



Regulation of Care (Scotland) Act 2001

2001 asp 8

PART 5

PROVISIONS COMMON TO COMMISSION AND COUNCIL

Complaints, inquiries and maladministration

64 Complaints procedure

- (1) [^{F1}The Council shall] establish a procedure by which a person, or someone acting on a person's behalf, may make complaints (or other representations) in relation to the exercise by the [^{F2}Council] of, or failure by it to exercise, any of its functions under this Act in respect of the person.
- (2) Before establishing a procedure under subsection (1) above, the [^{F3}Council] shall consult the Scottish [^{F4}Public Services Ombudsman] on its proposals for such a procedure ^{F5}....
- (3) The [^{F6}Council] shall keep the procedure so established by it under review and shall vary that procedure whenever, [^{F7}after such consultation], it considers it appropriate to do so.
- (4) The [^{F8}Council] shall give such publicity to that procedure (including that procedure as varied under subsection (3) above) as it considers appropriate and shall give a copy of the procedure to any person who requests it.

Textual Amendments

- F1** Words in s. 64(1) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 14 para. 9\(a\)\(i\)](#); S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F2** Word in s. 64(1) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 14 para. 9\(a\)\(ii\)](#); S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F3** Word in s. 64(2) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), [sch. 14 para. 9\(b\)](#); S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

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- F4** Words in s. 64(2) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 11(a)(i)**; S.S.I. 2010/221, art. 3(2), sch.
- F5** Words in s. 64(2) repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 11(a)(ii)**; S.S.I. 2010/221, art. 3(2), sch.
- F6** Word in s. 64(3) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 9(c)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F7** Words in s. 64(3) substituted (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 15 para. 11(b)**; S.S.I. 2010/221, art. 3(2), sch.
- F8** Word in s. 64(4) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 9(d)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

65 Inquiries

- (1) The Scottish Ministers may cause an inquiry to be held into any matter connected with—
 - (a) the exercise ^{F9}... by the Council of its functions; [^{F10}or]
 - ^{F10}(b)
- ^{F11}(2)
- (3) The Council may cause an inquiry to be held into any matter connected with the exercise of its functions.
- (4) Before there is commenced an inquiry—
 - (a) under subsection (1) above, the Scottish Ministers;
 - ^{F12}(b)
 - (c) under subsection (3) above, the Council,
 may direct that it be held in private; but where no such direction has been given the person holding the inquiry may if that person thinks fit hold it, or any part of it, in private.
- (5) Subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 (c.65) (provisions relating to local inquiries) shall apply in relation to an inquiry under subsection (1) above as they apply in relation to a local inquiry under that section.
- (6) Subsections (2) to (6) of that section shall apply in relation to an inquiry under subsection ^{F13}... (3) above as they apply in relation to such a local inquiry; except that, for the purposes of an inquiry under—
 - ^{F14}(a)
 - (b) subsection (3) above, any such reference in those subsections shall be construed as a reference to the Council or, as the case may be, to an officer of the Council.
- (7) The expenses incurred ^{F15}... by the Council in relation to an inquiry under subsection [^{F16}(3)] above (including such reasonable sum as the [^{F17}Council] may determine for the services of any of its officers engaged in the inquiry) shall, unless [^{F18}the Council] is of the opinion that those expenses should be defrayed in whole or in part by it, be paid by such party to the inquiry as it may direct; and the [^{F19}Council] may certify the amount of the expenses so incurred.

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- (8) Any sum certified under subsection (7) above and to be defrayed in accordance with a direction under that subsection shall be a debt due by the party directed and shall be recoverable accordingly.
- (9) In relation to an inquiry under—
- ^{F20}(a)
 - (b) subsection (3) above, the Council,
- may make an award as to the expenses of the parties and as to the parties by whom such expenses shall be paid.

Textual Amendments

- F9** Words in s. 65(1)(a) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(a)(i)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F10** S. 65(1)(b) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(a)(ii)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F11** S. 65(2) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(b)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F12** S. 65(4)(b) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(c)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F13** Words in s. 65(6) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(d)(i)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F14** S. 65(6)(a) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(d)(ii)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F15** Words in s. 65(7) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(e)(i)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F16** Word in s. 65(7) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(e)(ii)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F17** Word in s. 65(7) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(e)(iii)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F18** Words in s. 65(7) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(e)(iv)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F19** Word in s. 65(7) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(e)(v)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F20** S. 65(9)(a) repealed (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 10(f)**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

Changes to legislation: There are currently no known outstanding effects for the Regulation of Care (Scotland) Act 2001, Cross Heading: Complaints, inquiries and maladministration. (See end of Document for details)

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Textual Amendments

F21 S. 66 repealed (23.10.2002) by [2002 asp 11](#), s. 25, [Sch. 6 para. 24](#); S.S.I. 2002/467, [art. 2](#)

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