
STATUTORY INSTRUMENTS

1996 No. 1297

**The Commissioner for Complaints
(Northern Ireland) Order 1996 (revoked)**

Investigations by the Commissioner

Matters not subject to investigation

9.—(1) The Commissioner shall not conduct an investigation under this Order in respect of any such actions or matters as are described in Schedule 3, otherwise than as authorised by the proviso to paragraph 2 of that Schedule.

(2) The Department may by order amend Schedule 3 so as to exclude from the provisions of that Schedule any such action or matter as is described in that order.

(3) Subject to paragraph (4) and to^{F1} section 78 of the Northern Ireland Act 1998], the Commissioner shall not conduct an investigation under this Order in respect of—

- (a) any action in respect of which the person aggrieved has or had a right of appeal, complaint, reference or review to or before a tribunal constituted under any statutory provision or otherwise;
- (b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in a court of law.

(4) The Commissioner may conduct an investigation—

- (a) notwithstanding that the person aggrieved has or had such a right or remedy as is mentioned in paragraph (3), if the Commissioner is satisfied that in the particular circumstances it is not reasonable to expect him to resort to or have resorted to it; or
- (b) notwithstanding that the person aggrieved had exercised such a right as is mentioned in paragraph (3)(a), if he complains that the injustice sustained by him remains unremedied thereby and the Commissioner is satisfied that there are reasonable grounds for that complaint.

(5) The Commissioner shall not conduct an investigation in respect of any action which has been, or is,^{F2} the subject of—

- ^{F2}(a) an inquiry under the Inquiries Act 2005 [^{F3}or the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013], or
- (b) any such inquiry as is referred to in section 23 of the Interpretation Act (Northern Ireland) 1954 (inquiries and investigations)]

(6) Paragraph (7) applies where—

- (a) action by reference to which a complaint is made under Article 7, 8 or 8A is action by reference to which a complaint can be made under a procedure operated by a health and ^{F4}social care] body, a general ^{F5}health care] provider or an independent provider; and
- (b) paragraph (3) or (5) does not apply as regards the action.

Status: Point in time view as at 30/08/2014. This version of this provision has been superseded.

Changes to legislation: The Commissioner for Complaints (Northern Ireland) Order 1996 (revoked), Section 9 is up to date with all changes known to be in force on or before 05 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)

(7) In such a case the Commissioner shall not conduct an investigation in respect of the action unless he is satisfied that—

- (a) the other procedure has been invoked and exhausted; or
- (b) in the particular circumstances it is not reasonable to expect that procedure to be invoked or (as the case may be) exhausted.

(8) The Commissioner shall not conduct an investigation in respect of any action taken by a health and [^{F4}social care] board in the exercise of its functions under regulations made under Articles 56, 61, 62 or 63 of the Health and Personal Social Services (Northern Ireland) Order 1972 by virtue of Article 10 of the Health and Medicines (Northern Ireland) Order 1988 (investigations of matters relating to services).

(9) The Commissioner shall not conduct an investigation in pursuance of a complaint if—

- (a) the complaint is in respect of any action taken in any matter relating to arrangements made by a health and [^{F4}social care] body and a general [^{F5}health care] provider for the provision of general [^{F5}health care];
- (b) the action is taken by or on behalf of the body or by the provider; and
- (c) the complaint is made by the provider or the body.

(10) Nothing in paragraph (9) prevents the Commissioner conducting an investigation in respect of any action taken by a health and [^{F4}social care] body in operating a procedure established to examine complaints.

F1 1998 c. 47

F2 2005 c. 12

F3 Words in art. 9(5)(a) inserted (19.1.2013) by [Inquiry into Historical Institutional Abuse Act \(Northern Ireland\) 2013 \(c. 2\)](#), **ss. 23(1), 25(1)** (with s. 22)

F4 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), **ss. 32, 34(3), Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**

F5 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), **ss. 32, 34(3), Sch. 6 para. 1(1)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

F1 functions transferred by SR 1999/481

Status:

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