

SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 172 – Complaints about social services: supplementary

436. [Section 172](#) sets out further examples of the kind of provision that may be made in regulations under section 171. Subsection (2) provides that the regulations may specify such matters as who may make a complaint and to whom it may be made, the kinds of complaints which may or may not be made, and the procedure for making and considering a complaint. The regulations may require the making of a payment in relation to the consideration of a complaint (subsection (3)). Subsection (4) provides that the regulations may make provision requiring persons or bodies handling complaints to make information available to the public about the procedures to be followed under the regulations. The regulations may authorise the production or disclosure of information or documents (subsection (5)). Where it would not be possible, owing to common law duties of confidentiality, to disclose relevant information about a complaint to the body which is to consider it under the regulations, or to the body to which a complaint is to be referred for consideration under other provisions, the regulations may make the disclosure lawful. This will not override the specific protections of the Data Protection Act 1998, which prohibit the disclosure of information relating to an individual without the consent of that individual unless the disclosure is necessary for one or more of the reasons specified in the Data Protection Act.
437. Subsection (6) provides that regulations made under section 171 may make provision for situations in which a complaint raises matters which fall to be considered both under the regulations and also under another complaints procedure. The regulations may, for example, allow the complaint to be made under the regulations and provide that those aspects of the complaint which raise matters considered under the other complaints procedure are to be treated as having been raised in a complaint made under that procedure (e.g. the regulations may provide that a complaint may be made under section 171 about both NHS and local authority social services, and that those elements of the complaint that relate to NHS services are to be treated as having been raised in a complaint made under the NHS complaints procedure). In this way, the complainant will be able to make his or her complaint to a single body, instead of having to make two separate complaints, and a single complaint will be able to trigger two separate complaints procedures. It is envisaged that the two procedures will then operate in parallel, as far as possible, so they appear to the complainant to be a single procedure.