



## 2016 CHAPTER 4

### **PART 4**

#### MISCELLANEOUS AND GENERAL

##### *Court proceedings*

##### **Application to county court by person aggrieved**

**52.**—(1) This section applies where, following a complaint under section 5 or 6, the Ombudsman reports that—

- (a) the requirements of section 5 or 6 (as the case may be) have been satisfied, and
- (b) the person aggrieved has sustained an injustice.

(2) The person aggrieved may apply to the county court for relief under section 53.

(3) The application must be made in accordance with county court rules and upon notice to the listed authority.

##### **Relief granted by county court**

**53.**—(1) Following an application under section 52, the county court may award damages to be paid by the listed authority concerned to the person aggrieved.

(2) Damages must be of an amount which the court thinks just in all the circumstances to compensate the person for any loss or injury which the person may have suffered on account of—

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*Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman Act (Northern Ireland) 2016, Cross Heading: Court proceedings. (See end of Document for details)*

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- (a) expenses reasonably incurred by the person in connection with the injustice, and
  - (b) the person's loss of opportunity of acquiring the benefit which the person might reasonably be expected to have had but for the injustice.
- (3) In calculating the amount of damages to be awarded by virtue of subsection (2)(b) the court must apply the same rule concerning the duty of a person to mitigate loss as applies in relation to damages recoverable at common law.
- (4) Where it appears to the court that justice could only be done to the person by directing the listed authority to take, or refrain from taking, any particular action, the court may, if satisfied that in all the circumstances it is reasonable to do so, make an order containing such a direction.
- (5) Where an order under subsection (4) is duly served on the listed authority, disobedience to that order by that authority or any member or officer of that authority may be treated as contempt of court to which Article 55 of the County Courts (Northern Ireland) Order 1980 applies.
- (6) Without prejudice to Articles 61 and 65 of that Order, the listed authority or the person aggrieved may, if dissatisfied with an order of the court under this section, appeal from that order as if it had been made in the exercise of the jurisdiction conferred by Part 3 of that Order and the appeal were brought under Article 60 of that Order.
- (7) The powers conferred on the court by this section may be exercised notwithstanding anything to the contrary in any statutory provision which imposes limitations on its jurisdiction by reference to an amount claimed or to the value of property.

#### **Application to High Court by Attorney General**

**54.—**(1) This section applies where the Ombudsman is of the opinion, following an investigation, that—

- (a) there is systemic maladministration in a listed authority, and
  - (b) that systemic maladministration is likely to continue unless the High Court grants relief under section 55.
- (2) This section also applies where the Ombudsman is of the opinion, following an investigation carried out in accordance with section 15(2)(b), 16(2)(b), or 17(2)(b), that—
- (a) systemic injustice has been sustained as a result of the exercise of professional judgement, and
  - (b) that systemic injustice is likely to continue unless the High Court grants relief under section 55.

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(3) The Attorney General for Northern Ireland may, at the request of the Ombudsman, apply to the High Court for relief under section 55.

### **Relief granted by High Court**

**55.**—(1) This section applies where the High Court is satisfied as to the matters mentioned in section 54(1) or (2).

(2) The court may grant such mandatory or other injunction or such declaration or other relief as appears to it to be proper in all the circumstances.

(3) Without prejudice to the generality of the foregoing, the court may grant an injunction restraining the listed authority, or any member or officer of the listed authority, from engaging in, or permitting others to engage in—

- (a) the systemic maladministration (in the case of an application in respect of section 54(1)), or
- (b) the professional judgement causing the systemic injustice (in the case of an application in respect of section 54(2)).

(4) The court may, in determining whether the matters mentioned in section 54(1) or (2) are satisfied, take into account not only the matters investigated by the Ombudsman under section 5, 6 or 8, but also any other matters which appear to the court to be relevant.

### **Court proceedings and privileged information**

**56** Documents or evidence obtained by the Ombudsman under section 31(1) by virtue of section 32(2) for the purposes of an investigation are not admissible for the purposes of any proceedings under sections 52 to 55.

### **Supplementary provision in relation to court proceedings**

**57.**—(1) For the purposes of any proceedings under sections 52 to 55—

- (a) a report of the Ombudsman relating to an investigation is to be accepted as evidence of the facts stated within it, unless the contrary is proven, and
- (b) the authenticity of the report may be proved by production of a certificate of its authenticity signed by the Ombudsman.

(2) Nothing in sections 52 to 55 affects the right to bring any proceedings, whether civil or criminal, which may be brought otherwise than under those sections.

**Changes to legislation:**

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