



## 2016 CHAPTER 21

### **PART 2** **N.I.**

#### The Prison Ombudsman For Northern Ireland

##### *Supplementary*

PROSPECTIVE

#### **Disclosure of information** **N.I.**

**44.—(1)** For the purposes of this section information is protected information if it is obtained by the Ombudsman or an officer of the Ombudsman—

- (a) in carrying out or otherwise in connection with an investigation under this Part; or
  - (b) from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000.
- (2)** Protected information shall not be disclosed except—
- (a) for the purposes of—
    - (i) an investigation under this Part; or
    - (ii) any of the Ombudsman's functions in relation to such an investigation or to matters arising in connection with it;
  - (b) for the purposes of a criminal investigation or proceedings for a criminal offence;

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Section 44. (See end of Document for details)*

- (c) to a coroner (or a person acting on behalf of a coroner) for the purposes of an inquest;
  - (d) to the Attorney General for Northern Ireland for the purposes of the exercise of any functions of that office;
  - (e) to the Northern Ireland Public Services Ombudsman for the purposes of the exercise of any functions of that office;
  - (f) to the Chief Inspector of Criminal Justice in Northern Ireland for the purposes of the exercise of any of the functions of that office;
  - (g) to Her Majesty's Chief Inspector of Prisons for the purposes of the exercise of any of the functions of that office;
  - [<sup>F1</sup>(h) to the Department of Health for the purposes of the exercise of any of the functions of that Department in relation to any matter arising in connection with an investigation under this Part;]
  - (i) to the Health and Social Care Regulation and Quality Improvement Authority for the purposes of the exercise of any of the functions of that body;
  - (j) in the case of information to which subsection (3) applies, to the Information Commissioner;
  - (k) in the case of information to which subsection (4) applies, to any person to whom the Ombudsman thinks it should be disclosed in the public interest;
  - (l) to such other persons or for such other purposes as may be prescribed.
- (3) This subsection applies to information if it appears to the Ombudsman to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise a power conferred by [<sup>F2</sup>sections 142 to 154, 160 to 164 or 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018] or section 48 or Part 4 of the Freedom of Information Act 2000; or
  - [<sup>F3</sup>(b) the commission of an offence under—
    - (i) a provision of the Data Protection Act 2018 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc); or
    - (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc records with intent to prevent disclosure).]
- (4) This subsection applies to information if in the opinion of the Ombudsman it reveals or otherwise relates to a serious threat to the health or safety of a person.
- (5) A person to whom this subsection applies shall not be called upon in any proceedings to give evidence of protected information within subsection (1)(a).
- (6) Subsection (5) does not apply in relation to proceedings mentioned in subsection (2)(b) or (c).

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(7) For the purposes of the law of defamation the publication of any matter by the Ombudsman for purposes connected with the functions of the Ombudsman (including functions under this section) is absolutely privileged.

(8) It is an offence for a person to whom this subsection applies to disclose information in contravention of this section.

(9) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) Subsections (5) and (8) apply to—

- (a) the Ombudsman;
- (b) an officer of the Ombudsman;
- (c) a person from whom advice is obtained under paragraph 9 of Schedule 3.

#### Textual Amendments

- F1** S. 44(2)(h) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), **Sch. 1 para. 254**; S.R. 2022/102, art. 2(b)
- F2** Words in s. 44(3)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 209(a)** (with ss. 117, 209, 210, Sch. 20 para. 47(1)); S.I. 2018/625, reg. 2(1)(g)(but this amendment cannot take effect until the commencement of 2016 c.21 (N.I.), s. 44)
- F3** S. 44(3)(b) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 209(b)** (with ss. 117, 209, 210, Sch. 20 para. 47(2)); S.I. 2018/625, reg. 2(1)(g)(but this amendment cannot take effect until the commencement of 2016 c.21 (N.I.), s. 44)

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Section 44.