
STATUTORY INSTRUMENTS

2003 No. 439

**The Commissioner for Children and Young
People (Northern Ireland) Order 2003**

Introductory

Title and commencement

1.—(1) This Order may be cited as the Commissioner for Children and Young People (Northern Ireland) Order 2003.

(2) The following provisions of this Order come into operation two weeks after the day on which this Order is made—

- (a) this Article; and
- (b) Articles 2 to 5 (together with Schedules 1 and 2).

(3) The other provisions of this Order come into operation on such day or days as the Office may by order appoint^{F1}.

(4) An order under paragraph (3) may contain such transitional provisions as appear to the Office to be appropriate.

F1 partly exercised by SR 2003/400

Interpretation: general

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c.33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“action” includes failure to act;

“advocacy arrangements”, “complaint arrangements”, “inspection arrangements” and “whistle-blowing arrangements” have the meanings given by Article 9(1);

“the Commissioner” means the Commissioner for Children and Young People for Northern Ireland;

“the complainant”, in relation to a formal investigation into a complaint under Article 12(1), means the child or young person by whom the complaint was made;

“formal investigation” means an investigation under Article 16;

“general [^{F2}health care] provider” has the meaning given in paragraph 1 of Schedule 1 and references to general [^{F2}health care] are to any of the services mentioned in that paragraph;

“health and [^{F3}social care] body” means any of the following bodies—

- (a) a Health and Social Services Board;
- (b) a [^{F4}Health and Social Care trust];
- (c) the Mental Health Commission for Northern Ireland;

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- (d) the Northern Ireland Central Services Agency for the Health and Social Services;
 - (e) a special health and [^{F3}social care] agency;
- “independent provider” has the meaning given in paragraph 2 of Schedule 1.
- “information” includes information recorded in any form;
- “notice” means notice in writing;
- “the Office” means the Office of the First Minister and deputy First Minister;
- “parent” includes a person who has parental responsibility for a child (within the meaning of the Children (Northern Ireland) Order 1995 (NI 2));
- “practice” includes policy;
- “statutory provision” has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c.33).
- (3) For the purposes of this Order—
- (a) the reference in Article 6(3) to the United Nations Convention on the Rights of the Child is a reference to the Convention of that name adopted by General Assembly resolution 44/25 of 20th November 1989 and ratified by the United Kingdom on 16th December 1991;
 - (b) that Convention has effect subject to any reservation of the United Kingdom for the time being in force.

F2	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
F3	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
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)(c) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2

Interpretation: “child or young person”

- 3.—(1) In this Order “child or young person” means —
- (a) a person under the age of 18; and
 - (b) a person aged 18 or over who falls within paragraph (2) or (3).
- (2) A person falls within this paragraph if he is a person to or in respect of whom services are provided by, or on behalf of, or under arrangements made with, a Health and Social Services Board or a [^{F5}Health and Social Care trust] by virtue of—
- (a) Article 34D, 35, 35A or 35B of the Children (Northern Ireland) Order 1995 (NI 2) (which provide for the continuing duties of those bodies towards young persons); or
 - (b) regulations made under Article 34E of that Order (which may provide for the appointment of personal advisers for certain young persons).
- (3) A person falls within this paragraph if—
- (a) he is under the age of 21 years; and
 - (b) he is a disabled person within the meaning of the Disability Discrimination Act 1995 (c.50).
- (4) Anything which is required or authorised by this Order to be done by a child or young person may be done by his parent or any other person acting on his behalf; and references in this Order to things done by a child or young person include references to things done on behalf of the child or young person.

(5) References in this Order to a child or young person in relation to any legal proceedings include references to a parent or any other person acting on behalf of the child or young person for the purposes of those proceedings.

(6) If, in the case of any adult, there are in the opinion of the Commissioner exceptional circumstances which make it appropriate to do so, the Commissioner may direct that paragraph (7) shall apply in relation to the adult.

(7) Where this paragraph applies in relation to an adult, then—

- (a) anything which is required or authorised by this Order to be done by a child or young person may be done by the adult if it relates to any action taken in relation to him at a time when he was a child or young person; and
- (b) anything which is required or authorised by this Order to be done by the Commissioner in relation to a child or young person may be done in relation to the adult if it relates to any action taken as mentioned in sub-paragraph (a).

(8) In paragraphs (6) and (7) “adult” means a person who is not a child or young person.

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\(1\)\(c\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

Interpretation: “relevant authority”

4.—(1) In this Order “relevant authority” means—

[^{F6}(a) any authority (other than the Office of the Commissioner or the Comptroller and Auditor General) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities).]

(c) any body or person listed in Schedule 1.

(2) The Office may by order amend Schedule 1 so as to—

- (a) add a body or person to that Schedule;
- (b) remove a body or person from that Schedule;
- (c) modify any entry in that Schedule; or
- (d) move a body or person from one Part of that Schedule to the other Part.

(3) No order may be made under paragraph (2) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(4) An order under paragraph (2) may contain such transitional provisions as the Office thinks appropriate.

(5) An order under paragraph (2) which adds a body or person to Schedule 1 may provide for this Order to apply to that person or body subject to such modifications or exceptions as are specified in the order.

(6) In this Order “relevant authority concerned” means—

- (a) in relation to an investigation for the purposes of the Commissioner's functions under Article 7(2) or (3), a relevant authority mentioned in the terms of reference produced for that investigation under paragraph 2(2)(a) of Schedule 3;
- (b) in relation to an investigation for the purposes of the Commissioner's functions under Article 9 or 10, the relevant authority in relation to which the investigation is to be, is being, or (as the case may be) has been conducted; and
- (c) in relation to a formal investigation into a complaint under Article 12(1), the relevant authority against which the complaint was made.

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(7) In this Order any reference to action taken by a relevant authority includes a reference to action taken by—

- (a) a member or committee of the authority (if it is a body);
- (b) an officer or member of staff of the authority;
- (c) any person acting on behalf of the authority;
- (d) any person to whom the authority has delegated functions.

F6 Art. 4(1)(a) substituted for art. 4(1)(a)(b) (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, [Sch. 8 para. 9](#) (with s. 23, 50(3))

Status:

Point in time view as at 01/04/2016.

Changes to legislation:

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