



Health Service Commissioners (Amendment) Act 1996

1996 CHAPTER 5

Other matters

5 Availability of other remedy

In section 4 of the 1993 Act (availability of other remedy) after subsection (3) there shall be inserted—

“(4) Subsection (5) applies where—

- (a) action by reference to which a complaint is made under section 3(1), (1A) or (1C) is action by reference to which a complaint can be made under a procedure operated by a health service body, a family health service provider or an independent provider, and
- (b) subsection (1), (2) or (3) does not apply as regards the action.

(5) In such a case a Commissioner shall not conduct an investigation in respect of the action unless he is satisfied that—

- (a) the other procedure has been invoked and exhausted, or
- (b) in the particular circumstances it is not reasonable to expect that procedure to be invoked or (as the case may be) exhausted.

(6) Section 1(2) of the Hospital Complaints Procedure Act 1985 (which provides that no right of appeal etc. conferred under section 1 of that Act is to preclude an investigation under this Act) shall have effect subject to subsection (5) above.”