

SCOTTISH PUBLIC SERVICES OMBUDSMAN ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Miscellaneous and general

Section 19 – Confidentiality of information

65. This section requires information provided to the Ombudsman to be kept confidential except in certain limited circumstances.
66. *Subsection (1)* provides that information obtained by the Ombudsman or any of his/her advisers in connection with any matter in respect of which a complaint or request has been made (relevant information) must not be disclosed.
67. *Subsection (2)* provides for exceptions to subsection (1) whereby relevant information may be disclosed for:
- the purposes of either considering complaints or requests, undertaking an investigation, reporting on an investigation, or making a statement of reasons for not undertaking an investigation;
 - any proceedings for, or preliminary inquiries into, offences alleged under the Official Secrets Acts or in respect of perjury alleged to have been committed in the course of any investigation;
 - the purposes of proceedings under section 14 of the Act relating to a person's obstruction of the Ombudsman's performance of his/her functions or a person's action or failure to act in relation to an investigation.
68. The section also makes provision as to when relevant information may be disclosed in the interests of the health and safety of patients, exempts the Ombudsman or the Ombudsman's advisers from providing relevant information in proceedings other than those detailed in subsection (2), and that relevant information must not be disclosed when its disclosure is deemed to be against the public interest.
69. *Subsection (8)* provides that information obtained by the Ombudsman from the UK Information Commissioner is to be treated for the purposes of subsection (1) as obtained in connection with any matter in respect of which a complaint or request has been made.
70. *Subsection (9)* modifies the effect of subsection (2)(a)(i) in relation to information obtained by the Ombudsman from the UK Information Commissioner, so that such information may be disclosed for the purposes of any complaint or request or the investigation of any matter.