



Scottish Public Services Ombudsman Act 2002

2002 asp 11

Investigations by the Ombudsman

5 Matters which may be investigated

- (1) The matters which the Ombudsman is entitled to investigate are—
- (a) in relation to a listed authority other than one to whom paragraph (b), (d) or (e) applies, any action taken by or [^{F1}on] behalf of the authority (other than action consisting of a service failure) in the exercise of administrative functions of the authority,
 - (b) in relation to a health service body or an independent provider, any action taken by or on behalf of the body or provider (other than action consisting of a service failure),
 - (c) in relation to a listed authority other than one to whom paragraph (d) or (e) applies, any service failure,
 - (d) in relation to a family health service provider, any action taken by or on behalf of the provider in connection with any family health services provided by that provider,
 - (e) in relation to a registered social landlord, any action taken by or on behalf of the landlord.
- (2) In subsection (1), “service failure”, in relation to a listed authority, means—
- (a) any failure in a service provided by the authority,
 - (b) any failure of the authority to provide a service which it was a function of the authority to provide.
- (3) The Ombudsman may investigate a matter falling within subsection (1) pursuant to a complaint only if a member of the public claims to have sustained injustice or hardship in consequence of—
- (a) where the matter is such action as is mentioned in paragraph (a), (b) or (e) of that subsection, maladministration in connection with the action in question,
 - (b) where the matter is such failure or other action as is mentioned in paragraph (c) or (d), the failure or other action in question.

Changes to legislation: There are currently no known outstanding effects for the Scottish Public Services Ombudsman Act 2002, Section 5. (See end of Document for details)

- (4) A person making such a claim is referred to in this Act as the “person aggrieved”.
- (5) The Ombudsman may investigate a matter falling within subsection (1) pursuant to a request only if the Ombudsman is satisfied that—
- (a) it has been alleged publicly (whether or not by a person aggrieved) that one or more members of the public have sustained injustice or hardship as mentioned in subsection (3), and
 - (b) the listed authority in question has taken all reasonable steps to deal with the matter to which the allegation relates.
- (6) In this section “member of the public” means any individual or body of persons (whether incorporated or not) other than—
- (a) the Parliamentary corporation,
 - (b) a local authority or other authority or body constituted for purposes of the public service or of local government,
 - (c) an authority or body constituted for the purposes of carrying on under national ownership an industry or undertaking or part of an industry or undertaking,
 - (d) any other authority or body—
 - (i) whose members are appointed by Her Majesty or by any Minister of the Crown or government department or by a member of the Scottish Executive, or
 - (ii) whose revenues consist wholly or mainly of money provided by the Parliament of the United Kingdom or sums payable out of the Scottish Consolidated Fund (whether directly or indirectly).
- (7) This section is subject to sections 6 to 8.

Textual Amendments

- F1** Word in s. 5(1)(a) inserted (1.4.2011) by [Scottish Parliamentary Commissions and Commissioners etc. Act 2010 \(asp 11\)](#), s. 31(5), [sch. 3 para. 1](#) (with s. 31(6), sch. 7)

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