



# Welsh Language (Wales) Measure 2011

## 2011 nawm 1

### PART 5

#### ENFORCEMENT OF STANDARDS

#### CHAPTER 3

#### NON-COMPLIANCE WITH STANDARDS: COMPLAINTS BY PERSONS AFFECTED

#### **93 Consideration of whether to investigate if conduct complained about**

- (1) The Commissioner must consider whether to carry out an investigation under section 71 of whether the conduct of a person (D) (“the alleged conduct”) amounts to a failure to comply with a standard if—
  - (a) a person (P) makes a complaint to the Commissioner about that conduct, and
  - (b) that complaint is valid.
- (2) A complaint made by P to the Commissioner is a valid complaint if the conditions in subsections (3) to (6) are met.
- (3) P must be—
  - (a) a person who appears to the Commissioner to have been directly affected by the alleged conduct, or
  - (b) a person acting on behalf of such a person.
- (4) The complaint must be made in writing, unless P’s personal circumstances are such that it would not be reasonable for P to make the complaint in writing.
- (5) The complaint must give an address at which the Commissioner may contact P (whether the address is postal, electronic or of another description).
- (6) The complaint must identify—
  - (a) D, and
  - (b) the alleged conduct.

- (7) But, if those conditions are met, the Commissioner need not consider whether to carry out the investigation of the alleged conduct if—
- (a) the complaint is made more than 1 year after the affected person became aware of the alleged conduct,
  - (b) the Commissioner considers that the complaint is frivolous or vexatious or is one that has already been made repeatedly, or
  - (c) the complaint is withdrawn.
- (8) This section does not prevent the Commissioner from considering whether to carry out the investigation of the alleged conduct if—
- (a) any of the conditions in subsections (3) to (6) is not met, or
  - (b) subsection (7) applies.
- (9) If a complaint is made under this section by a person acting on behalf of another person, in the provisions of this Measure which relate to appeals or further appeals connected with the complaint, a reference to the person who made the complaint (including a case where that person is referred to as “P”) is to be read as a reference to the other person (and not as a reference to the person who made the complaint).
- (10) In this section “affected person” means the person who appears to the Commissioner to have been directly affected by the alleged conduct.

#### **94 Notification if no investigation etc**

- (1) This section applies in any of the following cases.
- (2) The first case is where—
- (a) the duty under section 93 to consider whether to carry out an investigation of the alleged conduct applies, and
  - (b) the Commissioner decides not to carry out an investigation.
- (3) The second case is where—
- (a) section 93(7) applies in relation to a complaint, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct.
- (4) The third case is where the Commissioner decides that the duty under section 93 to consider whether to carry out an investigation of the alleged conduct does not apply.
- (5) The fourth case is where—
- (a) the duty under section 93 to consider whether to carry out an investigation of the alleged conduct does not apply, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct under section 93(8) or, having considered whether to carry out an investigation under that section, decides not to carry out the investigation.
- (6) The fifth case is where—
- (a) the Commissioner decides to carry out an investigation, and
  - (b) the Commissioner then decides to discontinue the investigation.
- (7) The Commissioner must notify P of—
- (a) the decision mentioned in subsection (2)(b), (3)(b), (4), (5)(b) or (6)(b), and

- (b) the reasons for that decision, and
- (c) the right of review under section 103.