwasanaeth perthnasol*”) has the meaning in section 11(5).

- (5) This section does not affect the Ombudsman’s power under section 19.

Decisions not to investigate etc

17 Decisions not to investigate or to discontinue investigation

- (1) If the Ombudsman –
- (a) decides not to begin an investigation, or to discontinue an investigation, into a matter under section 3(5), or
 - (b) where the Ombudsman has consulted a person under section 4(2)(c), decides not to begin an investigation, or to discontinue an investigation, into a matter under section 4(3)(a),
- the Ombudsman must prepare a statement of the reasons for the decision.
- (2) The Ombudsman must send a copy of the statement to –
- (a) any person who made a complaint to the Ombudsman in respect of the matter, and
 - (b) the listed authority to which the matter relates.
- (3) The Ombudsman may send a copy of the statement to any other persons the Ombudsman thinks appropriate.
- (4) The Ombudsman may publish a statement under this section if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to do so.
- (5) The Ombudsman may supply a copy of a statement published under subsection (4), or any part of such a statement, to any person who requests it.
- (6) The Ombudsman may charge a reasonable fee for supplying a copy of a statement, or part of a statement, under subsection (5).
- (7) If a statement prepared under subsection (1) –
- (a) mentions the name of any person other than the listed authority to which the matter relates, or

(b) yn cynnwys unrhyw fanylion sydd, ym marn yr Ombwdsmon, yn debygol o wneud unrhyw berson o'r fath yn hysbys ac y gellir, ym marn yr Ombwdsmon, eu hepgor heb amharu ar effeithiolrwydd y datganiad,

ni chaniateir cynnwys yr wybodaeth honno mewn fersiwn o'r datganiad a anfonir at berson o dan is-adran (2) neu (3) neu a gyhoeddir o dan is-adran (4), yn ddarostyngedig i is-adran (8).

(8) Nid yw is-adran (7) yn gymwys mewn perthynas â fersiwn o'r datganiad os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r datganiad.

Gweithdrefn ymchwilio a thystiolaeth

18 Gweithdrefn ymchwilio

- (1) Os yw'r Ombwdsmon yn cynnal ymchwiliad o dan adran 3, rhaid i'r Ombwdsmon—
 - (a) rhoi cyfle i'r awdurdod rhestredig y mae'r ymchwiliad yn ymwneud ag ef wneud sylwadau ar unrhyw honiadau yn y gŵyn;
 - (b) rhoi i unrhyw berson arall yr honnir yn y gŵyn ei fod wedi cymryd y camau gweithredu yr achwynir amdanynt, neu wedi awdurdodi'r camau gweithredu yr achwynir amdanynt, gyfle i wneud sylwadau ar unrhyw honiadau sy'n ymwneud â'r person hwnnw.
- (2) Os yw'r Ombwdsmon yn cynnal ymchwiliad o dan adran 4, rhaid i'r Ombwdsmon—
 - (a) paratoi cynnig ymchwilio, a
 - (b) cyflwyno'r cynnig ymchwilio—
 - (i) i'r awdurdod rhestredig yr ymchwilir iddo, a
 - (ii) i unrhyw berson, heblaw'r awdurdod rhestredig, y'i hadwaenir mewn modd negyddol yn y cynnig ymchwilio.
- (3) Ond os yw'r Ombwdsmon—
 - (a) wedi cychwyn ymchwiliad i fater o dan adran 3 neu 4 (yn y naill achos a'r llall, "yr ymchwiliad gwreiddiol"), a
 - (b) wedi cychwyn ymchwiliad arall i fater ("yr ymchwiliad cysylltiedig") o dan adran 4 sy'n ymwneud â'r ymchwiliad gwreiddiol,

nid yw is-adran (2) yn gymwys i'r ymchwiliad cysylltiedig.
- (4) Mae ymchwiliad yn ymwneud ag ymchwiliad gwreiddiol os oes gan y mater yr ymchwilir iddo yn yr ymchwiliad cysylltiedig gysylltiad sylweddol â'r mater yr ymchwilir iddo yn yr ymchwiliad gwreiddiol.
- (5) Pan fo'r Ombwdsmon yn paratoi cynnig ymchwilio mewn cysylltiad â mater, rhaid i'r Ombwdsmon—
 - (a) rhoi cyfle i'r awdurdod rhestredig yr ymchwilir iddo wneud sylwadau ar y cynnig ymchwilio;

- (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the statement,

that information must not be included in a version of the statement sent to a person under subsection (2) or (3) or published under subsection (4), subject to subsection (8).

- (8) Subsection (7) does not apply in relation to a version of the statement if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the statement.

Investigation procedure and evidence

18 Investigation procedure

- (1) If the Ombudsman conducts an investigation under section 3, the Ombudsman must—
 - (a) give the listed authority to which the investigation relates an opportunity to comment on any allegations contained in the complaint;
 - (b) give any other person who is alleged in the complaint to have taken or authorised the action complained of an opportunity to comment on any allegations relating to that person.
- (2) If the Ombudsman conducts an investigation under section 4, the Ombudsman must—
 - (a) prepare an investigation proposal, and
 - (b) submit the investigation proposal to—
 - (i) the listed authority being investigated, and
 - (ii) any person, other than the listed authority, who is identified in the investigation proposal in a negative way.
- (3) But if—
 - (a) the Ombudsman has begun to investigate a matter under section 3 or 4 (in either case, “the original investigation”), and
 - (b) the Ombudsman has begun another investigation into a matter (“the related investigation”) under section 4 that relates to the original investigation,
 subsection (2) does not apply to the related investigation.
- (4) An investigation relates to an original investigation if the matter investigated in the related investigation has a substantial connection with the matter investigated in the original investigation.
- (5) Where the Ombudsman prepares an investigation proposal in relation to a matter, the Ombudsman must—
 - (a) give the listed authority being investigated an opportunity to comment on the investigation proposal;

- (b) rhoi cyfle i unrhyw berson, heblaw'r awdurdod rhestredig, y'i hadwaenir mewn modd negyddol yn y cynnig ymchwilio, wneud sylwadau ar y cynnig ymchwilio (i'r graddau y mae'r cynnig ymchwilio yn ymwneud â'r person hwnnw).
- (6) Pan fo'r Ombwdsmon wedi cychwyn ymchwiliad cysylltiedig i fater a phan nad oes cynnig ymchwilio wedi'i baratoi yn rhinwedd is-adran (3), rhaid i'r Ombwdsmon –
- (a) rhoi cyfle i'r awdurdod rhestredig wneud sylwadau ar yr ymchwiliad cysylltiedig;
- (b) rhoi cyfle i unrhyw berson, heblaw'r awdurdod rhestredig, y'i hadwaenir gan yr Ombwdsmon mewn modd negyddol mewn perthynas â'r ymchwiliad cysylltiedig, i wneud sylwadau ynghylch yr ymchwiliad cysylltiedig (i'r graddau y mae'r cynnig ymchwilio yn ymwneud â'r person hwnnw).
- (7) Rhaid i gynnig ymchwilio nodi –
- (a) y rhesymau dros yr ymchwiliad, a
- (b) y modd y bodlonwyd y meini prawf a gyhoeddwyd o dan adran 5.
- (8) Rhaid i ymchwiliad gael ei gynnal yn breifat.
- (9) Yn ddarostyngedig i ddarpariaethau eraill yr adran hon, y weithdrefn ar gyfer cynnal ymchwiliad o dan adran 3 neu 4 yw'r un sy'n briodol ym marn yr Ombwdsmon yn amgylchiadau'r achos.
- (10) Yn benodol, caiff yr Ombwdsmon –
- (a) gwneud y cyfryw ymchwiliadau y mae'r Ombwdsmon o'r farn eu bod yn briodol;
- (b) penderfynu a gaiff unrhyw berson ei gynrychioli yn yr ymchwiliad gan berson awdurdodedig neu fel arall.
- (11) Yn is-adran (10) ystyr "person awdurdodedig" yw person sydd, at ddibenion Deddf Gwasanaethau Cyfreithiol 2007 (p.29), yn berson awdurdodedig mewn perthynas â gweithgaredd sy'n golygu arfer hawl i ymddangos mewn achos neu ymladd achos (o fewn ystyr y Ddeddf honno).
- (12) Caiff yr Ombwdsmon dalu i unrhyw berson sy'n bresennol neu sy'n rhoi gwybodaeth at ddibenion yr ymchwiliad –
- (a) y cyfryw symiau y penderfyna'r Ombwdsmon arnynt mewn perthynas â threuliau yr aethpwyd iddynt yn briodol gan y person, a
- (b) y cyfryw lwfansau y penderfyna'r Ombwdsmon arnynt i ddigolledu'r person am ei amser,
- yn ddarostyngedig i'r cyfryw amodau y penderfyna'r Ombwdsmon arnynt.
- (13) Rhaid i'r Ombwdsmon gyhoeddi'r weithdrefn y bydd yr Ombwdsmon yn ei dilyn wrth gynnal ymchwiliad o dan adran 3 neu 4.
- (14) Nid yw cynnal ymchwiliad mewn perthynas ag awdurdod rhestredig yn effeithio ar y canlynol –
- (a) dilysrwydd unrhyw gamau gweithredu a gymerodd yr awdurdod rhestredig, neu
- (b) unrhyw bŵer neu ddyletswydd sydd gan yr awdurdod rhestredig i gymryd camau gweithredu pellach mewn perthynas ag unrhyw fater yr ymchwilir iddo.

- (b) give any person, other than the listed authority, who is identified in the investigation proposal in a negative way, an opportunity to comment on the investigation proposal (as far as the investigation proposal relates to that person).
- (6) Where the Ombudsman has begun a related investigation into a matter and no investigation proposal is prepared by virtue of subsection (3), the Ombudsman must –
 - (a) give the listed authority an opportunity to comment on the related investigation;
 - (b) give any person, other than the listed authority, who is identified by the Ombudsman in relation to the related investigation in a negative way, an opportunity to comment on the related investigation (as far as the related investigation relates to that person).
- (7) An investigation proposal must set out –
 - (a) the reasons for the investigation, and
 - (b) how the criteria published under section 5 have been met.
- (8) An investigation must be conducted in private.
- (9) Subject to the other provisions of this section, the procedure for conducting an investigation under section 3 or 4 is to be such as the Ombudsman thinks appropriate in the circumstances of the case.
- (10) In particular, the Ombudsman may –
 - (a) make such inquiries as the Ombudsman thinks appropriate;
 - (b) determine whether any person may be represented in the investigation by an authorised person or otherwise.
- (11) In subsection (10) “authorised person” means a person who, for the purposes of the Legal Services Act 2007 (c.29), is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).
- (12) The Ombudsman may pay to any person who attends or supplies information for the purposes of the investigation –
 - (a) such sums as the Ombudsman may determine in respect of expenses properly incurred by the person, and
 - (b) such allowances as the Ombudsman may determine by way of compensation for the loss of the person’s time,subject to such conditions as the Ombudsman may determine.
- (13) The Ombudsman must publish the procedure that the Ombudsman will follow when conducting an investigation under section 3 or 4.
- (14) The conduct of an investigation in respect of a listed authority does not affect –
 - (a) the validity of any action taken by the listed authority, or
 - (b) any power or duty of the listed authority to take further action with respect to any matter under investigation.

19 Gwybodaeth, dogfennau, tystiolaeth a chyfleusterau

- (1) Mae'r adran hon yn gymwys mewn perthynas ag ymchwiliadau a gynhelir o dan y Rhan hon.
- (2) At ddibenion ymchwiliad caiff yr Ombwdsmon ei gwneud yn ofynnol i berson sydd, ym marn yr Ombwdsmon, yn gallu cyflenwi gwybodaeth neu ddangos dogfen sy'n berthnasol i'r ymchwiliad, i wneud hynny.
- (3) At ddibenion ymchwiliad, mae gan yr Ombwdsmon yr un pwerau â'r Uchel Lys o ran—
 - (a) presenoldeb tystion a holi tystion (gan gynnwys gweinyddu llwon a chadarnhadau a holi tystion dramor), a
 - (b) dangos dogfennau.
- (4) At ddibenion ymchwiliad caiff yr Ombwdsmon ei gwneud yn ofynnol i berson sydd, ym marn yr Ombwdsmon, yn gallu cyflenwi gwybodaeth neu ddangos dogfen sy'n berthnasol i'r ymchwiliad, i ddarparu unrhyw gyfleuster y caiff yr Ombwdsmon ei wneud yn rhesymol ofynnol.
- (5) Yn ddarostyngedig i is-adran (7), ni chaniateir gorfodi unrhyw berson at ddibenion ymchwiliad i roi unrhyw dystiolaeth neu ddangos unrhyw ddogfen na allai gael ei orfodi i'w rhoi neu ei dangos mewn achosion sifil gerbron yr Uchel Lys.
- (6) Nid oes rhwymedigaeth i gadw cyfrinachedd neu gyfyngiad arall ar ddatgelu gwybodaeth a gafwyd gan bersonau yng ngwasanaeth Ei Mawrhydi, neu a roddwyd i bersonau yng ngwasanaeth Ei Mawrhydi, pa un a osodwyd y rhwymedigaeth honno gan unrhyw ddeddfiad neu reol gyfreithiol, i fod yn gymwys i ddatgelu gwybodaeth at ddibenion ymchwiliad.
- (7) Nid oes gan y Goron hawl, mewn perthynas ag ymchwiliad, i unrhyw fraint o ran dangos dogfennau neu o ran rhoi tystiolaeth a fyddai'n cael ei chaniatáu fel arall yn ôl y gyfraith mewn achosion cyfreithiol.

20 Rhwystro a dirmygu

- (1) Os bodlonir yr Ombwdsmon fod yr amod yn is-adran (2) wedi ei fodloni o ran person, caiff yr Ombwdsmon ddyroddi tystysgrif i'r perwyl hwnnw i'r Uchel Lys.
- (2) Yr amod yw bod y person—
 - (a) heb esgus cyfreithlon, wedi rhwystro unrhyw un neu ragor o swyddogaethau'r Ombwdsmon rhag cael eu cyflawni o dan y Rhan hon, neu
 - (b) wedi cyflawni gweithred mewn perthynas ag ymchwiliad a fyddai, pe bai'r ymchwiliad yn achos yn yr Uchel Lys, yn gyfystyr â dirmyg llys.
- (3) Ond nid yw'r amod yn is-adran (2) wedi ei fodloni o ran person dim ond am fod y person hwnnw wedi cymryd camau gweithredu yn y modd a grybwyllir yn adran 18(14).
- (4) Os yw'r Ombwdsmon yn dyroddi tystysgrif o dan is-adran (1), caiff yr Uchel Lys ymchwilio i'r mater.
- (5) Os bodlonir yr Uchel Lys fod yr amod yn is-adran (2) wedi ei fodloni o ran y person, caiff drin y person mewn unrhyw ffordd y byddai wedi gallu ei drin pe bai'r person wedi cyflawni dirmyg llys o ran yr Uchel Lys.

19 Information, documents, evidence and facilities

- (1) This section applies in relation to investigations conducted under this Part.
- (2) For the purposes of an investigation the Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to the investigation to do so.
- (3) For the purposes of an investigation the Ombudsman has the same powers as the High Court in respect of—
 - (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
 - (b) the production of documents.
- (4) For the purposes of an investigation the Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to the investigation to provide any facility the Ombudsman may reasonably require.
- (5) Subject to subsection (7), no person is to be compelled for the purposes of an investigation to give any evidence or produce any document which the person could not be compelled to give or produce in civil proceedings before the High Court.
- (6) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service, whether imposed by any enactment or rule of law, is to apply to the disclosure of information for the purposes of an investigation.
- (7) The Crown is not entitled in relation to an investigation to any privilege in respect of the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.

20 Obstruction and contempt

- (1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, the Ombudsman may issue a certificate to that effect to the High Court.
- (2) The condition is that the person—
 - (a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or
 - (b) has done an act in relation to an investigation which, if the investigation were proceedings in the High Court, would constitute contempt of court.
- (3) But the condition in subsection (2) is not met in relation to a person merely because the person has taken action such as is mentioned in section 18(14).
- (4) If the Ombudsman issues a certificate under subsection (1), the High Court may inquire into the matter.
- (5) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with the person in any manner in which it could have if the person had committed contempt in relation to the High Court.

21 Rhwystro a dirmygu: adennill costau

- (1) Mae'r adran hon yn gymwys fel a ganlyn –
 - (a) pan fo'r Ombwdsmon yn ymchwilio i wasanaeth sy'n gysylltiedig ag iechyd fel rhan o ymchwiliad sy'n ymwneud ag awdurdod rhestredig perthnasol o dan adran 16(2), a
 - (b) pan fo'r Ombwdsmon yn fodlon bod yr amod yn is-adran (2) wedi ei fodloni.
- (2) Yr amod yw bod darparwr y gwasanaeth sy'n gysylltiedig ag iechyd ("y darparwr") –
 - (a) heb esgus cyfreithlon, wedi rhwystro unrhyw un neu ragor o swyddogaethau'r Ombwdsmon rhag cael eu cyflawni o dan y Rhan hon, neu
 - (b) wedi cyflawni gweithred mewn perthynas â'r ymchwiliad a fyddai, pe bai'r ymchwiliad yn achos yn yr Uchel Lys, yn gyfystyr â dirmyg llys.
- (3) Nid yw'r amod yn is-adran (2) wedi ei fodloni o ran darparwr dim ond am fod y darparwr wedi cymryd camau gweithredu fel y crybwyllir yn adran 18(14)(b).
- (4) Caiff yr Ombwdsmon gyflwyno hysbysiad ("hysbysiad adennill costau") i'r darparwr sy'n ei gwneud yn ofynnol i'r darparwr dalu i'r Ombwdsmon gostau yr aeth yr Ombwdsmon iddynt o ganlyniad i'r rhwystr neu'r weithred a grybwyllir yn is-adran (2).
- (5) Caiff y costau y cyfeirir atynt yn is-adran (4) gynnwys (ond nid ydynt yn gyfyngedig i) y costau o gael cyngor arbenigol (gan gynnwys cyngor cyfreithiol).
- (6) Rhaid i hysbysiad adennill costau –
 - (a) nodi ar ba sail y cyflwynir yr hysbysiad, gan gynnwys manylion y rhwystr neu'r weithred sydd, ym marn yr Ombwdsmon, yn bodloni'r amod yn is-adran (2),
 - (b) pennu'r swm y mae'n rhaid ei dalu i'r Ombwdsmon, ynghyd â manylion y swm hwnnw,
 - (c) pennu –
 - (i) y dyddiad erbyn pryd y mae'n rhaid talu, a
 - (ii) sut y caniateir talu, a
 - (d) egluro'r hawl i apelio yn is-adran (9).
- (7) Rhaid i'r dyddiad talu a bennir o dan is-adran (6)(c) fod o leiaf 28 o ddiwrnodau yn hwyrach na'r dyddiad y caiff yr hysbysiad adennill costau ei gyflwyno i'r darparwr.
- (8) Rhaid i'r darparwr dalu i'r Ombwdsmon y swm a bennir yn yr hysbysiad adennill costau erbyn y dyddiad a bennir yn yr hysbysiad hwnnw (ond mae hyn yn ddarostyngedig i weddill y darpariaethau yn yr adran hon).
- (9) Caiff y darparwr apelio i'r llys ynadon yn erbyn hysbysiad adennill costau cyn pen 21 o ddiwrnodau sy'n dechrau â'r dyddiad y cyflwynir yr hysbysiad i'r darparwr; ac os bydd y darparwr yn gwneud hynny, nid yw is-adran (8) yn gymwys (ond gweler is-adrannau (15) ac (16)).
- (10) Mae apêl i fod ar ffurf cwyn am orchymyn bod yr hysbysiad i gael ei ddileu neu ei amrywio, ac yn unol â Deddf Llys Ynadon 1980 (p.43).
- (11) At ddiben y terfyn amser ar gyfer gwneud apêl, mae gwneud cwyn i gael ei drin fel gwneud apêl.

21 Obstruction and contempt: costs recovery

- (1) This section applies where –
 - (a) the Ombudsman investigates a health-related service as part of an investigation in respect of a relevant listed authority under section 16(2), and
 - (b) the Ombudsman is satisfied that the condition in subsection (2) is met.
- (2) The condition is that the provider of the health-related service (“the provider”) –
 - (a) without lawful excuse, has obstructed the discharge of any of the Ombudsman’s functions under this Part, or
 - (b) has done an act in relation to the investigation which, if the investigation were proceedings in the High Court, would constitute contempt of court.
- (3) The condition in subsection (2) is not met in relation to a provider merely because the provider has taken action of the kind mentioned in section 18(14)(b).
- (4) The Ombudsman may serve a notice (a “costs recovery notice”) on the provider requiring the provider to pay the Ombudsman costs incurred by the Ombudsman as a result of the obstruction or act mentioned in subsection (2).
- (5) The costs referred to in subsection (4) may include (but are not limited to) the costs of obtaining expert advice (including legal advice).
- (6) A costs recovery notice must –
 - (a) set out the basis on which the notice is issued, including details of the obstruction or act which, in the opinion of the Ombudsman, meets the condition in subsection (2),
 - (b) specify the amount that must be paid to the Ombudsman, together with a detailed breakdown of the amount,
 - (c) specify –
 - (i) the date by which payment must be made, and
 - (ii) how payment may be made, and
 - (d) explain the right of appeal in subsection (9).
- (7) The payment date specified under subsection (6)(c) must be at least 28 days later than the date on which the costs recovery notice is served on the provider.
- (8) The provider must pay the Ombudsman the amount specified in the costs recovery notice by the date specified in that notice (but this is subject to the remaining provisions of this section).
- (9) The provider may appeal to the magistrates’ court against a costs recovery notice within 21 days beginning with the date on which the notice is served on the provider; and where the provider does so, subsection (8) does not apply (but see subsections (15) and (16)).
- (10) An appeal is to be by way of a complaint for an order that the notice be quashed or varied, and in accordance with the Magistrates’ Court Act 1980 (c.43).
- (11) For the purpose of the time limit for making an appeal, the making of a complaint is to be treated as the making of an appeal.

- (12) Y sail dros apêl yw bod penderfyniad yr Ombwdsmon i ddyroddi'r hysbysiad adennill costau –
- (a) yn seiliedig ar wall ffeithiol,
 - (b) yn anghywir mewn cyfraith, neu
 - (c) yn afresymol am unrhyw reswm.
- (13) Ar apêl, caiff y llys ynadon –
- (a) cadarnhau, dileu neu amrywio'r hysbysiad adennill costau, a
 - (b) gwneud y cyfryw orchymyn o ran costau sy'n briodol ym marn y llys ynadon.
- (14) Pan fo llys ynadon, ar apêl, yn dileu neu'n amrywio'r hysbysiad adennill costau, caiff orchymyn yr Ombwdsmon i ddigolledu'r darparwr am y golled a ddiodefodd o ganlyniad i gyflwyno'r hysbysiad.
- (15) Pan fo llys ynadon, ar apêl, yn cadarnhau'r hysbysiad adennill costau (gydag amrywiad neu heb amrywiad), rhaid i'r darparwr dalu'r swm sy'n daladwy yn rhinwedd yr hysbysiad cyn pen 28 o ddiwrnodau sy'n dechrau â'r dyddiad y penderfynir yn derfynol ar yr apêl.
- (16) Pan fo apêl a wnaed o dan yr adran hon yn cael ei thynnu'n ôl, rhaid i'r darparwr dalu'r swm a bennir yn yr hysbysiad adennill costau cyn pen 28 o ddiwrnodau sy'n dechrau â'r dyddiad y caiff yr apêl ei thynnu'n ôl.
- (17) Mae swm sy'n daladwy o dan yr adran hon i'w adennill yn ddiannod fel dyled sifil.
- (18) Yn yr adran hon, mae i "gwasanaeth sy'n gysylltiedig ag iechyd" yr ystyr a roddir yn adran 16.

22 Cyflwyno hysbysiad adennill costau

- (1) Mae'r adran hon yn gymwys i gyflwyno hysbysiad adennill costau o dan adran 21.
- (2) Caniateir i hysbysiad adennill costau gael ei gyflwyno i berson –
 - (a) drwy ei ddanfôn yn bersonol i'r person,
 - (b) drwy ei adael yng nghyfeiriad priodol y person,
 - (c) drwy ei anfon drwy'r post i gyfeiriad priodol y person, neu
 - (d) pan fo is-adran (3) yn gymwys, drwy ei anfon yn electronig i gyfeiriad a ddarparwyd at y diben hwnnw.
- (3) Mae'r is-adran hon yn gymwys pan fo'r person y mae'r hysbysiad adennill costau i'w ddyroddi iddo wedi cytuno yn ysgrifenedig iddo gael ei anfon yn electronig.
- (4) At ddibenion is-adran (2)(a), caniateir danfon hysbysiad adennill costau yn bersonol i gorff corfforaethol drwy ei roi i ysgrifennydd neu i glerc y corff hwnnw.
- (5) Pan fo'r Ombwdsmon yn cyflwyno hysbysiad adennill costau yn y dull a grybwyllir yn is-adran (2)(b), mae'r hysbysiad adennill costau i'w drin fel pe bai wedi ei dderbyn ar yr adeg y'i gadawyd yng nghyfeiriad priodol y person oni bai y dangosir i'r gwrthwyneb.
- (6) At ddibenion is-adrannau (2)(b) ac (c), cyfeiriad priodol person yw –
 - (a) yn achos corff corfforaethol, cyfeiriad swyddfa gofrestredig neu brif swyddfa'r corff;

- (12) The grounds for appeal are that the Ombudsman's decision to issue the costs recovery notice was –
 - (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unreasonable for any reason.
- (13) On appeal, the magistrates' court may –
 - (a) confirm, quash or vary the costs recovery notice, and
 - (b) make such order as to costs as it thinks fit.
- (14) Where, on appeal, the magistrates' court quashes or varies the costs recovery notice, it may order the Ombudsman to compensate the provider for loss suffered as a result of the service of the notice.
- (15) Where, on appeal, the magistrates' court confirms the costs recovery notice (with or without variation), the provider must pay the amount payable by virtue of the notice within 28 days beginning with the date on which the appeal is finally determined.
- (16) Where an appeal made under this section is withdrawn, the provider must pay the amount specified in the costs recovery notice within 28 days beginning with the date on which the appeal is withdrawn.
- (17) An amount payable under this section is recoverable summarily as a civil debt.
- (18) In this section, "health-related service" has the same meaning as in section 16.

22 Serving a costs recovery notice

- (1) This section applies to the service of a costs recovery notice under section 21.
- (2) The costs recovery notice may be served on a person –
 - (a) by being delivered personally to the person,
 - (b) by leaving it at the person's proper address,
 - (c) by being sent by post to the person's proper address, or
 - (d) where subsection (3) applies, by sending it electronically to an address provided for that purpose.
- (3) This subsection applies where the person to whom the costs recovery notice is to be issued has agreed in writing that it may be sent electronically.
- (4) For the purposes of subsection (2)(a), a costs recovery notice may be delivered personally to a body corporate by giving it to the secretary or clerk of that body.
- (5) Where the Ombudsman serves a costs recovery notice in the manner mentioned in subsection (2)(b), the costs recovery notice is to be treated as having been received at the time it was left at the person's proper address unless the contrary is shown.
- (6) For the purposes of subsections (2)(b) and (c), the proper address of a person is –
 - (a) in the case of a body corporate, the address of the registered or principal office of the body;

- (b) yn achos person sy'n gweithredu yn rhinwedd partner mewn partneriaeth, cyfeiriad prif swyddfa'r bartneriaeth;
 - (c) mewn unrhyw achos arall, cyfeiriad hysbys olaf y person.
- (7) Pan fo'r Ombwdsmon yn cyflwyno hysbysiad adennill costau yn y dull a grybwyllir yn is-adran (2)(c) drwy ei anfon i gyfeiriad yn y Deyrnas Unedig, mae'r hysbysiad adennill costau i'w drin fel pe bai wedi ei dderbyn 48 awr ar ôl ei anfon oni bai y dangosir i'r gwrthwyneb.
- (8) Pan fo'r Ombwdsmon yn cyflwyno hysbysiad adennill costau yn y dull a grybwyllir yn is-adran (2)(d), mae'r hysbysiad adennill costau i'w drin fel pe bai wedi ei dderbyn 48 awr ar ôl ei anfon oni bai y dangosir i'r gwrthwyneb.

Adroddiadau ar ymchwiliadau

23 Adroddiadau ar ymchwiliadau

- (1) Rhaid i'r Ombwdsmon, ar ôl cynnal ymchwiliad –
- (a) paratoi adroddiad ynghylch canfyddiadau'r Ombwdsmon, a
 - (b) anfon copi o'r adroddiad at y personau a restrir yn is-adran (2), ond mae hyn yn ddarostyngedig i adran 27.
- (2) Y personau y cyfeirir atynt yn is-adran (1)(b) yw –
- (a) os yw'r ymchwiliad yn ymwneud â chwyn, y person a wnaeth y gwyn;
 - (b) yr awdurdod rhestredig y mae'r adroddiad yn ymwneud ag ef;
 - (c) unrhyw berson arall yr honnir yn y gwyn (os oes un) ei fod wedi cymryd y camau gweithredu yr achwynir amdanynt neu wedi awdurdodi'r camau gweithredu yr achwynir amdanynt neu a wneir yn hysbys yn yr adroddiad gan yr Ombwdsmon mewn modd negyddol;
 - (d) os yw'r awdurdod rhestredig yn ddarparwr gwasanaeth iechyd teulu yng Nghymru –
 - (i) unrhyw Fwrdd Iechyd Lleol yr oedd yr awdurdod, ar adeg y camau gweithredu sy'n destun yr ymchwiliad, wedi ymrwymo i gontract ag ef i ddarparu'r gwasanaethau iechyd teulu sy'n destun ymchwiliad;
 - (ii) unrhyw berson yr oedd yr awdurdod, yr adeg honno, wedi ymrwymo i ddarparu'r gwasanaethau hynny iddo;
 - (iii) unrhyw berson yr oedd yr awdurdod, yr adeg honno, wedi gwneud trefniadau ag ef ar gyfer darparu'r gwasanaethau hynny;
 - (e) os yw'r awdurdod rhestredig yn ddarparwr annibynnol yng Nghymru –
 - (i) unrhyw gorff yn y gwasanaeth iechyd yng Nghymru yr oedd yr awdurdod, ar adeg y camau gweithredu sy'n destun yr ymchwiliad, wedi gwneud trefniadau ag ef i ddarparu'r gwasanaethau sy'n destun ymchwiliad;
 - (ii) unrhyw ddarparwr gwasanaeth iechyd teulu yng Nghymru yr oedd yr awdurdod, yr adeg honno, wedi gwneud trefniadau ag ef i ddarparu'r gwasanaethau hynny;

- (b) in the case of a person acting in their capacity as a partner in a partnership, the address of the principal office of the partnership;
 - (c) in any other case, the last known address of the person.
- (7) Where the Ombudsman serves a costs recovery notice in the manner mentioned in subsection (2)(c) by sending it to an address in the United Kingdom, the costs recovery notice is to be treated as having been received 48 hours after it is sent unless the contrary is shown.
- (8) Where the Ombudsman serves a costs recovery notice in the manner mentioned in subsection (2)(d), the costs recovery notice is to be treated as having been received 48 hours after it is sent unless the contrary is shown.

Reports of investigations

23 Reports of investigations

- (1) The Ombudsman must, after conducting an investigation –
- (a) prepare a report on the Ombudsman’s findings, and
 - (b) send a copy of the report to the persons listed in subsection (2),
- but this is subject to section 27.
- (2) The persons referred to in subsection (1)(b) are –
- (a) if the investigation relates to a complaint, the person who made the complaint;
 - (b) the listed authority to which the report relates;
 - (c) any other person who is alleged in the complaint (if any) to have taken or authorised the action complained of or is identified in the report by the Ombudsman in a negative way;
 - (d) if the listed authority is a family health service provider in Wales –
 - (i) any Local Health Board with whom the authority had, at the time of the action which is the subject of the investigation, entered into a contract to provide the family health services which are under investigation;
 - (ii) any person to whom the authority had, at that time, undertaken to provide those services;
 - (iii) any person with whom the authority had, at that time, made arrangements for the provision of those services;
 - (e) if the listed authority is an independent provider in Wales –
 - (i) any Welsh health service body with whom the authority had, at the time of the action which is the subject of the investigation, made arrangements for the provision of the services under investigation;
 - (ii) any family health service provider in Wales with whom the authority had, at that time, made arrangements for the provision of those services;

- (f) Prif Weinidog Cymru (oni bai mai'r awdurdod rhestredig yw Llywodraeth Cymru neu awdurdod lleol yng Nghymru).
- (3) Caiff yr Ombwdsmon anfon copi o'r adroddiad at unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (4) Caiff yr Ombwdsmon gyhoeddi adroddiad a baratowyd o dan yr adran hon os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i wneud hynny.
- (5) Caiff yr Ombwdsmon roi copi o adroddiad a gyhoeddir o dan is-adran (4), neu unrhyw ran o adroddiad o'r fath, i unrhyw berson sy'n gofyn amdano neu amdani.
- (6) Caiff yr Ombwdsmon godi ffi resymol am roi copi o adroddiad, neu ran o adroddiad, o dan is-adran (5).
- (7) Os yw adroddiad a baratowyd o dan yr adran hon –
- (a) yn crybwyll enw unrhyw berson heblaw'r awdurdod rhestredig y mae'r adroddiad yn ymwneud ag ef, neu
 - (b) yn cynnwys unrhyw fanylion sydd, ym marn yr Ombwdsmon, yn debygol o wneud unrhyw berson o'r fath yn hysbys ac y gellir, ym marn yr Ombwdsmon, eu hepgor heb amharu ar effeithiolrwydd yr adroddiad,
- ni chaniateir cynnwys yr wybodaeth honno mewn fersiwn o'r adroddiad a anfonir at berson o dan is-adran (1)(b) neu (3) neu a gyhoeddir o dan is-adran (4), yn ddarostyngedig i is-adran (8).
- (8) Nid yw is-adran (7) yn gymwys mewn perthynas â fersiwn o'r adroddiad os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r adroddiad.

24 Rhoi cyhoeddusrwydd i adroddiadau

- (1) Os yw awdurdod rhestredig yn cael copi o adroddiad o dan adran 23(1)(b), rhaid i'r awdurdod sicrhau bod copïau o'r fersiwn honno o'r adroddiad ar gael am gyfnod o dair wythnos o leiaf –
- (a) yn un neu ragor o swyddfeydd yr awdurdod, a
 - (b) os oes gan yr awdurdod wefan, ar y wefan honno.
- (2) Drwy gydol y cyfnod hwnnw o dair wythnos, caiff unrhyw berson –
- (a) archwilio copi o'r adroddiad yn y swyddfa neu'r swyddfeydd dan sylw ar unrhyw adeg resymol yn ddi-dâl;
 - (b) gwneud copi o'r adroddiad neu unrhyw ran ohono ar unrhyw adeg resymol yn ddi-dâl;
 - (c) ei gwneud yn ofynnol i'r awdurdod rhestredig roi copi o'r adroddiad neu unrhyw ran ohono i'r person, wedi i'r person dalu swm rhesymol os gofynnir am hynny;
 - (d) gweld copi o'r adroddiad ar y wefan (os oes un) yn ddi-dâl.

- (f) the First Minister for Wales (unless the listed authority is itself the Welsh Government or is a local authority in Wales).
- (3) The Ombudsman may send a copy of the report to any other persons the Ombudsman thinks appropriate.
- (4) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to do so.
- (5) The Ombudsman may supply a copy of a report published under subsection (4), or any part of such a report, to any person who requests it.
- (6) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (5).
- (7) If a report prepared under this section –
 - (a) mentions the name of any person other than the listed authority in respect of which the report was made, or
 - (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the report,that information must not be included in a version of the report sent to a person under subsection (1)(b) or (3) or published under subsection (4), subject to subsection (8).
- (8) Subsection (7) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.

24 Publicising reports

- (1) If a listed authority receives a copy of a report under section 23(1)(b), the authority must make copies of that version of the report available for a period of at least three weeks –
 - (a) at one or more of the authority’s offices, and
 - (b) if the authority has a website, on the website.
- (2) Throughout that period of three weeks, any person may –
 - (a) inspect the copy of the report at the office or offices concerned at any reasonable time without payment;
 - (b) make a copy of the report or any part of it at any reasonable time without payment;
 - (c) require the listed authority to supply the person with a copy of the report or any part of it, on payment of a reasonable sum if requested;
 - (d) view the copy of the report on the website (if any) without payment.

- (3) Heb fod yn hwyrach na phythefnos ar ôl cael copi o'r adroddiad rhaid i'r awdurdod rhestredig sicrhau bod hysbysiad yn cael ei gyhoeddi mewn papur newydd sy'n cylchredeg yn y rhan honno o Gymru lle digwyddodd y mater sy'n destun yr adroddiad.
- (4) Rhaid i'r hysbysiad bennu –
 - (a) y dyddiad y bydd y cyfnod o dair wythnos y cyfeirir ato yn is-adran (1) yn cychwyn,
 - (b) y swyddfa neu'r swyddfeydd lle gellir archwilio copi o'r adroddiad, ac
 - (c) cyfeiriad gwefan yr awdurdod (os oes ganddo un).
- (5) Caiff yr Ombwdsmon roi cyfarwyddydau i awdurdodau rhestredig ynghylch cyflawni eu swyddogaethau o dan yr adran hon.
- (6) Caiff cyfarwyddydau o dan is-adran (5) ymwneud â'r canlynol –
 - (a) awdurdod rhestredig penodol mewn perthynas ag adroddiad penodol, neu
 - (b) pob awdurdod rhestredig neu unrhyw un neu ragor ohonynt mewn perthynas â chyflawni swyddogaethau yn gyffredinol o dan yr adran hon.
- (7) Mae person yn cyflawni trosedd –
 - (a) os yw'r person yn fwriadol yn rhwystro person wrth iddo arfer hawl a roddir gan is-adran (2)(a), (b) neu (d), neu
 - (b) os yw'r person yn gwrthod cydymffurfio â gofyniad o dan is-adran (2)(c).
- (8) Mae person sy'n euog o drosedd o dan is-adran (7) yn atebol ar euogfarn ddiannod i ddirwy nad yw'n uwch na lefel 3 ar y raddfa safonol.
- (9) Caiff yr Ombwdsmon gyfarwyddo bod is-adrannau (1) i (4) yn peidio â bod yn gymwys mewn perthynas ag adroddiad penodol.
- (10) Wrth benderfynu pa un ai i roi cyfarwyddyd o dan is-adran (9), rhaid i'r Ombwdsmon ystyried y canlynol –
 - (a) budd y cyhoedd,
 - (b) buddiannau'r person a dramgwyddwyd (os oes un), ac
 - (c) buddiannau unrhyw bersonau eraill sy'n briodol, ym marn yr Ombwdsmon.

25 Rhoi cyhoeddusrwydd i adroddiadau: darparwyr gofal iechyd

- (1) Os caiff ymchwiliad ei gynnal yn achos awdurdod rhestredig sy'n ddarparwr gwasanaeth iechyd teulu yng Nghymru, mae adran 24 yn cael effaith gyda'r addasiadau a bennir yn is-adrannau (2) i (4).
- (2) Yn lle is-adran (1) rhodder –
 - (1) Rhaid i berson sydd wedi cael copi o adroddiad o dan adran 23 yn rhinwedd adran 23(2)(d) sicrhau bod copïau o'r adroddiad ar gael am gyfnod o dair wythnos o leiaf –
 - (a) yn un neu ragor o swyddfeydd y person, a
 - (b) os oes gan y person wefan, ar y wefan honno."
- (3) Mae'r cyfeiriadau at yr awdurdod rhestredig i'w cymryd i fod yn gyfeiriadau at y person hwnnw.

- (3) Not later than two weeks after the copy of the report is received, the listed authority must ensure that a notice is published in a newspaper circulating in the part of Wales in which the matter which is the subject of the report arose.
- (4) The notice must specify –
 - (a) the date on which the period of three weeks referred to in subsection (1) will begin,
 - (b) the office or offices at which a copy of the report can be inspected, and
 - (c) the address of the authority’s website (if any).
- (5) The Ombudsman may give directions to listed authorities with regard to the discharge of their functions under this section.
- (6) Directions under subsection (5) may relate –
 - (a) to a particular listed authority in respect of a particular report, or
 - (b) generally to the discharge of functions under this section by all or any listed authorities.
- (7) A person commits an offence if –
 - (a) the person wilfully obstructs a person in the exercise of a right conferred by subsection (2)(a), (b) or (d), or
 - (b) the person refuses to comply with a requirement under subsection (2)(c).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) The Ombudsman may direct that subsections (1) to (4) are not to apply in relation to a particular report.
- (10) In deciding whether to give a direction under subsection (9), the Ombudsman must take into account –
 - (a) the public interest,
 - (b) the interests of the person aggrieved (if any), and
 - (c) the interests of any other persons the Ombudsman thinks appropriate.

25 Publicising reports: health care providers

- (1) If an investigation is conducted in respect of a listed authority which is a family health service provider in Wales, section 24 has effect with the modifications specified in subsections (2) to (4).
- (2) For subsection (1) substitute –
 - “(1) A person who has received a copy of a report under section 23 by virtue of section 23(2)(d) must make copies of the report available for a period of at least three weeks –
 - (a) at one or more of the person’s offices, and
 - (b) if the person has a website, on the website.”
- (3) The references to the listed authority are to be taken to be references to that person.

- (4) Mae'r cyfeiriadau at awdurdodau rhestredig, neu at awdurdod rhestredig penodol, i'w cymryd i fod yn gyfeiriadau at bersonau, neu berson penodol, o'r un disgrifiad â'r person hwnnw.
- (5) Os caiff ymchwiliad ei gynnal yn achos awdurdod rhestredig sy'n ddarparwr annibynnol yng Nghymru, mae adran 24 yn cael effaith gyda'r addasiadau a bennir yn is-adrannau (6) i (8).
- (6) Yn lle is-adran (1) rhodder –
 - “(1) Rhaid i berson sydd wedi cael copi o adroddiad o dan adran 23 yn rhinwedd adran 23(2)(e) sicrhau bod copïau o'r adroddiad ar gael am gyfnod o dair wythnos o leiaf –
 - (a) yn un neu ragor o swyddfeydd y person, a
 - (b) os oes gan y person wefan, ar y wefan honno.”
- (7) Mae'r cyfeiriadau at yr awdurdod rhestredig i'w cymryd i fod yn gyfeiriadau at y person hwnnw.
- (8) Mae'r cyfeiriadau at awdurdodau rhestredig, neu at awdurdod rhestredig penodol, i'w cymryd i fod yn gyfeiriadau at bersonau, neu berson penodol, o'r un disgrifiad â'r person hwnnw.

26 Camau gweithredu ar ôl cael adroddiad

- (1) Mae'r adran hon yn gymwys os yw'r Ombwdsmon, mewn adroddiad o dan adran 23 ar ymchwiliad mewn perthynas ag awdurdod rhestredig, yn dod i'r casgliad bod unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater yr ymchwiliwyd iddo.
- (2) Rhaid i'r awdurdod rhestredig ystyried yr adroddiad a hysbysu'r Ombwdsmon cyn diwedd y cyfnod a ganiateir –
 - (a) am y camau gweithredu y mae wedi eu cymryd neu'n bwriadu eu cymryd mewn ymateb iddo, a
 - (b) cyn diwedd pa gyfnod y mae'n bwriadu cymryd y camau gweithredu hynny (os nad yw wedi gwneud hynny eisoes).
- (3) Y cyfnod a ganiateir yw –
 - (a) y cyfnod o fis sy'n dechrau ar y dyddiad y mae'r awdurdod yn cael yr adroddiad, neu
 - (b) unrhyw gyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig.

27 Adroddiadau: gweithdrefn amgen

- (1) Mae'r adran hon yn gymwys, ar ôl i'r Ombwdsmon gynnal ymchwiliad –
 - (a) os yw'r Ombwdsmon yn dod i'r casgliad nad oes unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater yr ymchwiliwyd iddo, a
 - (b) os yw'r Ombwdsmon yn fodlon nad yw budd y cyhoedd yn ei gwneud yn ofynnol i adrannau 23 i 26 fod yn gymwys.
- (2) Mae'r adran hon hefyd yn gymwys, ar ôl i'r Ombwdsmon gynnal ymchwiliad –

- (4) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.
- (5) If an investigation is conducted in respect of a listed authority which is an independent provider in Wales, section 24 has effect with the modifications specified in subsections (6) to (8).
- (6) For subsection (1) substitute –
 - “(1) A person who has received a copy of a report under section 23 by virtue of section 23(2)(e) must make copies of the report available for a period of at least three weeks –
 - (a) at one or more of the person’s offices, and
 - (b) if the person has a website, on the website.”
- (7) The references to the listed authority are to be taken to be references to that person.
- (8) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.

26 Action following receipt of a report

- (1) This section applies if, in a report under section 23 of an investigation in respect of a listed authority, the Ombudsman concludes that any person has sustained, or is likely to sustain, injustice or hardship in consequence of the matter investigated.
- (2) The listed authority must consider the report and notify the Ombudsman before the end of the permitted period of –
 - (a) the action it has taken or proposes to take in response to it, and
 - (b) the period before the end of which it proposes to have taken that action (if it has not already done so).
- (3) The permitted period is –
 - (a) the period of one month beginning on the date on which the authority receives the report, or
 - (b) any longer period specified by the Ombudsman in writing.

27 Reports: alternative procedure

- (1) This section applies if, after the Ombudsman has conducted an investigation –
 - (a) the Ombudsman concludes that no person has sustained, or is likely to sustain, injustice or hardship in consequence of the matter investigated, and
 - (b) the Ombudsman is satisfied that the public interest does not require sections 23 to 26 to apply.
- (2) This section also applies if, after the Ombudsman has conducted an investigation –

- (a) os yw'r Ombwdsmon yn dod i'r casgliad bod unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater yr ymchwiliwyd iddo,
 - (b) os yw'r awdurdod rhestredig y mae'r ymchwiliad yn ymwneud ag ef yn cytuno i weithredu, cyn diwedd y cyfnod a ganiateir, unrhyw argymhellion a wneir gan yr Ombwdsmon, ac
 - (c) os yw'r Ombwdsmon yn fodlon nad yw budd y cyhoedd yn ei gwneud yn ofynnol i adrannau 23 i 26 fod yn gymwys.
- (3) Y cyfnod a ganiateir yw –
- (a) cyfnod y cytunwyd arno rhwng yr Ombwdsmon a'r awdurdod rhestredig ac, os yw'r ymchwiliad yn ymwneud â chŵyn, y person a wnaeth y gŵyn, neu
 - (b) os yw'r Ombwdsmon o'r farn na ellir gwneud cytundeb o'r fath, y cyfnod a bennir gan yr Ombwdsmon yn ysgrifenedig.
- (4) Caiff yr Ombwdsmon benderfynu paratoi adroddiad am ganfyddiadau'r Ombwdsmon o dan yr adran hon yn hytrach nag o dan adran 23.
- (5) Os yw'r Ombwdsmon yn penderfynu paratoi adroddiad o dan yr adran hon –
- (a) nid yw adrannau 23 i 26 yn gymwys;
 - (b) rhaid i'r Ombwdsmon anfon copi o'r adroddiad at y canlynol –
 - (i) os yw'r ymchwiliad yn ymwneud â chŵyn, y person a wnaeth y gŵyn;
 - (ii) yr awdurdod rhestredig y mae'r adroddiad yn ymwneud ag ef;
 - (c) caiff yr Ombwdsmon anfon copi o'r adroddiad at unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (6) Caiff yr Ombwdsmon gyhoeddi adroddiad a baratowyd o dan yr adran hon os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i wneud hynny.
- (7) Caiff yr Ombwdsmon roi copi o adroddiad a gyhoeddir o dan is-adran (6), neu unrhyw ran o adroddiad o'r fath, i unrhyw berson sy'n gofyn amdano.
- (8) Caiff yr Ombwdsmon godi ffi resymol am roi copi o adroddiad, neu ran o adroddiad, o dan is-adran (7).
- (9) Os yw adroddiad a baratowyd o dan yr adran hon –
- (a) yn crybwyll enw unrhyw berson heblaw'r awdurdod rhestredig y mae'r adroddiad yn ymwneud ag ef, neu
 - (b) yn cynnwys unrhyw fanylion sydd, ym marn yr Ombwdsmon, yn debygol o wneud unrhyw berson o'r fath yn hysbys ac y gellir, ym marn yr Ombwdsmon, eu hepgor heb amharu ar effeithiolrwydd yr adroddiad,
- ni chaniateir cynnwys yr wybodaeth honno mewn fersiwn o'r adroddiad a anfonir at berson o dan is-adran (5) neu a gyhoeddir o dan is-adran (6), yn ddarostyngedig i is-adran (10).

- (a) the Ombudsman concludes that any person has sustained, or is likely to sustain, injustice or hardship in consequence of the matter investigated,
 - (b) the listed authority to which the investigation relates agrees to implement, before the end of the permitted period, any recommendations the Ombudsman makes, and
 - (c) the Ombudsman is satisfied that the public interest does not require sections 23 to 26 to apply.
- (3) The permitted period is –
- (a) a period agreed between the Ombudsman and the listed authority and, if the investigation relates to a complaint, the person who made the complaint, or
 - (b) if the Ombudsman thinks that no such agreement can be reached, the period specified by the Ombudsman in writing.
- (4) The Ombudsman may decide to prepare a report on the Ombudsman’s findings under this section instead of under section 23.
- (5) If the Ombudsman decides to prepare a report under this section –
- (a) sections 23 to 26 do not apply;
 - (b) the Ombudsman must send a copy of the report to –
 - (i) if the investigation relates to a complaint, the person who made the complaint;
 - (ii) the listed authority in respect of which the report was made;
 - (c) the Ombudsman may send a copy of the report to any other persons the Ombudsman thinks appropriate.
- (6) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to do so.
- (7) The Ombudsman may supply a copy of a report published under subsection (6), or any part of such a report, to any person who requests it.
- (8) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (7).
- (9) If a report prepared under this section –
- (a) mentions the name of any person other than the listed authority in respect of which the report was made, or
 - (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the report,

that information must not be included in a version of the report sent to a person under subsection (5) or published under subsection (6), subject to subsection (10).

- (10) Nid yw is-adran (9) yn gymwys mewn perthynas â fersiwn o'r adroddiad os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r adroddiad.

Adroddiadau arbennig

28 Adroddiadau arbennig

- (1) Caiff yr Ombwdsmon baratoi adroddiad o dan yr adran hon ("adroddiad arbennig") os yw is-adran (2), (4) neu (6) yn gymwys.
- (2) Mae'r is-adran hon yn gymwys os yw'r Ombwdsmon, mewn adroddiad o dan adran 23, wedi dod i'r casgliad bod unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder eu galedi, o ganlyniad i'r mater yr ymchwiliwyd iddo, ac—
- (a) nad yw'r Ombwdsmon wedi cael yr hysbysiad sy'n ofynnol o dan adran 26 cyn diwedd y cyfnod a ganiateir o dan yr adran honno,
- (b) bod yr Ombwdsmon wedi cael yr hysbysiad hwnnw, ond nad yw'n fodlon â'r canlynol—
- (i) y camau gweithredu y mae'r awdurdod rhestredig wedi'u cymryd neu'n bwriadu eu cymryd, neu
- (ii) cyn diwedd pa gyfnod y mae'n bwriadu cymryd y camau gweithredu hynny, neu
- (c) bod yr Ombwdsmon wedi cael yr hysbysiad hwnnw, ond nad yw'n fodlon bod yr awdurdod rhestredig, cyn diwedd y cyfnod a ganiateir, wedi cymryd y camau gweithredu y bwriadai eu cymryd.
- (3) Y cyfnod a ganiateir at ddibenion is-adran (2)(c) yw—
- (a) y cyfnod y cyfeirir ato yn adran 26(2)(b), neu
- (b) unrhyw gyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig.
- (4) Mae'r is-adran hon yn gymwys—
- (a) os yw'r Ombwdsmon wedi paratoi adroddiad o dan adran 27(2), a
- (b) os nad yw'r Ombwdsmon yn fodlon bod yr awdurdod rhestredig wedi gweithredu argymhellion yr Ombwdsmon cyn diwedd y cyfnod a ganiateir.
- (5) Y cyfnod a ganiateir at ddibenion is-adran (4)(b) yw—
- (a) y cyfnod y cyfeirir ato yn adran 27(2)(b), neu
- (b) unrhyw gyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig.
- (6) Mae'r is-adran hon yn gymwys—
- (a) os yw mater y mae gan yr Ombwdsmon hawl i ymchwilio iddo wedi cael ei ddatrys,
- (b) os yw'r Ombwdsmon, wrth ddatrys y mater, wedi dod i'r casgliad bod unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater,

- (10) Subsection (9) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.

Special reports

28 Special reports

- (1) The Ombudsman may prepare a report under this section (a “special report”) if subsection (2), (4) or (6) applies.
- (2) This subsection applies if, in a report under section 23, the Ombudsman has concluded that any person has sustained, or is likely to sustain, injustice or hardship in consequence of the matter investigated, and –
- (a) the Ombudsman has not received the notification required under section 26 before the end of the period permitted under that section,
 - (b) the Ombudsman has received that notification but is not satisfied with –
 - (i) the action which the listed authority has taken or proposes to take, or
 - (ii) the period before the end of which it proposes to have taken that action, or
 - (c) the Ombudsman has received that notification but is not satisfied that the listed authority has, before the end of the permitted period, taken the action it proposed to take.
- (3) The permitted period for the purposes of subsection (2)(c) is –
- (a) the period referred to in section 26(2)(b), or
 - (b) any longer period specified by the Ombudsman in writing.
- (4) This subsection applies if the Ombudsman –
- (a) has prepared a report under section 27(2), and
 - (b) is not satisfied that the listed authority has implemented the Ombudsman’s recommendations before the end of the permitted period.
- (5) The permitted period for the purposes of subsection (4)(b) is –
- (a) the period referred to in section 27(2)(b), or
 - (b) any longer period specified by the Ombudsman in writing.
- (6) This subsection applies if –
- (a) a matter which the Ombudsman is entitled to investigate has been resolved,
 - (b) in resolving the matter, the Ombudsman has concluded that any person has sustained, or is likely to sustain, injustice or hardship in consequence of the matter,

- (c) os yw'r awdurdod rhestredig wedi cytuno i gymryd camau gweithredu penodol cyn diwedd cyfnod penodol, a
 - (d) os nad yw'r Ombwdsmon yn fodlon bod yr awdurdod rhestredig wedi cymryd y camau gweithredu hynny cyn diwedd y cyfnod a ganiateir.
- (7) Y cyfnod a ganiateir at ddibenion is-adran (6)(d) yw –
- (a) y cyfnod y cyfeirir ato yn is-adran (6)(c), neu
 - (b) unrhyw gyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig.
- (8) Rhaid i adroddiad arbennig –
- (a) nodi'r ffeithiau sy'n sail i gymhwyso is-adran (2), (4) neu (6), a
 - (b) gwneud y cyfryw argymhellion sy'n briodol ym marn yr Ombwdsmon o ran y camau gweithredu y dylid, ym marn yr Ombwdsmon, eu cymryd –
 - (i) i unioni neu i atal yr anghyfiawnder neu'r caledi i'r person, a
 - (ii) i atal anghyfiawnder neu galedi tebyg rhag cael ei achosi i unrhyw berson yn y dyfodol.
- (9) Rhaid i'r Ombwdsmon anfon copi o adroddiad arbennig –
- (a) os caiff yr adroddiad arbennig ei baratoi am fod is-adran (2) yn gymwys, at bob person yr anfonwyd copi o'r adroddiad o dan adran 23 ato o dan adran 23(1)(b);
 - (b) os caiff yr adroddiad arbennig ei baratoi am fod is-adran (4) neu (6) yn gymwys –
 - (i) at y person a wnaeth y gŵyn, os yw'r ymchwiliad yn ymwneud â chŵyn;
 - (ii) at yr awdurdod rhestredig y mae'r adroddiad yn ymwneud ag ef.
- (10) Caiff yr Ombwdsmon anfon copi o adroddiad arbennig at unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.

29 Adroddiadau arbennig: atodol

- (1) Caiff yr Ombwdsmon –
- (a) cyhoeddi adroddiad arbennig a wnaed o dan adran 28;
 - (b) rhoi copi o'r adroddiad a gyhoeddwyd neu unrhyw ran ohono i unrhyw berson sy'n gofyn amdano neu amdani.
- (2) Caiff yr Ombwdsmon godi ffi resymol am roi copi o adroddiad (neu ran o adroddiad) o dan is-adran (1)(b).
- (3) Rhaid i'r awdurdod rhestredig y gwneir adroddiad arbennig ar ei gyfer ad-dalu'r Ombwdsmon am y gost o gyhoeddi adroddiad arbennig os gofynnir iddo wneud hynny gan yr Ombwdsmon.
- (4) Os yw adroddiad arbennig –
- (a) yn crybwyll enw unrhyw berson heblaw'r awdurdod rhestredig y mae'r adroddiad yn ymwneud ag ef, neu
 - (b) yn cynnwys unrhyw fanylion sydd, ym marn yr Ombwdsmon, yn debygol o wneud unrhyw berson o'r fath yn hysbys ac y gellir, ym marn yr Ombwdsmon, eu hepgor heb amharu ar effeithiolrwydd yr adroddiad,

- (c) the listed authority has agreed to take particular action before the end of a particular period, and
 - (d) the Ombudsman is not satisfied that the listed authority has taken that action before the end of the permitted period.
- (7) The permitted period for the purposes of subsection (6)(d) is –
- (a) the period referred to in subsection (6)(c), or
 - (b) any longer period specified by the Ombudsman in writing.
- (8) A special report must –
- (a) set out the facts on the basis of which subsection (2), (4) or (6) applies, and
 - (b) make such recommendations as the Ombudsman thinks fit with respect to the action which, in the Ombudsman’s opinion, should be taken –
 - (i) to remedy or prevent the injustice or hardship to the person, and
 - (ii) to prevent similar injustice or hardship being caused to any person in the future.
- (9) The Ombudsman must send a copy of a special report –
- (a) if the special report is prepared because subsection (2) applies, to each person to whom a copy of the report under section 23 was sent under section 23(1)(b);
 - (b) if the special report is prepared because subsection (4) or (6) applies –
 - (i) to the person who made the complaint, if the investigation relates to a complaint;
 - (ii) to the listed authority in respect of which the report was made.
- (10) The Ombudsman may send a copy of a special report to any other persons the Ombudsman thinks appropriate.

29 Special reports: supplementary

- (1) The Ombudsman may –
- (a) publish a special report made under section 28;
 - (b) supply a copy of the published report or any part of it to any person who requests it.
- (2) The Ombudsman may charge a reasonable fee for supplying a copy of a report (or part of a report) under subsection (1)(b).
- (3) The listed authority in respect of which a special report is made must reimburse the Ombudsman for the cost of publishing a special report if requested to do so by the Ombudsman.
- (4) If a special report –
- (a) mentions the name of any person other than the listed authority in respect of which the report was made, or
 - (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the report,

ni chaniateir cynnwys yr wybodaeth honno mewn fersiwn o'r adroddiad a anfonir at berson o dan adran 28(9) neu (10) neu a gyhoeddir o dan is-adran (1) o'r adran hon, yn ddarostyngedig i is-adran (5).

- (5) Nid yw is-adran (4) yn gymwys mewn perthynas â fersiwn o'r adroddiad arbennig os yw'r Ombwdsmon, ar ôl ystyried buddiannau unrhyw berson a dramgwyddwyd ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r adroddiad.
- (6) Mae adrannau 24 a 25 (rhoi cyhoeddusrwydd i adroddiadau o dan adran 23) yn gymwys mewn perthynas ag adroddiad arbennig o dan adran 28 yn yr un modd ag y maent yn gymwys mewn perthynas ag adroddiad o dan adran 23.

30 Adroddiadau arbennig sy'n ymwneud â Llywodraeth Cymru a Chomisiwn Cynulliad Cenedlaethol Cymru

- (1) Mae'r adran hon yn gymwys os caiff adroddiad arbennig ei wneud mewn achos pan gafodd yr ymchwiliad ei wneud mewn cysylltiad â Llywodraeth Cymru neu Gomisiwn Cynulliad Cenedlaethol Cymru.
- (2) Rhaid i'r person perthnasol osod copi o'r adroddiad gerbron y Cynulliad.
- (3) Yn is-adran (2) ystyr "y person perthnasol" yw –
 - (a) os cafodd yr ymchwiliad ei wneud mewn cysylltiad â Llywodraeth Cymru, Prif Weinidog Cymru, a
 - (b) os cafodd yr ymchwiliad ei wneud mewn cysylltiad â Chomisiwn Cynulliad Cenedlaethol Cymru, aelod o'r Comisiwn hwnnw.

Awdurdodau rhestredig

31 Awdurdodau rhestredig

- (1) Mae'r personau a bennir yn Atodlen 3 yn awdurdodau rhestredig at ddibenion y Ddeddf hon.
- (2) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio Atodlen 3 drwy –
 - (a) ychwanegu person,
 - (b) hepgor person, neu
 - (c) newid y disgrifiad o berson.
- (3) Caiff rheoliadau o dan is-adran (2) sy'n ychwanegu person at Atodlen 3 ddarparu bod y Ddeddf hon yn gymwys i'r person hwnnw gyda'r addasiadau a bennir yn y rheoliadau.
- (4) Cyn gwneud rheoliadau o dan is-adran (2), rhaid i Weinidogion Cymru ymgynghori â'r Ombwdsmon ac unrhyw bersonau eraill sydd, yn eu barn hwy, yn briodol.
- (5) Ni chaniateir gwneud rheoliadau o dan is-adran (2) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.
- (6) Mae adrannau 32 a 33 yn cynnwys cyfyngiadau pellach ar y pŵer yn is-adran (2).

that information must not be included in a version of the report sent to a person under section 28(9) or (10) or published under subsection (1) of this section, subject to subsection (5).

- (5) Subsection (4) does not apply in relation to a version of the special report if, after taking account of the interests of any person aggrieved and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the special report.
- (6) Sections 24 and 25 (publicising reports under section 23) apply in relation to a special report under section 28 as they apply in relation to a report under section 23.

30 Special reports relating to the Welsh Government and the National Assembly for Wales Commission

- (1) This section applies if a special report is made in a case where the investigation was made in respect of the Welsh Government or the National Assembly for Wales Commission.
- (2) The relevant person must lay a copy of the report before the Assembly.
- (3) In subsection (2) “the relevant person” means –
 - (a) if the investigation was made in respect of the Welsh Government, the First Minister for Wales, and
 - (b) if the investigation was made in respect of the National Assembly for Wales Commission, a member of that Commission.

Listed authorities

31 Listed authorities

- (1) The persons specified in Schedule 3 are listed authorities for the purposes of this Act.
- (2) The Welsh Ministers may by regulations amend Schedule 3 by –
 - (a) adding a person,
 - (b) omitting a person, or
 - (c) changing the description of a person.
- (3) Regulations under subsection (2) adding a person to Schedule 3 may provide for this Act to apply to the person with the modifications specified in the regulations.
- (4) Before making regulations under subsection (2), the Welsh Ministers must consult the Ombudsman and any other persons they think appropriate.
- (5) No regulations are to be made under subsection (2) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.
- (6) Sections 32 and 33 contain further restrictions on the power in subsection (2).

32 Cyfyngiadau ar bŵer i ddiwygio Atodlen 3

- (1) Ni chaniateir i reoliadau o dan adran 31(2) hepgor Llywodraeth Cymru na Chomisiwn Cynulliad Cenedlaethol Cymru o Atodlen 3.
- (2) Caniateir i reoliadau o dan adran 31(2) ychwanegu person at Atodlen 3 dim ond os byddai'r ddarpariaeth a wneir gan y rheoliadau o fewn cymhwysedd deddfwriaethol y Cynulliad.

33 Darpariaethau mewn rheoliadau sy'n ychwanegu personau at Atodlen 3

Os yw Gweinidogion Cymru yn cynnig gwneud rheoliadau o dan adran 31(2) sy'n ychwanegu person at Atodlen 3, rhaid iddynt hefyd bennu'r canlynol yn y rheoliadau –

- (a) pa un a yw holl swyddogaethau'r person, ai dim ond rhai ohonynt, i ddod o fewn cylch gwaith yr Ombwdsmon o dan y Rhan hon;
- (b) os mai dim ond rhai o swyddogaethau'r person sydd i ddod o fewn cylch gwaith yr Ombwdsmon o dan y Rhan hon, pa rai yw'r swyddogaethau hynny.

34 Pŵer i ddyroddi canllawiau

- (1) Caiff yr Ombwdsmon ddyroddi i un neu ragor o awdurdodau rhestredig y cyfryw ganllawiau ynghylch arferion gweinyddu da sy'n briodol ym marn yr Ombwdsmon.
- (2) Cyn dyroddi canllawiau o dan yr adran hon, rhaid i'r Ombwdsmon ymgynghori â'r cyfryw awdurdodau rhestredig, neu bersonau yr ymddengys i'r Ombwdsmon eu bod yn cynrychioli'r awdurdodau rhestredig hynny, sy'n briodol ym marn yr Ombwdsmon.
- (3) Os yw canllawiau a ddyroddir o dan yr adran hon yn gymwys i awdurdod rhestredig, rhaid i'r awdurdod roi sylw i'r canllawiau wrth gyflawni ei swyddogaethau.
- (4) Wrth gynnal ymchwiliad mewn perthynas ag awdurdod rhestredig, caiff yr Ombwdsmon ystyried y graddau y mae'r awdurdod wedi cydymffurfio ag unrhyw ganllawiau a ddyroddwyd o dan yr adran hon sy'n gymwys i'r awdurdod.
- (5) Caiff yr Ombwdsmon gyhoeddi unrhyw ganllawiau a ddyroddir o dan yr adran hon mewn unrhyw fodd sy'n briodol ym marn yr Ombwdsmon, gan gynnwys yn benodol drwy roi'r canllawiau mewn adroddiad blynyddol neu eithriadol.
- (6) Caiff canllawiau a ddyroddir o dan yr adran hon gynnwys darpariaeth wahanol at ddibenion gwahanol.
- (7) Yn ddarostyngedig i is-adran (8), ni chaiff canllawiau a ddyroddir o dan yr adran hon –
 - (a) crybwyll enw unrhyw berson heblaw'r awdurdodau rhestredig y mae'r canllawiau yn gymwys iddynt, neu awdurdod rhestredig yr ymchwiliwyd iddo o dan y Rhan hon, na
 - (b) cynnwys unrhyw fanylion sydd, ym marn yr Ombwdsmon, yn debygol o wneud unrhyw berson o'r fath yn hysbys ac y gellir, ym marn yr Ombwdsmon, eu hepgor heb amharu ar effeithiolrwydd y canllawiau.
- (8) Nid yw is-adran (7) yn gymwys os yw'r Ombwdsmon, ar ôl ystyried buddiannau unrhyw bersonau sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y canllawiau.

32 Restrictions on power to amend Schedule 3

- (1) Regulations under section 31(2) may not omit the Welsh Government or the National Assembly for Wales Commission from Schedule 3.
- (2) Regulations under section 31(2) may add a person to Schedule 3 only if the provision made by the regulations would be within the legislative competence of the Assembly.

33 Provisions in regulations adding persons to Schedule 3

If the Welsh Ministers propose to make regulations under section 31(2) adding a person to Schedule 3, they must also specify in the regulations –

- (a) whether all or only some of the person's functions are to fall within the remit of the Ombudsman under this Part;
- (b) if only some of the person's functions are to fall within the remit of the Ombudsman under this Part, which those functions are.

34 Power to issue guidance

- (1) The Ombudsman may issue to one or more listed authorities such guidance about good administrative practice as the Ombudsman thinks appropriate.
- (2) Before issuing guidance under this section the Ombudsman must consult such listed authorities, or persons appearing to the Ombudsman to represent them, as the Ombudsman thinks appropriate.
- (3) If guidance issued under this section is applicable to a listed authority, the authority must have regard to the guidance in discharging its functions.
- (4) In conducting an investigation in respect of a listed authority, the Ombudsman may have regard to the extent to which the authority has complied with any guidance issued under this section which is applicable to the authority.
- (5) The Ombudsman may publish any guidance issued under this section in any manner that the Ombudsman thinks appropriate, including in particular by putting the guidance in an annual or extraordinary report.
- (6) Guidance issued under this section may contain different provision for different purposes.
- (7) Subject to subsection (8), guidance issued under this section must not –
 - (a) mention the name of any person other than the listed authorities to which it is applicable or a listed authority which has been investigated under this Part, or
 - (b) include any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in the Ombudsman's opinion, can be omitted without impairing the effectiveness of the guidance.
- (8) Subsection (7) does not apply if, after taking account of the interests of any persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in the guidance.

*Digolledu***35 Digolledu'r person a dramgwyddwyd**

- (1) Mae'r is-adran hon yn gymwys –
 - (a) os caiff cwyn mewn perthynas â mater ei gwneud neu ei hatgyfeirio at yr Ombwdsmon, a
 - (b) os yw'r gŵyn yn un y mae gan yr Ombwdsmon bŵer i ymchwilio iddi o dan y Rhan hon.
- (2) Caiff yr awdurdod rhestredig y mae'r gŵyn yn ymwneud ag ef wneud taliad i'r person a dramgwyddwyd, neu ddarparu unrhyw fudd arall i'r person a dramgwyddwyd, mewn perthynas â'r mater sy'n destun y gŵyn.
- (3) Nid yw'n berthnasol at ddibenion yr adran hon fod yr Ombwdsmon wedi penderfynu peidio ag ymchwilio i'r gŵyn, wedi rhoi'r gorau i ymchwiliad i'r gŵyn, nad yw eto wedi cwblhau ymchwiliad i'r gŵyn, neu nad yw wedi cadarnhau'r gŵyn.
- (4) Nid yw'r pŵer yn is-adran (2) yn effeithio ar unrhyw bŵer arall sydd gan yr awdurdod rhestredig i wneud y taliad neu i ddarparu'r budd.

RHAN 4**AWDURDODAU RHESTREDIG: GWEITHDREFNAU AR GYFER YMDRIN Â CHWYNION****36 Ymdrin â chwynion: datganiad o egwyddorion**

- (1) Rhaid i'r Ombwdsmon gyhoeddi datganiad o egwyddorion ynghylch gweithdrefnau awdurdodau rhestredig ar gyfer ymdrin â chwynion.
- (2) Rhaid i awdurdod rhestredig –
 - (a) cael gweithdrefn ar gyfer ymdrin â chwynion, a
 - (b) sicrhau bod unrhyw weithdrefn o'r fath yn cydymffurfio â'r datganiad o egwyddorion.
- (3) Rhaid i'r Ombwdsmon osod drafft o'r datganiad cyntaf o egwyddorion gerbron y Cynulliad.
- (4) Os yw'r Cynulliad yn penderfynu peidio â chymeradwyo'r drafft cyn diwedd y cyfnod o 40 diwrnod, ni chaiff yr Ombwdsmon gyhoeddi'r datganiad o egwyddorion ar ei ffurf ddrafft.
- (5) Os na wneir y cyfryw benderfyniad cyn diwedd y cyfnod hwnnw, rhaid i'r Ombwdsmon gyhoeddi'r datganiad o egwyddorion ar ei ffurf ddrafft.
- (6) O ran y cyfnod o 40 diwrnod –
 - (a) mae'n dechrau ar y diwrnod pryd y gosodir y drafft gerbron y Cynulliad, a
 - (b) nid yw'n cynnwys unrhyw amser pan fo'r Cynulliad wedi'i ddiddymu neu pan fydd toriad o fwy na phedwar diwrnod.

Compensation

35 Compensation for the person aggrieved

- (1) This section applies if –
 - (a) a complaint in respect of a matter is made or referred to the Ombudsman, and
 - (b) the complaint is one which the Ombudsman has power to investigate under this Part.
- (2) The listed authority in respect of which the complaint is made may make a payment to, or provide any other benefit for, the person aggrieved in respect of the matter which is the subject of the complaint.
- (3) It is immaterial for the purposes of this section that the Ombudsman has decided not to investigate the complaint, has discontinued an investigation of the complaint, has not yet completed an investigation of the complaint or has not upheld the complaint.
- (4) The power in subsection (2) does not affect any other power of the listed authority to make the payment or provide the benefit.

PART 4

LISTED AUTHORITIES: COMPLAINTS-HANDLING PROCEDURES

36 Complaints-handling: statement of principles

- (1) The Ombudsman must publish a statement of principles concerning complaints-handling procedures of listed authorities.
- (2) A listed authority must –
 - (a) have a complaints-handling procedure, and
 - (b) ensure that any such procedure complies with the statement of principles.
- (3) The Ombudsman must lay a draft of the first statement of principles before the Assembly.
- (4) If, before the end of the 40 day period, the Assembly resolves not to approve the draft, the Ombudsman must not publish the statement of principles in the form of the draft.
- (5) If no such resolution is made before the end of that period, the Ombudsman must publish the statement of principles in the form of the draft.
- (6) The 40 day period –
 - (a) begins on the day on which the draft is laid before the Assembly, and
 - (b) does not include any time during which the Assembly is dissolved or is in recess for more than four days.

- (7) Nid yw is-adran (4) yn atal datganiad drafft newydd o egwyddorion rhag cael ei osod gerbron y Cynulliad.
- (8) Cyn gosod datganiad drafft o egwyddorion gerbron y Cynulliad, rhaid i'r Ombwdsmon ymgynghori â'r canlynol –
 - (a) Gweinidogion Cymru, a
 - (b) y cyfryw awdurdodau rhestredig a phersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (9) Rhaid i'r Ombwdsmon, wrth baratoi'r datganiad drafft o egwyddorion sydd i'w osod gerbron y Cynulliad, roi sylw i unrhyw sylwadau a wneir yn ystod yr ymgynghoriad a grybwyllir yn is-adran (8).
- (10) Daw'r datganiad o egwyddorion i rym pan gaiff ei gyhoeddi gan yr Ombwdsmon.
- (11) O dro i dro, caiff yr Ombwdsmon adolygu ac ailgyhoeddi'r datganiad o egwyddorion.
- (12) Os, ym marn yr Ombwdsmon, yw adolygiadau a wneir o dan is-adran (11) yn effeithio ar unrhyw newid perthnasol i'r datganiad o egwyddorion, rhaid i'r Ombwdsmon osod drafft o'r adolygiadau hynny gerbron y Cynulliad.
- (13) Mae is-adrannau (4) i (10) yn gymwys i adolygiadau drafft a osodir gerbron y Cynulliad o dan is-adran (12) fel y maent yn gymwys i'r datganiad cyntaf o egwyddorion.
- (14) Yn yr adran hon ac adrannau 37 i 40, ystyr "gweithdrefnau ymdrin â chwynion" yw gweithdrefnau awdurdodau rhestredig sy'n archwilio cwynion neu'n adolygu penderfyniadau mewn perthynas â chamau gweithredu a gymerwyd gan awdurdod rhestredig pan fo'r mater o dan sylw yn un y mae gan yr Ombwdsmon hawl i ymchwilio iddo o dan Ran 3.

37 Gweithdrefnau enghreifftiol ar gyfer ymdrin â chwynion

- (1) Caiff yr Ombwdsmon gyhoeddi gweithdrefnau enghreifftiol ar gyfer ymdrin â chwynion ar gyfer awdurdodau rhestredig.
- (2) Rhaid i weithdrefn enghreifftiol ar gyfer ymdrin â chwynion (y cyfeirir ati yn y Ddeddf hon fel "gweithdrefn enghreifftiol") gydymffurfio â'r datganiad o egwyddorion.
- (3) Caiff yr Ombwdsmon gyhoeddi gweithdrefnau enghreifftiol gwahanol at ddibenion gwahanol.
- (4) Cyn cyhoeddi gweithdrefn enghreifftiol rhaid i'r Ombwdsmon ymgynghori â'r cyfryw awdurdodau rhestredig neu grwpiau o awdurdodau rhestredig sy'n briodol yn marn yr Ombwdsmon.
- (5) Ni chaniateir i weithdrefn enghreifftiol, o ran ei chymhwysiad i awdurdod rhestredig –
 - (a) gosod dyletswydd ar yr awdurdod rhestredig os nad oes gan yr awdurdod rhestredig y pwerau angenrheidiol (heblaw yn rhinwedd y Ddeddf hon) i sicrhau cydymffurfiaeth â'r ddyletswydd;
 - (b) bod yn anghyson ag unrhyw ddeddfiad (gan gynnwys unrhyw god, canllawiau, cynllun neu ddogfen arall a wnaed o dan y deddfiad) sy'n gymwys i'r awdurdod rhestredig.
- (6) O dro i dro, caiff yr Ombwdsmon adolygu ac ailgyhoeddi unrhyw weithdrefn enghreifftiol; ac wrth wneud hynny –

- (7) Subsection (4) does not prevent a new draft statement of principles from being laid before the Assembly.
- (8) Before laying a draft statement of principles before the Assembly, the Ombudsman must consult –
 - (a) the Welsh Ministers, and
 - (b) such listed authorities and other persons as the Ombudsman thinks appropriate.
- (9) The Ombudsman must, in preparing the draft statement of principles to be laid before the Assembly, have regard to any representations made during the consultation mentioned in subsection (8).
- (10) The statement of principles comes into force when it is published by the Ombudsman.
- (11) The Ombudsman may from time to time revise and re-publish the statement of principles.
- (12) If, in the opinion of the Ombudsman, revisions made under subsection (11) effect any material change to the statement of principles, the Ombudsman must lay a draft of those revisions before the Assembly.
- (13) Subsections (4) to (10) apply to draft revisions laid before the Assembly under subsection (12) as they apply to the first statement of principles.
- (14) In this section and sections 37 to 40, “complaints-handling procedures” means procedures of listed authorities which examine complaints or review decisions in respect of action taken by a listed authority where the matter in question is one the Ombudsman is entitled to investigate under Part 3.

37 Model complaints-handling procedures

- (1) The Ombudsman may publish model complaints-handling procedures for listed authorities.
- (2) A model complaints-handling procedure (referred to in this Act as a “model CHP”) must comply with the statement of principles.
- (3) The Ombudsman may publish different model CHPs for different purposes.
- (4) Before publishing a model CHP the Ombudsman must consult such listed authorities or groups of listed authorities as the Ombudsman thinks fit.
- (5) A model CHP may not, in its application to a listed authority –
 - (a) impose a duty on the listed authority if the listed authority lacks the necessary powers (other than by virtue of this Act) to ensure compliance with the duty;
 - (b) be inconsistent with any enactment (including any code, guidance, scheme or other document made under any enactment) that applies to the listed authority.
- (6) The Ombudsman may from time to time revise and re-publish any model CHP; and in doing so –

- (a) mae is-adran (5) yn gymwys, a
 - (b) cyn ailgyhoeddi unrhyw weithdrefn enghreifftiol, rhaid i'r Ombwdsmon hysbysu'r cyfryw awdurdodau rhestredig neu'r cyfryw grwpiau o awdurdodau rhestredig sy'n briodol ym marn yr Ombwdsmon am unrhyw newidiadau i'r weithdrefn enghreifftiol.
- (7) Pan fo gweithdrefn enghreifftiol yn cael ei hadolygu a'i hailgyhoeddi yn rhinwedd is-adran (6), mae adran 38 yn cael effaith gyda'r addasiadau a ganlyn—
- (a) mae unrhyw fanyleb o dan is-adran (1) o'r adran honno mewn perthynas â'r weithdrefn enghreifftiol yn parhau i gael effaith fel manyleb mewn perthynas â'r weithdrefn enghreifftiol a adolygwyd ac a ailgyhoeddwyd,
 - (b) mae unrhyw gyfeiriad arall at weithdrefn enghreifftiol yn gyfeiriad at y weithdrefn enghreifftiol a adolygwyd ac a ailgyhoeddwyd, ac
 - (c) yn is-adran (3) o'r adran honno, mae cyfeiriad at gael hysbysiad o'r fanyleb o dan is-adran (1) o'r adran honno yn gyfeiriad at gael hysbysiad o'r diwygiad o dan is-adran (6)(b) o'r adran hon.
- (8) Caiff yr Ombwdsmon dynnu'r weithdrefn enghreifftiol yn ôl ar unrhyw adeg.
- (9) Pan fo'r Ombwdsmon yn tynnu gweithdrefn enghreifftiol yn ôl o dan is-adran (8)—
- (a) rhaid i'r Ombwdsmon, cyn tynnu'r weithdrefn enghreifftiol yn ôl, hysbysu pob awdurdod rhestredig y mae'r weithdrefn enghreifftiol yn berthnasol iddo y bydd y weithdrefn enghreifftiol yn cael ei thynnu'n ôl a phryd y bydd y tynnu'n ôl yn digwydd, a
 - (b) ar y diwrnod y mae'r weithdrefn yn cael ei thynnu'n ôl—
 - (i) bydd unrhyw fanyleb o dan adran 38(1) mewn perthynas â'r weithdrefn enghreifftiol a dynnwyd yn ôl yn peidio â chael effaith, a
 - (ii) bydd y ddyletswydd yn adran 38(3) yn peidio â bod yn gymwys i awdurdod rhestredig a hysbyswyd o dan is-adran (9)(a), i'r graddau y mae'r ddyletswydd yn codi mewn perthynas â'r weithdrefn enghreifftiol a dynnwyd yn ôl.

38 Gweithdrefnau enghreifftiol ar gyfer ymdrin â chwynion: manyleb awdurdodau rhestredig

- (1) Caiff yr Ombwdsmon bennu unrhyw awdurdod rhestredig y mae gweithdrefn enghreifftiol yn berthnasol iddo; a rhaid hysbysu'r awdurdod yn unol â hynny.
- (2) Pan fo gweithdrefn enghreifftiol yn berthnasol i awdurdod rhestredig yn rhinwedd manyleb o dan is-adran (1), rhaid i'r awdurdod sicrhau bod gweithdrefn ymdrin â chwynion sy'n cydymffurfio â'r weithdrefn enghreifftiol at ddibenion y fanyleb.
- (3) Pan fo is-adran (2) yn gymwys, rhaid i'r awdurdod rhestredig gyflwyno ei weithdrefn ymdrin â chwynion i'r Ombwdsmon, ar ôl rhoi ystyriaeth i'r weithdrefn enghreifftiol berthnasol, o fewn chwe mis yn dechrau â'r diwrnod y mae'r awdurdod rhestredig yn cael yr hysbysiad o'r fanyleb o dan is-adran (1).
- (4) Caiff awdurdod rhestredig, gyda chydysyniad yr Ombwdsmon, addasu cymhwysiad y weithdrefn enghreifftiol sy'n berthnasol iddo, ond dim ond i'r graddau y bo hynny'n angenrheidiol er mwyn i'r awdurdod weithredu'r weithdrefn yn effeithiol.

- (a) subsection (5) applies, and
 - (b) before re-publishing any model CHP, the Ombudsman must notify such listed authorities or groups of listed authorities as the Ombudsman thinks fit of any revisions to the model CHP.
- (7) Where a model CHP is revised and re-published by virtue of subsection (6), section 38 has effect with the following modifications –
- (a) any specification under subsection (1) of that section in relation to the model CHP continues in effect as a specification in relation to the revised and re-published model CHP,
 - (b) any other reference to a model CHP is to the model CHP as revised and re-published, and
 - (c) in subsection (3) of that section, reference to receiving notice of the specification under subsection (1) of that section is a reference to receiving notice of the revision under subsection (6)(b) of this section.
- (8) The Ombudsman may withdraw any model CHP at any time.
- (9) Where the Ombudsman withdraws a model CHP under subsection (8) –
- (a) the Ombudsman must, before withdrawing the model CHP, notify each listed authority to which the model CHP is relevant that the model CHP will be withdrawn and when the withdrawal will happen, and
 - (b) on the day the model CHP is withdrawn –
 - (i) any specification under section 38(1) in relation to the withdrawn model CHP ceases to have effect, and
 - (ii) the duty in section 38(3) ceases to apply to a listed authority notified under subsection (9)(a), in so far as the duty arises in relation to the withdrawn model CHP.

38 Model complaints-handling procedures: specification of listed authorities

- (1) The Ombudsman may specify any listed authority to which a model CHP is relevant; and must notify the authority accordingly.
- (2) Where a model CHP is relevant to a listed authority by virtue of a specification under subsection (1), the authority must ensure there is a complaints-handling procedure which complies with the model CHP for the purposes of the specification.
- (3) Where subsection (2) applies, the listed authority must submit its complaints-handling procedure to the Ombudsman, having taken account of the relevant model CHP, within six months beginning with the day the listed authority receives notice of the specification under subsection (1).
- (4) A listed authority may, with the consent of the Ombudsman, modify the application of the model CHP which is relevant to it but only to the extent that is necessary for the effective operation of the procedure by the authority.

- (5) Caiff yr Ombwdsmon ddirymu unrhyw fanyleb o dan is-adran (1) ar unrhyw adeg.
- (6) Pan fo'r Ombwdsmon yn diddymu manyleb o dan is-adran (5) –
 - (a) rhaid i'r Ombwdsmon, cyn dirymu'r fanyleb, hysbysu pob awdurdod rhestredig y mae'r fanyleb yn gymwys iddo y bydd y fanyleb yn cael ei dirymu a phryd y bydd y dirymiad yn digwydd, a
 - (b) ar ddiwrnod dirymu'r fanyleb –
 - (i) bydd y fanyleb yn peidio â chael effaith, a
 - (ii) bydd y ddyletswydd yn is-adran (3) yn peidio â bod yn gymwys i awdurdod rhestredig a hysbyswyd o dan is-adran (6)(a), i'r graddau y mae'r ddyletswydd yn codi mewn perthynas â'r fanyleb a ddirymwyd.

39 Datganiadau o beidio â chydymffurfio

- (1) Pan fo gweithdrefn enghreifftiol yn berthnasol i awdurdod rhestredig yn rhinwedd manyleb o dan adran 38(1), caiff yr Ombwdsmon ddatgan nad yw gweithdrefn yr awdurdod ar gyfer ymdrin â chwynion yn cydymffurfio â'r weithdrefn enghreifftiol.
- (2) Pan na fo manyleb o dan adran 38(1) mewn perthynas ag awdurdod rhestredig, caiff yr Ombwdsmon ddatgan nad yw gweithdrefn yr awdurdod ar gyfer ymdrin â chwynion yn cydymffurfio â'r datganiad o egwyddorion.
- (3) Rhaid i'r Ombwdsmon gyhoeddi datganiad o dan is-adran (1) neu (2) ar wefan yr Ombwdsmon.
- (4) Cyn cyhoeddi datganiad o dan is-adran (3), rhaid i'r Ombwdsmon hysbysu'r awdurdod rhestredig y mae'r datganiad yn ymwneud ag ef –
 - (a) y bydd yr Ombwdsmon yn gwneud datganiad, gan gynnwys rhesymau'r Ombwdsmon dros wneud y datganiad;
 - (b) am unrhyw addasiadau i'r weithdrefn ymdrin â chwynion a fyddai'n arwain at dynnu'r datganiad yn ôl.
- (5) Pan fo datganiad yn cael ei wneud o dan is-adran (1) neu (2), rhaid i'r awdurdod rhestredig adolygu ei weithdrefn ymdrin â chwynion a'i chyflwyno i'r Ombwdsmon, ar ôl ystyried y rhesymau a roddir o dan is-adran (4)(a) ac unrhyw addasiadau a bennir yn is-adran (4)(b), o fewn dau fis yn dechrau â'r diwrnod y cyhoeddir y datganiad o dan is-adran (3).
- (6) Caiff yr Ombwdsmon dynnu'n ôl ddatganiad o beidio â chydymffurfio a wneir o dan is-adran (1) neu (2) ar unrhyw adeg os yw'r Ombwdsmon o'r farn bod hynny'n addas.
- (7) Pan fo'r Ombwdsmon yn tynnu'n ôl ddatganiad o dan is-adran (6) –
 - (a) rhaid i'r Ombwdsmon ar unwaith –
 - (i) hysbysu'r awdurdod rhestredig y mae'r datganiad yn ymwneud ag ef fod y datganiad wedi ei dynnu'n ôl, gan gynnwys y rhesymau pam y tynnwyd y datganiad yn ôl, a
 - (ii) diweddarau'r datganiad a gyhoeddir o dan is-adran (3) i adlewyrchu bod y datganiad wedi ei dynnu'n ôl, gan gynnwys y rhesymau pam y tynnwyd y datganiad yn ôl;

- (5) The Ombudsman may revoke any specification under subsection (1) at any time.
- (6) Where the Ombudsman revokes a specification under subsection (5) –
 - (a) the Ombudsman must, before revoking the specification, notify each listed authority to which the specification applies that the specification will be revoked and when the revocation will happen, and
 - (b) on the day the specification is revoked –
 - (i) the specification ceases to have effect, and
 - (ii) the duty in subsection (3) ceases to apply to a listed authority notified under subsection (6)(a), in so far as the duty arises in relation to the revoked specification.

39 Declarations of non-compliance

- (1) Where a model CHP is relevant to a listed authority by virtue of a specification under section 38(1), the Ombudsman may declare that the complaints-handling procedure of the authority does not comply with the model CHP.
- (2) Where there is no specification under section 38(1) in relation to a listed authority the Ombudsman may declare that the complaints-handling procedure of the authority does not comply with the statement of principles.
- (3) The Ombudsman must publish a declaration under subsection (1) or (2) on the Ombudsman's website.
- (4) Before publishing a declaration under subsection (3), the Ombudsman must notify the listed authority to which the declaration relates –
 - (a) that the Ombudsman will make a declaration, including the Ombudsman's reasons for making the declaration;
 - (b) of any modifications to the complaints-handling procedure that would result in the declaration being withdrawn.
- (5) Where a declaration is made under subsection (1) or (2), the listed authority must revise its complaints-handling procedure and submit it to the Ombudsman, having taken account of the reasons given under subsection (4)(a) and any modifications specified in subsection (4)(b), within two months beginning with the day the declaration is published under subsection (3).
- (6) The Ombudsman may withdraw a declaration of non-compliance made under subsection (1) or (2) at any time if the Ombudsman thinks fit.
- (7) Where the Ombudsman withdraws a declaration under subsection (6) –
 - (a) the Ombudsman must immediately –
 - (i) notify the listed authority to which the declaration relates that the declaration has been withdrawn, including the reasons why the declaration has been withdrawn, and
 - (ii) update the declaration published under subsection (3) to reflect that the declaration has been withdrawn, including the reasons why the declaration has been withdrawn;

- (b) bydd y ddyletswydd o dan is-adran (5) yn peidio â bod yn gymwys i'r awdurdod rhestredig, i'r graddau y mae'r ddyletswydd yn codi mewn perthynas â'r datganiad a dynnwyd yn ôl, cyn gynted ag y bo'r Ombwdsmon yn tynnu'r datganiad yn ôl.

40 Cyflwyno gweithdrefn ymdrin â chwynion: cyffredinol

- (1) Rhaid i awdurdod rhestredig gyflwyno ei weithdrefn ymdrin â chwynion i'r Ombwdsmon os yw'r Ombwdsmon yn cyfarwyddo hynny; a rhaid gwneud hynny cyn pen tri mis sy'n cychwyn â'r diwrnod y mae'r awdurdod rhestredig yn cael y cyfarwyddyd gan yr Ombwdsmon neu cyn pen y cyfryw gyfnod arall a gyfarwyddir gan yr Ombwdsmon.
- (2) Mae'r terfynau amser yn adrannau 38(3) a 39(5) yn ddarostyngedig i unrhyw derfynau amser sy'n gymwys mewn cyfarwyddyd a roddir o dan is-adran (1).
- (3) Pan fo awdurdod rhestredig wedi cyflwyno ei weithdrefn ymdrin â chwynion i'r Ombwdsmon o dan y Ddeddf hon neu fel arall, rhaid i'r awdurdod ddarparu'r cyfryw wybodaeth ychwanegol mewn perthynas â'r weithdrefn honno y caiff yr Ombwdsmon ofyn amdani; a rhaid gwneud hynny cyn pen y cyfryw gyfnod a gyfarwyddir gan yr Ombwdsmon.

41 Gweithdrefnau ymdrin â chwynion: hybu arferion gorau etc

- (1) Rhaid i'r Ombwdsmon—
 - (a) monitro arferion a nodi unrhyw dueddiadau yn yr arferion o ran y ffordd y mae awdurdodau rhestredig yn ymdrin â chwynion,
 - (b) hybu arferion gorau o ran y ffordd yr ymdrinnir â chwynion, ac
 - (c) annog cydweithrediad a rhannu arferion gorau ymhlith awdurdodau rhestredig o ran ymdrin â chwynion.
- (2) Rhaid i awdurdod rhestredig gydweithredu â'r Ombwdsmon wrth arfer y swyddogaeth yn is-adran (1).
- (3) Ond ni chaiff yr Ombwdsmon ei gwneud yn ofynnol i awdurdod rhestredig gydweithredu o dan is-adran (2)—
 - (a) os nad oes gan yr awdurdod rhestredig y pwerau angenrheidiol (heblaw yn rhinwedd y Ddeddf hon) i gydweithredu o dan is-adran (2);
 - (b) os yw cydweithredu o dan is-adran (2) yn ei gwneud yn ofynnol i'r awdurdod rhestredig weithredu yn anghyson ag unrhyw ddeddfiad (gan gynnwys unrhyw god, canllaw, cynllun neu ddogfen arall a wneir o dan unrhyw ddeddfiad) sy'n gymwys i'r awdurdod rhestredig.

- (b) the duty in subsection (5) ceases to apply to the listed authority, in so far as the duty arises in relation to the withdrawn declaration, as soon as the Ombudsman withdraws the declaration.

40 Submission of complaints-handling procedure: general

- (1) A listed authority must submit its complaints-handling procedure to the Ombudsman if the Ombudsman so directs; and must do so within three months beginning with the day the listed authority receives the Ombudsman's direction or such other period as the Ombudsman may direct.
- (2) The time limits in sections 38(3) and 39(5) are subject to any time limits that apply in a direction given under subsection (1).
- (3) When a listed authority has submitted its complaints-handling procedure to the Ombudsman under this Act or otherwise, the authority must provide such additional information in relation to that procedure as the Ombudsman may request; and must do so within such period as the Ombudsman directs.

41 Complaints-handling procedures: promotion of best practice etc

- (1) The Ombudsman must—
 - (a) monitor practice and identify any trends in practice as respects the way in which listed authorities handle complaints,
 - (b) promote best practice in relation to such complaints-handling, and
 - (c) encourage co-operation and the sharing of best practice among listed authorities in relation to complaints-handling.
- (2) A listed authority must co-operate with the Ombudsman in the exercise of the function in subsection (1).
- (3) But the Ombudsman may not require a listed authority to co-operate under subsection (2)—
 - (a) if the listed authority lacks the necessary powers (other than by virtue of this Act) to co-operate under subsection (2);
 - (b) if co-operating under subsection (2) requires the listed authority to act inconsistently with any enactment (including any code, guidance, scheme or other document made under any enactment) that applies to the listed authority.

RHAN 5**YMCHWILIO I GWYNION SY’N YMWNEUD Â PHERSONAU ERAILL: GOFAL CYMDEITHASOL A GOFAL LLINIAROL***Cymhwyso’r Rhan hon***42 Materion y mae’r Rhan hon yn gymwys iddynt**

- (1) Mae’r Rhan hon yn gymwys i’r materion a ganlyn—
 - (a) camau gweithredu a gymerwyd gan ddarparwr cartref gofal mewn cysylltiad â darparu llety, gofal nyrsio neu ofal personol mewn cartref gofal yng Nghymru;
 - (b) camau gweithredu a gymerwyd gan ddarparwr gofal cartref mewn cysylltiad â darparu gofal cartref yng Nghymru;
 - (c) camau gweithredu a gymerwyd gan ddarparwr gofal lliniarol annibynnol mewn cysylltiad â darparu gwasanaeth gofal lliniarol yng Nghymru.
- (2) Ond nid yw’r Rhan hon yn gymwys i’r materion a ganlyn—
 - (a) materion y caniateir ymchwilio iddynt o dan Ran 3, neu
 - (b) materion a ddisgrifir yn Atodlen 4.
- (3) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio Atodlen 4 drwy—
 - (a) ychwanegu cofnod,
 - (b) dileu cofnod, neu
 - (c) newid cofnod.
- (4) Cyn gwneud rheoliadau dan is-adran (3), rhaid i Weinidogion Cymru ymgynghori â’r Ombwdsmon.
- (5) Ni chaniateir gwneud rheoliadau o dan is-adran (3) oni bai bod drafft o’r offeryn statudol sy’n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.
- (6) I gael ystyr y termau a ganlyn gweler adrannau 62 i 64—
 - “cartref gofal” (“*care home*”);
 - “darparwr cartref gofal” (“*care home provider*”);
 - “darparwr gofal cartref” (“*domiciliary care provider*”);
 - “darparwr gofal lliniarol annibynnol” (“*independent palliative care provider*”);
 - “gofal cartref” (“*domiciliary care*”);
 - “gwasanaeth gofal lliniarol” (“*palliative care service*”).

*Ymchwilio i gwynion***43 Pŵer i ymchwilio i gwynion**

- (1) Caiff yr Ombwdsmon ymchwilio i gwyn ynghylch mater y mae’r Rhan hon yn gymwys iddo os yw’r gwyn—

PART 5

INVESTIGATION OF COMPLAINTS RELATING TO OTHER PERSONS: SOCIAL CARE AND PALLIATIVE CARE

Application of this Part

42 Matters to which this Part applies

- (1) This Part applies to the following matters—
 - (a) action taken by a care home provider in connection with the provision of accommodation, nursing or personal care in a care home in Wales;
 - (b) action taken by a domiciliary care provider in connection with the provision of domiciliary care in Wales;
 - (c) action taken by an independent palliative care provider in connection with the provision of a palliative care service in Wales.
- (2) But this Part does not apply to—
 - (a) matters which may be investigated under Part 3, or
 - (b) matters described in Schedule 4.
- (3) The Welsh Ministers may by regulations amend Schedule 4 by—
 - (a) adding an entry,
 - (b) removing an entry, or
 - (c) changing an entry.
- (4) Before making regulations under subsection (3), the Welsh Ministers must consult the Ombudsman.
- (5) No regulations are to be made under subsection (3) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.
- (6) For the meaning of the following terms see sections 62 to 64—
 - “care home” (*“cartref gofal”*);
 - “care home provider” (*“darparwr cartref gofal”*);
 - “domiciliary care” (*“gofal cartref”*);
 - “domiciliary care provider” (*“darparwr gofal cartref”*);
 - “independent palliative care provider” (*“darparwr gofal lliniarol annibynnol”*);
 - “palliative care service” (*“gwasanaeth gofal lliniarol”*).

Investigation of complaints

43 Power to investigate complaints

- (1) The Ombudsman may investigate a complaint about a matter to which this Part applies if the complaint has been—

- (a) wedi'i gwneud yn briodol i'r Ombwdsmon, neu
 - (b) wedi'i hatgyfeirio'n briodol at yr Ombwdsmon, ac
- yn achos cwyn sy'n ymwneud â darparwr gofal lliniarol annibynnol, os bodlonir yr amod yn is-adran (2).
- (2) Yr amod yw bod y darparwr gofal lliniarol annibynnol wedi cael cyllid cyhoeddus, o fewn y tair blynedd cyn dyddiad y camau gweithredu y mae'r ymchwiliad yn ymwneud â hwy, mewn perthynas â gwasanaeth gofal lliniarol y mae'n ei ddarparu yng Nghymru.
- (3) Yn is-adran (2) ystyr "cyllid cyhoeddus" yw cyllid gan –
- (a) Gweinidogion Cymru,
 - (b) Bwrdd Iechyd Lleol a sefydlwyd o dan adran 11 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42),
 - (c) Ymddiriedolaeth GIG, neu
 - (d) cyngor sir neu gyngor bwrdeistref sirol yng Nghymru.
- (4) Mae cwyn wedi'i "gwneud yn briodol" i'r Ombwdsmon os (ond dim ond os) –
- (a) caiff y gŵyn ei gwneud gan berson sydd â hawl o dan adran 47 i wneud cwyn i'r Ombwdsmon,
 - (b) cyn i'r gŵyn gael ei gwneud –
 - (i) yw'r mater y mae'n ymwneud ag ef wedi ei ddwyn, gan neu ar ran y person yr effeithir arno, i sylw'r darparwr y mae'r gŵyn yn ymwneud ag ef, a
 - (ii) yw'r darparwr wedi cael cyfle rhesymol i ymchwilio i'r mater ac ymateb iddo, ac
 - (c) caiff gofynion adran 48(1) eu bodloni mewn perthynas â'r gŵyn.
- (5) Mae cwyn wedi'i "hatgyfeirio'n briodol" at yr Ombwdsmon os (ond dim ond os) –
- (a) caiff y gŵyn ei gwneud gan berson sydd â hawl o dan adran 47 i wneud cwyn i'r Ombwdsmon, a
 - (b) caiff gofynion adran 49(1) eu bodloni mewn perthynas â hi.
- (6) Mater i'r Ombwdsmon yw penderfynu a yw gofynion is-adran (1) wedi eu bodloni mewn perthynas â chŵyn.
- (7) Pan fo'r Ombwdsmon yn penderfynu na chafodd gofynion is-adran (1) eu bodloni mewn perthynas â chŵyn am na fodlonwyd gofynion is-adran (4)(b), adran 48(1) neu adran 49(1)(b), (c) neu (d) mewn perthynas â'r gŵyn honno, caiff yr Ombwdsmon, er hynny, ymchwilio i'r gŵyn –
- (a) os yw'n ymwneud â mater y mae'r Rhan hon yn gymwys iddo, a
 - (b) os yw'r Ombwdsmon o'r farn ei bod yn rhesymol gwneud hynny.
- (8) Mater i'r Ombwdsmon yw penderfynu pa un ai i gychwyn ymchwiliad, i barhau ag ymchwiliad ai i roi'r gorau i ymchwiliad (ond gweler adran 48(5)(a) am gyfyngiad ar y pŵer i gychwyn ymchwiliad o dan is-adran (1)(a)).
- (9) Caiff yr Ombwdsmon gymryd unrhyw gamau gweithredu a all, ym marn yr Ombwdsmon, helpu i wneud penderfyniad o dan is-adran (8).

- (a) duly made to the Ombudsman, or
 - (b) duly referred to the Ombudsman, and

in the case of a complaint which relates to an independent palliative care provider, the condition in subsection (2) is met.
- (2) The condition is that the independent palliative care provider has received public funding, within the three years before the date of the action to which the investigation relates, in respect of a palliative care service that it provides in Wales.
- (3) In subsection (2) “public funding” means funding from –
 - (a) the Welsh Ministers,
 - (b) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c.42),
 - (c) an NHS Trust, or
 - (d) a county council or county borough council in Wales.
- (4) A complaint is “duly made” to the Ombudsman if (but only if) –
 - (a) it is made by a person who is entitled under section 47 to make a complaint to the Ombudsman,
 - (b) before the complaint is made –
 - (i) the matter to which it relates has been brought, by or on behalf of the person affected, to the notice of the provider to whom it relates, and
 - (ii) the provider has been given a reasonable opportunity to investigate the matter and to respond, and
 - (c) the requirements of section 48(1) are met in respect of it.
- (5) A complaint is “duly referred” to the Ombudsman if (but only if) –
 - (a) it is made by a person who is entitled under section 47 to make a complaint to the Ombudsman, and
 - (b) the requirements of section 49(1) are met in respect of it.
- (6) It is for the Ombudsman to determine whether the requirements of subsection (1) have been met in respect of a complaint.
- (7) Where the Ombudsman determines that the requirements of subsection (1) have not been met in respect of a complaint because the requirements of subsection (4)(b), section 48(1) or section 49(1)(b), (c) or (d) have not been met in respect of that complaint, the Ombudsman may nonetheless investigate the complaint if –
 - (a) it relates to a matter to which this Part applies, and
 - (b) the Ombudsman thinks it reasonable to do so.
- (8) It is for the Ombudsman to decide whether to begin, continue or discontinue an investigation (but see section 48(5)(a) for a restriction on the power to begin an investigation under subsection (1)(a)).
- (9) The Ombudsman may take any action which the Ombudsman thinks may assist in making a decision under subsection (8).

- (10) Caiff yr Ombwdsmon gychwyn ymchwiliad i gŵyn neu barhau ag ymchwiliad i gŵyn hyd yn oed os yw'r gŵyn wedi'i thynnu'n ôl (ond gweler adran 48(5)(a) am gyfyngiad ar y pŵer i gychwyn ymchwiliad o dan is-adran (1)(a)).

44 Pŵer i ymchwilio ar ei liwt ei hun

- (1) Caiff yr Ombwdsmon ymchwilio i fater y mae'r Rhan hon yn gymwys iddo pa un a oes cwyn wedi'i gwneud yn briodol neu wedi'i hatgyfeirio'n briodol at yr Ombwdsmon ai peidio.
- (2) Ond os yw'r mater yn ymwneud â darparwr gofal lliniarol annibynnol, dim ond os bodlonir yr amod yn adran 43(2) y caniateir defnyddio'r pŵer yn is-adran (1).
- (3) Cyn i'r Ombwdsmon gychwyn ymchwiliad o dan yr adran hon, rhaid i'r Ombwdsmon –
- (a) rhoi sylw i fudd y cyhoedd wrth gychwyn ymchwiliad,
 - (b) bod ag amheuaeth resymol o gamweinyddiaeth systemig,
 - (c) ymgynghori â'r cyfryw bersonau sy'n briodol ym marn yr Ombwdsmon (ond gweler adran 66 am ddyletswyddau pellach ynghylch ymgynghori), a
 - (d) rhoi sylw i'r meini prawf ar gyfer cychwyn ymchwiliadau ar ei liwt ei hun a gyhoeddir o dan adran 45.
- (4) Yn ddarostyngedig i ddarpariaethau eraill yr adran hon –
- (a) mater i'r Ombwdsmon yw penderfynu pa un ai i gychwyn ymchwiliad, i barhau ag ymchwiliad ai i roi'r gorau i'r ymchwiliad o dan yr adran hon;
 - (b) caiff yr Ombwdsmon gymryd unrhyw gamau gweithredu a all, ym marn yr Ombwdsmon, helpu i wneud penderfyniad o dan is-adran (4)(a).

45 Meini prawf ar gyfer ymchwilio ar ei liwt ei hun

- (1) Rhaid i'r Ombwdsmon gyhoeddi meini prawf i'w defnyddio wrth benderfynu pa un ai i gychwyn ymchwiliad o dan adran 44.
- (2) Rhaid i'r Ombwdsmon osod drafft o'r meini prawf cyntaf gerbron y Cynulliad.
- (3) Os yw'r Cynulliad yn penderfynu peidio â chymeradwyo'r meini prawf drafft cyn diwedd y cyfnod o 40 diwrnod, ni chaiff yr Ombwdsmon gyhoeddi'r meini prawf ar eu ffurf ddrafft.
- (4) Os na wneir y cyfryw benderfyniad cyn diwedd y cyfnod hwnnw, rhaid i'r Ombwdsmon gyhoeddi'r meini prawf ar eu ffurf ddrafft.
- (5) O ran y cyfnod o 40 diwrnod –
- (a) mae'n dechrau ar y diwrnod pryd y gosodir y drafft gerbron y Cynulliad, a
 - (b) nid yw'n cynnwys unrhyw amser pan fo'r Cynulliad wedi ei ddiddymu neu pan fydd toriad o fwy na phedwar diwrnod.
- (6) Nid yw is-adran (3) yn atal meini prawf drafft newydd rhag cael eu gosod gerbron y Cynulliad.
- (7) Cyn gosod y meini prawf drafft gerbron y Cynulliad, rhaid i'r Ombwdsmon ymgynghori â'r canlynol –
- (a) Gweinidogion Cymru,

- (10) The Ombudsman may begin or continue an investigation into a complaint even if the complaint has been withdrawn (but see section 48(5)(a) for a restriction on the power to begin an investigation under subsection (1)(a)).

44 Power to investigate on own initiative

- (1) The Ombudsman may investigate a matter to which this Part applies whether a complaint has been duly made or referred to the Ombudsman or not.
- (2) But if the matter relates to an independent palliative care provider, the power in subsection (1) may only be used if the condition in section 43(2) is met.
- (3) Before the Ombudsman begins an investigation under this section, the Ombudsman must—
- (a) have regard to the public interest in beginning an investigation,
 - (b) have a reasonable suspicion that there is systemic maladministration,
 - (c) consult such persons as the Ombudsman considers appropriate (but see section 66 for further duties around consultation), and
 - (d) have regard to the criteria for own initiative investigations published under section 45.
- (4) Subject to the other provisions of this section—
- (a) it is for the Ombudsman to decide whether to begin, continue or discontinue an investigation under this section;
 - (b) the Ombudsman may take any action the Ombudsman thinks may assist in making a decision under subsection (4)(a).

45 Criteria for own initiative investigations

- (1) The Ombudsman must publish criteria to be used in determining whether to begin an investigation under section 44.
- (2) The Ombudsman must lay a draft of the first criteria before the Assembly.
- (3) If, before the end of the 40 day period, the Assembly resolves not to approve the draft criteria, the Ombudsman must not publish the criteria in the form of the draft.
- (4) If no such resolution is made before the end of that period, the Ombudsman must publish the criteria in the form of the draft.
- (5) The 40 day period—
- (a) begins on the day on which the draft is laid before the Assembly, and
 - (b) does not include any time during which the Assembly is dissolved or is in recess for more than four days.
- (6) Subsection (3) does not prevent new draft criteria from being laid before the Assembly.
- (7) Before laying the draft criteria before the Assembly, the Ombudsman must consult—
- (a) the Welsh Ministers,

- (b) yr awdurdodau rhestredig yn Atodlen 3, ac
 - (c) y cyfryw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (8) Rhaid i'r Ombwdsmon, wrth baratoi'r meini prawf drafft i'w gosod gerbron y Cynulliad, roi sylw i unrhyw sylwadau a wnaed yn ystod yr ymgynghoriad a grybwyllir yn is-adran (7).
 - (9) Daw'r meini prawf i rym pan gânt eu cyhoeddi gan yr Ombwdsmon.
 - (10) O dro i dro, caiff yr Ombwdsmon adolygu ac ailgyhoeddi'r meini prawf.
 - (11) Os, ym marn yr Ombwdsmon, yw adolygiadau a wneir o dan is-adran (10) yn effeithio ar unrhyw newid perthnasol i'r meini prawf, rhaid i'r Ombwdsmon osod drafft o'r adolygiadau hynny gerbron y Cynulliad.
 - (12) Mae is-adrannau (3) i (9) yn gymwys i adolygiadau drafft a osodir gerbron y Cynulliad o dan is-adran (11) fel y maent yn gymwys i'r meini prawf cyntaf.
 - (13) Caiff Gweinidogion Cymru drwy rheoliadau ddiwygio'r meini prawf a gyhoeddir gan yr Ombwdsmon o dan yr adran hon drwy ychwanegu meini prawf, dileu meini prawf neu newid y meini prawf.
 - (14) Pan fo Gweinidogion Cymru yn gwneud rheoliadau o dan is-adran (13), rhaid i'r Ombwdsmon gyhoeddi'r meini prawf, fel y'u diwygiwyd gan y rheoliadau, ar y diwrnod y daw'r rheoliadau i rym.
 - (15) Cyn gwneud rheoliadau o dan is-adran (13), rhaid i Weinidogion Cymru ymgynghori â'r canlynol –
 - (a) yr Ombwdsmon,
 - (b) yr awdurdodau rhestredig yn Atodlen 3, ac
 - (c) y cyfryw bersonau eraill sy'n briodol ym marn Gweinidogion Cymru.
 - (16) Ni chaniateir gwneud rheoliadau o dan is-adran (13) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.

46 **Dulliau amgen o ddatrys materion**

- (1) Caiff yr Ombwdsmon gymryd unrhyw gamau gweithredu sydd, ym marn yr Ombwdsmon, yn briodol er mwyn datrys mater y mae gan yr Ombwdsmon y pŵer i ymchwilio iddo o dan y Rhan hon.
- (2) Caiff yr Ombwdsmon gymryd camau gweithredu o dan yr adran hon yn ychwanegol at gynnal ymchwiliad neu yn lle hynny.
- (3) Rhaid cymryd unrhyw gamau gweithredu o dan yr adran hon yn breifat.

47 **Pwy sy'n cael cwyno**

- (1) Y personau sydd â hawl i gwyno i'r Ombwdsmon yw –
 - (a) aelod o'r cyhoedd (y cyfeirir ato yn y Rhan hon fel "y person a dramgwyddwyd") sy'n honni neu sydd wedi honni ei fod wedi dioddef anghyfiawnder neu galedi o ganlyniad i fater y mae'r Rhan hon yn gymwys iddo,

- (b) the listed authorities in Schedule 3, and
 - (c) such other persons as the Ombudsman thinks appropriate.
- (8) The Ombudsman must, in preparing the draft criteria to be laid before the Assembly, have regard to any representations made during the consultation mentioned in subsection (7).
- (9) The criteria come into force when they are published by the Ombudsman.
- (10) The Ombudsman may from time to time revise and re-publish the criteria.
- (11) If, in the opinion of the Ombudsman, revisions made under subsection (10) effect any material change to the criteria, the Ombudsman must lay a draft of those revisions before the Assembly.
- (12) Subsections (3) to (9) apply to draft revisions laid before the Assembly under subsection (11) as they apply to the first criteria.
- (13) The Welsh Ministers may by regulations amend criteria published by the Ombudsman under this section by adding criteria, removing criteria or changing the criteria.
- (14) Where the Welsh Ministers make regulations under subsection (13), the Ombudsman must publish the criteria, as amended by the regulations, on the day the regulations come into force.
- (15) Before making regulations under subsection (13), the Welsh Ministers must consult—
- (a) the Ombudsman,
 - (b) the listed authorities in Schedule 3, and
 - (c) such other persons as the Welsh Ministers think appropriate.
- (16) No regulations are to be made under subsection (13) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.

46 Alternative resolution of matters

- (1) The Ombudsman may take any action the Ombudsman considers appropriate with a view to resolving a matter which the Ombudsman has the power to investigate under this Part.
- (2) The Ombudsman may take action under this section in addition to or instead of conducting an investigation.
- (3) Any action under this section must be taken in private.

47 Who can complain

- (1) The persons entitled to make a complaint to the Ombudsman are—
- (a) a member of the public (referred to in this Part as “the person aggrieved”) who claims or claimed to have sustained injustice or hardship as a result of a matter to which this Part applies,

- (b) person a awdurdodwyd yn ysgrifenedig gan y person a dramgwyddwyd i weithredu ar ran y person hwnnw, neu
 - (c) os nad yw'r person a dramgwyddwyd yn gallu awdurdodi'r cyfryw berson (er enghraifft, oherwydd bod y person a dramgwyddwyd wedi marw), person sydd, ym marn yr Ombwdsmon, yn briodol i weithredu ar ran y person a dramgwyddwyd.
- (2) Nid yw "aelod o'r cyhoedd" yn cynnwys person sy'n gweithredu yn rhinwedd ei swyddogaeth fel—
- (a) darparwr cartref gofal,
 - (b) darparwr gofal cartref,
 - (c) darparwr gofal lliniarol annibynnol, neu
 - (d) awdurdod rhestredig.
- (3) Mater i'r Ombwdsmon yw penderfynu ar unrhyw gwestiwn ynghylch a oes gan berson hawl i wneud cwyn o dan yr adran hon.

48 Gofynion: cwynion a wneir i'r Ombwdsmon

- (1) Y gofynion a grybwyllir yn adran 43(4)(c) yw bod yn rhaid i'r gŵyn—
- (a) bod ar ffurf a bennir gan yr Ombwdsmon mewn canllawiau;
 - (b) cynnwys y cyfryw wybodaeth a bennir gan yr Ombwdsmon mewn canllawiau;
 - (c) cael ei gwneud cyn diwedd y cyfnod o flwyddyn sy'n dechrau â'r diwrnod y cafodd y person a dramgwyddwyd ei hybysu gyntaf am y mater a honnir yn y gŵyn.
- (2) Rhaid i'r Ombwdsmon gyhoeddi'r canllawiau y cyfeirir atynt yn is-adran (1).
- (3) Mater i'r Ombwdsmon yw penderfynu a yw gofynion is-adran (1) wedi eu bodloni o ran cwyn.
- (4) Os caiff cwyn sy'n bodloni gofynion is-adran (1) ei gwneud heblaw yn ysgrifenedig, rhaid i'r Ombwdsmon—
- (a) esbonio i'r person a wnaeth y gŵyn fod cwyn wedi'i gwneud yn briodol yn unol â'r Ddeddf hon, a goblygiadau gwneud cwyn o'r fath, a
 - (b) gofyn i'r person a yw'n awyddus i'r gŵyn barhau i gael ei thrin yn gŵyn a wnaed yn briodol.
- (5) Os nad yw'r person yn awyddus i'r gŵyn barhau i gael ei thrin yn gŵyn a wnaed yn briodol—
- (a) ni chaiff yr Ombwdsmon ddefnyddio'r pŵer yn adran 43(1)(a) i gychwyn ymchwiliad i'r mater a honnir yn y gŵyn;
 - (b) caiff yr Ombwdsmon ddefnyddio'r pŵer yn adran 44 i ymchwilio i'r mater a honnir yn y gŵyn.
- (6) Os yw'r person yn awyddus i'r gŵyn barhau i gael ei thrin yn gŵyn a wnaed yn briodol, rhaid i'r Ombwdsmon ofyn i'r person a yw am i'r gŵyn gael ei chadarnhau yn ysgrifenedig.

- (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 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" does not include a person acting in the capacity of –
- (a) a care home provider,
 - (b) a domiciliary care provider,
 - (c) an independent palliative care provider, or
 - (d) a listed authority.
- (3) It is for the Ombudsman to determine any question of whether a person is entitled under this section to make a complaint.

48 Requirements: complaints made to the Ombudsman

- (1) The requirements mentioned in section 43(4)(c) 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 before the end of the period of one year beginning with the day on which the person aggrieved first has 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 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 43(1)(a) to begin an investigation into the matter alleged in the complaint;
 - (b) may use the power in section 44 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) Os yw'r person yn awyddus i'r gŵyn gael ei chadarnhau yn ysgrifenedig, rhaid i'r Ombwdsmon wneud y cyfryw drefniadau angenrheidiol i gadarnhau'r gŵyn yn ysgrifenedig.

49 Gofynion: cwynion a atgyfeirir at yr Ombwdsmon

- (1) Y gofynion a grybwyllir yn adran 43(5)(b) yw bod yn rhaid i'r gŵyn –
- (a) bod wedi cael ei gwneud i'r darparwr y mae'n ymwneud ag ef gan berson a fyddai wedi bod â hawl o dan adran 47 i wneud y gŵyn i'r Ombwdsmon;
 - (b) bod wedi cael ei gwneud i'r darparwr y mae'n ymwneud ag ef cyn diwedd y cyfnod o flwyddyn sy'n dechrau â'r diwrnod y cafodd y person a dramgwyddwyd ei hysbysu gyntaf am y mater;
 - (c) cael ei hatgyfeirio at yr Ombwdsmon ar ffurf a bennwyd gan yr Ombwdsmon mewn canllawiau a chynnwys y cyfryw wybodaeth a bennwyd gan yr Ombwdsmon mewn canllawiau;
 - (d) cael ei hatgyfeirio at yr Ombwdsmon cyn diwedd y cyfnod o flwyddyn sy'n dechrau â'r diwrnod y cafodd y gŵyn ei gwneud i'r darparwr.
- (2) Rhaid i'r Ombwdsmon gyhoeddi'r canllawiau y cyfeirir atynt yn is-adran (1)(c).
- (3) Mater i'r Ombwdsmon yw penderfynu ar unrhyw gwestiwn ynghylch a yw gofynion is-adran (1) wedi eu bodloni o ran cwyn.

50 Cofnodion o gwynion

Rhaid i'r Ombwdsmon gynnal cofrestr o bob cwyn a wnaed i'r Ombwdsmon neu a atgyfeiriwyd at yr Ombwdsmon mewn perthynas â mater y mae gan yr Ombwdsmon hawl i ymchwilio iddo o dan y Rhan hon.

Penderfyniadau i beidio ag ymchwilio etc

51 Penderfyniadau i beidio ag ymchwilio i gwynion neu i roi'r gorau i ymchwiliad

- (1) Os yw'r Ombwdsmon yn penderfynu –
- (a) peidio â chychwyn ymchwiliad, neu roi'r gorau i ymchwiliad, i fater o dan adran 43(8), neu
 - (b) pan fo'r Ombwdsmon wedi ymgynghori â pherson o dan adran 44(3)(c), yn penderfynu peidio â chychwyn ymchwiliad, neu roi'r gorau i ymchwiliad, i fater o dan adran 44(4)(a),
- rhaid i'r Ombwdsmon baratoi datganiad o'r rhesymau dros y penderfyniad hwnnw.
- (2) Rhaid i'r Ombwdsmon anfon copi o'r datganiad at y canlynol –
- (a) unrhyw berson a wnaeth gŵyn i'r Ombwdsmon mewn perthynas â'r mater, a
 - (b) y darparwr y mae'r mater yn ymwneud ag ef.
- (3) Caiff yr Ombwdsmon hefyd anfon copi o'r datganiad at unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.

- (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.

49 Requirements: complaints referred to the Ombudsman

- (1) The requirements mentioned in section 43(5)(b) are that the complaint –
- (a) must have been made to the provider to whom it relates by a person who would have been entitled under section 47 to make the complaint to the Ombudsman;
 - (b) must have been made to the provider to whom it relates before the end of the period of one year beginning with the day on which the person aggrieved first has notice of the matter;
 - (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 beginning with the day on which the complaint was made to the provider.
- (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.

50 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.

Decisions not to investigate etc

51 Decisions not to investigate complaints or to discontinue investigations

- (1) If the Ombudsman –
- (a) decides not to begin an investigation, or to discontinue an investigation, into a matter under section 43(8), or
 - (b) where the Ombudsman has consulted a person under section 44(3)(c), decides not to begin an investigation, or to discontinue an investigation, into a matter under section 44(4)(a),
- the Ombudsman must prepare a statement of the reasons for that decision.
- (2) The Ombudsman must send a copy of the statement to –
- (a) any person who made a complaint to the Ombudsman in respect of the matter, and
 - (b) the provider to whom the matter relates.
- (3) The Ombudsman may also send a copy of the statement to any other persons the Ombudsman thinks appropriate.

- (4) Caiff yr Ombwdsmon gyhoeddi datganiad o dan yr adran hon os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i wneud hynny.
- (5) Caiff yr Ombwdsmon roi copi o'r datganiad a gyhoeddwyd, neu ran o'r datganiad hwnnw, i unrhyw berson sy'n gofyn amdano neu amdani.
- (6) Caiff yr Ombwdsmon godi ffi resymol am roi copi o ddatganiad, neu ran o ddatganiad, o dan is-adran (5).
- (7) Ni chaniateir cynnwys yr wybodaeth ganlynol mewn fersiwn o ddatganiad a anfonir at berson o dan is-adran (2)(b) neu (3) neu a gyhoeddir o dan is-adran (4)—
 - (a) enw person heblaw'r darparwr y mae'r mater yn ymwneud ag ef;
 - (b) gwybodaeth sydd, ym marn yr Ombwdsmon, yn debygol o wneud y cyfryw berson yn hysbys ac y gellir, ym marn yr Ombwdsmon, ei hepgor heb amharu ar effeithiolrwydd y datganiad.
- (8) Nid yw is-adran (7) yn gymwys os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r datganiad.

Gweithdrefn ymchwilio a thystiolaeth

52 Gweithdrefn ymchwilio

- (1) Os yw'r Ombwdsmon yn cynnal ymchwiliad o dan adran 43, rhaid i'r Ombwdsmon—
 - (a) rhoi cyfle i'r darparwr y mae'r ymchwiliad yn ymwneud ag ef i wneud sylwadau ar yr ymchwiliad, a
 - (b) rhoi i unrhyw berson arall yr honnir yn y gŵyn ei fod wedi cymryd y camau gweithredu yr achwynir amdanynt, neu wedi awdurdodi'r camau gweithredu yr achwynir amdanynt, gyfle i wneud sylwadau ar yr honiadau sy'n ymwneud â'r person hwnnw.
- (2) Os yw'r Ombwdsmon yn cynnal ymchwiliad o dan adran 44, rhaid i'r Ombwdsmon—
 - (a) paratoi cynnig ymchwilio, a
 - (b) cyflwyno'r cynnig ymchwilio i'r—
 - (i) darparwr yr ymchwilir iddo, a
 - (ii) i unrhyw berson, heblaw'r darparwr, y'i hadwaenir mewn modd negyddol yn y cynnig ymchwilio.
- (3) Ond os yw'r Ombwdsmon—
 - (a) wedi cychwyn ymchwiliad i fater o dan adran 43 neu 44 (yn y naill achos a'r llall, "yr ymchwiliad gwreiddiol"), a
 - (b) wedi cychwyn ymchwiliad arall i fater ("yr ymchwiliad cysylltiedig") o dan adran 44 sy'n ymwneud â'r ymchwiliad gwreiddiol,
 nid yw is-adran (2) yn gymwys i'r ymchwiliad cysylltiedig.

- (4) The Ombudsman may publish a statement under this section if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to do so.
- (5) The Ombudsman may supply a copy of the published statement, or part of that statement, to any person who requests it.
- (6) The Ombudsman may charge a reasonable fee for supplying a copy of a statement, or part of a statement, under subsection (5).
- (7) The following information must not be included in a version of a statement sent to a person under subsection (2)(b) or (3) or published under subsection (4) –
 - (a) the name of a person other than the provider to whom the matter relates;
 - (b) information which, in the opinion of the Ombudsman, is likely to identify such a person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the statement.
- (8) Subsection (7) does not apply if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the statement.

Investigation procedure and evidence

52 Investigation procedure

- (1) If the Ombudsman conducts an investigation under section 43, the Ombudsman must –
 - (a) give the provider to whom the investigation relates an opportunity to comment on the investigation, and
 - (b) give any other person who is alleged in the complaint to have taken or authorised the action complained of an opportunity to comment on the allegations relating to that person.
- (2) If the Ombudsman conducts an investigation under section 44, the Ombudsman must –
 - (a) prepare an investigation proposal, and
 - (b) submit the investigation proposal to –
 - (i) the provider being investigated, and
 - (ii) any person, other than the provider, who is identified in the investigation proposal in a negative way.
- (3) But if –
 - (a) the Ombudsman has begun to investigate a matter under section 43 or 44 (in either case, “the original investigation”), and
 - (b) the Ombudsman has begun another investigation into a matter (“the related investigation”) under section 44 that relates to the original investigation,subsection (2) does not apply to the related investigation.

- (4) Mae ymchwiliad yn ymwneud ag ymchwiliad gwreiddiol os oes gan y mater yr ymchwilir iddo yn yr ymchwiliad cysylltiedig gysylltiad sylweddol â'r mater yr ymchwilir iddo yn yr ymchwiliad gwreiddiol.
- (5) Pan fo'r Ombwdsmon yn paratoi cynnig ymchwilio mewn perthynas â mater, rhaid i'r Ombwdsmon—
 - (a) rhoi cyfle i'r darparwr yr ymchwilir iddo wneud sylwadau ar y cynnig ymchwilio;
 - (b) rhoi cyfle i unrhyw berson, heblaw'r darparwr, y'i hadwaenir mewn modd negyddol, wneud sylwadau ar y cynnig ymchwilio (i'r graddau y mae'r ymchwiliad yn ymwneud â'r person hwnnw).
- (6) Pan fo'r Ombwdsmon wedi cychwyn ymchwiliad cysylltiedig i fater ac nad oes cynnig ymchwilio wedi'i baratoi yn rhinwedd is-adran (3), rhaid i'r Ombwdsmon—
 - (a) rhoi cyfle i'r darparwr wneud sylwadau ar yr ymchwiliad cysylltiedig;
 - (b) rhoi cyfle i unrhyw berson, heblaw'r darparwr, y'i hadwaenir gan yr Ombwdsmon mewn modd negyddol mewn perthynas â'r ymchwiliad, wneud sylwadau ar yr ymchwiliad cysylltiedig (i'r graddau y mae'r ymchwiliad yn ymwneud â'r person hwnnw).
- (7) Rhaid i gynnig ymchwilio nodi—
 - (a) y rhesymau dros yr ymchwiliad, a
 - (b) y modd y bodlonwyd y meini prawf y cyfeirir atynt yn adran 45.
- (8) Rhaid i ymchwiliad gael ei gynnal yn breifat.
- (9) Yn ddarostyngedig i ddarpariaethau eraill yr adran hon, y weithdrefn ar gyfer cynnal ymchwiliad o dan adran 43 neu 44 yw'r un sy'n briodol ym marn yr Ombwdsmon yn amgylchiadau'r achos.
- (10) Caiff yr Ombwdsmon, ymhlith pethau eraill—
 - (a) gwneud unrhyw ymchwiliadau sy'n briodol ym marn yr Ombwdsmon, a
 - (b) penderfynu a gaiff unrhyw berson ei gynrychioli yn yr ymchwiliad gan berson awdurdodedig neu berson arall.
- (11) Yn is-adran (10) ystyr "person awdurdodedig" yw person sydd, at ddibenion Deddf Gwasanaethau Cyfreithiol 2007 (p.29), yn berson awdurdodedig mewn perthynas â gweithgaredd sy'n golygu arfer hawl i ymddangos mewn achos neu ymladd achos (o fewn ystyr y Ddeddf honno).
- (12) Caiff yr Ombwdsmon dalu i unrhyw berson sy'n bresennol neu sy'n rhoi gwybodaeth at ddibenion yr ymchwiliad—
 - (a) symiau mewn perthynas â threuliau yr aethpwyd iddynt yn briodol gan y person, a
 - (b) lwfansau i ddigolledu'r person am ei amser.
- (13) Caiff yr Ombwdsmon osod amodau ar y taliadau hynny.
- (14) Rhaid i'r Ombwdsmon gyhoeddi'r weithdrefn y bydd yr Ombwdsmon yn ei dilyn wrth gynnal ymchwiliad o dan adran 43 neu 44.

- (4) An investigation relates to an original investigation if the matter investigated in the related investigation has a substantial connection with the matter investigated in the original investigation.
- (5) Where the Ombudsman prepares an investigation proposal in relation to a matter, the Ombudsman must –
 - (a) give the provider being investigated an opportunity to comment on the investigation proposal;
 - (b) give any person, other than the provider, who is identified in the investigation proposal in a negative way, an opportunity to comment on the investigation proposal (as far as the investigation proposal relates to that person).
- (6) Where the Ombudsman has begun a related investigation into a matter and no investigation proposal is prepared by virtue of subsection (3), the Ombudsman must –
 - (a) give the provider an opportunity to comment on the related investigation;
 - (b) give any person, other than the provider, who is identified by the Ombudsman in relation to the related investigation in a negative way, an opportunity to comment on the related investigation (as far as the related investigation relates to that person).
- (7) An investigation proposal must set out –
 - (a) the reasons for the investigation, and
 - (b) how the criteria published under section 45 have been met.
- (8) An investigation must be conducted in private.
- (9) Subject to the other provisions of this section, the procedure for conducting an investigation under section 43 or 44 is that which the Ombudsman thinks appropriate in the circumstances of the case.
- (10) The Ombudsman may, among other things –
 - (a) make any inquiries which the Ombudsman thinks appropriate, and
 - (b) determine whether any person may be represented in the investigation by an authorised person or another person.
- (11) In subsection (10) “authorised person” means a person who, for the purposes of the Legal Services Act 2007 (c.29), is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).
- (12) The Ombudsman may pay to any person who attends or supplies information for the purposes of the investigation –
 - (a) sums in respect of the expenses properly incurred by them, and
 - (b) allowances to compensate for the loss of their time.
- (13) The Ombudsman may attach conditions to those payments.
- (14) The Ombudsman must publish the procedure that the Ombudsman will follow when conducting an investigation under section 43 or 44.

53 Gwybodaeth, dogfennau, tystiolaeth a chyfleusterau

- (1) Mae'r adran hon yn gymwys at ddibenion ymchwiliad o dan y Rhan hon.
- (2) Caiff yr Ombwdsmon ei gwneud yn ofynnol i berson sydd, ym marn yr Ombwdsmon, yn gallu cyflenwi gwybodaeth neu ddangos dogfen sy'n berthnasol i'r ymchwiliad, i wneud hynny.
- (3) Mae gan yr Ombwdsmon yr un pwerau â'r Uchel Lys o ran –
 - (a) presenoldeb tystion a holi tystion (gan gynnwys gweinyddu llwon a chadarnhadau a holi tystion dramor), a
 - (b) dangos dogfennau.
- (4) Caiff yr Ombwdsmon ei gwneud yn ofynnol i berson sydd, ym marn yr Ombwdsmon, yn gallu cyflenwi gwybodaeth neu ddangos dogfen sy'n berthnasol i'r ymchwiliad, ddarparu unrhyw gyfleuster y caiff yr Ombwdsmon ei wneud yn rhesymol ofynnol.
- (5) Yn ddarostyngedig i is-adran (6), ni chaniateir gorfodi unrhyw berson i roi unrhyw dystiolaeth neu ddangos unrhyw ddogfen na allai'r person gael ei orfodi i'w rhoi neu ei dangos mewn achosion sifil gerbron yr Uchel Lys.
- (6) Nid oes gan y Goron hawl i unrhyw fraint o ran dangos dogfennau neu o ran rhoi tystiolaeth a fyddai'n cael ei chaniatáu fel arall yn ôl y gyfraith mewn achosion cyfreithiol.
- (7) Pan fo rhwymedigaeth i gadw cyfrinachedd neu gyfyngiad arall ar ddatgelu gwybodaeth a gafwyd gan bersonau yng ngwasanaeth Ei Mawrhydi, neu a roddwyd i bersonau yng ngwasanaeth Ei Mawrhydi, wedi'i gosod gan ddeddfiad neu reol gyfreithiol, nid yw'r rhwymedigaeth neu'r cyfyngiad yn gymwys i ddatgelu gwybodaeth at ddibenion yr ymchwiliad.

54 Rhwystro a dirmygu

- (1) Os bodlonir yr Ombwdsmon fod yr amod yn is-adran (2) wedi ei fodloni o ran person, caiff yr Ombwdsmon ddyroddi tystysgrif i'r perwyl hwnnw i'r Uchel Lys.
- (2) Yr amod yw bod y person –
 - (a) heb esgus cyfreithlon, wedi rhwystro unrhyw un neu ragor o swyddogaethau'r Ombwdsmon rhag cael eu cyflawni o dan y Rhan hon, neu
 - (b) wedi cyflawni gweithred mewn perthynas ag ymchwiliad a fyddai, pe bai'r ymchwiliad yn achos yn yr Uchel Lys, yn gyfystyr â dirmyg llys.
- (3) Os yw'r Ombwdsmon yn dyroddi tystysgrif, caiff yr Uchel Lys ymchwilio i'r mater.
- (4) Os bodlonir yr Uchel Lys fod yr amod yn is-adran (2) wedi ei fodloni o ran y person, caiff drin y person hwnnw yn yr un ffordd ag y caiff drin person sydd wedi cyflawni dirmyg llys o ran yr Uchel Lys.

*Adroddiadau ar ymchwiliadau***55 Adroddiadau ar ymchwiliadau**

- (1) Mae'r adran hon yn gymwys i ymchwiliadau o dan y Rhan hon oni bai bod adran 58 yn gymwys.

53 Information, documents, evidence and facilities

- (1) This section applies for the purposes of an investigation under this Part.
- (2) The Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to the investigation to do so.
- (3) The Ombudsman has the same powers as the High Court in relation to—
 - (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
 - (b) the production of documents.
- (4) The Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to the investigation to provide any facility the Ombudsman may reasonably require.
- (5) Subject to subsection (6), no person may be compelled to give any evidence or produce any document which the person could not be compelled to give or produce in civil proceedings before the High Court.
- (6) The Crown is not entitled to any privilege in relation to the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.
- (7) Where an obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service has been imposed by an enactment or rule of law, the obligation or restriction does not apply to the disclosure of information for the purposes of the investigation.

54 Obstruction and contempt

- (1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, the Ombudsman may issue a certificate to that effect to the High Court.
- (2) The condition is that the person—
 - (a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or
 - (b) has done an act in relation to an investigation which, if the investigation were proceedings in the High Court, would constitute contempt of court.
- (3) If the Ombudsman issues a certificate, the High Court may inquire into the matter.
- (4) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with that person in the same manner as it may deal with a person who has committed contempt in relation to the High Court.

Reports about investigations

55 Investigation reports

- (1) This section applies to investigations under this Part unless section 58 applies.

- (2) Rhaid i'r Ombwdsmon, ar ôl cynnal ymchwiliad mewn perthynas â mater y mae'r Rhan hon yn gymwys iddo –
 - (a) paratoi adroddiad am ganfyddiadau'r ymchwiliad ("adroddiad am ymchwiliad"), a
 - (b) anfon copi o'r adroddiad at y personau priodol.
- (3) Y personau priodol yw –
 - (a) os bydd yr ymchwiliad yn ymwneud â chwyn, y person a wnaeth y gŵyn,
 - (b) y darparwr y mae'r adroddiad yn ymwneud ag ef,
 - (c) unrhyw berson arall yr honnir yn y gŵyn (os oes un) ei fod wedi cymryd y camau gweithredu yr achwynir amdanynt neu wedi awdurdodi'r camau gweithredu yr achwynir amdanynt neu a wneir yn hysbys yn yr adroddiad gan yr Ombwdsmon mewn modd negyddol mewn perthynas â'r mater, a
 - (d) Gweinidogion Cymru.
- (4) Caiff yr Ombwdsmon hefyd anfon copi o'r adroddiad at unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (5) Caiff yr Ombwdsmon gyhoeddi'r adroddiad os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i wneud hynny.
- (6) Caiff yr Ombwdsmon roi copi o'r adroddiad a gyhoeddwyd, neu ran o'r adroddiad hwnnw, i unrhyw berson sy'n gofyn amdano neu amdani.
- (7) Caiff yr Ombwdsmon godi ffi resymol am roi copi o adroddiad, neu ran o adroddiad, o dan is-adran (6).
- (8) Ni chaniateir cynnwys yr wybodaeth ganlynol mewn fersiwn o adroddiad a anfonir at berson o dan is-adran (3)(b) neu (c) neu (4) neu a gyhoeddir o dan is-adran (5) –
 - (a) enw person heblaw'r darparwr y mae'r ymchwiliad yn ymwneud ag ef;
 - (b) gwybodaeth sydd, ym marn yr Ombwdsmon, yn debygol o wneud y cyfryw berson yn hysbys ac y gellir, ym marn yr Ombwdsmon, ei hepgor heb amharu ar effeithiolrwydd yr adroddiad.
- (9) Nid yw is-adran (8) yn gymwys os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r adroddiad.

56 Cyhoeddusrwydd pellach i adroddiadau ar ymchwiliadau

- (1) Caiff yr Ombwdsmon drefnu i hysbysiad am adroddiad am ymchwiliad gael ei gyhoeddi –
 - (a) mewn un neu ragor o bapurau newydd, neu
 - (b) drwy gyfrwng darlledu neu gyfryngau electronig eraill.
- (2) Caiff yr hysbysiad, er enghraifft –
 - (a) darparu crynodeb o ganfyddiadau'r Ombwdsmon,

- (2) The Ombudsman must, after conducting an investigation into a matter to which this Part applies –
 - (a) prepare a report on the findings of the investigation (“an investigation report”), and
 - (b) send a copy of the report to the appropriate persons.
- (3) The appropriate persons are –
 - (a) if the investigation relates to a complaint, the person who made the complaint,
 - (b) the provider to whom the report relates,
 - (c) any other person who is alleged in the complaint (if any) to have taken or authorised the action complained of or is identified in the report by the Ombudsman in relation to the matter in a negative way, and
 - (d) the Welsh Ministers.
- (4) The Ombudsman may also send a copy of the report to any other persons the Ombudsman thinks appropriate.
- (5) The Ombudsman may publish the report if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to do so.
- (6) The Ombudsman may supply a copy of the published report, or part of that report, to any person who requests it.
- (7) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (6).
- (8) The following information must not be included in a version of a report sent to a person under subsection (3)(b) or (c) or (4) or published under subsection (5) –
 - (a) the name of a person other than the provider to whom the investigation relates;
 - (b) information which, in the opinion of the Ombudsman, is likely to identify such a person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the report.
- (9) Subsection (8) does not apply if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the report.

56 Further publicity for investigation reports

- (1) The Ombudsman may arrange for a notice about an investigation report to be published –
 - (a) in one or more newspapers, or
 - (b) by means of broadcast or other electronic media.
- (2) The notice may, for example –
 - (a) provide a summary of the Ombudsman’s findings,

- (b) pennu cyfeiriad neu gyfeiriadau lle gellir archwilio copi o'r adroddiad a gyhoeddwyd yn ystod oriau swyddfa arferol, a lle y ceir copi o'r adroddiad hwnnw (neu ran o'r adroddiad hwnnw), a
 - (c) pennu cyfeiriad gwefan lle gellir gweld copi o'r adroddiad a gyhoeddwyd.
- (3) Rhaid i'r darparwr y mae'r adroddiad yn ymwneud ag ef, os gofynnir iddo wneud hynny gan yr Ombwdsmon, ad-dalu'r Ombwdsmon y costau rhesymol o drefnu i gyhoeddi'r hysbysiad.
- (4) Wrth benderfynu a yw'n briodol i wneud trefniadau o dan is-adran (1), rhaid i'r Ombwdsmon ystyried y canlynol –
- (a) budd y cyhoedd,
 - (b) buddiannau'r person a dramgwyddwyd (os oes un), ac
 - (c) buddiannau unrhyw bersonau eraill sydd, ym marn yr Ombwdsmon, yn briodol.

57 **Camau gweithredu ar ôl cael adroddiadau ar ymchwiliadau**

- (1) Mae'r adran hon yn gymwys pan fo'r Ombwdsmon wedi dod i'r casgliad mewn adroddiad am ymchwiliad fod unrhyw berson wedi dioddef anghyfiawnder neu galedi o ganlyniad i'r mater yr ymchwiliwyd iddo.
- (2) Rhaid i'r darparwr y mae'r mater yn ymwneud ag ef ystyried yr adroddiad a hysbysu'r Ombwdsmon cyn diwedd y cyfnod a ganiateir –
- (a) am y camau gweithredu y mae'r darparwr wedi eu cymryd neu'n bwriadu eu cymryd mewn ymateb i'r adroddiad, a
 - (b) cyn diwedd pa gyfnod y mae'r darparwr yn bwriadu cymryd y camau gweithredu hynny (os nad yw eisoes wedi cymryd y camau gweithredu hynny).
- (3) Yn is-adran (2) ystyr "y cyfnod a ganiateir" yw –
- (a) y cyfnod o fis sy'n dechrau ar y dyddiad y mae'r darparwr yn cael yr adroddiad, neu
 - (b) cyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig (os pennir cyfnod felly).

58 **Adroddiadau: gweithdrefn amgen**

- (1) Mae'r adran hon yn gymwys, ar ôl i'r Ombwdsmon gynnal ymchwiliad o dan y Rhan hon –
- (a) os yw'r Ombwdsmon yn dod i'r casgliad nad oes unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater yr ymchwiliwyd iddo, a
 - (b) os yw'r Ombwdsmon yn fodlon nad yw budd y cyhoedd yn ei gwneud yn ofynnol i adrannau 55 i 57 fod yn gymwys.
- (2) Mae'r adran hon hefyd yn gymwys, ar ôl i'r Ombwdsmon gynnal ymchwiliad o dan y Rhan hon –
- (a) os yw'r Ombwdsmon yn dod i'r casgliad bod unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater yr ymchwiliwyd iddo,

- (b) specify an address or addresses at which a copy of the published report can be inspected during ordinary office hours and from which a copy of that report (or part of that report) may be obtained, and
 - (c) specify a website address at which a copy of the published report can be viewed.
- (3) The provider to whom the report relates must, if required to do so by the Ombudsman, reimburse the Ombudsman for the reasonable costs of arranging the publication of the notice.
- (4) In deciding whether it is appropriate to make arrangements under subsection (1), the Ombudsman must take into account –
 - (a) the public interest,
 - (b) the interests of the person aggrieved (if any), and
 - (c) the interests of any other persons the Ombudsman thinks appropriate.

57 Action following receipt of investigation reports

- (1) This section applies where the Ombudsman has concluded in an investigation report that any person has sustained injustice or hardship as a result of the matter investigated.
- (2) The provider to whom the matter relates must consider the report and notify the Ombudsman before the end of the permitted period of –
 - (a) the action the provider has taken or proposes to take in response to the report, and
 - (b) the period before the end of which the provider proposes to take that action (if that action has not already been taken).
- (3) In subsection (2) “the permitted period” means –
 - (a) the period of one month beginning on the date on which the provider receives the report, or
 - (b) a longer period specified by the Ombudsman in writing (if any).

58 Reports: alternative procedure

- (1) This section applies if, after the Ombudsman has conducted an investigation under this Part –
 - (a) the Ombudsman concludes that no person has sustained, or is likely to sustain, injustice or hardship as a result of the matter investigated, and
 - (b) the Ombudsman is satisfied that the public interest does not require sections 55 to 57 to apply.
- (2) This section also applies if, after the Ombudsman has conducted an investigation under this Part –
 - (a) the Ombudsman concludes that any person has sustained, or is likely to sustain, injustice or hardship as a result of the matter investigated,

- (b) os yw'r darparwr y mae'r ymchwiliad yn ymwneud ag ef yn cytuno i weithredu, cyn diwedd y cyfnod a ganiateir, unrhyw argymhellion a wneir gan yr Ombwdsmon, ac
 - (c) os yw'r Ombwdsmon yn fodlon nad yw budd y cyhoedd yn ei gwneud yn ofynnol i adrannau 55 i 57 fod yn gymwys.
- (3) Yn is-adran (2)(b) ystyr "y cyfnod a ganiateir" yw –
- (a) cyfnod y cytunwyd arno rhwng yr Ombwdsmon a'r darparwr ac, os yw'r ymchwiliad yn ymwneud â chwyn, y person a wnaeth y gwyn, neu
 - (b) os yw'r Ombwdsmon o'r farn na ellir dod i gytundeb o'r fath, cyfnod a bennir gan yr Ombwdsmon yn ysgrifenedig.
- (4) Caiff yr Ombwdsmon benderfynu paratoi adroddiad am ganfyddiadau'r Ombwdsmon o dan yr adran hon yn hytrach nag o dan adran 55; ac os yw'r Ombwdsmon yn penderfynu gwneud hynny, ni fydd adrannau 55 i 57 yn gymwys.
- (5) Os caiff adroddiad ei baratoi o dan yr adran hon –
- (a) rhaid i'r Ombwdsmon anfon copi o'r adroddiad –
 - (i) os yw'r ymchwiliad yn ymwneud â chwyn, at y person a wnaeth y gwyn;
 - (ii) at y darparwr y mae'r adroddiad yn ymwneud ag ef, a
 - (b) caiff yr Ombwdsmon anfon copi o'r adroddiad at unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (6) Caiff yr Ombwdsmon gyhoeddi'r adroddiad os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r personau a dramgwyddwyd (os oes rhai) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i wneud hynny.
- (7) Caiff yr Ombwdsmon roi copi o adroddiad a gyhoeddir o dan is-adran (6), neu ran o'r adroddiad hwnnw, i unrhyw berson sy'n gofyn amdano neu amdani.
- (8) Caiff yr Ombwdsmon godi ffi resymol am roi copi o adroddiad, neu ran o adroddiad, o dan is-adran (7).
- (9) Ni chaniateir cynnwys yr wybodaeth ganlynol mewn fersiwn o'r adroddiad a anfonir at berson o dan is-adran (5) neu a gyhoeddir o dan is-adran (6) –
- (a) enw person heblaw'r darparwr y mae'r ymchwiliad yn ymwneud ag ef;
 - (b) gwybodaeth sydd, ym marn yr Ombwdsmon, yn debygol o wneud y cyfryw berson yn hysbys ac y gellir, ym marn yr Ombwdsmon, ei hepgor heb amharu ar effeithiolrwydd yr adroddiad.
- (10) Nid yw is-adran (9) yn gymwys os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r adroddiad.

*Adroddiadau arbennig***59 Amgylchiadau lle caiff adroddiadau arbennig eu paratoi**

- (1) Caiff yr Ombwdsmon baratoi adroddiad arbennig o dan adran 60 os yw achos 1, 2 neu 3 yn gymwys.

- (b) the provider to whom the investigation relates agrees to implement, before the end of the permitted period, any recommendations that the Ombudsman makes, and
 - (c) the Ombudsman is satisfied that the public interest does not require sections 55 to 57 to apply.
- (3) In subsection (2)(b) “the permitted period” means –
- (a) a period agreed between the Ombudsman and the provider and, if the investigation relates to a complaint, the person who made the complaint, or
 - (b) if the Ombudsman thinks that no such agreement can be reached, a period specified by the Ombudsman in writing.
- (4) The Ombudsman may decide to prepare a report on the Ombudsman’s findings under this section, rather than under section 55; and if the Ombudsman decides to do so, sections 55 to 57 do not apply.
- (5) If a report is prepared under this section, the Ombudsman –
- (a) must send a copy of the report to –
 - (i) if the investigation relates to a complaint, the person who made the complaint;
 - (ii) the provider to whom the report relates, and
 - (b) may send a copy of the report to any other persons the Ombudsman thinks appropriate.
- (6) The Ombudsman may publish the report if, after taking account of the interests of the persons aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to do so.
- (7) The Ombudsman may supply a copy of a report published under subsection (6), or a part of that report, to any person who requests it.
- (8) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (7).
- (9) The following information must not be included in a version of the report sent to a person under subsection (5) or published under subsection (6) –
- (a) the name of a person other than the provider to whom the investigation relates;
 - (b) information which, in the opinion of the Ombudsman, is likely to identify such a person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the report.
- (10) Subsection (9) does not apply if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the report.

Special reports

59 Circumstances in which special reports may be prepared

- (1) The Ombudsman may prepare a special report under section 60 if case 1, 2 or 3 applies.

- (2) Mae achos 1 yn gymwys –
- (a) os yw'r Ombwdsmon wedi dod i'r casgliad mewn adroddiad am ymchwiliad fod unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater yr ymchwiliwyd iddo, a
 - (b) os yw un o'r amgylchiadau yn is-adran (3) yn gymwys.
- (3) Yr amgylchiadau hynny yw –
- (a) nad yw'r Ombwdsmon wedi cael yr hysbysiad sy'n ofynnol o dan adran 57 cyn diwedd y cyfnod a ganiateir o dan yr adran honno;
 - (b) bod yr Ombwdsmon wedi cael yr hysbysiad hwnnw, ond nad yw'n fodlon â'r canlynol –
 - (i) y camau gweithredu y mae'r darparwr wedi'u cymryd neu'n bwriadu eu cymryd, neu
 - (ii) cyn diwedd pa gyfnod y mae'r darparwr yn bwriadu cymryd y camau gweithredu hynny;
 - (c) bod yr Ombwdsmon wedi cael yr hysbysiad hwnnw, ond nad yw'n fodlon bod y darparwr, cyn diwedd y cyfnod a ganiateir, wedi cymryd y camau gweithredu y bwriadai eu cymryd.
- (4) Yn is-adran (3)(c) ystyr "y cyfnod a ganiateir" yw –
- (a) y cyfnod y cyfeirir ato yn adran 57(2)(b), neu
 - (b) cyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig (os pennir cyfnod felly).
- (5) Mae achos 2 yn gymwys –
- (a) os yw'r Ombwdsmon wedi paratoi adroddiad o dan adran 58 yn rhinwedd is-adran (2) o'r adran honno, a
 - (b) os nad yw'r Ombwdsmon yn fodlon bod y darparwr wedi gweithredu argymhellion yr Ombwdsmon cyn diwedd y cyfnod a ganiateir.
- (6) Yn is-adran (5)(b) ystyr "y cyfnod a ganiateir" yw –
- (a) y cyfnod y cyfeirir ato yn adran 58(2)(b), neu
 - (b) cyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig (os pennir cyfnod felly).
- (7) Mae achos 3 yn gymwys –
- (a) os yw'r mater (y mae gan yr Ombwdsmon hawl i ymchwilio iddo) mewn perthynas â darparwr wedi cael ei ddatrys,
 - (b) os yw'r Ombwdsmon, wrth ddatrys y mater, wedi dod i'r casgliad bod unrhyw berson wedi dioddef anghyfiawnder neu galedi, neu'n debygol o ddioddef anghyfiawnder neu galedi, o ganlyniad i'r mater,
 - (c) os yw'r darparwr wedi cytuno i gymryd camau gweithredu penodol cyn diwedd cyfnod penodol, a

- (2) Case 1 applies if—
 - (a) the Ombudsman has concluded in an investigation report that any person has sustained, or is likely to sustain, injustice or hardship as a result of the matter investigated, and
 - (b) one of the circumstances in subsection (3) applies.
- (3) The circumstances are that—
 - (a) the Ombudsman has not received the notification required under section 57 before the end of the period permitted under that section;
 - (b) the Ombudsman has received that notification but is not satisfied with—
 - (i) the action which the provider has taken or proposes to take, or
 - (ii) the period before the end of which the provider proposes to have taken that action;
 - (c) the Ombudsman has received that notification but is not satisfied that the provider has, before the end of the permitted period, taken the action that the provider proposed to take.
- (4) In subsection (3)(c) “the permitted period” means—
 - (a) the period referred to in section 57(2)(b), or
 - (b) a longer period specified by the Ombudsman in writing (if any).
- (5) Case 2 applies if—
 - (a) the Ombudsman has prepared a report under section 58 by virtue of subsection (2) of that section, and
 - (b) the Ombudsman is not satisfied that the provider has implemented the Ombudsman’s recommendations before the end of the permitted period.
- (6) In subsection (5)(b) “the permitted period” means—
 - (a) the period referred to in section 58(2)(b), or
 - (b) a longer period specified by the Ombudsman in writing (if any).
- (7) Case 3 applies if—
 - (a) a matter (which the Ombudsman is entitled to investigate) in respect of a provider has been resolved,
 - (b) in resolving the matter, the Ombudsman has concluded that any person has sustained, or is likely to sustain, injustice or hardship as a result of the matter,
 - (c) the provider has agreed to take particular action before the end of a particular period, and

- (d) os nad yw'r Ombwdsmon yn fodlon bod y darparwr wedi cymryd y camau gweithredu hynny cyn diwedd y cyfnod a ganiateir.
- (8) Yn is-adran (7)(d) ystyr "y cyfnod a ganiateir" yw –
 - (a) y cyfnod y cyfeirir ato yn is-adran (7)(c), neu
 - (b) cyfnod hwy a bennir gan yr Ombwdsmon yn ysgrifenedig (os pennir cyfnod felly).

60 Adroddiadau arbennig

- (1) Rhaid i adroddiad arbennig –
 - (a) nodi'r ffeithiau sy'n rhoi hawl i'r Ombwdsmon baratoi'r adroddiad arbennig (hynny yw, y ffeithiau sy'n gwneud achos 1, 2 neu 3 o adran 59 yn gymwys), a
 - (b) gwneud y cyfryw argymhellion sy'n briodol ym marn yr Ombwdsmon o ran y camau gweithredu y dylid, ym marn yr Ombwdsmon, eu cymryd –
 - (i) i unioni neu atal yr anghyfiawnder neu'r caledi i'r person, a
 - (ii) i atal anghyfiawnder neu galedi tebyg rhag cael ei achosi i unrhyw berson yn y dyfodol.
- (2) Os yw'r adroddiad arbennig yn cael ei baratoi am fod achos 1 o adran 59 yn gymwys, rhaid i'r Ombwdsmon anfon copi o'r adroddiad at bob person yr anfonwyd copi o'r adroddiad adran 55 ato o dan adran 55(2)(b).
- (3) Os yw'r adroddiad arbennig yn cael ei baratoi am fod achos 2 neu 3 o adran 59 yn gymwys, rhaid i'r Ombwdsmon anfon copi o'r adroddiad –
 - (a) os yw'r ymchwiliad yn ymwneud â chwyn, at y person a wnaeth y gŵyn;
 - (b) at y darparwr y mae'r adroddiad yn ymwneud ag ef.
- (4) Caiff yr Ombwdsmon anfon copi o adroddiad arbennig at unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon.
- (5) Caiff yr Ombwdsmon gyhoeddi adroddiad arbennig.
- (6) Caiff yr Ombwdsmon roi copi o adroddiad arbennig a gyhoeddwyd, neu ran o adroddiad o'r fath, i unrhyw berson sy'n gofyn amdano neu amdani.
- (7) Caiff yr Ombwdsmon godi ffi resymol am roi copi o adroddiad arbennig, neu ran o adroddiad o'r fath, o dan is-adran (6).
- (8) Ni chaniateir cynnwys yr wybodaeth ganlynol mewn fersiwn o adroddiad arbennig a anfonir at berson o dan is-adran (2), (3) neu (4) neu a gyhoeddir o dan is-adran (5) –
 - (a) enw unrhyw berson heblaw'r darparwr y mae'r adroddiad yn ymwneud ag ef;
 - (b) gwybodaeth sydd, ym marn yr Ombwdsmon, yn debygol o wneud y cyfryw berson yn hysbys ac y gellir, ym marn yr Ombwdsmon, ei hepgor heb amharu ar effeithiolrwydd yr adroddiad arbennig.
- (9) Nid yw is-adran (8) yn gymwys os yw'r Ombwdsmon, ar ôl ystyried buddiannau'r person a dramgwyddwyd (os oes un) ac unrhyw bersonau eraill sy'n briodol ym marn yr Ombwdsmon, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r adroddiad arbennig.

(d) the Ombudsman is not satisfied that the provider has taken that action before the end of the permitted period.

(8) In subsection (7)(d) “the permitted period” means –

(a) the period referred to in subsection (7)(c), or

(b) a longer period specified by the Ombudsman in writing (if any).

60 Special reports

(1) A special report must –

(a) set out the facts which entitle the Ombudsman to prepare the special report (that is, the facts on the basis of which case 1, 2 or 3 of section 59 applies), and

(b) make such recommendations as the Ombudsman thinks fit as to the action which, in the Ombudsman’s opinion, should be taken –

(i) to remedy or prevent the injustice or hardship to the person, and

(ii) to prevent similar injustice or hardship being caused to any person in the future.

(2) If the special report is prepared because case 1 of section 59 applies, the Ombudsman must send a copy of the report to each person to whom a copy of the section 55 report was sent under section 55(2)(b).

(3) If the special report is prepared because case 2 or 3 of section 59 applies, the Ombudsman must send a copy of the report to –

(a) if the investigation relates to a complaint, the person who made the complaint;

(b) the provider to whom the report relates.

(4) The Ombudsman may send a copy of a special report to any other persons the Ombudsman thinks appropriate.

(5) The Ombudsman may publish a special report.

(6) The Ombudsman may supply a copy of a published special report, or a part of such a report, to any person who requests it.

(7) The Ombudsman may charge a reasonable fee for supplying a copy of a special report, or part of such a report, under subsection (6).

(8) The following information must not be included in a version of a special report sent to a person under subsection (2), (3) or (4) or published under subsection (5) –

(a) the name of any person other than the provider in respect of whom the report was made;

(b) information which, in the opinion of the Ombudsman, is likely to identify any such person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the special report.

(9) Subsection (8) does not apply if, after taking account of the interests of the person aggrieved (if any) and any other persons the Ombudsman thinks appropriate, the Ombudsman considers that it would be in the public interest to include that information in that version of the special report.

61 Cyhoeddusrwydd pellach i adroddiadau arbennig

- (1) Caiff yr Ombwdsmon drefnu i hysbysiad am adroddiad arbennig gael ei gyhoeddi –
 - (a) mewn un neu ragor o bapurau newydd, neu
 - (b) drwy gyfrwng darlledu neu gyfryngau electronig eraill.
- (2) Caiff yr hysbysiad, er enghraifft –
 - (a) darparu crynodeb o ganfyddiadau'r Ombwdsmon,
 - (b) pennu cyfeiriad neu gyfeiriadau lle gellir archwilio copi o'r adroddiad a gyhoeddwyd yn ystod oriau swyddfa arferol, a lle y ceir copi o'r adroddiad hwnnw (neu ran o'r adroddiad hwnnw), a
 - (c) pennu cyfeiriad gwefan lle gellir gweld copi o'r adroddiad a gyhoeddwyd.
- (3) Rhaid i'r darparwr y mae'r adroddiad yn ymwneud ag ef, os yw'r Ombwdsmon yn ei gwneud yn ofynnol iddo wneud hynny, ad-dalu'r Ombwdsmon y costau rhesymol o drefnu i gyhoeddi'r hysbysiad.
- (4) Wrth benderfynu pa un ai i wneud trefniadau o dan is-adran (1), rhaid i'r Ombwdsmon ystyried y canlynol –
 - (a) budd y cyhoedd,
 - (b) buddiannau'r person a dramgwyddwyd (os oes un), ac
 - (c) buddiannau unrhyw berson arall sydd, ym marn yr Ombwdsmon, yn briodol.

*Dehongli***62 Ystyr "cartref gofal" a "darparwr cartref gofal"**

- (1) Mae'r adran hon yn gymwys at ddibenion y Ddeddf hon.
- (2) Ystyr "cartref gofal" yw mangre lle y mae gwasanaeth cartref gofal, o fewn ystyr Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol Cymru 2016 (dccc 2), yn cael ei ddarparu'n gyfan gwbl neu'n bennaf i bersonau 18 oed neu hŷn.
- (3) Ystyr "darparwr cartref gofal" yw person sy'n ddarparwr gwasanaeth cartref gofal, o fewn ystyr Rhan 1 o'r Ddeddf honno, lle y mae'r gwasanaeth yn cael ei ddarparu'n gyfan gwbl neu'n bennaf i bersonau 18 oed neu hŷn.
- (4) Mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr cartref gofal os ydynt yn cael eu cymryd gan –
 - (a) person a gyflogir gan y darparwr hwnnw,
 - (b) person sy'n gweithredu ar ran y darparwr hwnnw, neu
 - (c) person y mae'r darparwr hwnnw wedi dirprwyo unrhyw swyddogaethau iddo.
- (5) Hefyd, mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr cartref gofal –
 - (a) os yw'r darparwr hwnnw'n darparu, drwy gyfrwng trefniant gyda pherson arall, lety, gofal nyrsio neu ofal mewn cartref gofal yng Nghymru ar gyfer unigolyn oherwydd hyglwyfedd neu angen yr unigolyn hwnnw, a
 - (b) os yw'r camau gweithredu yn cael eu cymryd gan y person arall neu ar ran y person arall wrth roi'r trefniant ar waith.

61 Further publicity for special reports

- (1) The Ombudsman may arrange for a notice about a special report to be published –
 - (a) in one or more newspapers, or
 - (b) by means of broadcast or other electronic media.
- (2) The notice may, for example –
 - (a) provide a summary of the Ombudsman’s findings,
 - (b) specify an address or addresses at which a copy of the published report can be inspected during ordinary office hours and from which a copy of that report (or part of that report) may be obtained, and
 - (c) specify a website address at which a copy of the published report can be viewed.
- (3) The provider to whom the report relates must, if required to do so by the Ombudsman, reimburse the Ombudsman for the reasonable costs of arranging the publication of the notice.
- (4) In deciding whether to make arrangements under subsection (1), the Ombudsman must take into account –
 - (a) the public interest,
 - (b) the interests of the person aggrieved (if any), and
 - (c) the interests of any other person the Ombudsman thinks appropriate.

Interpretation

62 Meaning of “care home” and “care home provider”

- (1) This section applies for the purposes of this Act.
- (2) “Care home” means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), is provided wholly or mainly to persons aged 18 or over.
- (3) “Care home provider” means a person who is a service provider of a care home service within the meaning of Part 1 of that Act where the service is provided wholly or mainly to persons aged 18 or over.
- (4) Action is to be treated as action taken by a care home provider if it is taken by –
 - (a) a person employed by that provider,
 - (b) a person acting on behalf of that provider, or
 - (c) a person to whom that provider has delegated any functions.
- (5) Action is also to be treated as action taken by a care home provider if –
 - (a) that provider provides, by means of an arrangement with another person, accommodation, nursing or care in a care home in Wales for an individual because of the individual’s vulnerability or need, and
 - (b) the action is taken by or on behalf of the other person in carrying out the arrangement.

- (6) Mae i “gofal” yr ystyr a roddir yn Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol Cymru 2016 (dccc 2).

63 Ystyr “gofal cartref” a “darparwr gofal cartref”

- (1) Mae’r adran hon yn gymwys at ddibenion y Ddeddf hon.
- (2) Ystyr “gofal cartref” yw gofal personol a ddarperir yn eu cartrefi eu hunain i bersonau sydd, oherwydd salwch, gwendid neu anabledd, yn methu â’i ddarparu drostynt eu hunain heb gymorth.
- (3) Ystyr “darparwr gofal cartref” yw person sy’n cyflawni gweithgaredd sy’n ymwneud â darparu gofal cartref, ond nid yw’n cynnwys unigolyn –
- sydd yn cyflawni’r gweithgaredd heblaw mewn partneriaeth ag eraill,
 - nad yw’n cael ei gyflogi gan gorff corfforaethol neu gymdeithas anghorfforedig i’w gyflawni,
 - nad yw’n cyflogi unrhyw berson arall i gyflawni’r gweithgaredd, a
 - sydd yn darparu neu’n trefnu i ddarparu gofal cartref i lai na phedwar o bobl.
- (4) Mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr gofal cartref os ydynt yn cael eu cymryd gan –
- person a gyflogir gan y darparwr hwnnw,
 - person sy’n gweithredu ar ran y darparwr hwnnw, neu
 - person y mae’r darparwr hwnnw wedi dirprwyo unrhyw swyddogaethau iddo.
- (5) Hefyd, mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr gofal cartref –
- os yw’r darparwr hwnnw yn darparu gofal cartref drwy drefniant gyda pherson arall, a
 - os yw’r camau gweithredu yn cael eu cymryd gan y person arall neu ar ran y person arall wrth roi’r trefniant ar waith.

64 Ystyr “gwasanaeth gofal lliniarol” a “darparwr gofal lliniarol annibynnol”

- (1) Mae’r adran hon yn gymwys at ddibenion y Ddeddf hon.
- (2) Ystyr “gwasanaeth gofal lliniarol” yw gwasanaeth sydd â’r prif bwrpas o ddarparu gofal lliniarol.
- (3) Ystyr “darparwr gofal lliniarol annibynnol” yw person –
- sydd yn darparu gwasanaeth gofal lliniarol, a
 - nad yw’n gorff gwasanaeth iechyd yng Nghymru.
- (4) Mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr gofal lliniarol annibynnol os ydynt yn cael eu cymryd gan –
- person a gyflogir gan y darparwr hwnnw,
 - person sy’n gweithredu ar ran y darparwr hwnnw, neu
 - person y mae’r darparwr hwnnw wedi dirprwyo unrhyw swyddogaethau iddo.

- (6) “Care” has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).

63 Meaning of “domiciliary care” and “domiciliary care provider”

- (1) This section applies for the purposes of this Act.
- (2) “Domiciliary care” means personal care provided in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
- (3) “Domiciliary care provider” means a person who carries on an activity which involves the provision of domiciliary care, but it does not include an individual who –
- (a) carries on the activity otherwise than in partnership with others,
 - (b) is not employed by a body corporate or unincorporated association to carry it on,
 - (c) does not employ any other person to carry out the activity, and
 - (d) provides or arranges the provision of domiciliary care to fewer than four persons.
- (4) Action is to be treated as action taken by a domiciliary care provider if it is taken by –
- (a) a person employed by that provider,
 - (b) a person acting on behalf of that provider, or
 - (c) a person to whom that provider has delegated any functions.
- (5) Action is also to be treated as action taken by a domiciliary care provider if –
- (a) that provider provides domiciliary care by means of an arrangement with another person, and
 - (b) the action is taken by or on behalf of the other person in carrying out the arrangement.

64 Meaning of “palliative care service” and “independent palliative care provider”

- (1) This section applies for the purposes of this Act.
- (2) “Palliative care service” means a service the main purpose of which is to provide palliative care.
- (3) “Independent palliative care provider” means a person who –
- (a) provides a palliative care service, and
 - (b) is not a Welsh health service body.
- (4) Action is to be treated as action taken by an independent palliative care provider if it is taken by –
- (a) a person employed by that provider,
 - (b) a person acting on behalf of that provider, or
 - (c) a person to whom that provider has delegated any functions.

- (5) Hefyd, mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr gofal lliniarol annibynnol—
- (a) os yw'r darparwr hwnnw yn darparu gofal lliniarol drwy drefniant gyda pherson arall, a
 - (b) os yw'r camau gweithredu yn cael eu cymryd gan y person arall neu ar ran y person arall wrth roi'r trefniant ar waith.

RHAN 6

YMCHWILIADAU: ATODOL

Ymgynghori a chydweithredu

65 Ymgynghori a chydweithredu ag ombwdsmyrn eraill

- (1) Mae'r adran hon yn gymwys os yw'r Ombwdsmon, wrth wneud penderfyniad o dan adran 3(5), 4(3)(a), 43(8), 44(4)(a) neu wrth gynnal ymchwiliad o dan Ran 3 neu 5, yn dod i'r farn y gallai mater sy'n destun y gŵyn neu'r ymchwiliad fod yn destun ymchwiliad gan ombwdsmon a grybwyllir yn is-adran (7).
- (2) Rhaid i'r Ombwdsmon ymgynghori â'r ombwdsmon hwnnw am y mater.
- (3) Caiff yr Ombwdsmon gydweithredu â'r ombwdsmon hwnnw mewn perthynas â'r mater.
- (4) Caiff ymgynghoriad o dan is-adran (2), a chydweithrediad o dan is-adran (3), ymestyn i unrhyw beth sy'n ymwneud â mater sy'n destun y gŵyn neu'r ymchwiliad, gan gynnwys (ymhlith pethau eraill)—
 - (a) cynnal ymchwiliad i'r gŵyn, a
 - (b) ffurf, cynnwys a chyhoeddiad adroddiad yr ymchwiliad.
- (5) Os yw'r Ombwdsmon yn ymgynghori ag ombwdsmon am fater o dan is-adran (2), caiff yr Ombwdsmon a'r ombwdsmon hwnnw—
 - (a) cynnal ymchwiliad ar y cyd i'r mater,
 - (b) paratoi adroddiad ar y cyd mewn perthynas â'r ymchwiliad, ac
 - (c) cyhoeddi'r adroddiad ar y cyd.
- (6) Nid yw is-adran (5) yn gymwys os mai'r ombwdsman yr ymgynghorir ag ef o dan is-adran (2) yw Ombwdsmon Gwasanaethau Cyhoeddus yr Alban.
- (7) Yr ombwdsmyrn y cyfeirir atynt yn is-adran (1) yw—
 - (a) y Comisiynydd Seneddol dros Weinyddiaeth;
 - (b) Comisiynydd Gwasanaeth Iechyd Lloegr;
 - (c) Comisiynydd Lleol;
 - (d) Ombwdsmon Gwasanaethau Cyhoeddus yr Alban;
 - (e) ombwdsmon tai a benodwyd yn unol â chynllun a gymeradwywyd o dan adran 51 o Ddeddf Tai 1996 (p.52).

- (5) Action is also to be treated as action taken by an independent palliative care provider if—
 - (a) that provider provides palliative care by means of an arrangement with another person, and
 - (b) the action is taken by or on behalf of the other person in carrying out the arrangement.

PART 6

INVESTIGATIONS: SUPPLEMENTARY

Consultation and co-operation

65 Consultation and co-operation with other ombudsmen

- (1) This section applies if, in making a decision under section 3(5), 4(3)(a), 43(8), 44(4)(a) or in conducting an investigation under Part 3 or 5, the Ombudsman forms the opinion that a matter which is the subject of the complaint or investigation could be the subject of an investigation by an ombudsman mentioned in subsection (7).
- (2) The Ombudsman must consult that ombudsman about the matter.
- (3) The Ombudsman may co-operate with that ombudsman in relation to the matter.
- (4) Consultation under subsection (2), and co-operation under subsection (3), may extend to anything relating to a matter which is the subject of the complaint or investigation, including (among other things)—
 - (a) the conduct of an investigation into the complaint, and
 - (b) the form, content and publication of a report of the investigation.
- (5) If the Ombudsman consults an ombudsman about a matter under subsection (2), the Ombudsman and that ombudsman may—
 - (a) conduct a joint investigation into the matter,
 - (b) prepare a joint report in relation to the investigation, and
 - (c) publish the joint report.
- (6) Subsection (5) does not apply if the ombudsman consulted under subsection (2) is the Scottish Public Services Ombudsman.
- (7) The ombudsmen referred to in subsection (1) are—
 - (a) the Parliamentary Commissioner for Administration;
 - (b) the Health Service Commissioner for England;
 - (c) a Local Commissioner;
 - (d) the Scottish Public Services Ombudsman;
 - (e) a housing ombudsman appointed in accordance with a scheme approved under section 51 of the Housing Act 1996 (c.52).

- (8) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio is-adran (7) drwy –
 - (a) ychwanegu person,
 - (b) hepgor person, neu
 - (c) newid y disgrifiad o berson.
- (9) Caiff rheoliadau o dan is-adran (8) ychwanegu person at is-adran (7) dim ond os oes gan y person, ym marn Gweinidogion Cymru, swyddogaethau sy'n ymwneud ag ymchwilio i gwynion.
- (10) Ni chaniateir gwneud rheoliadau o dan is-adran (8) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.

66 **Cydweithio â phersonau a bennir**

- (1) Mae'r adran hon yn gymwys os yw'n ymddangos i'r Ombwdsmon –
 - (a) bod mater y mae gan yr Ombwdsmon hawl i ymchwilio iddo, a
 - (b) bod y mater yn un a allai hefyd fod yn destun ymchwiliad gan berson a bennir yn is-adran (2) ("person a bennir").
- (2) Mae'r canlynol yn bersonau a bennir –
 - (a) Comisiynydd Plant Cymru;
 - (b) Comisiynydd Pobl Hŷn Cymru;
 - (c) Comisiynydd Cenedlaethau'r Dyfodol Cymru;
 - (d) Comisiynydd y Gymraeg;
 - (e) pan fo'r mater yn ymwneud ag iechyd neu ofal cymdeithasol, Gweinidogion Cymru.
- (3) Yn ddarostyngedig i is-adran (4), pan fo'r Ombwdsmon o'r farn bod hynny'n briodol, rhaid i'r Ombwdsmon –
 - (a) rhoi gwybod i'r person a bennir perthnasol am y mater, a
 - (b) ymgynghori â'r person a bennir mewn perthynas ag ef.
- (4) Pan fo'r Ombwdsmon yn ymchwilio i'r mater o dan adran 4 neu 44, rhaid i'r Ombwdsmon –
 - (a) rhoi gwybod i'r person a bennir perthnasol am y mater, a
 - (b) pan fo'r Ombwdsmon o'r farn bod hynny'n briodol, ymgynghori â'r person a bennir mewn perthynas ag ef.
- (5) Pan fo'r Ombwdsmon yn ymgynghori â pherson a bennir o dan yr adran hon, caiff yr Ombwdsmon a'r person a bennir –
 - (a) cydweithredu â'i gilydd mewn perthynas â'r mater,
 - (b) cynnal ymchwiliad ar y cyd i'r mater, ac
 - (c) paratoi a chyhoeddi adroddiad ar y cyd mewn perthynas â'r ymchwiliad.
- (6) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio is-adran (2) drwy –
 - (a) ychwanegu person a bennir at y rhestr neu ei ddileu o'r rhestr, neu

- (8) The Welsh Ministers may by regulations amend subsection (7) by –
 - (a) adding a person,
 - (b) omitting a person, or
 - (c) changing the description of a person.
- (9) Regulations under subsection (8) may add a person to subsection (7) only if the person appears to the Welsh Ministers to have functions relating to the investigation of complaints.
- (10) No regulations are to be made under subsection (8) unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of the Assembly.

66 Working jointly with specified persons

- (1) This section applies if it appears to the Ombudsman that –
 - (a) there is a matter which the Ombudsman is entitled to investigate, and
 - (b) the matter is one which could also be the subject of an investigation by a person specified in subsection (2) (“specified person”).
- (2) The following are specified persons –
 - (a) the Children’s Commissioner for Wales;
 - (b) the Commissioner for Older People in Wales;
 - (c) the Future Generations Commissioner for Wales;
 - (d) the Welsh Language Commissioner;
 - (e) where the matter relates to health or social care, the Welsh Ministers.
- (3) Subject to subsection (4), where the Ombudsman considers it appropriate, the Ombudsman must –
 - (a) inform the relevant specified person about the matter, and
 - (b) consult the specified person in relation to it.
- (4) Where the Ombudsman investigates the matter under section 4 or 44, the Ombudsman must –
 - (a) inform the relevant specified person about the matter, and
 - (b) where the Ombudsman considers it appropriate, consult the specified person in relation to it.
- (5) Where the Ombudsman consults a specified person under this section, the Ombudsman and the specified person may –
 - (a) co-operate with each other in relation to the matter,
 - (b) conduct a joint investigation into the matter, and
 - (c) prepare and publish a joint report in relation to the investigation.
- (6) The Welsh Ministers may by regulations amend subsection (2) by –
 - (a) adding or removing a specified person to or from the list, or

- (b) amrywio cyfeiriad at fath neu ddisgrifiad o berson a bennir a gynhwysir am y tro yn yr is-adran honno.
- (7) Ni chaniateir gwneud rheoliadau o dan is-adran (6) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.

67 Cydlafurio â Chomisiynwyr

- (1) Mae'r adran hon yn gymwys os yw'n ymddangos i'r Ombwdsmon bod –
 - (a) cwyn, neu
 - (b) mater y mae'r Ombwdsmon yn ystyried ymchwilio iddo o dan adran 4 neu 44, yn ymwneud â mater, neu'n codi mater, a allai fod yn destun ymchwiliad gan Gomisiynydd Plant Cymru, Comisiynydd Pobl Hŷn Cymru neu Gomisiynydd y Gymraeg (y "mater cysylltiedig").
- (2) Os yw'r Ombwdsmon o'r farn bod hynny'n briodol, rhaid i'r Ombwdsmon roi gwybod i'r Comisiynydd perthnasol am y mater cysylltiedig.
- (3) Os yw'r Ombwdsmon o'r farn bod y mater yn fater y mae gan yr Ombwdsmon hawl i gynnal ymchwiliad iddo (y "mater Ombwdsmon"), rhaid i'r Ombwdsmon hefyd, os yw'r Ombwdsmon o'r farn bod hynny'n briodol –
 - (a) rhoi gwybod i'r Comisiynydd perthnasol am gynigion yr Ombwdsmon ar gyfer cynnal ymchwiliad, a
 - (b) ymgynghori â'r Comisiynydd perthnasol am y cynigion hynny.
- (4) Os yw'r Ombwdsmon a'r Comisiynydd perthnasol o'r farn bod ganddynt hawl i ymchwilio, yn y drefn honno, y mater Ombwdsmon a'r mater cysylltiedig, caniateir iddynt –
 - (a) cydweithredu â'i gilydd yn yr ymchwiliad ar wahân i bob un o'r materion hynny,
 - (b) gweithredu gyda'i gilydd wrth ymchwilio i'r materion hynny, ac
 - (c) paratoi a chyhoeddi adroddiad ar y cyd sy'n cynnwys eu casgliadau unigol o ran y materion y maent ill dau wedi ymchwilio iddynt.
- (5) Os yw'r Ombwdsmon o'r farn –
 - (a) nad yw'r mater yn un y mae gan yr Ombwdsmon hawl i gynnal ymchwiliad iddo, a
 - (b) ei bod yn briodol gwneud hynny,
 rhaid i'r Ombwdsmon roi gwybod i'r person a gychwynnodd y gŵyn (os oes un) ynghylch sut i atgyfeirio'r mater cysylltiedig at y Comisiynydd perthnasol.

68 Gweithio gydag Archwilydd Cyffredinol Cymru

- (1) Os yw'r Ombwdsmon o'r farn bod hynny'n briodol, rhaid i'r Ombwdsmon –
 - (a) rhoi gwybod i Archwilydd Cyffredinol Cymru am gynigion yr Ombwdsmon ar gyfer cynnal ymchwiliad, a
 - (b) ymgynghori ag Archwilydd Cyffredinol Cymru ynghylch y dull mwyaf effeithiol o gynnal ymchwiliad.

(b) varying a reference to a type or description of specified person for the time being contained in that subsection.

(7) No regulations are to be made under subsection (6) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.

67 Working collaboratively with Commissioners

(1) This section applies if it appears to the Ombudsman that—

(a) a complaint, or

(b) a matter the Ombudsman is considering investigating under section 4 or 44, relates to or raises a matter which could be the subject of an investigation by the Children’s Commissioner for Wales, the Commissioner for Older People in Wales or the Welsh Language Commissioner (the “connected matter”).

(2) If the Ombudsman considers it appropriate, the Ombudsman must inform the relevant Commissioner about the connected matter.

(3) If the Ombudsman considers that the matter is a matter into which the Ombudsman is entitled to conduct an investigation (the “Ombudsman matter”), the Ombudsman must also, if the Ombudsman considers it appropriate—

(a) inform the relevant Commissioner about the Ombudsman’s proposals for conducting an investigation, and

(b) consult the relevant Commissioner about those proposals.

(4) If the Ombudsman and the relevant Commissioner consider that they are entitled to investigate, respectively, the Ombudsman matter and the connected matter, they may—

(a) co-operate with each other in the separate investigation of each of those matters,

(b) act together in the investigation of those matters, and

(c) prepare and publish a joint report containing their respective conclusions in relation to the matters they have each investigated.

(5) If the Ombudsman considers—

(a) that the matter is not a matter into which the Ombudsman is entitled to conduct an investigation, and

(b) that it is appropriate to do so,

the Ombudsman must inform the person who initiated the complaint (if any) about how to secure the referral of the connected matter to the relevant Commissioner.

68 Working with the Auditor General for Wales

(1) If the Ombudsman considers it appropriate, the Ombudsman must—

(a) inform the Auditor General for Wales about the Ombudsman’s proposals for conducting an investigation, and

(b) consult the Auditor General for Wales with regard to the most effective way of conducting an investigation.

- (2) Os yw'r Ombwdsmon yn ymgynghori ag Archwilydd Cyffredinol Cymru o dan yr adran hon, caiff yr Ombwdsmon ac Archwilydd Cyffredinol Cymru –
- (a) cydweithredu â'i gilydd mewn perthynas â'r mater y mae'r ymchwiliad yn ymwneud ag ef,
 - (b) cynnal ymchwiliad ar y cyd i'r mater, ac
 - (c) paratoi a chyhoeddi adroddiad ar y cyd mewn perthynas â'r ymchwiliad.

Datgelu

69 Datgelu gwybodaeth

- (1) Yr wybodaeth y mae'r adran hon yn gymwys iddi yw –
- (a) gwybodaeth y mae'r Ombwdsmon, aelod o staff yr Ombwdsmon neu berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon, yn ei chael i gyflawni swyddogaethau'r Ombwdsmon –
 - (i) wrth benderfynu pa un ai i gychwyn ymchwiliad,
 - (ii) yn ystod ymchwiliad,
 - (iii) wrth ddatrys mater o dan adran 6 neu 46, neu
 - (iv) mewn cysylltiad â hysbysiad a gafwyd o dan adran 26 neu 57;
 - (b) gwybodaeth a gafwyd gan ombwdsmon a grybwyllir yn adran 65(7) yn rhinwedd unrhyw ddarpariaeth yn adran 65 neu ddarpariaeth gyfatebol mewn deddfiad sy'n ymwneud ag unrhyw un neu ragor o'r ombwdsmy'n hynny;
 - (c) gwybodaeth a gafwyd gan berson a bennir yn adran 66(2) yn rhinwedd unrhyw ddarpariaeth yn adran 66 neu 67 neu ddarpariaeth gyfatebol mewn deddfiad sy'n ymwneud ag unrhyw un neu ragor o'r personau hynny a bennir;
 - (d) gwybodaeth a gafwyd gan Archwilydd Cyffredinol Cymru yn rhinwedd adran 68 o'r Ddeddf hon neu adran 29A o Ddeddf Archwilio Cyhoeddus (Cymru) 2013 (dccc 3);
 - (e) gwybodaeth a gafwyd gan y Comisiynydd Gwybodaeth yn rhinwedd adran 76 o Ddeddf Rhyddid Gwybodaeth 2000 (p.36) (datgeliad rhwng y Comisiynydd Gwybodaeth ac ombwdsmy'n).
- (2) Ni chaniateir datgelu'r wybodaeth ac eithrio –
- (a) at ddibenion penderfynu pa un ai i gychwyn ymchwiliad;
 - (b) at ddibenion ymchwiliad;
 - (c) at ddiben unrhyw un neu ragor o swyddogaethau Archwilydd Cyffredinol Cymru;
 - (d) at ddibenion datrys cwyn o dan adran 6 neu 46;
 - (e) at ddibenion datganiad neu adroddiad a wneir mewn perthynas â chwyn neu ymchwiliad;
 - (f) at ddibenion unrhyw ddarpariaeth yn adran 65, 66, 67 neu 68;
 - (g) at ddibenion achosion llys ar gyfer –

- (2) If the Ombudsman consults the Auditor General for Wales under this section, the Ombudsman and the Auditor General for Wales may –
- (a) co-operate with each other in relation to the matter to which the investigation relates,
 - (b) conduct a joint investigation into the matter, and
 - (c) prepare and publish a joint report in relation to the investigation.

Disclosure

69 Disclosure of information

- (1) The information to which this section applies is –
- (a) information obtained by the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of the Ombudsman's functions –
 - (i) in deciding whether to begin an investigation,
 - (ii) in the course of an investigation,
 - (iii) in resolving a matter under section 6 or 46, or
 - (iv) in connection with a notification received under section 26 or 57;
 - (b) information obtained from an ombudsman mentioned in section 65(7) by virtue of any provision of section 65 or a corresponding provision in an enactment relating to any of those ombudsmen;
 - (c) information obtained from a specified person in section 66(2) by virtue of any provision of section 66 or 67 or a corresponding provision in an enactment relating to any of those specified persons;
 - (d) information obtained from the Auditor General for Wales by virtue of section 68 of this Act or section 29A of the Public Audit (Wales) Act 2013 (anaw 3);
 - (e) information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 (c.36) (disclosure between Information Commissioner and ombudsmen).
- (2) The information must not be disclosed except –
- (a) for the purposes of deciding whether to begin an investigation;
 - (b) for the purposes of an investigation;
 - (c) for the purpose of any function of the Auditor General for Wales;
 - (d) for the purposes of resolving a complaint under section 6 or 46;
 - (e) for the purposes of a statement or report made in relation to a complaint or investigation;
 - (f) for the purposes of any provision of section 65, 66, 67 or 68;
 - (g) for the purposes of proceedings for –

- (i) trosedd o dan Ddeddfau Cyfrinachau Swyddogol 1911 (p.28) i 1989 (p.6) yr honnir iddi gael ei chyflawni gan yr Ombwdsmon, aelod o staff yr Ombwdsmon neu berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon i gyflawni unrhyw un neu ragor o swyddogaethau'r Ombwdsmon;
 - (ii) trosedd o dyngu anudon yr honnir iddi gael ei chyflawni yn ystod ymchwiliad;
 - (h) at ddibenion ymchwiliad gyda golwg ar gychwyn yr achosion llys a grybwyllir ym mharagraff (g);
 - (i) at ddibenion achosion llys o dan adran 20 neu 54;
 - (j) yn achos gwybodaeth i'r perwyl bod person yn debygol o fod yn fygythiad i iechyd neu ddiogelwch un neu ragor o bersonau, i unrhyw berson y mae'r Ombwdsmon yn credu y dylid ei datgelu er budd y cyhoedd;
 - (k) yn achos gwybodaeth y mae is-adran (3) yn gymwys iddi, i'r Comisiynydd Gwybodaeth;
 - (l) at ddibenion swyddogaethau'r Ombwdsmon o dan Benodau 3 a 4 o Ran 3 o Ddeddf Llywodraeth Leol 2000 (p.22).
- (3) Mae'r is-adran hon yn gymwys i wybodaeth os yw'n ymddangos i'r Ombwdsmon ei bod yn ymwneud â'r canlynol –
- (a) mater y gallai'r Comisiynydd Gwybodaeth, mewn perthynas ag ef, arfer pŵer a roddir mewn deddfiad a grybwyllir yn is-adran (4), neu
 - (b) cyflawni trosedd a grybwyllir yn is-adran (6).
- (4) Y deddfiadau yw –
- (a) adrannau 142 i 154, 160 i 164 neu 174 i 176 o Ddeddf Diogelu Data 2018 (p.12) (darpariaethau penodol yn ymwneud â gorfodi), neu Atodlen 15 i'r Ddeddf honno;
 - (b) adran 48 o Ddeddf Rhyddid Gwybodaeth 2000 (p.36) (argymhellion arfer);
 - (c) Rhan 4 o'r Ddeddf honno.
- (5) Mae is-adran (4)(a) yn cael effaith fel pe bai'r materion y mae'n cyfeirio atynt yn cynnwys mater y gallai'r Comisiynydd Gwybodaeth arfer, mewn perthynas ag ef, bŵer a roddir gan ddarpariaeth yn Rhan 5 o Ddeddf Diogelu Data 1998 (p.29), fel y mae'n cael effaith yn rhinwedd Atodlen 20 i Ddeddf Diogelu Data 2018 (p.12).
- (6) Y troseddau yw'r rhai o dan –
- (a) darpariaeth yn Neddf Diogelu Data 2018 (p.12) heblaw paragraff 15 o Atodlen 15 i'r Ddeddf honno (rhwystro gweithredu gwarant);
 - (b) adran 77 o Ddeddf Rhyddid Gwybodaeth 2000 (p.36) (y drosedd o newid etc cofnodion gyda'r bwriad o atal datgelu).
- (7) Ni chaniateir galw unrhyw berson i roi tystiolaeth mewn unrhyw achos llys (heblaw achosion a grybwyllir yn is-adran (2)) o wybodaeth a gafwyd gan y person hwnnw fel y crybwyllir yn is-adran (1)(a) neu (b).

- (i) an offence under the Official Secrets Acts 1911 (c.28) to 1989 (c.6) alleged to have been committed by the Ombudsman, a member of the Ombudsman's staff or other person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of the Ombudsman's functions;
 - (ii) an offence of perjury alleged to have been committed in the course of an investigation;
 - (h) for the purposes of an inquiry with a view to the taking of proceedings mentioned in paragraph (g);
 - (i) for the purpose of proceedings under section 20 or 54;
 - (j) in the case of information to the effect that a person is likely to constitute a threat to the health or safety of one or more persons, to any person to whom the Ombudsman thinks it should be disclosed in the public interest;
 - (k) in the case of information to which subsection (3) applies, to the Information Commissioner;
 - (l) for the purposes of the Ombudsman's functions under Chapters 3 and 4 of Part 3 of the Local Government Act 2000 (c.22).
- (3) This subsection applies to information if it appears to the Ombudsman to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise a power conferred by an enactment mentioned in subsection (4), or
 - (b) the commission of an offence mentioned in subsection (6).
- (4) The enactments are—
- (a) sections 142 to 154, 160 to 164 or 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018 (c.12) (certain provisions relating to enforcement);
 - (b) section 48 of the Freedom of Information Act 2000 (c.36) (practice recommendations);
 - (c) Part 4 of that Act.
- (5) Subsection (4)(a) has effect as if the matters to which it refers include a matter in respect of which the Information Commissioner could exercise a power conferred by a provision of Part 5 of the Data Protection Act 1998 (c.29), as it has effect by virtue of Schedule 20 to the Data Protection Act 2018 (c.12).
- (6) The offences are those under—
- (a) a provision of the Data Protection Act 2018 (c.12) other than paragraph 15 of Schedule 15 to that Act (obstruction of execution of warrant etc);
 - (b) section 77 of the Freedom of Information Act 2000 (c.36) (offence of altering etc records with intent to prevent disclosure).
- (7) No person may be called upon to give evidence in any proceedings (other than proceedings mentioned in subsection (2)) of information obtained by that person as mentioned in subsection (1)(a) or (b).

70 Datgeliad niweidiol i ddiogelwch Gwladol neu yn groes i fudd y cyhoedd

- (1) Caiff Gweinidog y Goron roi hysbysiad i'r Ombwdsmon o ran—
- (a) unrhyw ddogfen neu wybodaeth a bennir yn yr hysbysiad, neu
 - (b) unrhyw ddosbarth o ddogfen neu wybodaeth a bennir felly,
- y byddai datgelu'r ddogfen neu'r wybodaeth honno, neu ddogfennau neu wybodaeth o'r un dosbarth, ym marn y Gweinidog, yn niweidiol i ddiogelwch Gwladol neu fel arall yn groes i fudd y cyhoedd.
- (2) Os cyflwynir hysbysiad o dan is-adran (1), nid oes dim yn y Ddeddf hon i'w ddehongli mewn modd sy'n awdurdodi neu'n ei gwneud yn ofynnol i'r Ombwdsmon, aelod o staff yr Ombwdsmon neu berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon i gyflawni swyddogaethau'r Ombwdsmon, ddatgelu i unrhyw berson neu at unrhyw ddiben unrhyw ddogfen neu wybodaeth, neu ddosbarth o ddogfen neu wybodaeth, a bennir yn yr hysbysiad.

71 Diogelu rhag hawliadau difenwi

- (1) At ddibenion y gyfraith ar ddifenwi, mae'r canlynol yn gwbl freintiedig—
- (a) cyhoeddi mater, wrth gyflawni unrhyw un neu ragor o swyddogaethau'r Ombwdsmon o dan y Ddeddf hon, gan yr Ombwdsmon, aelod o staff yr Ombwdsmon neu berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon i gyflawni unrhyw un neu ragor o swyddogaethau'r Ombwdsmon;
 - (b) cyhoeddi mater gan berson wrth gyflawni swyddogaethau o dan—
 - (i) adran 24;
 - (ii) adran 24 fel y'i haddasir gan adran 25;
 - (iii) adrannau 24 a 25 yn yr un modd ag y maent yn gymwys i adroddiadau arbennig (gweler adran 29(6));
 - (c) cyhoeddi mater mewn cysylltiad â chwyn neu ymchwiliad, mewn cyfathrebiadau rhwng—
 - (i) awdurdod rhestredig, aelod neu aelod cyfetholedig o awdurdod rhestredig, swyddog neu aelod o staff awdurdod rhestredig neu berson arall sy'n gweithredu ar ran awdurdod rhestredig neu'n ei gynorthwyo i gyflawni unrhyw un neu ragor o'i swyddogaethau, a
 - (ii) yr Ombwdsmon, aelod o staff yr Ombwdsmon neu berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon i gyflawni unrhyw un neu ragor o swyddogaethau'r Ombwdsmon;
 - (d) cyhoeddi mater mewn cysylltiad â chwyn neu ymchwiliad, mewn cyfathrebiadau rhwng—
 - (i) darparwr cartref gofal, darparwr gofal cartref neu ddarparwr gofal lliniarol annibynnol, swyddog neu aelod o staff darparwr o'r fath neu berson arall sy'n gweithredu ar ran darparwr o'r fath neu'n ei gynorthwyo i gyflawni unrhyw un neu ragor o'i swyddogaethau, a

70 Disclosure prejudicial to safety of State or contrary to public interest

- (1) A Minister of the Crown may give notice to the Ombudsman with respect to –
- (a) any document or information specified in the notice, or
 - (b) any class of document or information so specified,

that, in the opinion of the Minister, the disclosure of that document or information, or of documents or information of that class, would be prejudicial to the safety of the State or otherwise contrary to the public interest.

- (2) If a notice is given under subsection (1), nothing in this Act is to be construed as authorising or requiring the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of the Ombudsman's functions to disclose to any person or for any purpose any document or information, or class of document or information, specified in the notice.

71 Protection from defamation claims

- (1) For the purposes of the law of defamation, the following are absolutely privileged –
- (a) the publication of a matter, in the discharge of any of the Ombudsman's functions under this Act, by the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of the Ombudsman's functions;
 - (b) the publication of a matter by a person in the discharge of functions under –
 - (i) section 24;
 - (ii) section 24 as modified by section 25;
 - (iii) sections 24 and 25 as they apply to special reports (see section 29(6));
 - (c) the publication of a matter in connection with a complaint or an investigation, in communications between –
 - (i) a listed authority, a member or co-opted member of a listed authority, an officer or member of the staff of a listed authority or another person acting on behalf of a listed authority or assisting it in the discharge of any of its functions, and
 - (ii) the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of the Ombudsman's functions;
 - (d) the publication of a matter in connection with a complaint or an investigation, in communications between –
 - (i) a care home provider, domiciliary care provider or independent palliative care provider, an officer or member of staff of such a provider or another person acting on behalf of such a provider or assisting it in the discharge of any of its functions, and

- (ii) yr Ombwdsmon, aelod o staff yr Ombwdsmon neu berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon i gyflawni unrhyw un neu ragor o swyddogaethau'r Ombwdsmon;
- (e) cyhoeddi mater mewn cysylltiad â chŵyn neu ymchwiliad, mewn cyfathrebiadau rhwng person ac Aelod Cynulliad;
- (f) cyhoeddi mater mewn cysylltiad â chŵyn a wnaed neu a atgyfeiriwyd (neu sydd i'w gwneud neu ei hatgyfeirio) gan berson neu ar ran person at yr Ombwdsmon o dan y Ddeddf hon, mewn cyfathrebiadau rhwng –
 - (i) y person, a
 - (ii) yr Ombwdsmon, aelod o staff yr Ombwdsmon neu berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon i gyflawni unrhyw un neu ragor o swyddogaethau'r Ombwdsmon.
- (2) At ddibenion is-adran (1)(d)(i) mae person yn swyddog i ddarparwr os oes gan y person reolaeth dros ddarparwr nad yw'n unigolyn neu faterion darparwr o'r fath, neu os yw'r person yn rheoli darparwr nad yw'n unigolyn neu faterion darparwr o'r fath.
- (3) Yn yr adran hon, mae cyfeiriad at faterion sy'n ymwneud ag ymchwiliad yn cynnwys materion sy'n ymwneud â phenderfyniad yr Ombwdsmon pa un ai i ymchwilio ai peidio.

RHAN 7

AMRYWIOL A CHYFFREDINOL

Safonau'r Gymraeg

72 **Awdurdodiad i roi hysbysiad cydymffurfio i'r Ombwdsmon mewn perthynas â safonau'r Gymraeg**

- (1) Yn Atodlen 6 i Rheoliadau Safonau'r Gymraeg (Rhif 2) 2016 (O.S. 2016/182 (Cy.76)) ("Rheoliadau 2016"), mewnosoder yn y lle priodol –

"Ombwdsmon Gwasanaethau Cyhoeddus Cymru ("The Public Services Ombudsman for Wales")".
- (2) Nid yw'r diwygiad a wneir gan yr adran hon yn effeithio ar y pŵer i wneud rheoliadau pellach sy'n amrywio neu'n dirymu Rheoliadau 2016.

Adolygiad o'r Ddeddf

73 **Adolygiad o'r Ddeddf**

- (1) Rhaid i'r Cynulliad, cyn gynted ag y bo'n ymarferol ar ddiwedd y cyfnod 5 mlynedd, baratoi a chyhoeddi adroddiad ar weithrediad ac effaith y Ddeddf hon yn ystod y cyfnod 5 mlynedd.
- (2) Caiff y Cynulliad baratoi a chyhoeddi adroddiad ar weithrediad ac effaith y Ddeddf hon ar unrhyw adeg.
- (3) Wrth baratoi adroddiad o dan yr adran hon, rhaid i'r Cynulliad ymgynghori â'r cyfryw bersonau sydd, ym marn y Cynulliad, yn briodol.

- (ii) the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of the Ombudsman's functions;
- (e) the publication of a matter in connection with a complaint or an investigation, in communications between a person and an Assembly member;
- (f) the publication of a matter in connection with a complaint made or referred (or to be made or referred) by or on behalf of a person to the Ombudsman under this Act, in communications between –
 - (i) the person, and
 - (ii) the Ombudsman, a member of the Ombudsman's staff or another person acting on the Ombudsman's behalf or assisting the Ombudsman in the discharge of any of the Ombudsman's functions.
- (2) For the purposes of subsection (1)(d)(i) a person is an officer of a provider if the person has control or management of a provider which is not an individual or the affairs of such a provider.
- (3) In this section, reference to matters in connection with an investigation include matters in connection with the Ombudsman's decision whether to investigate or not.

PART 7

MISCELLANEOUS AND GENERAL

Welsh language standards

72 Authorisation to give compliance notice to the Ombudsman in relation to Welsh language standards

- (1) In Schedule 6 to the Welsh Language Standards (No. 2) Regulations 2016 (S.I 2016/182 (W.76)) ("the 2016 Regulations"), insert in the appropriate place –

"The Public Services Ombudsman for Wales ("Ombwdsmon Gwasanaethau Cyhoeddus Cymru")".
- (2) The amendment made by this section does not affect the power to make further regulations amending or revoking the 2016 Regulations.

Review of Act

73 Review of Act

- (1) The Assembly must, as soon as practicable after the end of the 5 year period, prepare and publish a report on the operation and effect of this Act during the 5 year period.
- (2) The Assembly may prepare and publish a report on the operation and effect of this Act at any time.
- (3) In preparing a report under this section, the Assembly must consult such persons as it considers appropriate.

- (4) Yn yr adran hon, ystyr “y cyfnod 5 mlynedd” yw’r cyfnod o 5 mlynedd sy’n dechrau â’r diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol.

Cymhwyso Deddf 2005 i ymchwiliadau penodol

74 Ymchwiliadau a gychwynnir cyn y daw adrannau 3, 4, 43 a 44 i rym

- (1) Mae is-adran (2) yn gymwys os yw’r Ombwdsmon wedi cychwyn ymchwiliad i fater cyn y dyddiad y daw adrannau 3, 4, 43 a 44 i rym ac nad yw’r Ombwdsmon wedi penderfynu ar yr ymchwiliad neu nad yw’r mater wedi’i ddatrys erbyn y dyddiad hwnnw.
- (2) Ar y dyddiad hwnnw, ac ar ôl hynny, mae Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 (p.10) yn parhau i fod yn gymwys at ddibenion yr ymchwiliad er gwaethaf darpariaethau eraill y Ddeddf hon.

Cyffredinol

75 Diddymiadau, arbedion a diwygiadau canlyniadol

- (1) Mae Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 (p.10) wedi ei diddymu.
- (2) Ond –
- (a) gweler adran 74 o’r Ddeddf hon (ymchwiliadau a gychwynnir cyn y daw adrannau 3, 4, 43 a 44 o’r Ddeddf hon i rym);
 - (b) nid yw is-adran (1) yn gymwys i –
 - (i) paragraffau 9(4) ac 11(4) o Atodlen 1 i Ddeddf 2005 (sy’n diwygio Deddf Blwydd-daliadau 1972 (p.11)) ac adran 1 o Ddeddf 2005 (i’r graddau y mae’n rhoi effaith i baragraffau 9(4) ac 11(4) o Ddeddf 2005);
 - (ii) Atodlen 4 i Ddeddf 2005 (sy’n diwygio Deddf Llywodraeth Leol 2000 (p.22)) ac adran 35 o Ddeddf 2005 (sy’n rhoi effaith i Atodlen 4 i Ddeddf 2005);
 - (iii) Atodlen 6 i Ddeddf 2005 (diwygiadau canlyniadol) ac adran 39(1) o Ddeddf 2005 (sy’n rhoi effaith i Atodlen 6 i Ddeddf 2005);
 - (iv) y graddau y byddai’n dirymu unrhyw is-ddeddfwriaeth (o fewn ystyr adran 21(1) o Ddeddf Dehongli 1978 (p.30)) a wneir o dan Ddeddf 2005.
- (3) Mae Atodlen 5 (sy’n gwneud diwygiadau canlyniadol i ddeddfwriaeth sylfaenol o ganlyniad i’r Ddeddf hon) yn cael effaith.

76 Swyddogaethau’r Cynulliad

- (1) Caiff y Cynulliad drwy reolau sefydlog wneud darpariaeth ynghylch arfer y swyddogaethau a roddir iddo gan y Ddeddf hon neu oddi tani.
- (2) Mae darpariaeth o’r fath yn cynnwys, ond heb fod yn gyfyngedig i, ddirprwyo swyddogaethau i bwyllgor neu is-bwyllgor o’r Cynulliad neu gadeirydd pwyllgor neu is-bwyllgor o’r fath.

- (4) In this section, “the 5 year period” means the period of 5 years beginning with the day this Act receives Royal Assent.

Application of the 2005 Act to certain investigations

74 Investigations commenced before sections 3, 4, 43 and 44 come into force

- (1) Subsection (2) applies if the Ombudsman has commenced an investigation into a matter before the date on which sections 3, 4, 43 and 44 come into force and the investigation has not been determined by the Ombudsman or the matter has not been resolved by that date.
- (2) On and after that date, the Public Services Ombudsman (Wales) Act 2005 (c.10) continues to apply for the purposes of the investigation despite the other provisions of this Act.

General

75 Repeals, savings and consequential amendments

- (1) The Public Services Ombudsman (Wales) Act 2005 (c.10) is repealed.
- (2) But—
- (a) see section 74 of this Act (investigations commenced before sections 3, 4, 43 and 44 of this Act come into force);
 - (b) subsection (1) does not apply to—
 - (i) paragraphs 9(4) and 11(4) of Schedule 1 to the 2005 Act (which amend the Superannuation Act 1972 (c.11)) and section 1 of the 2005 Act (to the extent that it gives effect to paragraphs 9(4) and 11(4) of the 2005 Act);
 - (ii) Schedule 4 to the 2005 Act (which amends the Local Government Act 2000 (c.22)) and section 35 of the 2005 Act (which gives effect to Schedule 4 to the 2005 Act);
 - (iii) Schedule 6 to the 2005 Act (consequential amendments) and section 39(1) of the 2005 Act (which gives effect to Schedule 6 to the 2005 Act);
 - (iv) the extent that it would revoke any subordinate legislation (within the meaning of section 21(1) of the Interpretation Act 1978 (c.30)) made under the 2005 Act.
- (3) Schedule 5 (which makes consequential amendments of primary legislation in consequence of this Act) has effect.

76 Functions of the Assembly

- (1) The Assembly may by standing orders make provision regarding the exercise of the functions conferred upon it by or under this Act.
- (2) Such provision includes, but is not limited to, delegating functions to a committee or sub-committee of the Assembly or the chair of such a committee or sub-committee.

- (3) Ond ni chaniateir i'r Cynunlliad ddirprwyo swyddogaethau a roddir iddo gan y Ddeddf hon neu oddi tani ar wahân i'r swyddogaethau a roddir gan—
- (a) adrannau 73(1), (2) a (3), a
 - (b) paragraffau 5 a 8(1) o Atodlen 1.

77 Cychwyn

- (1) Mae darpariaethau blaenorol y Ddeddf hon, a'r Atodlenni i'r Ddeddf hon, yn dod i rym yn unol â darpariaeth a wneir gan Weinidogion Cymru drwy reoliadau.
- (2) Mae'r adran hon ac adrannau 78 i 82 yn dod i rym ar y diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol.
- (3) Caiff rheoliadau o dan is-adran (1)—
 - (a) penodi diwrnodau gwahanol at ddibenion gwahanol;
 - (b) gwneud darpariaeth drosiannol, ddarfodol neu arbed mewn cysylltiad â darpariaeth yn y Ddeddf hon yn dod i rym.

78 Dehongli

- (1) Yn y Ddeddf hon—

mae i "adroddiad arbennig" (*"special report"*) yn Rhan 3 yr ystyr a roddir yn adran 28 ac yn Rhan 5 yr ystyr a roddir yn adran 60;

mae i "adroddiad blynyddol" (*"annual report"*) yr ystyr a roddir ym mharagraff 15 o Atodlen 1;

mae i "adroddiad eithriadol" (*"extraordinary report"*) yr ystyr a roddir ym mharagraff 15 o Atodlen 1;

ystyr "aelod cyfetholedig" (*"co-opted member"*), mewn perthynas ag awdurdod, yw person nad yw'n aelod o'r awdurdod ond sydd—

 - (a) yn aelod o bwyllgor neu is-bwyllgor o'r awdurdod, neu
 - (b) yn aelod o gyd-bwyllgor ac yn cynrychioli'r awdurdod ar gyd-bwyllgor y caiff yr awdurdod ei gynrychioli arno, neu is-bwyllgor i bwyllgor o'r fath,

ac sydd â hawl i bleidleisio ar unrhyw gwestiwn sydd i'w benderfynu mewn cyfarfod o'r pwyllgor neu'r is-bwyllgor;

ystyr "annedd a ariennir yn gyhoeddus" (*"publicly-funded dwelling"*) yw—

 - (a) annedd a ddarparwyd drwy gyfrwng grant o dan—
 - (i) adran 18 o Ddeddf Tai 1996 (p.52) (grant tai cymdeithasol), neu
 - (ii) adran 50 o Ddeddf Tai 1988 (p.50), adran 41 o Ddeddf Cymdeithasau Tai 1985 (p.69), neu adran 29 neu 29A o Ddeddf Tai 1974 (p.44) (grant cymdeithasau tai);
 - (b) annedd a gaffaelwyd drwy warediad gan landlord sector cyhoeddus (o fewn ystyr Rhan 1 o Ddeddf Tai 1996 (p.52));

ystyr "awdurdod lleol yng Nghymru" (*"local authority in Wales"*) yw cyngor sir, cyngor bwrdeistref sirol neu gyngor cymuned yng Nghymru;

- (3) But the Assembly may not delegate functions conferred upon it by or under this Act other than the functions conferred by –
- (a) sections 73(1), (2) and (3), and
 - (b) paragraphs 5 and 8(1) of Schedule 1.

77 Commencement

- (1) The preceding provisions of this Act, and the Schedules to this Act, come into force in accordance with provision made by the Welsh Ministers by regulations.
- (2) This section and sections 78 to 82 come into force on the day this Act receives Royal Assent.
- (3) Regulations under subsection (1) may –
- (a) appoint different days for different purposes;
 - (b) make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

78 Interpretation

- (1) In this Act –
- “act” (“*gweithredu*”) and “action” (“*camau gweithredu*”) include a failure to act (and related expressions must be construed accordingly);
 - “annual report” (“*adroddiad blynyddol*”) has the meaning given in paragraph 15 of Schedule 1;
 - “the Assembly” (“*y Cynulliad*”) means the National Assembly for Wales;
 - “care home” (“*cartref gofal*”) has the meaning given by section 62(2);
 - “care home provider” (“*darparwr gofal cartref*”) has the meaning given by section 62(3);
 - “co-opted member” (“*aelod cyfetholedig*”), in relation to an authority, means a person who is not a member of the authority but who –
 - (a) is a member of a committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, a joint committee on which the authority is represented or a sub-committee of such a committee,
 and who is entitled to vote on any question which falls to be decided at a meeting of the committee or sub-committee;
 - “domiciliary care” (“*gofal cartref*”) has the meaning given by section 63(2);

mae i “awdurdod rhestredig” (“*listed authority*”) yr ystyr a roddir yn adran 31;
 ystyr “blwyddyn ariannol” (“*financial year*”) yw’r 12 mis sy’n dod i ben ar 31 Mawrth;

mae i “cartref gofal” (“*care home*”) yr ystyr a roddir gan adran 62(2);

mae i “Comisiynydd Lleol” (“*Local Commissioner*”) yr ystyr a roddir yn adran 23(3) o Ddeddf Llywodraeth Leol 1974 (p.7);

ystyr “corff gwasanaeth iechyd yng Nghymru” (“*Welsh health service body*”) yw –

- (a) Gweinidogion Cymru;
- (b) Bwrdd Iechyd Lleol;
- (c) ymddiriedolaeth GIG sy’n rheoli ysbyty neu sefydliad neu gyfleuster arall yng Nghymru;
- (d) Awdurdod Iechyd Arbennig nad yw’n cyflawni swyddogaethau yn Lloegr yn unig neu’n bennaf;

mae i “Cymru” (“*Wales*”) yr ystyr a roddir yn adran 158(1) o Ddeddf Llywodraeth Cymru 2006 (p.32);

ystyr “y Cynulliad” (“*the Assembly*”) yw Cynulliad Cenedlaethol Cymru;

ystyr “darparwr annibynnol yng Nghymru” (“*independent provider in Wales*”) yw person, ar adeg y camau gweithredu sy’n destun ymchwiliad o dan Ran 3 o’r Ddeddf hon –

- (a) a oedd yn darparu gwasanaethau o unrhyw fath yng Nghymru o dan drefniadau gyda chorff gwasanaeth iechyd yng Nghymru neu ddarparwr gwasanaeth iechyd teulu yng Nghymru, a
- (b) nad oedd yn gorff gwasanaeth iechyd yng Nghymru neu yn ddarparwr gwasanaeth iechyd teulu yng Nghymru;

mae i “darparwr cartref gofal” (“*care home provider*”) yr ystyr a roddir gan adran 62(3);

mae i “darparwr gofal cartref” (“*domiciliary care provider*”) yr ystyr a roddir gan adran 63(3);

mae i “darparwr gofal lliniarol annibynnol” (“*independent palliative care provider*”) yr ystyr a roddir gan adran 64(3);

ystyr “darparwr gwasanaeth iechyd teulu yng Nghymru” (“*family health service provider in Wales*”) yw –

- (a) person a oedd, ar adeg y camau gweithredu sy’n destun ymchwiliad o dan Ran 3 o’r Ddeddf hon, yn darparu gwasanaethau o dan contract yr ymrwymwyd iddo gan y person hwnnw gyda Bwrdd Iechyd Lleol o dan adran 42 neu adran 57 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42);
- (b) person a oedd, ar yr adeg honno, wedi ymgymryd i ddarparu gwasanaethau fferyllol neu wasanaethau offthalmig cyffredinol yng Nghymru o dan y Ddeddf honno;

“domiciliary care provider” (*“darparwr gofal cartref”*) has the meaning given by section 63(3);

“enactment” (*“deddfiad”*) means an enactment (whenever enacted or made) which is, or contained in –

- (a) an Act or a Measure of the Assembly,
- (b) an Act of Parliament, or
- (c) subordinate legislation (within the meaning of section 21(1) of the Interpretation Act 1978 (c.30)) made under –
 - (i) an Act or a Measure of the Assembly, or
 - (ii) an Act of Parliament.

“extraordinary report” (*“adroddiad eithriadol”*) has the meaning given in paragraph 15 of Schedule 1;

“family health service provider in Wales” (*“darparwr gwasanaeth iechyd teulu yng Nghymru”*) means –

- (a) a person who, at the time of action which is the subject of investigation under Part 3 of this Act, provided services under a contract entered into by that person with a Local Health Board under section 42 or section 57 of the National Health Service (Wales) Act 2006 (c.42);
- (b) a person who, at that time, had undertaken to provide in Wales general ophthalmic services or pharmaceutical services under that Act;
- (c) an individual who, at that time, provided in Wales primary medical services or primary dental services in accordance with arrangements made under section 50 or 64 of that Act (except as an employee of, or otherwise on behalf of, a Welsh health service body or an independent provider in Wales);

“family health services” (*“gwasanaethau iechyd teulu”*) means services mentioned in any of paragraphs (a) to (c) of the definition of “family health service provider in Wales”;

“financial year” (*“blwyddyn ariannol”*) means the 12 months ending on 31 March;

“in writing” (*“yn ysgrifenedig”*) includes in electronic form;

“independent palliative care provider” (*“darparwr gofal lliniarol annibynnol”*) has the meaning given by section 64(3);

“independent provider in Wales” (*“darparwr annibynnol yng Nghymru”*) means a person who, at the time of action which is the subject of an investigation under Part 3 of this Act –

- (a) provided services of any kind in Wales under arrangements with a Welsh health service body or a family health service provider in Wales, and
- (b) was not a Welsh health service body or a family health service provider in Wales;

- (c) unigolyn a oedd, ar yr adeg honno, wedi darparu yng Nghymru wasanaethau meddygol sylfaenol neu wasanaethau deintyddol sylfaenol yn unol â threfniadau a wnaed o dan adran 50 neu 64 o'r Ddeddf honno (ac eithrio fel cyflogai i gorff gwasanaeth iechyd yng Nghymru neu ddarparwr annibynnol yng Nghymru neu fel arall ar ran corff gwasanaeth iechyd yng Nghymru neu ddarparwr annibynnol yng Nghymru);

ystyr "deddfiad" (*"enactment"*) yw deddfiad (pa bryd bynnag y'i deddfwyd neu y'i gwnaed) sy'n un o'r canlynol neu sydd wedi'i gynnwys mewn un o'r canlynol—

- (a) Deddf neu Fesur Cynulliad,
- (b) Deddf Seneddol, neu
- (c) is-ddeddfwriaeth (o fewn ystyr adran 21(1) o Ddeddf Dehongli 1978 (p.30)) a wneir o dan—
 - (i) Deddf neu Fesur Cynulliad, neu
 - (ii) Deddf Seneddol.

mae i "gofal cartref" (*"domiciliary care"*) yr ystyr a roddir gan adran 63(2);

mae i "gwasanaeth gofal lliniarol" (*"palliative care service"*) yr ystyr a roddir gan adran 64(2);

ystyr "gwasanaethau iechyd teulu" (*"family health services"*) yw gwasanaethau a grybwyllir yn unrhyw un neu ragor o baragraffau (a) i (c) o'r diffiniad o "darparwr gwasanaeth iechyd teulu yng Nghymru";

mae "gweithredu" (*"act"*) a "camau gweithredu" (*"action"*) yn cynnwys methiant i weithredu (a rhaid dehongli ymadroddion cysylltiedig yn unol â hynny);

ystyr "landlord cymdeithasol yng Nghymru" (*"social landlord in Wales"*) yw—

- (a) corff a oedd, ar adeg y camau gweithredu sy'n destun cwyn o dan y Ddeddf hon, wedi'i gofrestru'n landlord cymdeithasol yn y gofrestr a gedwir gan Weinidogion Cymru o dan adran 1 o Ddeddf Tai 1996 (p.52) (neu yn y gofrestr a gadwyd yn flaenorol o dan yr adran honno gan y Cynulliad a gyfansoddwyd gan Ddeddf Llywodraeth Cymru 1998 (p.38), yr Ysgrifennydd Gwladol neu Tai Cymru);
- (b) unrhyw gorff arall a oedd, ar adeg y camau gweithredu sy'n destun cwyn o dan y Ddeddf hon, wedi'i gofrestru gyda Tai Cymru, yr Ysgrifennydd Gwladol, y Cynulliad a gyfansoddwyd gan Ddeddf Llywodraeth Cymru 1998 (p.38) neu Weinidogion Cymru ac a oedd yn berchen ar anheddau a ariennir yn gyhoeddus neu'n rheoli anheddau o'r fath;

mae i "yr Ombwdsmon" (*"the Ombudsman"*) yr ystyr a roddir yn adran 2;

mae i "y person a dramgwyddwyd" (*"the person aggrieved"*) yn Rhan 3 yr ystyr a roddir yn adran 7(1)(a) ac yn Rhan 5 yr ystyr a roddir yn adran 47(1)(a);

ystyr "tribiwnlys perthnasol" (*"relevant tribunal"*) yw tribiwnlys (sy'n cynnwys tribiwnlys un person yn unig) a bennir gan Weinidogion Cymru drwy reoliadau;

o ran "ymchwiliad" (*"investigation"*)—

“investigation” (*“ymchwiliad”*) –

- (a) in relation to the Ombudsman, means an investigation under section 3, 4, 43 or 44 (and cognate expressions must be construed accordingly);
- (b) in relation to other persons, includes an examination, inquiry or review (and cognate expressions must be construed accordingly);

“listed authority” (*“awdurdod rhestredig”*) has the meaning given in section 31;

“local authority in Wales” (*“awdurdod lleol yng Nghymru”*) means a county council, county borough council or community council in Wales;

“Local Commissioner” (*“Comisiynydd Lleol”*) has the meaning given in section 23(3) of the Local Government Act 1974 (c.7);

“NHS trust” (*“Ymddiriedolaeth y GIG”*) has the same meaning as in the National Health Service (Wales) Act 2006 (c.42);

“the Ombudsman” (*“yr Ombwdsmon”*) has the meaning given in section 2;

“palliative care service” (*“gwasanaeth gofal lliniarol”*) has the meaning given by section 64(2);

“the person aggrieved” (*“y person a dramgwyddwyd”*) in Part 3 has the meaning given in section 7(1)(a) and in Part 5 has the meaning given in section 47(1)(a);

“publicly-funded dwelling” (*“annedd a ariennir yn gyhoeddus”*) means –

- (a) a dwelling which was provided by means of a grant under –
 - (i) section 18 of the Housing Act 1996 (c.52) (social housing grant), or
 - (ii) section 50 of the Housing Act 1988 (c.50), section 41 of the Housing Associations Act 1985 (c.69), or section 29 or 29A of the Housing Act 1974 (c.44) (housing association grant);
- (b) a dwelling which was acquired on a disposal by a public sector landlord (within the meaning of Part 1 of the Housing Act 1996 (c.52));

“relevant tribunal” (*“tribiwnlys perthnasol”*) means a tribunal (including a tribunal consisting of only one person) specified by regulations made by the Welsh Ministers;

“social landlord in Wales” (*“landlord cymdeithasol yng Nghymru”*) means –

- (a) a body which was at the time of action which is the subject of a complaint under this Act registered as a social landlord in the register maintained by the Welsh Ministers under section 1 of the Housing Act 1996 (c.52) (or in the register previously maintained under that section by the Assembly constituted by the Government of Wales Act 1998 (c.38), the Secretary of State or Housing for Wales);
- (b) any other body which at the time of action which is the subject of a complaint under this Act was registered with Housing for Wales, the Secretary of State, the Assembly constituted by the Government of Wales Act 1998 (c.38) or the Welsh Ministers and owned or managed publicly-funded dwellings;

- (a) ei ystyr mewn perthynas â'r Ombwdsmon yw ymchwiliad o dan adran 3, 4, 43 neu 44 (a rhaid dehongli ymadroddion cytras yn unol â hynny);
- (b) mewn perthynas â phersonau eraill, mae'n cynnwys archwiliad, ymchwiliad neu adolygiad (a rhaid dehongli ymadroddion cytras yn unol â hynny);

mae i "Ymddiriedolaeth y GIG" ("NHS trust") yr un ystyr ag a roddir yn Neddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42).

mae "yn ysgrifenedig" ("in writing") yn cynnwys ar ffurf electronig;

- (2) At ddibenion y diffiniad o "darparwr annibynnol yng Nghymru", mae trefniadau gyda Gweinidogion Cymru yn drefniadau gyda chorff gwasanaeth iechyd yng Nghymru dim ond i'r graddau eu bod yn cael eu gwneud wrth gyflawni swyddogaeth Gweinidogion Cymru sy'n ymwneud â'r Gwasanaeth Iechyd Gwladol.
- (3) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio'r diffiniadau o "darparwr gwasanaeth iechyd teulu yng Nghymru", "darparwr annibynnol yng Nghymru" a "landlord cymdeithasol yng Nghymru".
- (4) Cyn gwneud rheoliadau o dan is-adran (1) neu (3), rhaid i Weinidogion Cymru ymgynghori â'r cyfryw bersonau sy'n briodol yn eu barn hwy.
- (5) Ni chaniateir gwneud rheoliadau o dan is-adran (1) neu (3) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.
- (6) Mae adran 13 o Ddeddf Archwilio Cenedlaethol 1983 (p.44) (dehongli cyfeiriadau at y Pwyllgor Cyfrifon Cyhoeddus) yn gymwys at ddibenion y Ddeddf hon fel y mae'n gymwys at ddibenion y Ddeddf honno.
- (7) At ddibenion y Ddeddf hon, mae cyfeiriadau at gamau gweithredu a gymerwyd gan awdurdod rhestredig yn cynnwys camau gweithredu a gymerwyd gan—
 - (a) aelod, aelod cyfetholedig, pwyllgor neu is-bwyllgor o'r awdurdod sy'n gweithredu i gyflawni swyddogaethau'r awdurdod;
 - (b) swyddog neu aelod o staff yr awdurdod, pa un a yw'n gweithredu i gyflawni ei swyddogaethau ei hun neu swyddogaethau'r awdurdod;
 - (c) unrhyw berson arall sy'n gweithredu ar ran yr awdurdod.

79 Cyn-ddarparwyr gofal iechyd, cyn-landlordiaid cymdeithasol, cyn-ddarparwyr gofal cymdeithasol a chyn-ddarparwyr gofal lliniarol: addasiadau

- (1) Caiff Gweinidogion Cymru drwy reoliadau ddarparu i'r Ddeddf hon fod yn gymwys gyda'r addasiadau a bennir yn y rheoliadau i bersonau sydd—
 - (a) yn gyn-ddarparwyr gwasanaeth iechyd teulu yng Nghymru;
 - (b) yn gyn-ddarparwyr annibynnol yng Nghymru;
 - (c) yn gyn-landlordiaid cymdeithasol yng Nghymru;
 - (d) yn gyn-ddarparwyr cartrefi gofal yng Nghymru;

“special report” (“*adroddiad arbennig*”) in Part 3 has the meaning given in section 28 and in Part 5 has the meaning given in section 60;

“Wales” (“*Cymru*”) has the meaning given in section 158(1) of the Government of Wales Act 2006 (c.32);

“Welsh health service body” (“*corff gwasanaeth iechyd yng Nghymru*”) means –

- (a) the Welsh Ministers;
 - (b) a Local Health Board;
 - (c) an NHS trust managing a hospital or other establishment or facility in Wales;
 - (d) a Special Health Authority not discharging functions only or mainly in England.
- (2) For the purposes of the definition of “independent provider in Wales”, arrangements with the Welsh Ministers are arrangements with a Welsh health service body only to the extent that they are made in the discharge of a function of the Welsh Ministers relating to the National Health Service.
- (3) The Welsh Ministers may by regulations amend the definitions of “family health service provider in Wales”, “independent provider in Wales” and “social landlord in Wales”.
- (4) Before making regulations under subsection (1) or (3), the Welsh Ministers must consult such persons as they think appropriate.
- (5) No regulations are to be made under subsection (1) or (3) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.
- (6) Section 13 of the National Audit Act 1983 (c.44) (interpretation of references to the Committee of Public Accounts) applies for the purposes of this Act as it applies for the purposes of that Act.
- (7) For the purposes of this Act, references to action taken by a listed authority include action taken by –
- (a) a member, co-opted member, committee or sub-committee of the authority acting in the discharge of functions of the authority;
 - (b) an officer or member of staff of the authority, whether acting in the discharge of their own functions or the functions of the authority;
 - (c) any other person acting on behalf of the authority.

79 Former health care providers, social landlords, social care providers and palliative care providers: modifications

- (1) The Welsh Ministers may by regulations provide for this Act to apply with the modifications specified in the regulations to persons who are –
- (a) former family health service providers in Wales;
 - (b) former independent providers in Wales;
 - (c) former social landlords in Wales;
 - (d) former care home providers in Wales;

- (e) yn gyn-ddarparwyr gofal cartref yng Nghymru;
 - (f) yn gyn-ddarparwyr gofal lliniarol annibynnol yng Nghymru.
- (2) Ystyr “cyn-ddarparwr gwasanaeth iechyd teulu yng Nghymru” yw person –
- (a) a oedd, ar yr adeg berthnasol, yn darparu gwasanaethau iechyd teulu o ddisgrifiad penodol, a
 - (b) sydd, ar ôl hynny, wedi peidio â darparu gwasanaethau o’r disgrifiad hwnnw (pa un a yw’r person wedi dechrau eu darparu eto yn ddiweddarach ai peidio).
- (3) Ystyr “cyn-ddarparwr annibynnol yng Nghymru” yw person –
- (a) a oedd, ar yr adeg berthnasol, yn darparu gwasanaethau o ddisgrifiad penodol yng Nghymru o dan drefniadau gyda chorff gwasanaeth iechyd yng Nghymru neu ddarparwr gwasanaeth iechyd teulu yng Nghymru,
 - (b) nad oedd yn gorff gwasanaeth iechyd yng Nghymru neu yn ddarparwr gwasanaeth iechyd teulu yng Nghymru ar yr adeg honno, ac
 - (c) sydd, ar ôl hynny, wedi peidio â darparu gwasanaethau o’r disgrifiad hwnnw (pa un a yw’r person wedi dechrau eu darparu eto yn ddiweddarach ai peidio).
- (4) Ystyr “cyn-landlord cymdeithasol yng Nghymru” yw person –
- (a) a oedd ar yr adeg berthnasol –
 - (i) wedi’i gofrestru’n landlord cymdeithasol yn y gofrestr a gedwir gan Weinidogion Cymru o dan adran 1 o Ddeddf Tai 1996 (p.52) (neu yn y gofrestr a gadwyd yn flaenrol o dan yr adran honno gan y Cynulliad a gyfansoddwyd gan Ddeddf Llywodraeth Cymru 1998 (p.38), yr Ysgrifennydd Gwladol neu Tai Cymru), neu
 - (ii) wedi’i gofrestru gyda Tai Cymru, yr Ysgrifennydd Gwladol, y Cynulliad a gyfansoddwyd gan Ddeddf Llywodraeth Cymru 1998 (p.38) neu Weinidogion Cymru ac a oedd yn berchen ar anheddau a ariennir yn gyhoeddus neu’n rheoli anheddau o’r fath, a
 - (b) sydd, ar ôl hynny –
 - (i) wedi peidio â bod yn gofrestredig fel a grybwyllir ym mharagraff (a)(i) neu (ii) (pa un a yw’r person wedi cofrestru eto’n ddiweddarach ai peidio), neu
 - (ii) wedi peidio â bod yn berchen ar anheddau a ariennir yn gyhoeddus neu reoli anheddau o’r fath (pa un a yw’r person wedi gwneud hynny eto’n ddiweddarach ai peidio).
- (5) Ystyr “cyn-ddarparwr cartref gofal yng Nghymru” yw person –
- (a) a oedd, ar yr adeg berthnasol, yn darparu llety, gofal nyrsio neu ofal o ddisgrifiad penodol mewn cartref gofal yng Nghymru (gweler adran 62), a
 - (b) sydd, ar ôl hynny, wedi peidio â gwneud hynny (pa un a yw’r person wedi dechrau gwneud hynny eto’n ddiweddarach ai peidio).
- (6) Ystyr “cyn-ddarparwr gofal cartref yng Nghymru” yw person –
- (a) a oedd, ar yr adeg berthnasol, yn darparu gwasanaethau gofal cartref o ddisgrifiad penodol yng Nghymru, a

- (e) former domiciliary care providers in Wales;
 - (f) former independent palliative care providers in Wales.
- (2) “Former family health service provider in Wales” means a person who –
- (a) at the relevant time, provided family health services of a particular description, and
 - (b) subsequently ceased to provide services of that description (whether or not the person has later started to provide them again).
- (3) “Former independent provider in Wales” means a person who –
- (a) at the relevant time, provided services of a particular description in Wales under arrangements with a Welsh health service body or a family health service provider in Wales,
 - (b) was not a Welsh health service body or a family health service provider in Wales at that time, and
 - (c) subsequently ceased to provide services of that description (whether or not the person has later started to provide them again).
- (4) “Former social landlord in Wales” means a person who –
- (a) at the relevant time –
 - (i) was registered as a social landlord in the register maintained by the Welsh Ministers under section 1 of the Housing Act 1996 (c.52) (or in the register previously maintained under that section by the Assembly constituted by the Government of Wales Act 1998 (c.38), the Secretary of State or Housing for Wales), or
 - (ii) was registered with Housing for Wales, the Secretary of State, the Assembly constituted by the Government of Wales Act 1998 (c.38) or the Welsh Ministers and owned or managed publicly-funded dwellings, and
 - (b) subsequently –
 - (i) ceased to be registered as mentioned in paragraph (a)(i) or (ii) (whether or not the person later became so registered again), or
 - (ii) ceased to own or manage publicly-funded dwellings (whether or not the person later did so again).
- (5) “Former care home provider in Wales” means a person who –
- (a) at the relevant time, provided accommodation, nursing or care of a particular description at a care home in Wales (see section 62), and
 - (b) subsequently ceased to do so (whether or not the person has later started to do so again).
- (6) “Former domiciliary care provider in Wales” means a person who –
- (a) at the relevant time, provided domiciliary care services of a particular description in Wales, and

- (b) sydd, ar ôl hynny, wedi peidio â gwneud hynny (pa un a yw'r person wedi dechrau darparu'r gwasanaethau hynny eto'n ddiweddarach ai peidio).
- (7) Ystyr "cyn-ddarparwr gofal lliniarol annibynnol yng Nghymru" yw person—
 - (a) a oedd, ar yr adeg berthnasol, yn darparu gwasanaeth gofal lliniarol o ddisgrifiad penodol yng Nghymru, a
 - (b) sydd, ar ôl hynny, wedi peidio â gwneud hynny (pa un a yw'r person wedi dechrau gwneud hynny eto'n ddiweddarach ai peidio).
- (8) Yr "adeg berthnasol" yw adeg y camau gweithredu sy'n destun cwyn o dan y Ddeddf hon.
- (9) Ni chaniateir gwneud rheoliadau o dan yr adran hon oni bai bod drafft o'r offeryn statudol sy'n eu cynnwys wedi ei osod gerbron y Cynulliad, ac wedi'i gymeradwyo ganddo drwy benderfyniad.

80 **Darpariaethau canlyniadol, trosiannol etc**

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud—
 - (a) y cyfryw ddarpariaeth ganlyniadol, gysylltiedig neu atodol, a
 - (b) y cyfryw ddarpariaeth ddarfodol, drosiannol, neu arbed,
 sydd yn eu barn hwy yn angenrheidiol neu'n hwylus at ddibenion unrhyw ddarpariaeth yn y Ddeddf hon, o ganlyniad i unrhyw ddarpariaeth ynddi neu er mwyn rhoi effaith lawn i unrhyw ddarpariaeth ynddi.
- (2) Caiff rheoliadau o dan is-adran (1) ddiwygio, dirymu neu ddiddymu unrhyw ddeddfiad (gan gynnwys unrhyw ddeddfiad sydd wedi'i gynnwys yn y Ddeddf hon neu a wneir o dan y Ddeddf hon).
- (3) Ni chaniateir gwneud rheoliadau o dan is-adran (1) oni bai bod drafft o'r offeryn statudol sy'n cynnwys y rheoliadau wedi ei osod gerbron y Cynulliad, ac wedi ei gymeradwyo drwy benderfyniad ganddo.

81 **Rheoliadau a chyfarwyddydau**

- (1) Mae pŵer Gweinidogion Cymru i wneud rheoliadau o dan y Ddeddf hon yn arferadwy drwy offeryn statudol.
- (2) Caiff rheoliadau a wneir gan Weinidogion Cymru o dan y Ddeddf hon—
 - (a) gwneud darpariaeth wahanol at ddibenion gwahanol;
 - (b) gwneud darpariaeth ganlyniadol, gysylltiedig, atodol, ddarfodol, drosiannol neu arbed.
- (3) O ran cyfarwyddyd a roddir o dan y Ddeddf hon—
 - (a) caniateir i'r person a roddodd y cyfarwyddyd ei ddiwygio neu ei ddirymu;
 - (b) caniateir i'r cyfarwyddyd wneud darpariaeth wahanol at ddibenion gwahanol.

82 **Enw byr**

Enw byr y Ddeddf hon yw Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019.

- (b) subsequently ceased to do so (whether or not the person has later started to provide those services again).
- (7) “Former independent palliative care provider in Wales” means a person who—
 - (a) at the relevant time, provided a palliative care service of a particular description in Wales, and
 - (b) subsequently ceased to do so (whether or not the person has later started to do so again).
- (8) “The relevant time” is the time of action which is the subject of a complaint under this Act.
- (9) No regulations are to be made under this section unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.

80 Consequential, transitional provisions etc

- (1) The Welsh Ministers may by regulations make—
 - (a) such consequential, incidental or supplemental provision, and
 - (b) such transitory, transitional or saving provision,as they think necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) Regulations under subsection (1) may amend, revoke or repeal any enactment (including any enactment contained in or made under this Act).
- (3) No regulations are to be made under subsection (1) unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the Assembly.

81 Regulations and directions

- (1) A power of the Welsh Ministers to make regulations under this Act is exercisable by statutory instrument.
- (2) Regulations made by the Welsh Ministers under this Act may—
 - (a) make different provision for different purposes;
 - (b) make consequential, incidental, supplemental, transitory, transitional or saving provision.
- (3) A direction given under this Act—
 - (a) may be amended or revoked by the person who gave it;
 - (b) may make different provision for different purposes.

82 Short title

This Act may be cited as the Public Services Ombudsman (Wales) Act 2019.

ATODLEN 1
(a gyflwynir gan adran 2)

OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU: PENODI ETC

Penodi

- 1 Mae'r Ombwdsmon i'w benodi gan Ei Mawrhydi ar enwebiad y Cynulliad.

Status

- 2 (1) Mae'r Ombwdsmon yn gorfforaeth undyn.
(2) Mae'r Ombwdsmon yn dal swydd o dan Ei Mawrhydi ac yn cyflawni swyddogaethau ar ran y Goron.
(3) Mae'r Ombwdsmon yn was y Goron at ddibenion Deddf Cyfrinachau Swyddogol 1989 (p.6).
(4) Ond nid yw gwasanaeth yn swydd Ombwdsmon yn wasanaeth yng ngwasanaeth sifil y Goron.

Tymor y swydd

- 3 (1) Tymor swydd person yn Ombwdsmon yw saith mlynedd (yn ddarostyngedig i is-baragraffau (3) a (4) a pharagraff 6).
(2) Nid yw person a benodir yn Ombwdsmon yn gymwys i'w ailbenodi.
(3) Caiff Ei Mawrhydi ryddhau person o swydd yr Ombwdsmon –
(a) ar gais yr Ombwdsmon, neu
(b) os yw Ei Mawrhydi yn fodlon nad yw'r person, am resymau meddygol, yn gallu cyflawni dyletswyddau'r swydd.
(4) Caiff Ei Mawrhydi ddiswyddo person o swydd Ombwdsmon yn unol ag argymhelliad, ar sail camymddygiad y person, y dylai Ei Mawrhydi wneud hynny.
(5) Ni chaniateir gwneud argymhelliad i ddiswyddo person o swydd Ombwdsmon oni bai –
(a) bod y Cynulliad wedi penderfynu y dylid gwneud yr argymhelliad, a
(b) bod penderfyniad y Cynulliad wedi'i basio drwy bleidlais lle roedd nifer yr Aelodau Cynulliad a bleidleisiodd o'i blaid yn ddim llai na dwy ran o dair o gyfanswm nifer y seddi yn y Cynulliad.

Ombwdsmon Gwasanaethau Cyhoeddus Cymru Dros Dro

- 4 (1) Os daw swydd yr Ombwdsmon yn wag, caiff Ei Mawrhydi, ar enwebiad y Cynulliad, benodi person i weithredu fel yr Ombwdsmon.
(2) Caiff person a benodir i weithredu fel yr Ombwdsmon ("Ombwdsmon dros dro") fod wedi dal swydd yr Ombwdsmon.
(3) Mae person a benodir yn Ombwdsmon dros dro yn gymwys i'w benodi'n Ombwdsmon (oni bai bod y person eisoes wedi dal swydd yr Ombwdsmon).

SCHEDULE 1
(introduced by section 2)

PUBLIC SERVICES OMBUDSMAN FOR WALES: APPOINTMENT ETC

Appointment

- 1 The Ombudsman is to be appointed by Her Majesty on the nomination of the Assembly.

Status

- 2 (1) The Ombudsman is a corporation sole.
(2) The Ombudsman holds office under Her Majesty and discharges functions on behalf of the Crown.
(3) The Ombudsman is a Crown servant for the purposes of the Official Secrets Act 1989 (c.6).
(4) But service as the Ombudsman is not service in the civil service of the Crown.

Term of office

- 3 (1) A person's term of office as the Ombudsman is seven years (subject to sub-paragraphs (3) and (4) and paragraph 6).
(2) A person appointed as the Ombudsman is not eligible for re-appointment.
(3) Her Majesty may relieve a person of office as the Ombudsman—
(a) at the Ombudsman's request, or
(b) on Her Majesty being satisfied that the person is incapable for medical reasons of performing the duties of the office.
(4) Her Majesty may remove a person from office as the Ombudsman on the making of a recommendation, on the ground of the person's misbehaviour, that Her Majesty should do so.
(5) A recommendation for the removal of a person from office as the Ombudsman may not be made unless—
(a) the Assembly has resolved that the recommendation should be made, and
(b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.

Acting Public Services Ombudsman for Wales

- 4 (1) If the office of the Ombudsman becomes vacant, Her Majesty may, on the nomination of the Assembly, appoint a person to act as the Ombudsman.
(2) A person appointed to act as the Ombudsman ("an acting Ombudsman") may have held office as the Ombudsman.
(3) A person appointed as an acting Ombudsman is eligible for appointment as the Ombudsman (unless the person has already held office as the Ombudsman).

- (4) Nid yw'r pŵer i benodi person yn Ombwdsmon dros dro yn arferadwy ar ôl diwedd y cyfnod o ddwy flynedd sy'n dechrau â'r dyddiad y daeth y swydd yn wag.
- (5) Mae Ombwdsmon dros dro yn dal ei swydd yn unol â thelerau ei benodiad, yn ddarostyngedig i is-baragraff (6) (a pharagraff 2, fel y'i cymhwysir gan is-baragraff (7)).
- (6) Ni chaiff Ombwdsmon dros dro ddal y swydd ar ôl—
 - (a) penodi person yn Ombwdsmon, neu
 - (b) os yw hynny'n gynharach, ar ddiwedd y cyfnod o ddwy flynedd sy'n dechrau â'r dyddiad y daeth y swydd yn wag.
- (7) Tra bydd Ombwdsmon dros dro yn dal y swydd mae i gael ei ystyried (ac eithrio at ddibenion paragraffau 1, 3, 6 i 10 a'r paragraff hwn) yn Ombwdsmon.

Darpariaeth bellach: penodi

- 5 Rhaid i'r Cynulliad bennu'r telerau sy'n gymwys i benodiad a wneir o dan baragraff 1 neu baragraff 4(1).

Anghymhwys

- 6 (1) Mae person wedi ei anghymhwysio rhag bod yn Ombwdsmon neu'n Ombwdsmon dros dro os yw unrhyw un neu ragor o'r canlynol yn gymwys—
- (a) ei fod yn aelod o Dŷ'r Cyffredin;
 - (b) ei fod yn awdurdod rhestredig;
 - (c) ei fod yn aelod, yn aelod cyfetholedig, yn swyddog neu'n aelod o staff awdurdod rhestredig;
 - (d) ei fod wedi'i anghymhwysio rhag bod yn aelod o'r Cynulliad (heblaw yn rhinwedd paragraff 7 o'r Atodlen hon neu adran 16(1)(d) o Ddeddf Llywodraeth Cymru 2006 (p.32));
 - (e) ei fod wedi'i anghymhwysio rhag bod yn aelod o awdurdod lleol yng Nghymru (heblaw yn rhinwedd paragraff 7 o'r Atodlen hon);
 - (f) ei fod yn ddarparwr cartref gofal, yn ddarparwr gofal cartref neu'n ddarparwr gofal lliniarol annibynnol;
 - (g) ei fod yn swyddog neu'n aelod o staff darparwr o'r math hwnnw.
- (2) At ddibenion is-baragraff (1)(g) mae person yn swyddog i ddarparwr os oes gan y person reolaeth dros ddarparwr nad yw'n unigolyn neu faterion darparwr o'r fath, neu os yw'r person yn rheoli darparwr nad yw'n unigolyn neu faterion darparwr o'r fath.
- (3) Nid yw penodiad person yn Ombwdsmon neu'n Ombwdsmon dros dro yn ddilys os yw'r person wedi ei anghymhwysio o dan is-baragraff (1).
- (4) Os yw person a benodwyd yn Ombwdsmon neu'n Ombwdsmon dros dro yn dod yn anghymwys o dan is-baragraff (1), mae'r person yn peidio â dal y swydd ar ôl ei anghymhwysio yn y cyfryw fodd.

- (4) The power to appoint a person as an acting Ombudsman is not exercisable after the end of the period of two years starting with the date on which the vacancy arose.
- (5) An acting Ombudsman holds office in accordance with the terms of the acting Ombudsman's appointment, subject to sub-paragraph (6) (and paragraph 2, as applied by sub-paragraph (7)).
- (6) An acting Ombudsman must not hold office after –
 - (a) the appointment of a person as the Ombudsman, or
 - (b) if sooner, the end of the period of two years starting with the date on which the vacancy arose.
- (7) While an acting Ombudsman holds office, the acting Ombudsman is to be regarded (except for the purposes of paragraphs 1, 3, 6 to 10 and this paragraph) as the Ombudsman.

Further provision: appointment

- 5 The Assembly must determine the terms that apply to an appointment made under paragraph 1 or paragraph 4(1).

Disqualification

- 6 (1) A person is disqualified from being the Ombudsman or an acting Ombudsman if any of the following applies –
- (a) the person is a member of the House of Commons;
 - (b) the person is a listed authority;
 - (c) the person is a member, co-opted member, officer or member of staff of a listed authority;
 - (d) the person is disqualified from being a member of the Assembly (other than by virtue of paragraph 7 of this Schedule or section 16(1)(d) of the Government of Wales Act 2006 (c.32));
 - (e) the person is disqualified from being a member of a local authority in Wales (other than by virtue of paragraph 7 of this Schedule);
 - (f) the person is a care home provider, domiciliary care provider or independent palliative care provider;
 - (g) the person is an officer or member of staff of a provider of that kind.
- (2) For the purposes of sub-paragraph (1)(g) a person is an officer of a provider if the person has control or management of a provider which is not an individual or the affairs of such a provider.
- (3) The appointment of a person as the Ombudsman or an acting Ombudsman is not valid if the person is disqualified under sub-paragraph (1).
- (4) If a person who has been appointed as the Ombudsman or an acting Ombudsman becomes disqualified under sub-paragraph (1), the person ceases to hold office on becoming so disqualified.

- (5) Ond nid effeithir ar ddilysrwydd unrhyw beth a wneir gan berson a benodwyd yn Ombwdsmon neu'n Ombwdsmon dros dro gan y ffaith fod y person hwnnw'n anghymwys o dan is-baragraff (1) neu'r ffaith ei fod yn dod yn anghymwys felly.
- 7 (1) Mae person sy'n dal swydd Ombwdsmon neu Ombwdsmon dros dro wedi'i anghymhwysio rhag—
- bod yn awdurdod rhestredig;
 - bod yn aelod, yn aelod cyfetholedig, yn swyddog neu'n aelod o staff awdurdod rhestredig;
 - dal swydd â thâl y cafodd ei benodi iddi gan awdurdod rhestredig.
- (2) Nid yw person wedi'i anghymhwysio o dan is-baragraff (1) rhag bod yn aelod o'r Cynulliad.
- 8 (1) Mae person sydd wedi peidio â dal swydd Ombwdsmon neu Ombwdsmon dros dro wedi'i anghymhwysio am y cyfnod perthnasol rhag—
- dal swydd sy'n awdurdod rhestredig;
 - bod yn aelod, yn aelod cyfetholedig, yn swyddog neu'n aelod o staff awdurdod rhestredig;
 - dal swydd â thâl y cafodd ei benodi iddi gan awdurdod rhestredig;
- oni bai bod y Cynulliad yn cymeradwyo fel arall.
- (2) Mae'r cyfnod perthnasol—
- yn dechrau pan fydd y person yn peidio â dal swydd Ombwdsmon neu, yn ôl y digwydd, Ombwdsmon dros dro, a
 - yn dod i ben ar derfyn y flwyddyn ariannol ar ôl y flwyddyn ariannol yr oedd yr Ombwdsmon neu, yn ôl y digwydd, yr Ombwdsmon dros dro, wedi peidio â dal y cyfryw swydd.
- (3) Ond nid yw is-baragraff (1) yn anghymhwysio person rhag—
- bod yn aelod o'r Cynulliad neu Gomisiwn Cynulliad Cenedlaethol Cymru;
 - dal swydd llywydd neu ddirprwy lywydd y Cynulliad neu swydd Prif Weinidog Cymru, un o Weinidogion Cymru a benodwyd o dan adran 48 o Ddeddf Llywodraeth Cymru 2006 (p.32), Cwnsler Cyffredinol Llywodraeth Cymru neu un o Ddirprwy Weinidogion Cymru;
 - bod yn aelod neu'n aelod cyfetholedig o awdurdod lleol yng Nghymru;
 - dal swydd cadeirydd, is-gadeirydd neu faer etholedig awdurdod lleol yng Nghymru.
- 9 Mae'r cyfeiriadau ym mharagraffau 7 a 8 at swydd â thâl yn cynnwys swydd lle y mae gan ddeiliad y swydd honno hawl i ad-daliad treuliau yn unig.

Cydnabyddiaeth ariannol etc

- 10 (1) Rhaid i'r Cynulliad—
- talw'r cyfryw gyflog a lwfansau i berson sy'n Ombwdsmon neu'n Ombwdsmon dros dro, a

- (5) But the validity of anything done by a person appointed as the Ombudsman or an acting Ombudsman is not affected by the fact that the person is or becomes disqualified under sub-paragraph (1).
- 7 (1) A person who holds office as the Ombudsman or an acting Ombudsman is disqualified from—
- (a) being a listed authority;
 - (b) being a member, co-opted member, officer or member of staff of a listed authority;
 - (c) holding a paid office to which appointment is by a listed authority.
- (2) A person is not disqualified under sub-paragraph (1) from being a member of the Assembly.
- 8 (1) A person who has ceased to hold office as the Ombudsman or as an acting Ombudsman is disqualified for the relevant period from—
- (a) holding an office which is a listed authority;
 - (b) being a member, co-opted member, officer or member of staff of a listed authority;
 - (c) holding a paid office to which appointment is by a listed authority;
- unless the Assembly approves otherwise.
- (2) The relevant period—
- (a) starts when the person ceases to hold office as the Ombudsman or, as the case may be, an acting Ombudsman, and
 - (b) ends on the expiry of the financial year following the financial year in which the Ombudsman or, as the case may be, the acting Ombudsman, ceased to hold such office.
- (3) But sub-paragraph (1) does not disqualify a person from—
- (a) being a member of the Assembly or the National Assembly for Wales Commission;
 - (b) holding the office of presiding officer or deputy presiding officer of the Assembly or of First Minister for Wales, Welsh Minister appointed under section 48 of the Government of Wales Act 2006 (c.32), Counsel General to the Welsh Government or Deputy Welsh Minister;
 - (c) being a member or co-opted member of a local authority in Wales;
 - (d) holding the office of chairman, vice-chairman or elected mayor of a local authority in Wales.
- 9 The references in paragraphs 7 and 8 to a paid office include an office the holder of which is entitled only to the reimbursement of expenses.

Remuneration etc

- 10 (1) The Assembly must—
- (a) pay a person who is the Ombudsman or an acting Ombudsman such salary and allowances, and

- (b) gwneud y cyfryw daliadau tuag at ddarparu buddion blwydd-dal ar gyfer yr Ombwdsmon neu'r Ombwdsmon dros dro neu mewn perthynas â'r Ombwdsmon neu'r Ombwdsmon dros dro,
- y darperir ar eu cyfer gan delerau penodiad yr Ombwdsmon neu'r Ombwdsmon dros dro neu o dan y telerau hynny.
- (2) Rhaid i'r Cynulliad dalu i berson sydd wedi peidio â dal swydd Ombwdsmon neu Ombwdsmon dros dro neu mewn perthynas â pherson o'r fath –
- (a) y cyfryw symiau ar ffurf pensiynau ac arian rhodd, a
- (b) y cyfryw symiau ar ffurf darpariaeth ar gyfer y buddion hynny,
- y darparwyd ar eu cyfer gan delerau penodiad yr Ombwdsmon neu'r Ombwdsmon dros dro neu o dan y telerau hynny.
- (3) Os yw person yn peidio â bod yn Ombwdsmon neu'n Ombwdsmon dros dro ac os yw'n ymddangos i'r Cynulliad fod amgylchiadau arbennig sy'n ei gwneud yn iawn bod y person hwnnw'n cael ei ddiogolledu, caiff y Cynulliad dalu i'r person hwnnw unrhyw swm sy'n briodol yn ei farn ef.
- (4) Rhaid i'r Cynulliad dalu i Weinidog y Gwasanaeth Sifil, ar y cyfryw adegau a gyfarwyddir gan y Gweinidog, y cyfryw symiau y bydd y Gweinidog yn penderfynu arnynt mewn perthynas ag unrhyw gynnydd y gellir ei briodoli i baragraff 9(4) o Atodlen 1 i Ddeddf 2005 yn y symiau sy'n daladwy o arian a ddarperir gan y Senedd o dan Ddeddf Blwydd-daliadau 1972 (p.11).
- (5) Mae symiau y mae eu hangen i wneud taliadau o dan is-baragraffau (1), (2) a (4) i'w codi ar Gronfa Gyfunol Cymru.

Darpariaethau ariannol arbennig

- 11 (1) Mae unrhyw symiau sy'n daladwy gan yr Ombwdsmon o ganlyniad i dorri unrhyw ddyletswydd contractiol neu ddyletswydd arall wrth gyflawni unrhyw un neu ragor o swyddogaethau'r Ombwdsmon, i gael eu codi ar Gronfa Gyfunol Cymru.
- (2) Ac mae is-baragraff (1) yn gymwys pa un a yw'r toriad yn digwydd oherwydd gweithred neu anweithred ar ran –
- (a) yr Ombwdsmon,
- (b) aelod o staff yr Ombwdsmon, neu
- (c) unrhyw berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon i arfer swyddogaethau.
- (3) Caiff yr Ombwdsmon gadw incwm sy'n deillio o ffioedd a godir yn rhinwedd adrannau 17(6), 23(6), 27(8), 29(2), 51(6), 55(7), 58(8) a 60(7) (yn hytrach na'i dalu i Gronfa Gyfunol Cymru) i'w ddefnyddio mewn cysylltiad ag arfer y swyddogaethau a roddir neu a osodir gan y Ddeddf hon.
- (4) Caiff yr Ombwdsmon gadw costau a delir iddo o dan hysbysiad adennill costau (gweler adran 21 ac adran 22) (yn hytrach na'u talu i Gronfa Gyfunol Cymru) i'w defnyddio mewn cysylltiad ag arfer y swyddogaethau a roddir neu a osodir gan y Ddeddf hon.

- (b) make such payments towards the provision of superannuation benefits for or in respect of the Ombudsman or an acting Ombudsman,
as may be provided for by or under the terms of appointment of the Ombudsman or the acting Ombudsman.
- (2) The Assembly must pay to or in respect of a person who has ceased to hold office as the Ombudsman or an acting Ombudsman –
 - (a) such amounts by way of pensions and gratuities, and
 - (b) such amounts by way of provision for those benefits,as may have been provided for by or under the terms of appointment of the Ombudsman or the acting Ombudsman.
- (3) If a person ceases to be the Ombudsman or an acting Ombudsman and it appears to the Assembly that there are special circumstances which make it right that the person should receive compensation, the Assembly may pay to that person a sum of such amount as it thinks appropriate.
- (4) The Assembly must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to paragraph 9(4) of Schedule 1 to the 2005 Act in the sums payable out of money provided by Parliament under the Superannuation Act 1972 (c.11).
- (5) Sums required for the making of payments under sub-paragraphs (1), (2) and (4) are to be charged on the Welsh Consolidated Fund.

Special financial provisions

- 11
- (1) Any sums payable by the Ombudsman in consequence of a breach, in the performance of any of the Ombudsman's functions, of any contractual or other duty are to be charged on the Welsh Consolidated Fund.
 - (2) And sub-paragraph (1) applies whether the breach occurs by reason of an act or omission of –
 - (a) the Ombudsman,
 - (b) a member of the Ombudsman's staff, or
 - (c) any other person acting on the Ombudsman's behalf or assisting the Ombudsman in the exercise of functions.
 - (3) The Ombudsman may retain income derived from fees charged by virtue of sections 17(6), 23(6), 27(8), 29(2), 51(6), 55(7), 58(8) and 60(7) (rather than pay it into the Welsh Consolidated Fund) for use in connection with the exercise of the functions conferred or imposed by this Act.
 - (4) The Ombudsman may retain costs paid to the Ombudsman under a costs recovery notice (see sections 21 and 22) (rather than pay them in to the Welsh Consolidated Fund) for use in connection with the exercise of the functions conferred or imposed by this Act.

Staff

- 12 (1) Caiff yr Ombwdsmon benodi'r cyfryw staff sy'n angenrheidiol, yn ei farn ef, i'w helpu i gyflawni ei swyddogaethau, ar y cyfryw delerau ac amodau a benderfynir ganddo.
- (2) Ni chaniateir ystyried unrhyw aelod o staff yr Ombwdsmon yn berson sy'n dal swydd o dan Ei Mawrhydi neu'n cyflawni unrhyw swyddogaethau ar ran y Goron.
- (3) Ond mae pob aelod o staff yr Ombwdsmon i'w drin yn was y Goron at ddibenion Deddf Cyfrinachau Swyddogol 1989 (p.6).
- (4) Rhaid i'r Ombwdsmon dalu i Weinidog y Gwasanaeth Sifil, ar yr adegau a gyfarwyddir gan y Gweinidog, y cyfryw swm y bydd y Gweinidog yn penderfynu arno mewn perthynas ag unrhyw gynnydd y gellir ei briodoli i baragraff 11(4) o Atodlen 1 i Ddeddf 2005 yn y symiau sy'n daladwy o arian a ddarperir gan y Senedd o dan Ddeddf Blwydd-daliadau 1972 (p.11).

Cynghorwyr

- 13 (1) Caiff yr Ombwdsmon geisio cyngor gan unrhyw berson sydd, yn ei farn ef, yn gymwys i'w roi iddo, i'w gynorthwyo i gyflawni ei swyddogaethau.
- (2) Caiff yr Ombwdsmon dalu i unrhyw berson y mae'r Ombwdsmon yn cael cyngor ganddo o dan is-baragraff (1) y cyfryw ffioedd neu lwfansau a benderfynir gan yr Ombwdsmon.

Dirprwyo

- 14 (1) Caniateir i unrhyw un neu ragor o swyddogaethau'r Ombwdsmon gael eu cyflawni ar ran yr Ombwdsmon—
- (a) gan unrhyw berson a awdurdodir gan yr Ombwdsmon i wneud hynny, a
- (b) i'r graddau a awdurdodwyd.
- (2) Nid yw is-baragraff (1) yn effeithio ar gyfrifoldeb yr Ombwdsmon i gyflawni unrhyw swyddogaeth o'r fath.
- (3) Mae person a awdurdodir gan yr Ombwdsmon o dan is-baragraff (1) i'w drin yn was y Goron at ddibenion Deddf Cyfrinachau Swyddogol 1989 (p.6).
- (4) Ni chaniateir gwneud unrhyw drefniadau rhwng yr Ombwdsmon, ar y naill law, a Gweinidogion Cymru (neu Brif Weinidog Cymru neu'r Cwnsler Cyffredinol i Lywodraeth Cymru), ar y llaw arall, ar gyfer—
- (a) arfer unrhyw swyddogaethau'r naill gan y llall,
- (b) arfer unrhyw swyddogaethau Gweinidogion Cymru (neu Brif Weinidog Cymru neu'r Cwnsler Cyffredinol i Lywodraeth Cymru) gan aelodau o staff yr Ombwdsmon,
- (c) arfer unrhyw swyddogaethau'r Ombwdsmon gan aelodau o staff Llywodraeth Cymru, neu
- (d) darparu gwasanaethau gweinyddol, proffesiynol neu dechnegol gan y naill ar gyfer y llall.

Staff

- 12 (1) The Ombudsman may appoint such staff as is necessary for assisting in the discharge of the Ombudsman's functions, on such terms and conditions as the Ombudsman may determine.
- (2) No member of staff of the Ombudsman is to be regarded as holding office under Her Majesty or as discharging any functions on behalf of the Crown.
- (3) But each member of the Ombudsman's staff is to be treated as being a Crown servant for the purposes of the Official Secrets Act 1989 (c.6).
- (4) The Ombudsman must pay to the Minister for the Civil Service, at such times as the Minister may direct, such sum as the Minister may determine in respect of any increase attributable to paragraph 11(4) of Schedule 1 to the 2005 Act in the sums payable out of money provided by Parliament under the Superannuation Act 1972 (c.11).

Advisers

- 13 (1) The Ombudsman may obtain advice from any person who, in the Ombudsman's opinion, is qualified to give it, to assist the Ombudsman in the discharge of the Ombudsman's functions.
- (2) The Ombudsman may pay to any person from whom the Ombudsman obtains advice under sub-paragraph (1) such fees or allowances as the Ombudsman may determine.

Delegation

- 14 (1) Any function of the Ombudsman may be discharged on the Ombudsman's behalf –
- (a) by any person authorised by the Ombudsman to do so, and
 - (b) to the extent so authorised.
- (2) Sub-paragraph (1) does not affect the responsibility of the Ombudsman for the discharge of any such function.
- (3) A person authorised by the Ombudsman under sub-paragraph (1) is to be treated as being a Crown servant for the purposes of the Official Secrets Act 1989 (c.6).
- (4) No arrangements may be made between the Ombudsman, on the one hand, and the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh Government), on the other, for –
- (a) any functions of one of them to be exercised by the other,
 - (b) any functions of the Welsh Ministers (or the First Minister for Wales or the Counsel General to the Welsh Government) to be exercised by members of staff of the Ombudsman,
 - (c) any functions of the Ombudsman to be exercised by members of the staff of the Welsh Government, or
 - (d) the provision of administrative, professional or technical services by one of them for the other.

- (5) Mae is-baragraff (4) yn gymwys er gwaethaf unrhyw ddarpariaeth a fyddai, fel arall, yn caniatáu i drefniadau o'r fath gael eu gwneud.

Adroddiadau blynyddol ac eithriadol

15 (1) O ran yr Ombwdsmon –

- (a) rhaid iddo baratoi adroddiad cyffredinol bob blwyddyn ynghylch cyflawni ei swyddogaethau (“adroddiad blynyddol”);
 - (b) caiff baratoi unrhyw adroddiad arall mewn perthynas â'i swyddogaethau sydd, yn ei farn ef, yn briodol (“adroddiad eithriadol”).
- (2) Caniateir i adroddiad a baratoir o dan y paragraff hwn gynnwys unrhyw argymhellion cyffredinol sydd gan yr Ombwdsmon sydd wedi codi wrth iddo gyflawni ei swyddogaethau.
- (3) Rhaid i'r Ombwdsmon osod copi o bob adroddiad a baratoir o dan y paragraff hwn gerbron y Cynulliad ac ar yr un pryd rhaid iddo anfon copi at Lywodraeth Cymru ac (os yw'r adroddiad yn adroddiad eithriadol) rhaid iddo anfon copi ohono at unrhyw awdurdodau rhestredig (ac eithrio Llywodraeth Cymru) sydd, ym marn yr Ombwdsmon, yn briodol.
- (4) Caiff yr Ombwdsmon hefyd anfon copi o unrhyw adroddiad a baratoir o dan y paragraff hwn at unrhyw bersonau eraill sydd, yn ei farn ef, yn briodol.
- (5) Rhaid i'r Ombwdsmon gyhoeddi unrhyw adroddiad a osodir gerbron y Cynulliad o dan y paragraff hwn, a chaiff y Cynulliad hefyd gyhoeddi'r adroddiad.
- (6) Rhaid i'r Ombwdsmon gydymffurfio ag unrhyw gyfarwyddydau a roddir gan y Cynulliad mewn perthynas ag adroddiad blynyddol.
- (7) Os yw adroddiad a baratoir o dan y paragraff hwn –
- (a) yn crybwyll enw unrhyw berson heblaw awdurdod rhestredig, darparwr cartref gofal, darparwr gofal cartref neu ddarparwr gofal lliniarol annibynnol –
 - (i) y mae cwyn wedi'i gwneud i'r Ombwdsmon amdano neu wedi'i hatgyfeirio at yr Ombwdsmon yn ei gylch o dan y Ddeddf hon, neu
 - (ii) y mae'r Ombwdsmon wedi cychwyn ymchwiliad iddo o dan adran 4 neu 44, neu
 - (b) yn cynnwys unrhyw fanylion sydd, ym marn yr Ombwdsmon, yn debygol o wneud unrhyw berson o'r fath yn hysbys ac y gellir, ym marn yr Ombwdsmon, eu hepgor heb amharu ar effeithiolrwydd yr adroddiad,
- ni chaniateir cynnwys yr wybodaeth honno mewn fersiwn o'r adroddiad a osodir gerbron y Cynulliad o dan is-baragraff (3), a anfonir at berson o dan is-baragraff (3) neu (4) neu a gyhoeddir gan yr Ombwdsmon o dan is-baragraff (5), yn ddarostyngedig i is-baragraff (8).
- (8) Nid yw is-baragraff (7) yn gymwys mewn perthynas â fersiwn o'r adroddiad os yw'r Ombwdsmon, ar ôl ystyried buddiannau unrhyw bersonau sydd, yn ei farn ef yn briodol, o'r farn ei bod er budd y cyhoedd i gynnwys yr wybodaeth honno yn y fersiwn honno o'r adroddiad.

- (5) Sub-paragraph (4) applies despite any provision that would otherwise permit such arrangements to be made.

Annual and extraordinary reports

15 (1) The Ombudsman –

- (a) must annually prepare a general report on the discharge of the Ombudsman’s functions (an “annual report”);
- (b) may prepare any other report with respect to the Ombudsman’s functions that the Ombudsman thinks appropriate (an “extraordinary report”).

(2) A report prepared under this paragraph may include any general recommendations which the Ombudsman may have arising from the discharge of the Ombudsman’s functions.

(3) The Ombudsman must lay a copy of each report prepared under this paragraph before the Assembly and at the same time send a copy to the Welsh Government and (if the report is an extraordinary report) must send a copy of it to any listed authorities (other than the Welsh Government) the Ombudsman thinks appropriate.

(4) The Ombudsman may also send a copy of any report prepared under this paragraph to any other persons the Ombudsman thinks appropriate.

(5) The Ombudsman must, and the Assembly may, publish any report laid before the Assembly under this paragraph.

(6) The Ombudsman must comply with any directions given by the Assembly with respect to an annual report.

(7) If a report prepared under this paragraph –

- (a) mentions the name of any person other than a listed authority, care home provider, domiciliary care provider or independent palliative care provider in respect of which –

- (i) a complaint has been made or referred to the Ombudsman under this Act, or

- (ii) the Ombudsman has begun to investigate under section 4 or 44, or

- (b) includes any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in the Ombudsman’s opinion, can be omitted without impairing the effectiveness of the report,

that information must not be included in a version of the report laid before the Assembly under sub-paragraph (3), sent to a person under sub-paragraph (3) or (4) or published by the Ombudsman under sub-paragraph (5), subject to sub-paragraph (8).

(8) Sub-paragraph (7) does not apply in relation to a version of the report if, after taking account of the interests of any persons the Ombudsman thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.

Amcangyfrifon

- 16 (1) Ar gyfer pob blwyddyn ariannol, rhaid i'r Ombwdsmon baratoi amcangyfrif o incwm a threuliau ei swyddfa.
- (2) Rhaid i'r Ombwdsmon gyflwyno'r amcangyfrif o leiaf bum mis cyn dechrau'r flwyddyn ariannol y mae'n ymwneud â hi i'r pwyllgor neu i'r pwyllgorau Cynulliad a bennir yn rheolau sefydlog y Cynulliad.
- (3) Rhaid i'r pwyllgor neu'r pwyllgorau archwilio amcangyfrif a gyflwynwyd yn unol ag is-baragraff (2) ac yna rhaid gosod yr amcangyfrif gerbron y Cynulliad gydag unrhyw addasiadau a ystyrir yn briodol.
- (4) Cyn gosod gerbron y Cynulliad amcangyfrif gydag addasiadau a gyflwynwyd yn unol ag is-baragraff (2), rhaid i'r pwyllgor neu'r pwyllgorau –
- (a) ymgynghori â'r Ombwdsmon, a
 - (b) ystyried unrhyw sylwadau a wna'r Ombwdsmon.
- (5) Y flwyddyn ariannol gyntaf yw'r flwyddyn ariannol y penodir y person cyntaf i'w benodi'n Ombwdsmon.

Cyfrifon

- 17 (1) Rhaid i'r Ombwdsmon –
- (a) cadw cofnodion cyfrifyddu cywir, a
 - (b) ar gyfer pob blwyddyn ariannol, baratoi cyfrifon yn unol â chyfarwyddydau a roddir i'r Ombwdsmon gan y Trysorlys.
- (2) Mae'r cyfarwyddydau y caiff y Trysorlys eu rhoi o dan is-baragraff (1)(b) yn cynnwys cyfarwyddydau i baratoi cyfrifon sy'n ymwneud â materion a thrafodion ariannol personau heblaw'r Ombwdsmon.
- (3) Mae'r cyfarwyddydau y caiff y Trysorlys eu rhoi o dan is-baragraff (1)(b) yn cynnwys, yn benodol, gyfarwyddydau ynghylch –
- (a) yr wybodaeth sydd i'w chynnwys yn y cyfrifon a'r modd y caiff ei chyflwyno;
 - (b) y dulliau a'r egwyddorion a fydd yn sail ar gyfer paratoi'r cyfrifon;
 - (c) yr wybodaeth ychwanegol (os o gwbl) sydd i fynd gyda'r cyfrifon.

Archwilio

- 18 (1) Rhaid i'r cyfrifon a gaiff eu paratoi gan yr Ombwdsmon ar gyfer blwyddyn ariannol gael eu cyflwyno ganddo i Archwilydd Cyffredinol Cymru heb fod yn hwyrach na 30 Tachwedd yn y flwyddyn ariannol ddilynol.
- (2) Rhaid i Archwilydd Cyffredinol Cymru –
- (a) archwilio, ardystio a llunio adroddiad am bob set o gyfrifon a gyflwynir i Archwilydd Cyffredinol Cymru o dan y paragraff hwn, a

Estimates

- 16 (1) For each financial year, the Ombudsman must prepare an estimate of the income and expenses of the Ombudsman's office.
- (2) The Ombudsman must submit the estimate at least five months before the beginning of the financial year to which it relates to the committee or committees of the Assembly specified in the standing orders of the Assembly.
- (3) The committee or committees must examine an estimate submitted in accordance with sub-paragraph (2) and must then lay the estimate before the Assembly with any modifications thought appropriate.
- (4) Before laying before the Assembly with modifications an estimate submitted in accordance with sub-paragraph (2), the committee or committees must—
- (a) consult the Ombudsman, and
 - (b) take into account any representations which the Ombudsman may make.
- (5) The first financial year is the financial year during which the first person to be appointed as the Ombudsman is appointed.

Accounts

- 17 (1) The Ombudsman must—
- (a) keep proper accounting records, and
 - (b) for each financial year, prepare accounts in accordance with directions given to the Ombudsman by the Treasury.
- (2) The directions which the Treasury may give under sub-paragraph (1)(b) include directions to prepare accounts relating to financial affairs and transactions of persons other than the Ombudsman.
- (3) The directions which the Treasury may give under sub-paragraph (1)(b) include, in particular, directions as to—
- (a) the information to be contained in the accounts and the manner in which it is to be presented;
 - (b) the methods and principles in accordance with which the accounts are to be prepared;
 - (c) the additional information (if any) that is to accompany the accounts.

Audit

- 18 (1) The accounts prepared by the Ombudsman for a financial year must be submitted by the Ombudsman to the Auditor General for Wales no later than 30 November in the following financial year.
- (2) The Auditor General for Wales must—
- (a) examine, certify and report on each set of accounts submitted to the Auditor General for Wales under this paragraph, and

- (b) yn ddarostyngedig i is-baragraff (3), heb fod yn hwyrach na phedwar mis ar ôl i'r cyfrifon gael eu cyflwyno, osod gerbron y Cynulliad gopi ohonynt fel y'u hardystiwyd gan Archwilydd Cyffredinol Cymru ynghyd ag adroddiad Archwilydd Cyffredinol Cymru arnynt ("copi o'r cyfrifon ardystiedig a'r adroddiad").
- (3) Caiff Archwilydd Cyffredinol Cymru osod copi o'r cyfrifon ardystiedig a'r adroddiad gerbron y Cynulliad ar ôl y terfyn amser o bedwar mis a grybwyllir yn is-baragraff (2)(b) pan na fo'n rhesymol ymarferol i Archwilydd Cyffredinol Cymru gadw at y terfyn amser hwnnw.
- (4) Pan fo is-baragraff (3) yn gymwys, rhaid i Archwilydd Cyffredinol Cymru –
 - (a) cyn y terfyn amser o bedwar mis a grybwyllir yn is-baragraff (2)(b), osod gerbron y Cynulliad ddatganiad yn esbonio pam nad yw'n rhesymol ymarferol i Archwilydd Cyffredinol Cymru osod copi o'r cyfrifon ardystiedig a'r adroddiad gerbron y Cynulliad cyn y terfyn amser hwnnw, a
 - (b) gosod copi o'r cyfrifon ardystiedig a'r adroddiad gerbron y Cynulliad cyn gynted ag y bo'n rhesymol ymarferol ar ôl y terfyn amser hwnnw.
- (5) Wrth archwilio cyfrifon a gyflwynir i Archwilydd Cyffredinol Cymru o dan y paragraff hwn rhaid i Archwilydd Cyffredinol Cymru, yn benodol, fod wedi ei fodloni –
 - (a) yr aethpwyd yn gyfreithiol i'r gwariant y mae'r cyfrifon yn ymwneud ag ef, ac yn unol â'r awdurdod sy'n llywodraethu'r gwariant, a
 - (b) bod yr Ombwdsmon wedi gwneud trefniadau priodol i ddefnyddio adnoddau'r Ombwdsmon yn ddarbodus, yn effeithlon ac yn effeithiol.

Swyddog cyfrifyddu

- 19 (1) Yr Ombwdsmon yw'r swyddog cyfrifyddu ar gyfer swyddfa'r Ombwdsmon.
- (2) Os nad yw'r Ombwdsmon yn gallu cyflawni ei gyfrifoldebau fel swyddog cyfrifyddu, caiff y Pwyllgor Archwilio ddynodi aelod o staff yr Ombwdsmon i fod yn swyddog cyfrifyddu cyhyd ag y mae'r Ombwdsmon yn methu â chyflawni ei gyfrifoldebau.
 - (3) Os yw swydd yr Ombwdsmon yn wag ac os nad oes Ombwdsmon dros dro, caiff y Pwyllgor Archwilio ddynodi aelod o staff yr Ombwdsmon i fod yn swyddog cyfrifyddu cyhyd ag y bydd swydd yr Ombwdsmon yn wag a bod dim Ombwdsmon dros dro.
 - (4) Mae gan y swyddog cyfrifyddu, o ran cyfrifon a chyllid yr Ombwdsmon, y cyfrifoldebau a bennir o bryd i'w gilydd gan y Pwyllgor Archwilio.
 - (5) Yn y paragraff hwn mae cyfeiriadau at gyfrifoldebau yn cynnwys yn benodol –
 - (a) cyfrifoldebau o ran llofnodi cyfrifon,
 - (b) cyfrifoldebau am briodoldeb a rheoleidd-dra cyllid yr Ombwdsmon, ac
 - (c) cyfrifoldebau am y modd darbodus, effeithlon ac effeithiol y defnyddir adnoddau'r Ombwdsmon.
 - (6) Mae'r cyfrifoldebau y caniateir eu pennu o dan y paragraff hwn yn cynnwys cyfrifoldebau i'r canlynol –
 - (a) y Cynulliad, Gweinidogion Cymru neu'r Pwyllgor Archwilio, neu

- (b) subject to sub-paragraph (3), no later than four months after the accounts are so submitted, lay before the Assembly a copy of them as certified by the Auditor General for Wales together with the Auditor General for Wales's report on them ("a copy of the certified accounts and report").
- (3) The Auditor General for Wales may lay a copy of the certified accounts and report before the Assembly after the four-month deadline mentioned in sub-paragraph (2)(b) where it is not reasonably practicable for the Auditor General for Wales to meet that deadline.
- (4) Where sub-paragraph (3) applies, the Auditor General for Wales must –
 - (a) before the four-month deadline mentioned in sub-paragraph (2)(b), lay before the Assembly a statement explaining why it is not reasonably practicable for the Auditor General for Wales to lay a copy of the certified accounts and report before the Assembly before that deadline, and
 - (b) lay a copy of the certified accounts and report before the Assembly as soon as reasonably practicable after that deadline.
- (5) In examining accounts submitted to the Auditor General for Wales under this paragraph the Auditor General for Wales must, in particular, be satisfied that –
 - (a) the expenditure to which the accounts relate has been incurred lawfully and in accordance with the authority which governs it, and
 - (b) the Ombudsman has made appropriate arrangements for the economic, efficient and effective use of the Ombudsman's resources.

Accounting officer

- 19
- (1) The Ombudsman is the accounting officer for the office of the Ombudsman.
 - (2) If the Ombudsman is incapable of discharging the Ombudsman's responsibilities as accounting officer, the Audit Committee may designate a member of the Ombudsman's staff to be the accounting officer for as long as the Ombudsman is so incapable.
 - (3) If the office of the Ombudsman is vacant and there is no acting Ombudsman, the Audit Committee may designate a member of the Ombudsman's staff to be the accounting officer for as long as the office of the Ombudsman is vacant and there is no acting Ombudsman.
 - (4) The accounting officer has, in relation to the accounts and the finances of the Ombudsman, the responsibilities which are from time to time specified by the Audit Committee.
 - (5) In this paragraph references to responsibilities include in particular –
 - (a) responsibilities in relation to the signing of accounts,
 - (b) responsibilities for the propriety and regularity of the finances of the Ombudsman, and
 - (c) responsibilities for the economy, efficiency and effectiveness with which the resources of the Ombudsman are used.
 - (6) The responsibilities which may be specified under this paragraph include responsibilities owed to –
 - (a) the Assembly, the Welsh Ministers or the Audit Committee, or

- (b) Tŷ'r Cyffredin neu ei Bwyllgor Cyfrifon Cyhoeddus.
- (7) Os gofynnir iddo wneud hynny gan Bwyllgor Cyfrifon Cyhoeddus Tŷ'r Cyffredin, caiff y Pwyllgor Archwilio—
 - (a) cymryd tystiolaeth gan y swyddog cyfrifyddu ar ran y Pwyllgor Cyfrifon Cyhoeddus, a
 - (b) cyflwyno adroddiad i'r Pwyllgor Cyfrifon Cyhoeddus a throsglwyddo i'r Pwyllgor hwnnw unrhyw dystiolaeth a gafwyd.

Archwiliadau i'r defnydd o adnoddau

- 20 (1) Caiff Archwilydd Cyffredinol Cymru gynnal archwiliadau ynghylch pa mor ddarbodus, effeithlon ac effeithiol y defnyddiodd yr Ombwdsmon ei adnoddau i gyflawni ei swyddogaethau.
- (2) Ni chaniateir dehongli is-paragraff (1) yn un sy'n rhoi hawl i Archwilydd Cyffredinol Cymru gwestiynu teilyngdod amcanion polisi'r Ombwdsmon.
- (3) Wrth benderfynu sut i gyflawni swyddogaethau Archwilydd Cyffredinol Cymru o dan y paragraff hwn, rhaid i Archwilydd Cyffredinol Cymru ystyried barn y Pwyllgor Archwilio ynghylch yr archwiliadau y dylai Archwilydd Cyffredinol Cymru eu cynnal.
- (4) Caiff Archwilydd Cyffredinol Cymru osod gerbron y Cynulliad adroddiad am ganlyniadau unrhyw archwiliad a gynhaliwyd gan Archwilydd Cyffredinol Cymru o dan y paragraff hwn.

Pwerau atodol

- 21 Caiff yr Ombwdsmon wneud unrhyw beth (gan gynnwys caffael neu waredu unrhyw eiddo neu hawliau) a fwriedir i'w hwyluso i gyflawni unrhyw un neu ragor o'i swyddogaethau, neu sy'n gydnaws â chyflawni unrhyw un neu ragor o'i swyddogaethau, neu sy'n gysylltiedig â hynny.

Yr Ombwdsmon blaenorol i barhau yn Ombwdsmon

- 22 (1) Mae'r paragraff hwn yn gymwys i'r person sydd yn Ombwdsmon yn union cyn y diwrnod penodedig.
- (2) Ar y diwrnod penodedig ac ar ôl hynny bydd y person—
 - (a) yn parhau i fod yn Ombwdsmon ac yn cael ei drin fel petai wedi cael ei benodi i'r swydd honno o dan y Ddeddf hon;
 - (b) yn dal y swydd am saith mlynedd namyn cyfnod sy'n cyfateb i'r cyfnod y bu'r person yn Ombwdsmon cyn y diwrnod penodedig.
- (3) Yn y paragraff hwn, ystyr "y diwrnod penodedig" yw'r diwrnod y daw'r paragraff hwn i rym.

- (b) the House of Commons or its Committee of Public Accounts.
- (7) If requested to do so by the House of Commons Committee of Public Accounts, the Audit Committee may –
 - (a) on behalf of the Committee of Public Accounts take evidence from the accounting officer, and
 - (b) report to the Committee of Public Accounts and transmit to that Committee any evidence so taken.

Examinations into the use of resources

- 20
- (1) The Auditor General for Wales may carry out examinations into the economy, efficiency and effectiveness with which the Ombudsman has used the Ombudsman’s resources in discharging the Ombudsman’s functions.
 - (2) Sub-paragraph (1) is not to be construed as entitling the Auditor General for Wales to question the merits of the policy objectives of the Ombudsman.
 - (3) In determining how to discharge the Auditor General for Wales’s functions under this paragraph, the Auditor General for Wales must take into account the views of the Audit Committee as to the examinations which the Auditor General for Wales should carry out.
 - (4) The Auditor General for Wales may lay before the Assembly a report of the results of any examination carried out by the Auditor General for Wales under this paragraph.

Supplementary powers

- 21
- The Ombudsman may do anything (including acquire or dispose of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of the Ombudsman’s functions.

Previous Ombudsman to continue to be Ombudsman

- 22
- (1) This paragraph applies to the person who is the Ombudsman immediately before the appointed day.
 - (2) On and after the appointed day the person –
 - (a) continues to be the Ombudsman and is treated as having been appointed to that office under this Act;
 - (b) holds the office for seven years less a period equal to that during which the person was the Ombudsman before the appointed day.
 - (3) In this paragraph “the appointed day” means the day on which this paragraph comes into force.

ATODLEN 2
(a gyflwynir gan adran 14)

MATERION EITHRIEDIG: RHAN 3

- 1 Camau gweithredu a gymerir gan Weinidogion Cymru, Prif Weinidog Cymru, y Cwnsler Cyffredinol i Lywodraeth Cymru, neu gomisiynydd heddlu a throseddu ar gyfer ardal heddlu yng Nghymru, neu gydag awdurdod Gweinidogion Cymru, Prif Weinidog Cymru, y Cwnsler Cyffredinol i Lywodraeth Cymru neu gomisiynydd heddlu a throseddu ar gyfer ardal heddlu yng Nghymru at y diben a ganlyn –
 - (a) ymchwilio i drosedd neu atal trosedd, neu
 - (b) gwarchod diogelwch y Wladwriaeth.
- 2 Cychwyn neu gynnal achosion gerbron llys ag awdurdodaeth gymwys.
- 3 Camau gweithredu a gymerir gan aelod o staff gweinyddol tribiwnlys perthnasol cyn belled ag a gwneir hynny ar gyfarwyddyd neu ar awdurdod (boed yn ddatganedig neu'n oblygedig), person sy'n gweithredu yn rhinwedd ei swydd fel aelod o'r tribiwnlys.
- 4 Camau gweithredu a gymerir mewn perthynas â phenodiadau, diswyddiadau, tâl, disgyblaeth, blwydd-daliadau neu faterion personél eraill (heblaw gweithdrefnau ar gyfer recriwtio a phenodi) mewn perthynas â'r canlynol –
 - (a) gwasanaeth mewn swydd neu gyflogaeth o dan y Goron neu o dan awdurdod rhestredig;
 - (b) gwasanaeth mewn swydd neu gyflogaeth, neu o dan gontract am wasanaethau, y mae'r pŵer i gymryd camau gweithredu yn ei gylch mewn materion personél, neu i benderfynu ar gamau gweithredu neu i gymeradwyo camau gweithredu i'w cymryd mewn materion personél, wedi'i freinio yn Ei Mawrhydi neu mewn awdurdod rhestredig.
- 5 Camau gweithredu sy'n ymwneud â phenderfynu ar swm rhent.
- 6 (1) Camau gweithredu a gymerir gan awdurdod a bennir yn is-baragraff (2) ac sy'n ymwneud â'r canlynol –
 - (a) rhoi cyfarwyddyd, neu
 - (b) ymddygiad, cwricwlwm, trefniadaeth fewnol, rheoli neu ddisgyblu,
 mewn ysgol neu sefydliad addysgol arall a gynhelir gan awdurdod lleol yng Nghymru.
 - (2) Yr awdurdodau yw –
 - (a) awdurdod lleol yng Nghymru;
 - (b) panel apêl derbyn;
 - (c) corff llywodraethu ysgol gymunedol, sefydledig neu wirfoddol;
 - (d) panel apêl gwahardd.
- 7 Camau gweithredu a gymerir gan Fwrdd Iechyd Lleol wrth gyflawni ei swyddogaethau o dan –
 - (a) Rheoliadau'r Gwasanaeth Iechyd Gwladol (Pwyllgorau Gwasanaeth a Thribiwnlys) 1992 (O.S.1992/664) neu unrhyw offeryn sy'n disodli'r rheoliadau hynny;

SCHEDULE 2
(introduced by section 14)

EXCLUDED MATTERS: PART 3

- 1 Action taken by or with the authority of the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government or a police and crime commissioner for a police area in Wales for the purpose of—
 - (a) the investigation or prevention of crime, or
 - (b) the protection of the security of the State.
- 2 The commencement or conduct of proceedings before a court of competent jurisdiction.
- 3 Action taken by a member of the administrative staff of a relevant tribunal so far as taken at the direction, or on the authority (whether express or implied), of a person acting in the capacity of a member of the tribunal.
- 4 Action taken in respect of appointments, removals, pay, discipline, superannuation or other personnel matters (apart from procedures for recruitment and appointment) in relation to—
 - (a) service in an office or employment under the Crown or under a listed authority;
 - (b) service in an office or employment, or under a contract for services, in respect of which power to take action in personnel matters, or to determine or approve action to be taken in personnel matters, is vested in Her Majesty or a listed authority.
- 5 Action relating to the determination of the amount of rent.
- 6 (1) Action taken by an authority specified in sub-paragraph (2) and relating to—
 - (a) the giving of instruction, or
 - (b) conduct, curriculum, internal organisation, management or discipline,in a school or other educational establishment maintained by a local authority in Wales.
(2) The authorities are—
 - (a) a local authority in Wales;
 - (b) an admission appeal panel;
 - (c) the governing body of a community, foundation or voluntary school;
 - (d) an exclusion appeal panel.
- 7 Action taken by a Local Health Board in the discharge of its functions under—
 - (a) the National Health Service (Service Committees and Tribunal) Regulations 1992 (S.I.1992/664) or any instrument replacing those regulations;

- (b) rheoliadau a wneir o dan adran 38, 39, 41 neu 42 o Ddeddf y Gwasanaeth Iechyd Gwladol 1977 (p.49) yn rhinwedd adran 17 o Ddeddf Iechyd a Meddyginiaethau 1988 (p.49) (ymchwiliadau i faterion sy'n ymwneud â gwasanaethau).

- (b) regulations made under section 38, 39, 41 or 42 of the National Health Service Act 1977 (c.49) by virtue of section 17 of the Health and Medicines Act 1988 (c.49) (investigations of matters relating to services).

ATODLEN 3
(a gyflwynir gan adran 31)

AWDURDODAU RHESTREDIG

Llywodraeth Cymru

Llywodraeth Cymru.
Comisiwn Cynulliad Cenedlaethol Cymru.

Llywodraeth leol, tân a'r heddlu

Awdurdod lleol yng Nghymru.
Bwrdd ar y cyd y mae ei awdurdodau cyfansoddol oll yn awdurdodau lleol yng Nghymru.
Awdurdod tân ac achub yng Nghymru a gyfansoddwyd gan gynllun o dan adran 2 o Ddeddf Gwasanaethau Tân ac Achub 2004 (p.21) neu gynllun y mae adran 4 o'r Ddeddf honno yn gymwys iddo.
Comisiynydd heddlu a throseddau ar gyfer ardal heddlu yng Nghymru.
Panel cynllunio strategol.

Yr Amgylchedd

Y Pwyllgor Newid Hinsawdd.
Awdurdod Parc Cenedlaethol ar gyfer Parc Cenedlaethol yng Nghymru.
Corff Adnoddau Naturiol Cymru.
Asiantaeth yr Amgylchedd.
Y Comisiynwyr Coedwigaeth.
Y Pwyllgor Llifogydd ac Erydu Arfordirol.

Iechyd a gofal cymdeithasol

Gofal Cymdeithasol Cymru.
Bwrdd Cynghorau Iechyd Cymuned Cymru.
Bwrdd Iechyd Lleol.
Ymddiriedolaeth GIG sy'n rheoli ysbyty neu sefydliad neu gyfleuster arall yng Nghymru.
Awdurdod Iechyd Arbennig nad yw'n cyflawni swyddogaethau yn Lloegr yn unig neu'n bennaf.
Cyngor Iechyd Cymuned.
Darparwr annibynnol yng Nghymru.
Darparwr gwasanaeth iechyd teulu yng Nghymru.

SCHEDULE 3
(introduced by section 31)

LISTED AUTHORITIES

Government of Wales

- The Welsh Government.
- The National Assembly for Wales Commission.

Local government, fire and police

- A local authority in Wales.
- A joint board the constituent authorities of which are all local authorities in Wales.
- A fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c.21) or a scheme to which section 4 of that Act applies.
- A police and crime commissioner for a police area in Wales.
- A strategic planning panel.

Environment

- The Committee on Climate Change.
- A National Park authority for a National Park in Wales.
- The Natural Resources Body for Wales.
- The Environment Agency.
- The Forestry Commissioners.
- The Flood and Coastal Erosion Committee.

Health and social care

- Social Care Wales.
- The Board of Community Health Councils in Wales.
- A Local Health Board.
- An NHS trust managing a hospital or other establishment or facility in Wales.
- A Special Health Authority not discharging functions only or mainly in England.
- A Community Health Council.
- An independent provider in Wales.
- A family health service provider in Wales.

Person â swyddogaethau a roddir gan reoliadau a wneir o dan adran 113(2) o Ddeddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p.43).

Pwyllgor Gwasanaethau Iechyd Arbenigol Cymru.

Tai

Landlord cymdeithasol yng Nghymru.

Addysg a hyfforddiant

Swyddfa Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru neu Her Majesty's Chief Inspector of Education and Training in Wales.

Cyngor Cyllido Addysg Uwch Cymru.

Panel apêl derbyn a gyfansoddwyd yn unol â rheoliadau o dan adran 94(5) neu 95(3) o Ddeddf Safonau a Fframwaith Ysgolion 1998 (p.31).

Corff llywodraethu unrhyw ysgol gymunedol, ysgol sefydledig neu ysgol wirfoddol i'r graddau y mae'n gweithredu mewn cysylltiad â derbyn disgyblion i'r ysgol neu fel arall yn cyflawni unrhyw un neu ragor o'i swyddogaethau o dan Bennod 1 o Ran 3 o Ddeddf Safonau a Fframwaith Ysgolion 1998 (p.31).

Panel apêl gwahardd a gyfansoddwyd yn unol â rheoliadau o dan adran 52 o Ddeddf Addysg 2002 (p.32).

Cymwysterau Cymru.

Y celfyddydau a hamdden

Cyngor Celfyddydau Cymru.

Cyngor Chwaraeon Cymru.

Trethi

Awdurdod Cyllid Cymru.

Amrywiol

Pwyllgor Cyngori Cymru ar Reoliadau Adeiladu.

Byrddau Cadwraethwyr Coity Walia.

Comisiynydd y Gymraeg.

Awdurdodau harbwr yng Nghymru (ac mae i "awdurdod harbwr" yr ystyr a roddir i "harbour authority" yn adran 313(1) o Ddeddf Llongau Masnach 1995 (p.21)) ac awdurdodau porthladd yng Nghymru (ac ystyr "awdurdod porthladd" yw awdurdod harbwr, neu os nad oes awdurdod o'r fath, y person sydd â rheolaeth am weithrediad y porthladd) –

A person with functions conferred by regulations made under section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003 (c.43).

The Welsh Health Specialised Services Committee.

Housing

A social landlord in Wales.

Education and training

The Office of Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru.

The Higher Education Funding Council for Wales.

An admission appeal panel constituted in accordance with regulations under section 94(5) or 95(3) of the School Standards and Framework Act 1998 (c.31).

The governing body of any community, foundation or voluntary school so far as acting in connection with the admission of pupils to the school or otherwise discharging any of their functions under Chapter 1 of Part 3 of the School Standards and Framework Act 1998 (c.31).

An exclusion appeal panel constituted in accordance with regulations under section 52 of the Education Act 2002 (c.32).

Qualifications Wales.

Arts and leisure

The Arts Council of Wales.

The Sports Council for Wales.

Tax

The Welsh Revenue Authority.

Miscellaneous

The Building Regulations Advisory Committee for Wales.

Coity Walia Board for Conservators.

Comisiynydd y Gymraeg (The Welsh Language Commissioner).

Harbour authorities in Wales (and "harbour authority" has the meaning given in section 313(1) of the Merchant Shipping Act 1995 (c.21)) and port authorities in Wales (and "port authority" means a harbour authority or, if there is no such authority, the person having control of the operation of the port) –

- (a) a ddefnyddir yn gyfan gwbl neu'n bennaf ar gyfer y diwydiant pysgota, ar gyfer hamdden neu ar gyfer cyfathrebu rhwng lleoedd yng Nghymru neu sy'n ofynnol yn gyfan gwbl neu'n bennaf ar gyfer y diwydiant pysgota, ar gyfer hamdden neu ar gyfer cyfathrebu rhwng lleoedd yng Nghymru (neu ar gyfer dau neu ragor o'r dibenion hyn);
- (b) i'r graddau y mae'n gweithredu mewn cysylltiad â diogelu iechyd pobl, anifeiliaid neu blanhigion, lles anifeiliaid neu'r amgylchedd.

Comisiwn Ffiniau a Democratiaeth Leol Cymru.

Bwrdd Cadwraethwyr Towyn Trewan.

- (a) used or required wholly or mainly for the fishing industry, for recreation, or for communication between places in Wales (or for two or more of those purposes);
- (b) so far as acting in connection with protecting human, animal or plant health, animal welfare or the environment.

The Local Democracy and Boundary Commission for Wales.

Towyn Trewan Board for Conservators.

ATODLEN 4
(a gyflwynir gan adran 42)

MATERION EITHRIEDIG: RHAN 5

- 1 Cychwyn neu gynnal achosion gerbron llys ag awdurdodaeth gymwys.
- 2 Camau gweithredu a gymerir mewn perthynas â phenodiadau, diswyddiadau, tâl, disgyblaeth, blwydd-daliadau neu faterion personél eraill.

SCHEDULE 4
(introduced by section 42)

EXCLUDED MATTERS: PART 5

- 1 The commencement or conduct of proceedings before a court of competent jurisdiction.
- 2 Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters.

ATODLEN 5
(a gyflwynir gan adran 75)

DIWYGIADAU CANLYNIADOL

RHAN 1

YMCHWILIADAU

Deddf Safonau Gofal 2000 (p.14)

1 Mewnosoder adran newydd 75ZB—

“75ZB Working jointly with the Public Services Ombudsman for Wales

- (1) This section applies where it appears to the Commissioner that a case which he is—
 - (a) examining in accordance with regulations made under section 74, or
 - (b) considering whether to examine in accordance with such regulations,
 relates to or raises a matter which could be the subject of an investigation by the Public Services Ombudsman for Wales (the ‘connected matter’).
- (2) Where the Commissioner considers it appropriate, he must inform the Ombudsman about the connected matter.
- (3) Where the Commissioner considers that the case also relates to or raises a matter which he is entitled to examine himself (the ‘children matter’), he must also if he considers it appropriate—
 - (a) inform the Ombudsman about the Commissioners proposals for examination of the case, and
 - (b) consult the Ombudsman about those proposals.
- (4) Where the Commissioner and the Ombudsman consider that they are entitled to examine, respectively, the children matter and the connected matter they may—
 - (a) co-operate with each other in the separate examination of each of those matters;
 - (b) act together in the examination of those matters; and
 - (c) prepare and publish a joint report containing their respective conclusions in relation to the matters they have each examined.
- (5) Where the Commissioner considers—
 - (a) that the case is not one which relates to or raises a matter that he is entitled to examine himself, and
 - (b) that it is appropriate to do so,

SCHEDULE 5
(introduced by section 75)

CONSEQUENTIAL AMENDMENTS

PART 1

INVESTIGATIONS

Care Standards Act 2000 (c.14)

1 Insert new section 75ZB—

“75ZB Working jointly with the Public Services Ombudsman for Wales

- (1) This section applies where it appears to the Commissioner that a case which he is—
 - (a) examining in accordance with regulations made under section 74, or
 - (b) considering whether to examine in accordance with such regulations,relates to or raises a matter which could be the subject of an investigation by the Public Services Ombudsman for Wales (the ‘connected matter’).
- (2) Where the Commissioner considers it appropriate, he must inform the Ombudsman about the connected matter.
- (3) Where the Commissioner considers that the case also relates to or raises a matter which he is entitled to examine himself (the ‘children matter’), he must also if he considers it appropriate—
 - (a) inform the Ombudsman about the Commissioners proposals for examination of the case, and
 - (b) consult the Ombudsman about those proposals.
- (4) Where the Commissioner and the Ombudsman consider that they are entitled to examine, respectively, the children matter and the connected matter they may—
 - (a) co-operate with each other in the separate examination of each of those matters;
 - (b) act together in the examination of those matters; and
 - (c) prepare and publish a joint report containing their respective conclusions in relation to the matters they have each examined.
- (5) Where the Commissioner considers—
 - (a) that the case is not one which relates to or raises a matter that he is entitled to examine himself, and
 - (b) that it is appropriate to do so,

he must inform the person whose case it is, or another person interested in it that he thinks fit, about how to secure referral to the Ombudsman of the connected matter.”

2 Mewnoder adran newydd 75ZC –

“75ZC Working jointly with the Public Services Ombudsman for Wales

- (1) This section applies where it appears to the Commissioner that a case which he is –
 - (a) examining in accordance with regulations made under section 74, or
 - (b) considering whether to examine in accordance with such regulations,
 relates to or raises a matter which could be the subject of an investigation by the Public Services Ombudsman for Wales.
- (2) Where the Commissioner considers it appropriate, he must –
 - (a) inform the Ombudsman about the case, and
 - (b) consult him in relation to it.
- (3) Where the Commissioner consults the Ombudsman under this section, he and the Ombudsman may –
 - (a) co-operate with each other in relation to the case;
 - (b) conduct a joint examination into the case;
 - (c) prepare and publish a joint report in relation to the case.”

Deddf Archwilio Cyhoeddus (Cymru) 2004 (p.23)

3 Mewnoder adran newydd 67B –

“67B Protection from defamation claims

For the purposes of the law of defamation, the publication in a communication between the Auditor General for Wales or the Wales Audit Office and the Public Services Ombudsman for Wales of a matter in connection with a joint investigation conducted under section 68(2) of the Public Services Ombudsman (Wales) Act 2019, is absolutely privileged.”

Deddf Archwilio Cyhoeddus (Cymru) 2013 (dccc 3)

4 Mewnoder adran newydd 29A –

“29A Gweithio gydag Ombwdsmon Gwasanaethau Cyhoeddus Cymru

- (1) Pan fo Ombwdsmon Gwasanaethau Cyhoeddus Cymru yn ymgynghori â'r Archwilydd Cyffredinol o dan adran 68 o Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019 (dccc 3), caiff yr Ombwdsmon a'r Archwilydd Cyffredinol –

he must inform the person whose case it is, or another person interested in it that he thinks fit, about how to secure referral to the Ombudsman of the connected matter.”

2 Insert new section 75ZC –

“75ZC Working jointly with the Public Services Ombudsman for Wales

- (1) This section applies where it appears to the Commissioner that a case which he is –
 - (a) examining in accordance with regulations made under section 74, or
 - (b) considering whether to examine in accordance with such regulations,relates to or raises a matter which could be the subject of an investigation by the Public Services Ombudsman for Wales.
- (2) Where the Commissioner considers it appropriate, he must –
 - (a) inform the Ombudsman about the case, and
 - (b) consult him in relation to it.
- (3) Where the Commissioner consults the Ombudsman under this section, he and the Ombudsman may –
 - (a) co-operate with each other in relation to the case;
 - (b) conduct a joint examination into the case;
 - (c) prepare and publish a joint report in relation to the case.”

Public Audit (Wales) Act 2004 (c.23)

3 Insert new section 67B –

“67B Protection from defamation claims

For the purposes of the law of defamation, the publication in a communication between the Auditor General for Wales or the Wales Audit Office and the Public Services Ombudsman for Wales of a matter in connection with a joint investigation conducted under section 68(2) of the Public Services Ombudsman (Wales) Act 2019, is absolutely privileged.”

Public Audit (Wales) Act 2013 (anaw 3)

4 Insert new section 29A –

“29A Working with the Public Services Ombudsman for Wales

- (1) Where the Public Services Ombudsman for Wales consults the Auditor General under section 68 of the Public Services Ombudsman (Wales) Act 2019 (anaw 3), the Ombudsman and the Auditor General may –

- (a) cydweithredu â'i gilydd mewn perthynas â'r mater,
- (b) cynnal ymchwiliad ar y cyd i'r mater, ac
- (c) paratoi a chyhoeddi adroddiad ar y cyd mewn perthynas â'r ymchwiliad."

Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 (dccc 2)

5 Yn adran 25, ar ôl is-adran 1(c), mewnosoder –

“(d) ymchwiliad o dan Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019 (dccc 3) gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru (ac mae cyfeiriadau yn yr adran hon at y Comisiynydd arall neu'r Comisiynwyr yn cynnwys yr Ombwdsmon).”

RHAN 2

AMRYWIOL

Deddf y Comisiynydd Seneddol 1967 (p.13)

6 Yn adran 4 (adrannau etc. sy'n ddarostyngedig i ymchwiliad), yn is-adran (3A), yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”.

7 Yn adran 11A (ymgyngoriadau rhwng y Comisiynydd Seneddol a Chomisiynwyr neu Ombwdsmyn eraill), yn is-adran (1)(b), yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”.

Deddf Llywodraeth Leol 1974 (p.7)

8 Yn adran 34M (ymgyngori â Chomisiynwyr eraill), yn is-adran (1)(d), ar y diwedd mewnosoder “or the PSOWA 2019”.

9 Yn adran 34T (dehongli Rhan 3A), yn is-adran (1), ar ôl y diffiniad o “the PSOWA 2005” mewnosoder –

““the PSOWA 2019” means the Public Services Ombudsman (Wales) Act 2019,”.

Deddf Henebion Hynafol ac Ardaloedd Archaeolegol 1979 (p.46)

10 Yn Atodlen A2 (penderfyniadau ar adolygiadau gan berson a benodir gan Weinidogion Cymru), ym mharagraff 7, yn lle “the Public Services (Ombudsman) Wales Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2005 and the Public Services Ombudsman (Wales) Act 2019”.

Deddf Llywodraeth Leol a Thai 1989 (p.42)

11 Yn adran 5 (dynodiad ac adroddiadau'r swyddog monitro) –

- (a) co-operate with each other in relation to the matter,
- (b) conduct a joint investigation into the matter, and
- (c) prepare and publish a joint report in relation to the investigation."

Well-being of Future Generations (Wales) Act 2015 (anaw 2)

5 In section 25, after subsection 1(c), insert –

- “(d) an investigation under the Public Services Ombudsman (Wales) Act 2019 (anaw 3) by the Public Services Ombudsman for Wales (and references in this section to the other Commissioner or the Commissioners include the Ombudsman).”

PART 2

MISCELLANEOUS

Parliamentary Commissioner Act 1967 (c.13)

6 In section 4 (departments etc. subject to investigation), in subsection (3A), for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”.

7 In section 11A (consultations between Parliamentary Commissioner and other Commissioners or Ombudsmen), in subsection (1)(b), for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”.

Local Government Act 1974 (c.7)

8 In section 34M (consultation with other Commissioners), in subsection (1)(d), at the end insert “or the PSOWA 2019”.

9 In section 34T (interpretation of Part 3A), in subsection (1), after the definition of “the PSOWA 2005” insert –

- ““the PSOWA 2019” means the Public Services Ombudsman (Wales) Act 2019,”.

Ancient Monuments and Archaeological Areas Act 1979 (c.46)

10 In Schedule A2 (decisions on reviews by person appointed by Welsh Ministers), in paragraph 7, for “the Public Services (Ombudsman) Wales Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2005 and the Public Services Ombudsman (Wales) Act 2019”.

Local Government and Housing Act 1989 (c.42)

11 In section 5 (designation and reports of monitoring officer) –

- (a) yn is-adran (2)(c), ar y diwedd mewnosoder “or the Public Services Ombudsman (Wales) Act 2019”;
 - (b) yn is-adran (2AA), ar ôl “the Public Services Ombudsman (Wales) Act 2005” mewnosoder “or the Public Services Ombudsman (Wales) Act 2019”.
- 12 Yn adran 5A (adroddiadau'r swyddog monitro - awdurdodau lleol yn gweithredu trefniadau gweithrediaeth) –
- (a) yn is-adran (3)(c), ar y diwedd mewnosoder “or the Public Services Ombudsman (Wales) Act 2019”;
 - (b) yn is-adran (4A), ar ôl “the Public Services Ombudsman (Wales) Act 2005” mewnosoder “or the Public Services Ombudsman (Wales) Act 2019”.

Deddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 (p.9)

- 13 Yn Atodlen 1B (penderfyniadau ar adolygiadau gan berson a benodir gan Weinidogion Cymru), ym mharagraff 7, ar ôl “the Public Services Ombudsman (Wales) Act 2005” mewnosoder “and the Public Services Ombudsman (Wales) Act 2019”.
- 14 Yn Atodlen 3 (penderfynu ar apelau penodol gan berson a benodir gan Ysgrifennydd Gwladol), ym mharagraff 7(3), ar ôl “the Public Services Ombudsman (Wales) Act 2005” mewnosoder “and the Public Services Ombudsman (Wales) Act 2019”.

Deddf Comisiynwyr y Gwasanaeth Iechyd 1993 (p.46)

- 15 Yn adran 18 (ymgyngori yn ystod ymchwiliadau), yn is-adran (1)(ba), ar y diwedd mewnosoder “or the Public Services Ombudsman (Wales) Act 2019”.

Deddf Tai 1996 (p.52)

- 16 Yn adran 50C (seiliau ar gyfer rhoi hysbysiad), yn is-adran (10), ar y diwedd mewnosoder “or section 23 of the Public Services Ombudsman (Wales) Act 2019”.
- 17 Yn adran 51 (cynlluniau ar gyfer ymchwilio i gwynion), yn is-adran (7), yn lle “section 41 of the Public Services Ombudsman (Wales) Act 2005” rhodder “section 78 of the Public Services Ombudsman (Wales) Act 2019”.

Deddf Rhyddid Gwybodaeth 2000 (p.36)

- 18 Yn adran 76 (datgelu gwybodaeth rhwng Comisiynydd ac ombwdsmyr), yn yr ail golofn o'r rhes sy'n cyfeirio at Ombwdsmon Gwasanaethau Cyhoeddus Cymru yn y tabl yn is-adran (1), ar y diwedd mewnosoder “or Part 3 of the Public Services Ombudsman (Wales) Act 2019”.

Deddf Llywodraeth Leol 2000 (p.22)

- 19 Yn adran 68 (Ombwdsmon Gwasanaethau Cyhoeddus Cymru), yn is-adran (3), yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”.

- (a) in subsection (2)(c), at the end insert “or the Public Services Ombudsman (Wales) Act 2019”;
- (b) in subsection (2AA), after “the Public Services Ombudsman (Wales) Act 2005” insert “or the Public Services Ombudsman (Wales) Act 2019”.

12 In section 5A (reports of monitoring officer – local authorities operating executive arrangements)–

- (a) in subsection (3)(c), at the end insert “or the Public Services Ombudsman (Wales) Act 2019”;
- (b) in subsection (4A), after “the Public Services Ombudsman (Wales) Act 2005” insert “or the Public Services Ombudsman (Wales) Act 2019”.

Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)

13 In Schedule 1B (decisions on reviews by person appointed by Welsh Ministers), in paragraph 7, after “the Public Services Ombudsman (Wales) Act 2005” insert “and the Public Services Ombudsman (Wales) Act 2019”.

14 In Schedule 3 (determination of certain appeals by person appointed by Secretary of State), in paragraph 7(3), after “the Public Services Ombudsman (Wales) Act 2005” insert “and the Public Services Ombudsman (Wales) Act 2019”.

Health Service Commissioners Act 1993 (c.46)

15 In section 18 (consultation during investigations), in subsection (1)(ba), at the end insert “or the Public Services Ombudsman (Wales) Act 2019”.

Housing Act 1996 (c.52)

16 In section 50C (grounds for giving notice), in subsection (10), at the end insert “or section 23 of the Public Services Ombudsman (Wales) Act 2019”.

17 In section 51 (schemes for investigation of complaints), in subsection (7), for “section 41 of the Public Services Ombudsman (Wales) Act 2005” substitute “section 78 of the Public Services Ombudsman (Wales) Act 2019”.

Freedom of Information Act 2000 (c.36)

18 In section 76 (disclosure of information between Commissioner and ombudsmen), in the second column of the row that refers to the Public Services Ombudsman for Wales in the table in subsection (1), at the end insert “or Part 3 of the Public Services Ombudsman (Wales) Act 2019”.

Local Government Act 2000 (c.22)

19 In section 68 (Public Services Ombudsman for Wales), in subsection (3), for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”.

- 20 Yn adran 70 (ymchwiliadau: darpariaethau pellach), yn is-adran (2)(b), yn lle “sections 13 to 15 and Part 2B of the Public Services Ombudsman (Wales) Act 2005” rhodder “sections 18 to 20 and Part 6 of the Public Services Ombudsman (Wales) Act 2019”.

Deddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p.43)

- 21 Yn adran 113 (cwynion ynghylch gofal iechyd), yn is-adran (4)(aa) –
- (a) yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) yn lle “section 2(3)” rhodder “section 3(3)”.

Deddf Gwasanaeth Iechyd Cyhoeddus (Cymru) 2006 (p.42)

- 22 Yn adran 187 (gwasanaethau eirioli annibynnol), in is-adran (3) –
- (a) yn y diffiniad o “health service body”, yn lle “the Public Services Ombudsman (Wales) Act 2005 (p.10)” rhodder “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) yn y diffiniad o “independent palliative care provider”, yn lle “section 34T of the Public Services Ombudsman (Wales) Act 2005” rhodder “section 64 of the Public Services Ombudsman (Wales) Act 2019”;
 - (c) yn y diffiniad o “independent provider”, yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”.

Deddf Comisiynydd Pobl Hŷn (Cymru) 2006 (p.30)

- 23 Yn adran 18 (pŵer i ddatgelu gwybodaeth), yn is-adran (1)(b), ar y diwedd mewnosoder “or section 66 of the Public Services Ombudsman (Wales) Act 2019 (cydweithio â phersonau a bennir)”.

Deddf Llywodraeth Cymru 2006 (p.32)

- 24 Yn Atodlen 8 (Archwilydd Cyffredinol Cymru), ym mharagraff 17(8)(ba), yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”.

Deddf Llywodraeth Leol a Chynnwys y Cyhoedd mewn Iechyd 2007 (p.28)

- 25 Yn adran 223A (gwasanaethau eirioli annibynnol), yn is-adran (10) –
- (a) yn y diffiniad o “health service body”, yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) yn y diffiniad o “independent provider”, yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”;
 - (c) yn y diffiniad o “Welsh health body”, yn lle “the Public Services Ombudsman (Wales) Act 2005” rhodder “the Public Services Ombudsman (Wales) Act 2019”.

- 20 In section 70 (investigations: further provisions), in subsection (2)(b), for “sections 13 to 15 and Part 2B of the Public Services Ombudsman (Wales) Act 2005” substitute “sections 18 to 20 and Part 6 of the Public Services Ombudsman (Wales) Act 2019”.

Health and Social Care (Community Health and Standards) Act 2003 (c.43)

- 21 In section 113 (complaints about health care), in subsection (4)(aa) –
- (a) for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) for “section 2(3)” substitute “section 3(3)”.

National Health Service (Wales) Act 2006 (c.42)

- 22 In section 187 (independent advocacy services), in subsection (3) –
- (a) in the definition of “health service body”, for “the Public Services Ombudsman (Wales) Act 2005 (c.10)” substitute “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) in the definition of “independent palliative care provider”, for “section 34T of the Public Services Ombudsman (Wales) Act 2005” substitute “section 64 of the Public Services Ombudsman (Wales) Act 2019”;
 - (c) in the definition of “independent provider”, for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”.

Commissioner for Older People (Wales) Act 2006 (c.30)

- 23 In section 18 (power to disclose information), in subsection (1)(b), at the end insert “or section 66 of the Public Services Ombudsman (Wales) Act 2019 (working jointly with specified persons)”.

Government of Wales Act 2006 (c.32)

- 24 In Schedule 8 (Auditor General for Wales), in paragraph 17(8)(ba), for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”.

Local Government and Public Involvement in Health Act 2007 (c.28)

- 25 In section 223A (independent advocacy services), in subsection (10) –
- (a) in the definition of “health service body”, for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) in the definition of “independent provider”, for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”;
 - (c) in the definition of “Welsh health body”, for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”.

Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4)

- 26 Yn adran 171 (cwynion ynghylch gwasanaethau cymdeithasol), yn is-adran (3)(a) –
- (a) yn lle “Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005” rhodder “Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019”;
 - (b) yn lle “adran 2(3)” rhodder “adran 3(3)”.
- 27 Yn adran 177 (rhoi ystyriaeth bellach i sylwadau), yn is-adran (4)(a) –
- (a) yn lle “Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005” rhodder “Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019”;
 - (b) yn lle “adran 2(3)” rhodder “adran 3(3)”.

Deddf Diogelu Data 2018 (p.12)

- 28 Yn Atodlen 2 (eithriadau etc o’r GDPR), ym mharagraff 10(2)(c)(iv), ar y diwedd mewnosoder “or Part 3 of the Public Services Ombudsman (Wales) Act 2019”.

Social Services and Well-being (Wales) Act 2014 (anaw 4)

- 26 In section 171 (complaints about social services), in subsection (3)(a) –
- (a) for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) for “section 2(3)” substitute “section 3(3)”.
- 27 In section 177 (further consideration of representations), in subsection (4)(a) –
- (a) for “the Public Services Ombudsman (Wales) Act 2005” substitute “the Public Services Ombudsman (Wales) Act 2019”;
 - (b) for “section 2(3)” substitute “section 3(3)”.

Data Protection Act 2018 (c.12)

- 28 In Schedule 2 (exemptions etc from the GDPR), in paragraph 10(2)(c)(iv), at the end insert “or Part 3 of the Public Services Ombudsman (Wales) Act 2019”.

