



Public Services Ombudsman (Wales) Act 2005

2005 CHAPTER 10

PART 2

INVESTIGATION OF COMPLAINTS [F1RELATING TO LISTED AUTHORITIES]

Textual Amendments

- F1** Words in Pt. 2 heading inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4), s. 199(2), [Sch. 3 para. 14](#); S.I. 2014/2718, art. 2(b)

Modifications etc. (not altering text)

- C1** Pt. 2 applied (with modifications) (22.11.2012) by [The Police and Crime Panels \(Application of Local Authority Enactments\) Regulations 2012](#) (S.I. 2012/2734), regs. 1(1), 3-6, [Sch. Pt. 3](#)
- C2** Pt. 2 applied (11.10.2005) by [The Public Services Ombudsman \(Wales\) Act 2005 \(Commencement No. 1 and Transitional Provisions and Savings\) Order 2005](#) (S.I. 2005/2800), [art. 6](#)

Power of investigation

2 Power of investigation

- (1) The Ombudsman may investigate a complaint [F2under this Part] in respect of a matter if—
- the complaint has been duly made or referred to him, and
 - the matter is one which he is entitled to investigate under sections 7 to 11.
- (2) A complaint is “duly made” to the Ombudsman if (but only if)—
- it is made by a person who is entitled under section 4 to make the complaint to the Ombudsman, and
 - the requirements of section 5 are met in respect of it.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

- (3) A complaint is “duly referred” to the Ombudsman if (but only if)—
 - (a) it is referred to him by a listed authority, and
 - (b) the requirements of section 6 are met in respect of it.
- (4) The Ombudsman may investigate a complaint [^{F3}under this Part] in respect of a matter even if the requirements of section 5(1) or (as the case may be) section 6(1)(b) or (d) are not met in respect of the complaint, if—
 - (a) the matter is one which he is entitled to investigate under sections 7 to 11, and
 - (b) he thinks it reasonable to do so.
- (5) It is for the Ombudsman to decide whether to begin, continue or discontinue an investigation.
- (6) The Ombudsman may take any action which he thinks may assist in making a decision under subsection (5).
- (7) The Ombudsman may begin or continue an investigation into a complaint even if the complaint, or the referral of the complaint, has been withdrawn.

Textual Amendments

- F2** Words in s. 2(1) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 15\(a\)](#); S.I. 2014/2718, art. 2(b)
- F3** Words in s. 2(4) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 15\(b\)](#); S.I. 2014/2718, art. 2(b)

3 Alternative resolution of complaints

- (1) The Ombudsman may take any action he thinks appropriate with a view to resolving a complaint which he has power to investigate under section 2.
- (2) The Ombudsman may take action under this section in addition to or instead of conducting an investigation into the complaint.
- (3) Any action under this section must be taken in private.

Complaints

4 Who can complain

- (1) The persons entitled to make a complaint to the Ombudsman [^{F4}under this Part] are—
 - (a) a member of the public (in this [^{F5}Part] referred to as “the person aggrieved”) who claims or claimed to have sustained injustice or hardship in consequence of a matter which the Ombudsman is entitled to investigate under sections 7 to 11;
 - (b) a person authorised by the person aggrieved to act on his behalf;
 - (c) if the person aggrieved is not capable of authorising a person to act on his behalf (for example because he has died), a person who appears to the Ombudsman to be appropriate to act on behalf of the person aggrieved.
- (2) “Member of the public” means any person other than a listed authority acting in its capacity as such.

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Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

- (3) It is for the Ombudsman to determine any question of whether a person is entitled under this section to make a complaint to him.

Textual Amendments

- F4** Words in s. 4(1) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 16\(a\)](#); S.I. 2014/2718, art. 2(b)
- F5** Word in s. 4(1)(a) substituted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 16\(b\)](#); S.I. 2014/2718, art. 2(b)

5 Requirements: complaints made to the Ombudsman

- (1) The requirements mentioned in section 2(2)(b) are that—
- the complaint must be made in writing;
 - the complaint must be made to the Ombudsman before the end of the period of one year starting on the day on which the person aggrieved first has notice of the matters alleged in the complaint.
- (2) It is for the Ombudsman to determine any question of whether the requirements of subsection (1) are met in respect of a complaint.

6 Requirements: complaints referred to the Ombudsman

- (1) The requirements mentioned in section 2(3)(b) are that—
- the complaint must have been made to the listed authority by a person who would have been entitled under section 4 to make the complaint to the Ombudsman;
 - the complaint must have been made to the listed authority before the end of the period of one year starting on the day on which the person aggrieved first had notice of the matters alleged in the complaint;
 - the complaint must be referred to the Ombudsman in writing;
 - the complaint must be referred to the Ombudsman before the end of the period of one year starting on the day on which the complaint was made to the listed authority.
- (2) It is for the Ombudsman to determine any question of whether the requirements of subsection (1) are met in respect of a complaint.

Matters which may be investigated

7 Matters which may be investigated

- (1) The matters which the Ombudsman is entitled to investigate [^{F6}under this Part] are—
- alleged maladministration by a listed authority in connection with relevant action;
 - an alleged failure in a relevant service provided by a listed authority;
 - an alleged failure by a listed authority to provide a relevant service.
- (2) Subsection (1) is subject to sections 8 to 11.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

(3) Relevant action is—

- (a) in the case of a listed authority which is a family health service provider in Wales or an independent provider in Wales, action taken by the authority in connection with the provision of a relevant service;
- (b) in the case of a listed authority which is a social landlord in Wales or a Welsh health service body other than the ^{F7}Welsh Ministers], action taken by the authority in the discharge of any of its functions;
- (c) in the case of a listed authority which is a person with functions conferred by regulations made under section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), action taken by the authority in the discharge of any of those functions;
- (d) in the case of a listed authority which is a listed authority by virtue of an order under section 28(2) adding it to Schedule 3, action taken by the authority in the discharge of any of its specified functions;
- (e) in any other case, action taken by the authority in the discharge of any of its administrative functions.

(4) A relevant service is—

- (a) in the case of a listed authority which is a family health service provider in Wales, any of the family health services which the authority had, at the time of the action which is the subject of the complaint, entered into a contract, undertaken, or made arrangements, to provide;
- (b) in the case of a listed authority which is an independent provider in Wales, any service which the authority had, at that time, made arrangements with a Welsh health service body or a family health service provider in Wales to provide;
- (c) in the case of a listed authority falling within subsection (3)(c), any service which it was, at that time, the authority's function to provide in the discharge of any of the functions mentioned in that paragraph;
- (d) in the case of a listed authority falling within subsection (3)(d), any service which it was, at that time, the authority's function to provide in the discharge of any of its specified functions;
- (e) in any other case, any service which it was, at that time, the authority's function to provide.

(5) For the purposes of subsections (3)(d) and (4)(d), a listed authority's specified functions are the functions specified in relation to the authority in an order under section 28(2) as falling within the Ombudsman's remit.

(6) An administrative function which may be discharged by a person who is a member of the administrative staff of a relevant tribunal is to be treated as an administrative function of a listed authority for the purposes of subsection (3) if—

- (a) the person was appointed by the authority, or
- (b) the person was appointed with the consent of the authority (whether as to remuneration and other terms and conditions of service or otherwise).

Textual Amendments

- F6** Words in s. 7(1) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 17](#); S.I. 2014/2718, art. 2(b)
- F7** Words in s. 7(3)(b) substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 68](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the

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2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

8 Exclusion: matters not relating to Wales

- (1) The Ombudsman may not investigate a matter arising in connection with the discharge by a listed authority of any of the authority's functions otherwise than in relation to Wales.
- (2) Subsection (1) does not apply in relation to the [^{F8}Welsh Assembly Government].
- (3) To the extent that a function of a listed authority is discharged in relation to the Welsh language or any other aspect of Welsh culture, it is to be regarded for the purposes of subsection (1) as discharged in relation to Wales.

Textual Amendments

- F8** Words in s. 8(2) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 69](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

9 Exclusion: other remedies

- (1) The Ombudsman may not investigate a matter [^{F9}under this Part] if the person aggrieved has or had—
 - (a) a right of appeal, reference or review to or before a tribunal constituted under an enactment or by virtue of Her Majesty's prerogative,
 - (b) a right of appeal to a Minister of the Crown or the [^{F10}, the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], or
 - (c) a remedy by way of proceedings in a court of law.
- (2) But subsection (1) does not apply if the Ombudsman is satisfied that, in the particular circumstances, it is not reasonable to expect the person to resort, or to have resorted, to the right or remedy.
- (3) The Ombudsman may investigate a matter [^{F11}under this Part] only if he is satisfied that—
 - (a) the matter has been brought to the attention of the listed authority to which it relates by or on behalf of the person aggrieved, and
 - (b) the authority has been given a reasonable opportunity to investigate and respond to it.
- (4) But subsection (3) does not prevent the Ombudsman from investigating a matter if he is satisfied that it is reasonable in the particular circumstances for him to investigate the matter despite the fact that the requirements of that subsection have not been met.

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Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

Textual Amendments

- F9** Words in s. 9(1) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 18\(a\)](#); S.I. 2014/2718, art. 2(b)
- F10** Words in s. 9(1)(b) substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 70](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F11** Words in s. 9(3) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 18\(b\)](#); S.I. 2014/2718, art. 2(b)

10 Other excluded matters

- (1) The Ombudsman may not investigate [^{F12}under this Part] a matter specified in Schedule 2.
- (2) The [^{F13}Welsh Ministers] may by order amend Schedule 2 by—
- (a) adding an entry;
 - (b) removing an entry;
 - (c) changing an entry.
- (3) Before making an order under subsection (2), the [^{F13}Welsh Ministers] must consult the Ombudsman.
- [^{F14}(3A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.]
- (4) Subsection (1) does not prevent the Ombudsman from investigating action of a listed authority in operating a procedure established to examine complaints or review decisions.

Textual Amendments

- F12** Words in s. 10(1) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 19](#); S.I. 2014/2718, art. 2(b)
- F13** Words in s. 10 substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 71\(2\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F14** S. 10(3A) inserted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 71\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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11 Decisions taken without maladministration

- (1) The Ombudsman may not question the merits of a decision taken without maladministration by a listed authority in the exercise of a discretion.
- (2) Subsection (1) does not apply to the merits of a decision to the extent that the decision was taken in consequence of the exercise of professional judgement which appears to the Ombudsman to be exercisable in connection with the provision of health or social care.

Decisions not to investigate etc.

12 Decisions not to investigate or to discontinue investigation

- (1) If the Ombudsman decides under section 2(5)—
 - (a) not to begin an investigation into a complaint in respect of a listed authority, or
 - (b) to discontinue such an investigation,he must prepare a statement of the reasons for his decision.
- (2) The Ombudsman must send a copy of the statement to—
 - (a) the person who made the complaint, and
 - (b) the listed authority.
- (3) The Ombudsman may send a copy of the statement to any other persons he thinks appropriate.
- (4) The Ombudsman may publish a statement under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.
- (5) The Ombudsman may supply a copy of a statement published under subsection (4), or any part of such a statement, to any person who requests it.
- (6) The Ombudsman may charge a reasonable fee for supplying a copy of a statement, or part of a statement, under subsection (5).
- (7) If a statement prepared under subsection (1)—
 - (a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or
 - (b) includes 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 statement,that information must not be included in a version of the statement sent to a person under subsection (2) or (3) or published under subsection (4), subject to subsection (8).
- (8) Subsection (7) does not apply in relation to a version of the statement if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the statement.
- (9) ^{F15}

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Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

Textual Amendments

F15 S. 12(9) repealed by [Government of Wales Act 2006 \(c. 32\)](#), ss. 160(1), 163, Sch. 10 para. 72, [Sch. 12](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

Investigation procedure and evidence

13 Investigation procedure

- (1) If the Ombudsman conducts an investigation into a complaint in respect of a listed authority, he must—
 - (a) give the listed authority an opportunity to comment on any allegations contained in the complaint;
 - (b) give any other person who is alleged in the complaint to have taken or authorised the action complained of an opportunity to comment on any allegations relating to that person.
- (2) An investigation must be conducted in private.
- (3) Subject to subsections (1) and (2), the procedure for conducting an investigation is to be such as the Ombudsman thinks appropriate in the circumstances of the case.
- (4) In particular, the Ombudsman may—
 - (a) make such inquiries as he thinks appropriate;
 - (b) determine whether any person may be represented in the investigation by ^{F16}[an authorised person] or otherwise.
- ^{F17}(4A) In subsection (4) "authorised person" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).]
- (5) The Ombudsman may pay to the person who made the complaint and to any other person who attends or supplies information for the purposes of the investigation—
 - (a) such sums as he may determine in respect of expenses properly incurred by them, and
 - (b) such allowances as he may determine by way of compensation for the loss of their time,
 subject to such conditions as he may determine.
- (6) The conduct of an investigation in respect of a listed authority does not affect—
 - (a) the validity of any action taken by the listed authority, or
 - (b) any power or duty of the listed authority to take further action with respect to any matter under investigation.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

Textual Amendments

- F16** Words in s. 13(4)(b) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208(1), 211(2), [Sch. 21 para. 151\(a\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#)
- F17** S. 13(4A) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208(1), 211(2), [Sch. 21 para. 151\(b\)](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#)

14 Information, documents, evidence and facilities

[^{F18}(A1) This section applies in relation to investigations conducted under this Part.]

- (1) For the purposes of an investigation the Ombudsman may require a person he thinks is able to supply information or produce a document relevant to the investigation to do so.
- (2) For the purposes of an investigation the Ombudsman has the same powers as the High Court in respect of—
 - (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
 - (b) the production of documents.
- (3) For the purposes of an investigation the Ombudsman may require a person he thinks is able to supply information or produce a document relevant to the investigation to provide any facility he may reasonably require.
- (4) Subject to subsection (6), no person is to be compelled for the purposes of an investigation to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (5) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service, whether imposed by any enactment or rule of law, is to apply to the disclosure of information for the purposes of an investigation.
- (6) The Crown is not entitled in relation to an investigation to any privilege in respect of the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.

Textual Amendments

- F18** S. 14(A1) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 20](#); S.I. 2014/2718, [art. 2\(b\)](#)

15 Obstruction and contempt

- (1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, he may issue a certificate to that effect to the High Court.
- (2) The condition is that the person—
 - (a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or

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- (b) has done an act in relation to an investigation which, if the investigation were proceedings in the High Court, would constitute contempt of court.
- (3) But the condition in subsection (2) is not met in relation to a person merely because he has taken action such as is mentioned in section 13(6).
- (4) If the Ombudsman issues a certificate under subsection (1), the High Court may inquire into the matter.
- (5) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with him in any manner in which it could have dealt with him if he had committed contempt in relation to the High Court.

Reports of investigations

16 Reports of investigations

- (1) The Ombudsman must, after conducting an investigation into a complaint in respect of a listed authority—
 - (a) prepare a report on his findings, and
 - (b) send a copy of the report to all the appropriate persons.

This is subject to section 21.

- (2) The appropriate persons are—
 - (a) the person who made the complaint;
 - (b) the listed authority;
 - (c) any other person who is alleged in the complaint to have taken or authorised the action complained of;
 - (d) if the listed authority is a family health service provider in Wales—
 - (i) any Local Health Board with whom the authority had, at the time of the action which is the subject of the complaint, entered into a contract to provide the family health services which are under investigation;
 - (ii) any person to whom the authority had, at that time, undertaken to provide those services;
 - (iii) any person with whom the authority had, at that time, made arrangements for the provision of those services;
 - (e) if the listed authority is an independent provider in Wales—
 - (i) any Welsh health service body with whom the authority had, at the time of the action which is the subject of the complaint, made arrangements for the provision of the services under investigation;
 - (ii) any family health service provider in Wales with whom the authority had, at that time, made arrangements for the provision of those services;
 - (f) the [^{F19}First Minister for Wales](unless the listed authority is itself the [^{F20}Welsh Assembly Government] or is a local authority in Wales).
- (3) The Ombudsman may send a copy of the report to any other persons he thinks appropriate.

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Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

- (4) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.
- (5) The Ombudsman may supply a copy of a report published under subsection (4), or any part of such a report, to any person who requests it.
- (6) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (5).
- (7) If a report prepared under this section—
 - (a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or
 - (b) includes 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 report,that information must not be included in a version of the report sent to a person under subsection (1)(b) or (3) or published under subsection (4), subject to subsection (8).
- (8) Subsection (7) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.
- (9) ^{F21}

Textual Amendments

- F19** Words in s. 16(2)(f) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 73\(2\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F20** Words in s. 16(2)(f) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 73\(2\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F21** S. 16(9) repealed by [Government of Wales Act 2006 \(c. 32\), ss. 160\(1\), 163, Sch. 10 para. 73\(3\), Sch. 12](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

17 Publicising reports

- (1) If an investigation is conducted in respect of a listed authority and the authority receives a copy of a report under section 16(1)(b), the authority must make copies of that version of the report available for a period of at least three weeks—

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- (a) at one or more of the authority's offices, and
 - (b) if the authority has a website, on the website.
- (2) Throughout that period of three weeks, any person may—
- (a) inspect the copy of the report at the office or offices concerned at any reasonable time without payment;
 - (b) make a copy of the report or any part of it at any reasonable time without payment;
 - (c) require the authority to supply him with a copy of the report or any part of it, on payment of a reasonable sum if requested;
 - (d) if the authority has a website, view the copy of the report on the website without payment.
- (3) Not later than two weeks after the copy of the report is received by the listed authority it must ensure that a notice is published in a newspaper circulating in the part of Wales in which the matter which is the subject of the report arose.
- (4) The notice must specify—
- (a) the date on which the period of three weeks referred to in subsection (1) will begin,
 - (b) the office or offices at which a copy of the report can be inspected, and
 - (c) the address of the authority's website (if any).
- (5) The Ombudsman may give directions to listed authorities with regard to the discharge of their functions under this section.
- (6) Directions under subsection (5) may relate—
- (a) to a particular listed authority in respect of a particular report, or
 - (b) generally to the discharge of functions under this section by all or any listed authorities.
- (7) A person commits an offence if—
- (a) he wilfully obstructs a person in the exercise of a right conferred by subsection (2)(a), (b) or (d), or
 - (b) he refuses to comply with a requirement under subsection (2)(c).
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) The Ombudsman may direct that subsections (1) to (4) are not to apply in relation to a particular report.
- (10) In deciding whether to give a direction under subsection (9), the Ombudsman must take into account—
- (a) the public interest,
 - (b) the interests of the person aggrieved, and
 - (c) the interests of any other persons he thinks appropriate.

18 Publicising reports: health care providers

- (1) If an investigation is conducted in respect of a listed authority which is a family health service provider in Wales, section 17 has effect with the modifications specified in subsections (2) to (4).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

(2) For subsection (1) substitute—

“(1) A person who has received a copy of a report under section 16 by virtue of section 16(2)(d) must make copies of the report available for a period of at least three weeks—

- (a) at one or more of the person's offices, and
- (b) if the person has a website, on the website.”

(3) The references to the listed authority are to be taken to be references to that person.

(4) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.

(5) If an investigation is conducted in respect of a listed authority which is an independent provider in Wales, section 17 has effect with the modifications specified in subsections (6) to (8).

(6) For subsection (1) substitute—

“(1) A person who has received a copy of a report under section 16 by virtue of section 16(2)(e) must make copies of the report available for a period of at least three weeks—

- (a) at one or more of the person's offices, and
- (b) if the person has a website, on the website.”

(7) The references to the listed authority are to be taken to be references to that person.

(8) The references to listed authorities, or to a particular listed authority, are to be taken to be references to persons, or a particular person, of the same description as that person.

19 Action following receipt of a report

(1) This section applies if, in a report under section 16 of an investigation in respect of a listed authority, the Ombudsman concludes that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated.

(2) The listed authority must consider the report and notify the Ombudsman before the end of the permitted period of—

- (a) the action it has taken or proposes to take in response to it, and
- (b) the period before the end of which it proposes to have taken that action (if it has not already done so).

(3) The permitted period is—

- (a) the period of one month beginning on the date on which the authority receives the report, or
- (b) any longer period specified by the Ombudsman in writing.

PROSPECTIVE

20 Non-action following receipt of a report

(1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a listed authority, he may issue a certificate to that effect to the High Court.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

- (2) The condition is that the listed authority has wilfully disregarded his report without lawful excuse.

21 Reports: alternative procedure

- (1) This section applies if, after the Ombudsman has conducted an investigation into a complaint in respect of a listed authority—
- (a) he concludes that the person aggrieved has not sustained injustice or hardship in consequence of the matter investigated, and
 - (b) he is satisfied that the public interest does not require sections 16 to 19 to apply.
- (2) This section also applies if, after the Ombudsman has conducted an investigation into a complaint in respect of a listed authority—
- (a) he concludes that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated,
 - (b) the listed authority agrees to implement, before the end of the permitted period, any recommendations he makes, and
 - (c) he is satisfied that the public interest does not require sections 16 to 19 to apply.
- (3) The permitted period is—
- (a) a period agreed between the Ombudsman, the listed authority and the person who made the complaint, or
 - (b) if the Ombudsman thinks that no such agreement can be reached, the period specified by him in writing.
- (4) The Ombudsman may decide to prepare a report on his findings under this section instead of under section 16.
- (5) If the Ombudsman decides to prepare a report under this section—
- (a) sections 16 to 19 do not apply;
 - (b) he must send a copy of the report to—
 - (i) the person who made the complaint;
 - (ii) the listed authority;
 - (c) he may send a copy of the report to any other persons he thinks appropriate.
- (6) The Ombudsman may publish a report prepared under this section if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, he considers it to be in the public interest to do so.
- (7) The Ombudsman may supply a copy of a report published under subsection (6), or any part of such a report, to any person who requests it.
- (8) The Ombudsman may charge a reasonable fee for supplying a copy of a report, or part of a report, under subsection (7).
- (9) If a report prepared under this section—
- (a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or

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Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

- (b) includes 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 report,
that information must not be included in a version of the report sent to a person under subsection (5) or published under subsection (6), subject to subsection (10).
- (10) Subsection (9) does not apply in relation to a version of the report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the report.
- (11) ^{F22}

Textual Amendments

F22 S. 21(11) repealed by [Government of Wales Act 2006 \(c. 32\)](#), ss. 160(1), 163, Sch. 10 para. 74, Sch. 12 (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

Special reports

22 Special reports

- (1) The Ombudsman may prepare a report under this section (a "special report") if subsection (2), (4) or (6) applies.
- (2) This subsection applies if, in a report under section 16, the Ombudsman has concluded that the person aggrieved has sustained injustice or hardship in consequence of the matter investigated and—
- (a) the Ombudsman has not received the notification required under section 19 before the end of the period permitted under that section,
 - (b) he has received that notification but he is not satisfied with—
 - (i) the action which the listed authority has taken or proposes to take, or
 - (ii) the period before the end of which it proposes to have taken that action, or
 - (c) he has received that notification but he is not satisfied that the listed authority has, before the end of the permitted period, taken the action it proposed to take.
- (3) The permitted period for the purposes of subsection (2)(c) is—
- (a) the period referred to in section 19(2)(b), or
 - (b) any longer period specified by the Ombudsman in writing.
- (4) This subsection applies if the Ombudsman—
- (a) has prepared a report under section 21 by virtue of subsection (2) of that section, and
 - (b) is not satisfied that the listed authority has implemented his recommendations before the end of the permitted period.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

- (5) The permitted period for the purposes of subsection (4)(b) is—
 - (a) the period referred to in section 21(2)(b), or
 - (b) any longer period specified by the Ombudsman in writing.
- (6) This subsection applies if—
 - (a) a complaint in respect of a listed authority has been resolved under section 3,
 - (b) in resolving the complaint, the Ombudsman has concluded that the person aggrieved has sustained injustice or hardship in consequence of the matter which is the subject of the complaint,
 - (c) the listed authority has agreed to take particular action before the end of a particular period, and
 - (d) the Ombudsman is not satisfied that the listed authority has taken that action before the end of the permitted period.
- (7) The permitted period for the purposes of subsection (6)(d) is—
 - (a) the period referred to in subsection (6)(c), or
 - (b) any longer period specified by the Ombudsman in writing.
- (8) A special report must—
 - (a) set out the facts on the basis of which subsection (2), (4) or (6) applies, and
 - (b) make such recommendations as the Ombudsman thinks fit with respect to the action which, in his opinion, should be taken—
 - (i) to remedy the injustice or hardship to the person aggrieved, and
 - (ii) to prevent similar injustice or hardship being caused in the future.
- (9) The Ombudsman must send a copy of a special report—
 - (a) if the special report is prepared because subsection (2) applies, to each person to whom a copy of the report under section 16 was sent under section 16(1)(b);
 - (b) if the special report is prepared because subsection (4) or (6) applies, to the person who made the complaint and the listed authority.
- (10) The Ombudsman may send a copy of a special report to any other persons he thinks appropriate.

23 Special reports: supplementary

- (1) The Ombudsman may—
 - (a) publish a special report [F23 made under section 22] ;
 - (b) supply a copy of the published report or any part of it to any person who requests it.
- (2) The Ombudsman may charge a reasonable fee for supplying a copy of a report (or part of a report) under subsection (1)(b).
- (3) The listed authority in respect of which a special report is made must reimburse the Ombudsman for the cost of publishing a special report if requested to do so by the Ombudsman.
- (4) If a special report—
 - (a) mentions the name of any person other than the listed authority in respect of which the complaint was made, or

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Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

- (b) includes 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 report,
that information must not be included in a version of the report sent to a person under section 22(9) or (10) or published under subsection (1) of this section, subject to subsection (5).
- (5) Subsection (4) does not apply in relation to a version of the special report if, after taking account of the interests of the person aggrieved and any other persons he thinks appropriate, the Ombudsman considers it to be in the public interest to include that information in that version of the special report.
- (6) ^{F24}
- (7) Sections 17 and 18 (publicising reports under section 16) apply in relation to a special report [^{F25}under section 22] as they apply in relation to a report under section 16.

Textual Amendments

- F23** Words in s. 23(1)(a) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 21\(a\)](#); S.I. 2014/2718, art. 2(b)
- F24** S. 23(6) repealed by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), 163, [Sch. 10 para. 75](#), [Sch. 12](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F25** Words in s. 23(7) inserted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 21\(b\)](#); S.I. 2014/2718, art. 2(b)

24 Special reports relating to the [^{F26}Welsh Assembly Government etc.]

- (1) This section applies if a special report is made in a case where the complaint was made in respect of the [^{F27}Welsh Assembly Government or the National Assembly for Wales Commission].
- (2) The [^{F28}relevant person] must—
 - (a) lay a copy of the report before the Assembly, ^{F29} . . .
 - (b) ^{F29}
- [^{F30}(2A) In subsection (2) “the relevant person” means—
 - (a) if the complaint was made in respect of the Welsh Assembly Government, the First Minister for Wales, and
 - (b) if the complaint was made in respect of the National Assembly for Wales Commission, a member of that Commission.]
- (3) ^{F31}

Textual Amendments

- F26** Words in s. 24 sidenote substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 76\(6\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the

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2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

- F27** Words in s. 24(1) substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 76\(2\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F28** Words in s. 24(2) substituted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 76\(3\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F29** S. 24(2)(b) repealed by virtue of [Government of Wales Act 2006 \(c. 32\)](#), ss. 160(1), 163, [Sch. 10 para. 76\(3\)\(b\)](#), [Sch. 12](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F30** S. 24(2A) inserted by [Government of Wales Act 2006 \(c. 32\)](#), s. 160(1), [Sch. 10 para. 76\(4\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F31** S. 24(3) repealed by [Government of Wales Act 2006 \(c. 32\)](#), ss. 160(1), 163, [Sch. 10 para. 76\(5\)](#), [Sch. 12](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F32 ...

Textual Amendments

- F32** S. 25 cross-heading omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 22](#); S.I. 2014/2718, art. 2(b)

^{F33} 25 Consultation and co-operation with other ombudsmen

.....

Textual Amendments

- F33** Ss. 25-25B omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 23](#); S.I. 2014/2718, art. 2(b)

*Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Public
Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)*

F33 25A Working jointly with the Commissioner for Older People in Wales
.....

Textual Amendments

F33 Ss. 25-25B omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4), s. 199(2), [Sch. 3 para. 23](#); S.I. 2014/2718, art. 2(b)

F33 25B Working collaboratively with the Commissioner for Older People in Wales
.....

Textual Amendments

F33 Ss. 25-25B omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4), s. 199(2), [Sch. 3 para. 23](#); S.I. 2014/2718, art. 2(b)

F34 ...

Textual Amendments

F34 S. 26 cross-heading omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4), s. 199(2), [Sch. 3 para. 24](#); S.I. 2014/2718, art. 2(b)

F35 26 Disclosure of information
.....

Textual Amendments

F35 S. 26 omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4), s. 199(2), [Sch. 3 para. 25](#); S.I. 2014/2718, art. 2(b)

F36 27 Disclosure prejudicial to safety of State or contrary to public interest
.....

Textual Amendments

F36 S. 27 omitted (1.11.2014) by virtue of [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4), s. 199(2), [Sch. 3 para. 25](#); S.I. 2014/2718, art. 2(b)

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

Listed authorities

28 Listed authorities

- (1) The persons specified in Schedule 3 are listed authorities for the purposes of this Act.
- (2) The [^{F37}Welsh Ministers] may by order amend Schedule 3 by—
 - (a) adding a person;
 - (b) omitting a person;
 - (c) changing the description of a person.
- (3) An order under subsection (2) adding a person to Schedule 3 may provide for this Act to apply to the person with the modifications specified in the order.
- (4) Before making an order under subsection (2), the [^{F37}Welsh Ministers] must consult the Ombudsman and any other persons it thinks appropriate.
- [^{F38}(4A) No order is to be made under subsection (2) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.]
- (5) Sections 29 and 30 contain further restrictions on the power in subsection (2).

Textual Amendments

- F37** Words in s. 28(2)(4) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 78\(2\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F38** S. 28(4A) inserted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 78\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

29 Restrictions on power to amend Schedule 3

- (1) An order under section 28(2) may not omit the [^{F39}Welsh Assembly Government or the National Assembly for Wales Commission] from Schedule 3.
- (2) An order under section 28(2) may add a person to Schedule 3 only if—
 - (a) the person has functions dischargeable in relation to Wales or a part of Wales (whether or not the functions are also dischargeable otherwise than in relation to Wales),
 - (b) all or some of the person's functions are in a field in which the [^{F40}Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,] functions, and
 - (c) the person falls within subsection (3), (4) or (5).
- (3) A person falls within this subsection if—

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- (a) it is a body established by or under an enactment or by virtue of Her Majesty's prerogative or in any other way by a Minister of the Crown, a government department, the [^{F41}Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government] or another listed authority,
 - (b) it is a body wholly or partly constituted by appointment made by Her Majesty, a Minister of the Crown, a government department, the [^{F41}Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Assembly Government] or another listed authority, and
 - (c) at least half of its expenditure on the discharge of its functions in relation to Wales is met [^{F42}out of the Welsh Consolidated Fund or is met directly from payments made by other listed authorities].
- (4) A person falls within this subsection if—
- (a) it is a body established by or under an enactment, and
 - (b) it has power to issue a precept or a levy.
- (5) A person falls within this subsection if—
- (a) it appears to the [^{F43}Welsh Ministers] that the person discharges functions of a public nature, and
 - (b) at least half of the person's expenditure on the discharge of those functions in relation to Wales is met [^{F44}out of the Welsh Consolidated Fund or directly or indirectly from payments made by other listed authorities].
- (6) An order under section 28(2) may not add to Schedule 3—
- (a) a Special Health Authority discharging functions only or mainly in England;
 - (b) a person who carries on under national ownership an industry or undertaking or part of an industry or undertaking.

Textual Amendments

- F39** Words in s. 29(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(2\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F40** Words in s. 29(2)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F41** Words in s. 29(3)(a)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(4\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F42** Words in s. 29(3)(c) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(4\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial

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period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F43 Words in s. 29(5)(a) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(5\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F44 Words in s. 29(5)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 79\(5\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

30 Provisions in orders adding persons to Schedule 3

- (1) If the [^{F45}Welsh Ministers propose] to make an order under section 28(2) adding a person to Schedule 3, [^{F46}they must] also specify in the order—
 - (a) whether all or only some of the person's functions are to fall within the remit of the Ombudsman under this Part;
 - (b) if only some of the person's functions are to fall within the remit of the Ombudsman under this Part, which those functions are.
- (2) If the person is to be added to Schedule 3 on the basis that the person falls within section 29(3) or (4), the order may specify a function under subsection (1) only if the function is in a field in which the [^{F47}Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,] functions.
- (3) If the person is to be added to Schedule 3 on the basis that the person falls within section 29(5), the order may specify a function under subsection (1) only if—
 - (a) the function is in a field in which the [^{F48}Welsh Ministers have, or the First Minister for Wales or the Counsel General to the Welsh Assembly Government has,] functions, and
 - (b) the function appears to the [^{F49}Welsh Ministers] to be a function of a public nature.
- (4) The order may specify all a person's functions under subsection (1) only if all the person's functions satisfy the requirements of subsection (2) or (as the case may be) subsection (3).

Textual Amendments

F45 Words in s. 30(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(2\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

F46 Words in s. 30(1) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(2\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

- F47** Words in s. 30(2) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(3\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F48** Words in s. 30(3)(a) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(4\)\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F49** Words in s. 30(3)(b) substituted by [Government of Wales Act 2006 \(c. 32\), s. 160\(1\), Sch. 10 para. 80\(4\)\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

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
 - (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.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: *There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)*

- (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.

^{F50}32 Protection from defamation claims

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Textual Amendments

F50 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.
- [^{F51}(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).]

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2. (See end of Document for details)

Textual Amendments

F51 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.

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Public Services Ombudsman (Wales) Act 2005, Part 2.