
STATUTORY INSTRUMENTS

2003 No. 439

**The Commissioner for Children and Young
People (Northern Ireland) Order 2003**

Formal investigations

Formal investigations

16.—(1) Subject to Article 17, the Commissioner may determine to conduct an investigation under this Article (“a formal investigation”)—

- (a) for the purposes of his functions under Article 9 in relation to a relevant authority other than one listed in Part II of Schedule 1;
- (b) for the purposes of his functions under Article 10; or
- (c) into a complaint under Article 12(1).

(2) In determining whether to conduct or discontinue a formal investigation, the Commissioner shall act in accordance with his own discretion.

(3) Where the Commissioner determines to conduct a formal investigation for the purposes of his functions under Article 9 or 10 he shall—

- (a) produce terms of reference for the investigation;
- (b) send notice of the proposed investigation and a copy of the terms of reference to—
 - (i) the relevant authority concerned; and
 - (ii) in the case of an investigation for the purposes of his functions under Article 10, the particular child or young person mentioned in that Article;
- (c) afford to the relevant authority concerned an opportunity to comment on the matters being investigated and to give oral or other evidence respecting those matters.

(4) Where the Commissioner determines to conduct a formal investigation into a complaint under Article 12(1) he shall—

- (a) give to—
 - (i) the relevant authority concerned; and
 - (ii) any other person who is alleged in the complaint to have taken or authorised the action complained of or who is otherwise involved in allegations made in the complaint,

information as to the substance of the allegations made in the complaint so far as they relate to that authority or (as the case may be) to that person; and

- (b) afford to every such authority or person an opportunity to comment on any allegations made in the complaint and to give oral or other evidence respecting those matters.

(5) Every formal investigation shall be conducted in private.

(6) Except as otherwise provided by this Order, the procedure for conducting a formal investigation shall be such as the Commissioner considers appropriate in the circumstances of

the case; and, in particular, it is for the Commissioner to determine whether any person may be represented by counsel or solicitor or otherwise in the investigation.

(7) The Commissioner may for the purposes of a formal investigation obtain information from such persons and in such manner, and make such enquiries, as he thinks fit.

(8) Subject to paragraphs (9) and (10), in conducting a formal investigation the Commissioner shall not be obliged to hold any hearing, and no person shall be entitled as of right to be heard by the Commissioner.

(9) If at any time during the course of a formal investigation it appears to the Commissioner that there may be grounds for making any report or recommendation that may adversely affect any relevant authority or other person, the Commissioner shall afford to that authority or person—

- (a) an opportunity to give oral or other evidence; and
- (b) an opportunity of testing by cross-examination any evidence which may affect that authority or person.

(10) Where the opportunities mentioned in paragraph (9) are given to a relevant authority or other person, then—

- (a) in any formal investigation for the purposes of the Commissioner's functions under Article 10, the same opportunities shall be given to the child or young person mentioned in that Article; and
- (b) in any formal investigation into a complaint under Article 12(1), the same opportunities shall be given to the complainant.

(11) The Commissioner may, if he thinks fit, pay to any person (including a complainant) who attends or supplies information for the purposes of a formal investigation—

- (a) sums in respect of expenses properly incurred by him;
- (b) allowances by way of compensation for the loss of his time,

in accordance with such scales and subject to such conditions as the Office may determine.

(12) A formal investigation shall not affect—

- (a) any action taken by a relevant authority or by any department or Minister with respect to that authority; or
- (b) any power or duty of that authority, department or Minister to take further action with respect to any matters subject to the investigation.

Modifications etc. (not altering text)

- C1** [Art. 16\(11\)](#): transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), [art. 1\(2\)](#), [Sch. 1 Pt. 2](#) (with [art. 9\(2\)](#))

Changes to legislation:

There are currently no known outstanding effects for the The Commissioner for Children and Young People (Northern Ireland) Order 2003, Section 16.