

These notes refer to the Public Services Ombudsman Act (Northern Ireland) 2016 (c.4) which received Royal Assent on 19 February 2016

Public Services Ombudsman Act (Northern Ireland) 2016

EXPLANATORY NOTES

COMMENTARY ON CLAUSES

Part 3: Complaints Handling Procedure

Part 3 establishes the NIPSO as a complaints standards authority modelled on the provisions introduced for the Scottish Ombudsman in the Public Services Reform (Scotland) Act 2010. Sections 34 to 42 introduce provision for the NIPSO to establish principles of complaints handling and issue model complaints handling procedures with which listed authorities' procedures must comply.

Section 34: Meaning of complaints handling procedure

Section 34 defines a “*complaints handling procedure*” for the purposes of the Act as the procedure of a listed authority for examining complaints in respect of matters which the Ombudsman may investigate.

Section 35: Statement of principles

The NIPSO must consult Ministers and others on a draft statement of principles concerning complaints handling procedures and have regard to any representations made. The NIPSO must then lay a draft statement of principles before the Assembly for approval and, subject to that approval, publish it. A similar process applies to any revision of the principles.

Section 36: Obligation for listed authority to have complaints handling procedure

A listed authority must have a complaints handling procedure which complies with the statement of principles.

Section 37: Model complaints handling procedures

The NIPSO may publish model complaints handling procedures (model CHPs) which comply with the statement of principles after consultation with such listed authorities and others as the NIPSO thinks fit. Any revisions must follow a similar process.

Section 38: Obligation for listed authority to comply with model CHPs

Where the NIPSO specifies a listed authority to which a model CHP is relevant then the authority, when notified of this, must ensure that its procedure complies with the model CHP and send a description of its procedure to the NIPSO within 6 months.

Section 39: Declaration of non-compliance of complaints handling procedure

The NIPSO may make a declaration that a procedure doesn't comply with a specified model CHP or with the statement of principles. The NIPSO must give reasons and specify required modifications. A listed authority must re-submit its procedure within 2 months, having taken account of the modifications.

Section 40: Submission of description of complaints handling procedure; general

A listed authority must submit a copy of its complaints handling procedure to the NIPSO within three months of the NIPSO requesting it and such additional information as the NIPSO requests.

Section 41: Application

This section provides that the duties in sections 36 and 38 do not apply where this would be inconsistent with any other statutory provision or where the listed authority lacks the necessary powers to ensure compliance with the duties.

Section 42: Promotion of best practice etc.

The NIPSO must monitor the complaints handling practices of listed authorities and identify trends, promote best practice and encourage cooperation and sharing of best practice. Listed authorities must cooperate with the NIPSO unless they lack the power to do or doing so would be inconsistent with any other statutory provision.