



Health Service Commissioners Act 1993

1993 CHAPTER 46

Reports

14 Reports by ^[F1]English and Scottish] Commissioners. **U.K.**

(1) ^[F2]In any case where ^[F3]the Health Service Commissioner for England or the Health Service Commissioner for Scotland] conducts an investigation pursuant to a complaint under section 3(1) he shall send a report of the results of the investigation]—

- (a) to the person who made the complaint,
- (b) to any member of the House of Commons ^[F4]or member of the Scottish Parliament] who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),

^[F5](c) to the health service body who at the time the report is made provides the service, or has the function, in relation to which the complaint was made,]

(d) to any person who is alleged in the complaint to have taken or authorised the action complained of, ^[F6]and]

^[F7](e) to the Secretary of State.]

(2) In any case where ^[F3]the Health Service Commissioner for England or the Health Service Commissioner for Scotland] decides not to conduct an investigation ^[F8]pursuant to a complaint under section 3(1)] he shall send a statement of his reasons—

- (a) to the person who made the complaint, ^[F9]and]
- (b) to any such member of the House of Commons ^[F4]or member of the Scottish Parliament] as is mentioned in subsection (1)(b), ^[F10]...

^[F11](c)

^[F12](2A) In any case where ^[F3]the Health Service Commissioner for England or the Health Service Commissioner for Scotland] conducts an investigation pursuant to a complaint under section 3(1A) he shall send a report of the results of the investigation—

- (a) to the person who made the complaint,
- (b) to any member of the House of Commons ^[F4]or member of the Scottish Parliament] who to the Commissioner's knowledge assisted in the making of

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- the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),
- (c) to any person by reference to whose action the complaint is made,
 - (d) to the family health service provider (if he does not fall within paragraph (c)),
 - (e) to any health service body with whom the family health service provider is subject to an undertaking to provide family health services, and
 - (f) to the Secretary of State.
- (2B) In any case where [^{F3}the Health Service Commissioner for England or the Health Service Commissioner for Scotland] decides not to conduct an investigation pursuant to a complaint under section 3(1A) he shall send a statement of his reasons—
- (a) to the person who made the complaint, and
 - (b) to any such member of the House of Commons [^{F4}or member of the Scottish Parliament] as is mentioned in subsection (2A)(b).
- (2C) In any case where [^{F3}the Health Service Commissioner for England or the Health Service Commissioner for Scotland] conducts an investigation pursuant to a complaint under section 3(1C) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint,
 - (b) to any member of the House of Commons [^{F4}or member of the Scottish Parliament] who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate),
 - (c) to any person who is alleged in the complaint to have taken or authorised the action complained of,
 - (d) to the independent provider,
 - (e) to the health service body or family health service provider with whom the independent provider made the arrangement to provide the service concerned, and
 - (f) to the Secretary of State.
- (2D) In any case where [^{F3}the Health Service Commissioner for England or the Health Service Commissioner for Scotland] decides not to conduct an investigation pursuant to a complaint under section 3(1C) he shall send a statement of his reasons—
- (a) to the person who made the complaint, and
 - (b) to any such member of the House of Commons [^{F4}or member of the Scottish Parliament] as is mentioned in subsection (2C)(b).]
- [^{F13}(2E) In any case where the Health Service Commissioner for England conducts an investigation pursuant to a complaint under section 3(1E) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint;
 - (b) to any member of the House of Commons who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer a member to such other member as the Commissioner thinks appropriate);
 - (c) to the person or body whose maladministration is complained of;
 - (d) to any person or body whose action was complained of in the complaint made to the person or body whose maladministration is complained of;
 - (e) to the Secretary of State.

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- (2F) In any case where the Health Service Commissioner for England decides not to conduct an investigation pursuant to a complaint under section 3(1E) he shall send a statement of his reasons—
- (a) to the person who made the complaint; or
 - (b) to any such member of the House of Commons as is mentioned in subsection (2E)(b).]
- (3) If after conducting an investigation it appears to [F³the Health Service Commissioner for England or the Health Service Commissioner for Scotland] that—
- (a) the person aggrieved has sustained such injustice or hardship as is mentioned in section 3(1) [F¹⁴, (1A) or (1C)], and
 - (b) the injustice or hardship has not been and will not be remedied,
- he may if he thinks fit [F¹⁵lay before each House of Parliament a special report on the case.]
- [F¹⁶(4) [F¹⁷The Health Service Commissioner for England and the Health Service Commissioner for Scotland]—
- (a) shall [F¹⁸each] annually lay before each House of Parliament a general report on the performance of his functions under this Act, and
 - (b) may [F¹⁸each] from time to time lay before each House of Parliament such other reports with respect to those functions as he thinks fit.]
- (5) For the purposes of the law of defamation, the publication of any matter by [F³the Health Service Commissioner for England or the Health Service Commissioner for Scotland] in sending or making a report or statement in pursuance of this section shall be absolutely privileged.

Extent Information

- E1 S. 14(5) extends to Northern Ireland see s. 22(2)(a).

Textual Amendments

- F1 Words in sidenote to s. 14 inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 10(4)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F2 Words in s. 14(1) substituted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(2)**; S.I. 1996/970, **art. 2(1)**
- F3 Words in s. 14(1)(2)(2A)(2B)(2C)(2D)(3)(5) substituted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 10(2)** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F4 Words in s. 14(1)(b)(2)(b)(2A)(b)(2B)(b)(2C)(b)(2D)(b) inserted (1.7.1999) by S.I. 1999/1820, **art. 4, Sch. 2 Pt. I para. 112(3)**; S.I. 1998/3178, **art. 3**
- F5 S. 14(1)(c) substituted (1.4.1996) by 1996 c. 5, s. 10(2); S.I. 1996/970, **art. 2(1)**
- F6 Word in s. 14(1)(d) inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III para. 126(4)(a)** (with Sch. 2 paras. 6, 16)
- F7 S. 14(e) substituted for s. 14(e)(f) (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III para. 126(4)(b)** (with Sch. 2 paras. 6, 16)
- F8 Words in s. 14(2) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(3)**; S.I. 1996/970, **art. 2(1)**
- F9 Word in s. 14(2)(a) inserted (1.4.1996) by 1996 c. 5, s. 10(3)(a); S.I. 1996/970, **art. 2(1)**
- F10 Word in s. 14(2)(b) repealed (1.4.1996) by 1996 c. 5, ss. 10(3)(b), 13, **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F11 S. 14(2)(c) repealed (1.4.1996) by 1996 c. 5, ss. 10(3)(b), 13, **Sch. 2**; S.I. 1996/970, **art. 2(1)**
- F12 S. 14(2A)-(2D) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(4)**; S.I. 1996/970, **art. 2(1)**
- F13 S. 14(2E)(2F) inserted (1.6.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 9 para. 11(5)**; S.I. 2004/759, **art. 7**
- F14 Words in s. 14(3)(a) inserted (1.4.1996) by 1996 c. 5, s. 3, **Sch. 1 para. 5(5)**; S.I. 1996/970, **art. 2(1)**

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- F15** Words in s. 14(3) substituted (1.4.1996) by 1996 c. 5, s. 10(4); S.I. 1996/970, art. 2(1)
- F16** S. 14(4) substituted (1.4.1996) by 1996 c. 5, s. 10(5); S.I. 1996/970, art. 2(1)
- F17** Words in s. 14(4) substituted (1.7.1999) by 1998 c. 38, s. 112, Sch. 10 para. 10(3)(a) (with ss. 139(2), 143(2)); S.I. 1999/1290, art. 4
- F18** Words in s. 14(4) inserted (1.7.1999) by 1998 c. 38, s. 112, Sch. 10 para. 10(3)(b) (with ss. 139(2), 143(2)); S.I. 1999/1290, art. 4

Modifications etc. (not altering text)

- C1** S. 14(1)(c) applied with modifications (1.4.1996) by S.I. 1996/709, art. 9(3)(c)

[^{F19}14A Reports by Welsh Commissioner. **E+W+S**

- (1) In any case where the Health Service Commissioner for Wales has conducted an investigation pursuant to a complaint under section 3(1), (1A) or (1C) he shall prepare a report of the results of the investigation and send copies of it—
- (a) to the person who made the complaint,
 - (b) to any Assembly member who to the Commissioner's knowledge assisted in the making of the complaint (or, if he is no longer an Assembly member, to such Assembly member as the Commissioner thinks appropriate), and
 - (c) to the Assembly First Secretary.
- (2) He shall also send a copy of the report—
- (a) in the case of a complaint under section 3(1)—
 - (i) to the health service body who at the time of the report provides the service, or has the function, in relation to which the complaint was made, and
 - (ii) to any person who is alleged in the complaint to have taken or authorised the action complained of,
 - (b) in the case of a complaint under section 3(1A)—
 - (i) to any person by reference to whose action the complaint is made,
 - (ii) to the family health service provider (if he does not fall within subparagraph (i)), and
 - (iii) to any health service body with whom the family health service provider is subject to an undertaking to provide family health services, and
 - (c) in the case of a complaint under section 3(1C)—
 - (i) to any person who is alleged in the complaint to have taken or authorised the action complained of,
 - (ii) to the independent provider, and
 - (iii) to the health service body or family health service provider with whom the independent provider made the arrangement to provide the service concerned.
- (3) In any case where the Health Service Commissioner for Wales decides not to conduct an investigation pursuant to a complaint under section 3(1), (1A) or (1C) he shall prepare a statement of his reasons for not conducting an investigation and shall send copies of it—
- (a) to the person who made the complaint, and

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- (b) to any Assembly member who to the Commissioner's knowledge assisted in the making of the complaint (or, if he is no longer an Assembly member, to such Assembly member as the Commissioner thinks appropriate).]
- [^{F20}(4) In any case where the Health Service Commissioner for Wales conducts an investigation pursuant to a complaint under section 3(1E) he shall send a report of the results of the investigation—
- (a) to the person who made the complaint;
 - (b) to any Assembly member who to the Commissioner's knowledge assisted in the making of the complaint (or if he is no longer an Assembly member to such other member as the Commissioner thinks appropriate);
 - (c) to the person or body whose maladministration is complained of;
 - (d) to any person or body whose action was complained of in the complaint made to the person or body whose maladministration is complained of;
 - (e) to the Assembly First Secretary.
- (5) In any case where the Health Service Commissioner for Wales decides not to conduct an investigation pursuant to a complaint under section 3(1E) he shall send a statement of his reasons—
- (a) to the person who made the complaint; or
 - (b) to any such member of the Assembly as is mentioned in subsection (4)(b).]

Textual Amendments

- F19** S. 14A and sidenote inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 11** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F20** S. 14A(4)(5) inserted (1.6.2004) by **Health and Social Care (Community Health and Standards) Act 2003 (c. 43)**, s. 199(1)(4), **Sch. 9 para. 11(6)**; S.I. 2004/759, **art. 7**

[^{F21}14B Action in response to reports by Welsh Commissioner. **E+W+S**

- (1) Where the Assembly First Secretary receives a copy of a report under section [^{F22}14A], he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56 of the Government of Wales Act 1998) for the exercise of any functions of the Assembly relating to the National Health Service.
- (2) Where in a report under section [^{F22}14A] the Health Service Commissioner for Wales states that the person aggrieved has sustained such injustice or hardship as is mentioned in section 3(1), (1A) [^{F23}(1C) or (1E)], any body or provider subject to the investigation shall consider the report and within—
- (a) the period of three months beginning with the date on which the body or provider received the report, or
 - (b) such longer period as the Commissioner may agree in writing,
- shall notify the Commissioner of the action taken or proposed to be taken.
- (3) The Health Service Commissioner for Wales shall prepare a further report if he—
- (a) does not receive the notification required by subsection (2) within the period allowed by or under that subsection,
 - (b) is not satisfied with the action taken or proposed to be taken, or
 - (c) does not within the period of three months beginning with the end of the period allowed by or under subsection (2), or such longer period as the Commissioner

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may agree in writing, receive confirmation from the body or provider that action has been taken, as proposed, to his satisfaction.

- (4) The further report shall set out those facts and make such recommendations as the Health Service Commissioner for Wales thinks fit to make with respect to action which, in his opinion, should be taken—
- (a) to remedy the injustice or hardship to the person aggrieved, and
 - (b) to prevent similar injustice or hardship being caused in the future;
- and a copy of the further report shall be sent to each of the persons to whom a copy of the report under section [F22]14A] was sent.
- (5) Where the Assembly First Secretary receives a copy of a further report, he shall send a copy of it to any Assembly Secretary who is accountable to the Assembly (in accordance with section 56 of the Government of Wales Act 1998) for the exercise of any functions of the Assembly relating to the National Health Service.
- (6) Where the Assembly First Secretary receives a copy of a further report arising from an investigation relating to the Assembly, he shall also—
- (a) lay a copy of it before the Assembly, and
 - (b) (unless action to the satisfaction of the Health Service Commissioner for Wales has been taken or proposed) give to the Assembly notice of his intention to move that the Assembly resolve to approve the recommendations specified in it.
- (7) The standing orders of the Assembly must make provision for any motion of which notice has been given pursuant to subsection (6)(b) to be moved as soon as is reasonably practicable (unless action to the satisfaction of the Health Service Commissioner for Wales has been taken or proposed).]

Textual Amendments

- F21** S. 14B and sidenote inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 11** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**
- F22** Words in s. 14B substituted (1.6.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 9 para. 11(7)(a)**; S.I. 2004/759, **art. 7**
- F23** Words in s. 14B(2) substituted (1.6.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 9 para. 11(7)(b)**; S.I. 2004/759, **art. 7**

[F24]14C Reports: supplementary. **E+W+S**

- (1) Apart from identifying any body or provider investigated, a report under section 14A(1), a further report under section 14B(3) or a report under paragraph 7 of Schedule 1A shall not—
- (a) mention the name of any person, or
 - (b) include any particulars which, in the opinion of the Health Service Commissioner for Wales, are likely to identify any person and can be omitted without impairing the effectiveness of the report or further report,
- unless, after taking account of the public interest (as well as the interests of any person who made a complaint and other persons), the Commissioner considers it necessary for the report or further report to mention his name or include such particulars.
- (2) For the purposes of the law of defamation, the following are absolutely privileged—

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- (a) the publication of any matter by the Health Service Commissioner for Wales in a report or statement under section 14A, a further report under section 14B(3) or a report under paragraph 7 of Schedule 1A,
- (b) the publication of any matter in communications between—
 - (i) an Assembly member or a member of the Assembly's staff or a member or an officer or member of the staff of any other body or provider subject to investigation by the Commissioner, and
 - (ii) the Commissioner or a member of his staff,in connection with a complaint to the Commissioner,
- (c) the publication of any matter in communications between any person and an Assembly member in connection with a complaint by the person to the Commissioner, and
- (d) the publication of any matter in communications between any person and the Commissioner or a member of his staff in connection with a complaint by the person to the Commissioner.]

Textual Amendments

F24 S. 14C and sidenote inserted (1.7.1999) by 1998 c. 38, s. 112, **Sch. 10 para. 11** (with ss. 139(2), 143(2)); S.I. 1999/1290, **art. 4**

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