



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART II

#### LEGAL SERVICES

##### *The Legal Services Ombudsman*

#### 23 [F<sup>1</sup>Recommendations and orders.]

- (1) Where the Legal Services Ombudsman has completed an investigation under this Act he shall send a written report of his conclusions to—
- (a) the person making the allegation;
  - (b) the person with respect to whom the complaint was made;
  - (c) any other person with respect to whom the Ombudsman makes a recommendation under subsection (2) [F<sup>2</sup>or an order under subsection (2A)]; and
  - (d) the professional body concerned.
- (2) In reporting his conclusions, the Ombudsman may recommend—
- (a) that the complaint be reconsidered by the professional body concerned;
  - (b) that the professional body concerned or any other relevant disciplinary body consider exercising its powers in relation to—
    - (i) the person with respect to whom the complaint was made; or
    - (ii) any person who, at the material time, was connected with him;
  - (c) that—
    - (i) the person with respect to whom the complaint was made; or
    - (ii) any person who, at the material time, was connected with him,pay compensation of an amount specified by the Ombudsman to the complainant for loss suffered by him, or inconvenience or distress caused to him, as a result of the matter complained of;
  - (d) that the professional body concerned pay compensation of an amount specified by the Ombudsman to the person making the complaint for loss

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*Status: Point in time view as at 04/04/2005. This version of this provision has been superseded.*

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suffered by him, or inconvenience or distress caused to him, as a result of the way in which the complaint was handled by that body;

- (e) that the person or professional body to [<sup>F3</sup>pay compensation under paragraph (c) or (d)] make a separate payment to the person making the allegation of an amount specified by the Ombudsman by way of reimbursement of the cost, or part of the cost, of making the allegation.

[<sup>F4</sup>(2A) If after completing any investigation under this Act the Ombudsman considers that, rather than recommending the taking of any action by any person or professional body under paragraph (c), (d) or (e) of subsection (2), he should make an order requiring the taking of that action by the person or body—

- (a) he shall afford the person or body, and the person who made the allegation, a reasonable opportunity of appearing before him to make representations; and
- (b) having considered any representations from them, he may, in reporting his conclusions, make the order.]

(3) More than one such recommendation [<sup>F5</sup>or order] may be included in a report under this section.

(4) Where the Ombudsman includes any recommendation [<sup>F5</sup>or order] in a report under this section, the report shall give his reasons for making the recommendation.

(5) For the purposes of the law of defamation the publication of any report of the Ombudsman under this section and any publicity given under subsection (9) shall be absolutely privileged.

(6) It shall be the duty of any person to whom a report is sent by the Ombudsman under [<sup>F6</sup>subsection (1)(b), (c) or (d)] to have regard to the conclusions and recommendations set out in the report, so far as they concern that person.

(7) Where—

- (a) a report is sent to any person under this section; and
- (b) the report includes a recommendation directed at him,

he shall, before the end of the period of three months beginning with the date on which the report was sent, notify the Ombudsman of the action which he has taken, or proposes to take, to comply with the recommendation.

(8) Any person who fails to comply (whether wholly or in part) with a recommendation under subsection (2) shall publicise that failure, and the reasons for it, in such manner as the Ombudsman may specify.

(9) Where a person is required by subsection (8) to publicise any failure, the Ombudsman may take such steps as he considers reasonable to publicise that failure if—

- (a) the period mentioned in subsection (7) has expired and that person has not complied with subsection (8); or
- (b) the Ombudsman has reasonable cause for believing that that person will not comply with subsection (8) before the end of that period.

(10) Any reasonable expenses incurred by the Ombudsman under subsection (9) may be recovered by him (as a civil debt) from the person whose failure he has publicised.

(11) For the purposes of this section, the person with respect to whom a complaint is made (“the first person”) and another person (“the second person”) are connected if—

- (a) the second person—

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- (i) employs the first person; and
- (ii) is an authorised advocate, authorised litigator, duly certificated notary public, licensed conveyancer or partnership;
- (b) they are both partners in the same partnership; or
- (c) the second person is a recognised body which employs the first person or of which the first person is an officer.

#### **Textual Amendments**

- F1** Sidenote in s. 23 substituted (27.9.1999) by 1999 c. 22, s. 49(1)(7) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F2** Words in s. 23(1)(c) inserted (27.9.1999) by 1999 c. 22, s. 49(1)(2) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F3** Words in s. 23(2)(e) substituted (27.9.1999) by 1999 c. 22, s. 49(1)(3) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F4** S. 23(2A) inserted (27.9.1999) by 1999 c. 22, s. 49(1)(4) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F5** Words in s. 23(3)(4) inserted (27.9.1999) by 1999 c. 22, s. 49(1)(5) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)
- F6** Words in s. 23(6) substituted (27.9.1999) by 1999 c. 22, s. 49(1)(6) (with Sch. 14 para. 7(2)); S.I. 1999/2657, art. 2(a)

#### **Modifications etc. (not altering text)**

- C1** Ss. 21-25 applied (with modifications) (25.10.2004) by The Legal Services Ombudsman (Extension of Remit) Regulations 2004 (S.I. 2004/2757), regs. 3, 4
- C2** S. 23 modified (temp.) (1.1.2010) by The Legal Services Act 2007 (Commencement No. 6, Transitory, Transitional and Saving Provisions) Order 2009 (S.I. 2009/3250), arts. 1(2), 7(8)-(9) (with art. 9)

**Status:**

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