



# Health Service Commissioners Act 1993

## 1993 CHAPTER 46

### *Matters subject to investigation*

#### **3 General remit of Commissioners. E+W+S**

- (1) On a complaint duly made to a Commissioner by or on behalf of a person that he has sustained injustice or hardship in consequence of—
- a failure in a service provided by a health service body,
  - a failure of such a body to provide a service which it was a function of the body to provide, or
  - maladministration connected with any other action taken by or on behalf of such a body,

the Commissioner may, subject to the provisions of this Act, investigate the alleged failure or other action.

- [<sup>F1</sup>(1A) Where a family health service provider has undertaken to provide any family health services and a complaint is duly made to a Commissioner by or on behalf of a person that he has sustained injustice or hardship in consequence of—

- action taken by the family health service provider in connection with the services,
- action taken in connection with the services by a person employed by the family health service provider in respect of the services,
- action taken in connection with the services by a person acting on behalf of the family health service provider in respect of the services, or
- action taken in connection with the services by a person to whom the family health service provider has delegated any functions in respect of the services,

the Commissioner may, subject to the provisions of this Act, investigate the alleged action.

- (1B) Where the family health service provider mentioned in subsection (1A) is a member of a recognised fund-holding practice, references there to action taken by any person in connection with family health services include references to action taken by the person concerned in connection with any allotted sum paid to the members of the practice.

*Status: Point in time view as at 01/04/1996.*

*Changes to legislation: Health Service Commissioners Act 1993, Cross Heading: Matters subject to investigation is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (1C) Where an independent provider has made an arrangement with a health service body or a family health service provider to provide a service (of whatever kind) and a complaint is duly made to a Commissioner by or on behalf of a person that he has sustained injustice or hardship in consequence of—
- (a) a failure in the service provided by the independent provider,
  - (b) a failure of the independent provider to provide the service, or
  - (c) maladministration connected with any other action taken in relation to the service,
- the Commissioner may, subject to the provisions of this Act, investigate the alleged failure or other action.
- (1D) Any failure or maladministration mentioned in subsection (1C) may arise from action of—
- (a) the independent provider,
  - (b) a person employed by the provider,
  - (c) a person acting on behalf of the provider, or
  - (d) a person to whom the provider has delegated any functions.]
- (2) In determining whether to initiate, continue or discontinue an investigation under this Act, a Commissioner shall act in accordance with his own discretion.
- (3) Any question whether a complaint is duly made to a Commissioner shall be determined by him.
- (4) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by a health service body in the exercise of a discretion vested in that body.
- [<sup>F2</sup>(5) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by—
- (a) a family health service provider,
  - (b) a person employed by a family health service provider,
  - (c) a person acting on behalf of a family health service provider, or
  - (d) a person to whom a family health service provider has delegated any functions.
- (6) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by—
- (a) an independent provider,
  - (b) a person employed by an independent provider,
  - (c) a person acting on behalf of an independent provider, or
  - (d) a person to whom an independent provider has delegated any functions.]

[<sup>F3</sup>(7) Subsections (4) to (6) do not apply to the merits of a decision to the extent that it was taken in consequence of the exercise of clinical judgment.]

#### Textual Amendments

- F1** S. 3(1A)-(1D) inserted (1.4.1996 with application as mentioned in art. 2(2) of S.I. 1996/970) by 1996 c. 5, s. 2(2); S.I. 1996/970, art. 2(1)
- F2** S. 3(5)(6) inserted (1.4.1996) by 1996 c. 5, s. 2(3); S.I. 1996/970, art. 2(1)
- F3** S. 3(7) inserted (1.4.1996) by 1996 c. 5, s. 6(2); S.I. 1996/970, art. 2(1)

**Status:**

Point in time view as at 01/04/1996.

**Changes to legislation:**

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