



# Public Services Ombudsman (Wales) Act 2005

## 2005 CHAPTER 10

### PART 2

#### INVESTIGATION OF COMPLAINTS [F1RELATING TO LISTED AUTHORITIES]

##### *Miscellaneous*

### **31 Power to issue guidance**

- (1) The Ombudsman may issue to one or more listed authorities such guidance about good administrative practice as he thinks appropriate.
- (2) Before issuing guidance under this section the Ombudsman must consult such listed authorities, or persons appearing to him to represent them, as he thinks appropriate.
- (3) If guidance issued under this section is applicable to a listed authority, the authority must have regard to the guidance in discharging its functions.
- (4) In conducting an investigation in respect of a listed authority, the Ombudsman may have regard to the extent to which the authority has complied with any guidance issued under this section which is applicable to the authority.
- (5) The Ombudsman may publish any guidance issued under this section in any manner that he thinks appropriate, including in particular by putting the guidance in an annual or extraordinary report.
- (6) Guidance issued under this section may contain different provision for different purposes.
- (7) Subject to subsection (8), guidance issued under this section must not—
  - (a) mention the name of any person other than the listed authorities to which it is applicable or a listed authority in respect of which a complaint has been made or referred to the Ombudsman under this Act, or

*Changes to legislation:* There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Cross Heading: Miscellaneous. (See end of Document for details)

- (b) include any particulars which, in the opinion of the Ombudsman, are likely to identify any such person and which, in his opinion, can be omitted without impairing the effectiveness of the guidance.
- (8) Subsection (7) does not apply if, after taking account of the interests of any persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in the guidance.

### <sup>F1</sup>32 Protection from defamation claims

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#### Textual Amendments

- F1** S. 32 omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 26](#); S.I. 2014/2718, art. 2(b)

### 33 Publicity for complaints procedures

- (1) A listed authority must take reasonable steps to provide information to the public about—
  - (a) the right to make a complaint to the Ombudsman in respect of the authority,
  - (b) the right of the authority to refer a complaint to the Ombudsman,
  - (c) the time limits for making and referring complaints to the Ombudsman, and
  - (d) how to contact the Ombudsman.
- (2) In particular, information about the matters specified in subsection (1) must be included in or provided with—
  - (a) any document published by the listed authority which contains information about—
    - (i) relevant services provided by the authority to members of the public,
    - or
    - (ii) the procedures of the authority for dealing with complaints, and
  - (b) any document issued by the listed authority in responding to a complaint made to it by a person who might be entitled to make the complaint to the Ombudsman.
- (3) The Ombudsman may issue guidance to listed authorities with respect to the discharge of their functions under this section.
- (4) A listed authority must have regard to guidance given by the Ombudsman under subsection (3).
- (5) “Relevant service” has the meaning given in section 7.
- [<sup>F2</sup>(8) This section applies to a care home provider (see section 34R), a domiciliary care provider (see section 34S) or an independent palliative care provider (see section 34T) as it applies to a listed authority.
- (9) But in its application in accordance with subsection (8), the reference to “relevant services” in subsection (2)(a)(i) is to be read as a reference to the matters to which Part 2A applies (see section 34A).]

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**Changes to legislation:** There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Cross Heading: Miscellaneous. (See end of Document for details)

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#### Textual Amendments

- F2** S. 33(8)(9) inserted (6.4.2016) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 59**; S.I. 2016/467, art. 2

### 34 Compensation for the person aggrieved

- (1) This section applies if—
  - (a) a complaint in respect of a matter is made or referred to the Ombudsman, and
  - (b) the complaint is one which the Ombudsman has power to investigate under section 2.
- (2) The listed authority in respect of which the complaint is made may make a payment to, or provide any other benefit for, the person aggrieved in respect of the matter which is the subject of the complaint.
- (3) It is immaterial for the purposes of this section that the Ombudsman has decided not to investigate the complaint, has discontinued an investigation of the complaint, has not yet completed an investigation of the complaint or has not upheld the complaint.
- (4) The power in subsection (2) does not affect any other power of the listed authority to make the payment or provide the benefit.

**Changes to legislation:**

There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Cross Heading: Miscellaneous.