



2016 CHAPTER 4

PART 3

COMPLAINTS HANDLING PROCEDURE

Meaning of complaints handling procedure

34. In this Act “complaints handling procedure” is the procedure of a listed authority for examining complaints in respect of matters which the Ombudsman may investigate.

Statement of principles

35.—(1) The Ombudsman must publish a statement of principles concerning complaints handling procedures of listed authorities.

(2) The first statement of principles is not to be published unless a draft of the statement has been laid before, and approved by a resolution of, the Assembly.

(3) Before laying a draft statement of principles before the Assembly, the Ombudsman must consult—

- (a) Ministers of Northern Ireland departments, and
- (b) such listed authorities and other persons as the Ombudsman thinks fit.

(4) The Ombudsman must, in preparing the draft statement of principles, have regard to any representations made during the consultation.

(5) The statement of principles comes into force when it is published by the Ombudsman.

(6) The Ombudsman may from time to time revise and re-publish the statement of principles.

(7) Where the Ombudsman considers that any revision of the statement of principles is material, subsections (2) to (5) apply to that statement of principles as they do to the first statement of principles.

Obligation for listed authority to have complaints handling procedure

36.—(1) A listed authority must ensure—

- (a) it has a complaints handling procedure in respect of action taken by the listed authority, and
- (b) any such procedure complies with the statement of principles.

(2) A listed authority which is responsible for a complaints handling procedure—

- (a) in relation to, or
- (b) operated by,

another listed authority, must ensure the procedure complies with the statement of principles.

Model complaints handling procedures

37.—(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 and other persons as the Ombudsman thinks fit.

(5) The Ombudsman may from time to time revise and re-publish any model CHP; and in doing so, subsection (4) applies.

(6) Where a model CHP is revised and re-published, section 38 has effect with the following modifications—

- (a) any specification under section 38(1) 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,
- (c) section 38(2)(b) is omitted.

(7) The Ombudsman may withdraw any model CHP at any time; and any specification under section 38(1) in relation to the model CHP ceases to have effect upon that withdrawal.

Obligation for listed authority to comply with model CHPs

38.—(1) The Ombudsman may specify a listed authority to which a model CHP is relevant, and must notify the authority accordingly.

(2) Where a listed authority has been notified in accordance with subsection (1)—

- (a) the listed authority must ensure that there is a complaints handling procedure which complies with the model CHP,
- (b) the authority must submit a description of the complaints handling procedure, having taken account of the relevant model CHP, within 6 months of the specification.

(3) 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.

(4) The Ombudsman may revoke a specification at any time.

Declaration of non-compliance of complaints handling procedure

39.—(1) The Ombudsman may make a declaration of non-compliance in relation to a complaints handling procedure if subsection (2) or (3) applies.

(2) This subsection applies where the Ombudsman—

- (a) has specified that a model CHP is relevant to a listed authority, and
- (b) is of the opinion that a listed authority's complaints handling procedure does not comply with the model CHP.

(3) This subsection applies where the Ombudsman—

- (a) has not specified that a model CHP is relevant to a listed authority, and
- (b) is of the opinion that a listed authority's complaints handling procedure does not comply with the statement of principles.

(4) Where a declaration is made, the Ombudsman—

- (a) must give reasons in writing,
- (b) may specify such modifications to the complaints handling procedure as would result in the declaration being withdrawn.

(5) Where a declaration is made, the listed authority must submit a description of its complaints handling procedure to the Ombudsman, having taken account of the reasons given under subsection (4)(a) and any modifications specified under subsection (4)(b), within 2 months of the declaration.

(6) The Ombudsman may withdraw a declaration at any time if the Ombudsman thinks fit.

Submission of description of complaints handling procedure: general

40.—(1) A listed authority must submit a description of its complaints handling procedure to the Ombudsman if the Ombudsman so directs.

(2) The description must be submitted within three months of being so directed, or such other period as the Ombudsman may direct.

(3) Sections 38(2)(b) and 39(5) are subject to any direction given under this section.

(4) Where a listed authority has submitted a description of 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 reasonably request.

(5) The additional information must be provided within such period as the Ombudsman directs.

Application of other enactments

41. The duties in sections 36 and 38(2)(a) do not apply to the extent that—

- (a) the listed authority lacks necessary powers (other than by virtue of this Act) to ensure compliance with the duties, or
- (b) the duties are inconsistent with any other statutory provision.

Promotion of best practice etc.

42.—(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,
- (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) The duty in subsection (2) does not apply to the extent that—

- (a) the listed authority lacks the necessary powers (other than by virtue of this Act) to ensure compliance with the duty, or
- (b) the duty is inconsistent with any other statutory provision.