



Public Services Ombudsman (Wales) Act 2019

2019 anaw 3

PART 5

INVESTIGATION OF COMPLAINTS RELATING TO OTHER PERSONS: SOCIAL CARE AND PALLIATIVE CARE

Investigation procedure and evidence

52 Investigation procedure

- (1) If the Ombudsman conducts an investigation under section 43, the Ombudsman must—
 - (a) give the provider to whom the investigation relates an opportunity to comment on the investigation, and
 - (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 the allegations relating to that person.
- (2) If the Ombudsman conducts an investigation under section 44, the Ombudsman must—
 - (a) prepare an investigation proposal, and
 - (b) submit the investigation proposal to—
 - (i) the provider being investigated, and
 - (ii) any person, other than the provider, who is identified in the investigation proposal in a negative way.
- (3) But if—
 - (a) the Ombudsman has begun to investigate a matter under section 43 or 44 (in either case, “the original investigation”), and
 - (b) the Ombudsman has begun another investigation into a matter (“the related investigation”) under section 44 that relates to the original investigation,

subsection (2) does not apply to the related investigation.

- (4) An investigation relates to an original investigation if the matter investigated in the related investigation has a substantial connection with the matter investigated in the original investigation.
- (5) Where the Ombudsman prepares an investigation proposal in relation to a matter, the Ombudsman must—
 - (a) give the provider being investigated an opportunity to comment on the investigation proposal;
 - (b) give any person, other than the provider, who is identified in the investigation proposal in a negative way, an opportunity to comment on the investigation proposal (as far as the investigation proposal relates to that person).
- (6) Where the Ombudsman has begun a related investigation into a matter and no investigation proposal is prepared by virtue of subsection (3), the Ombudsman must—
 - (a) give the provider an opportunity to comment on the related investigation;
 - (b) give any person, other than the provider, who is identified by the Ombudsman in relation to the related investigation in a negative way, an opportunity to comment on the related investigation (as far as the related investigation relates to that person).
- (7) An investigation proposal must set out—
 - (a) the reasons for the investigation, and
 - (b) how the criteria published under section 45 have been met.
- (8) An investigation must be conducted in private.
- (9) Subject to the other provisions of this section, the procedure for conducting an investigation under section 43 or 44 is that which the Ombudsman thinks appropriate in the circumstances of the case.
- (10) The Ombudsman may, among other things—
 - (a) make any inquiries which the Ombudsman thinks appropriate, and
 - (b) determine whether any person may be represented in the investigation by an authorised person or another person.
- (11) In subsection (10) “authorised person” means a person who, for the purposes of the [Legal Services Act 2007 \(c.29\)](#), 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).
- (12) The Ombudsman may pay to any person who attends or supplies information for the purposes of the investigation—
 - (a) sums in respect of the expenses properly incurred by them, and
 - (b) allowances to compensate for the loss of their time.
- (13) The Ombudsman may attach conditions to those payments.
- (14) The Ombudsman must publish the procedure that the Ombudsman will follow when conducting an investigation under section 43 or 44.