



# Public Services Ombudsman (Wales) Act 2019

2019 anaw 3

## PART 3

### INVESTIGATIONS

#### *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.

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*Changes to legislation: Public Services Ombudsman (Wales) Act 2019, Section 18 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (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) 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—

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- (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.

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**Commencement Information**

**II** S. 18 in force at 23.7.2019 by S.I. 2019/1096, reg. 2

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act modified by [2023 asc 3 Sch. 2 para. 6](#)
- Act modified by [2023 asc 3 Sch. 12 para. 7\(2\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 65(7)(f) inserted by [2022 c. 30 Sch. 10 para. 6\(2\)\(a\)](#) (Welsh language text)
- s. 65(7)(f) inserted by [2022 c. 30 Sch. 10 para. 6\(2\)\(b\)](#) (English language text)