



# Local Government Act 1974

## 1974 CHAPTER 7

### [<sup>F1</sup>PART 3A

#### INVESTIGATION OF COMPLAINTS ABOUT PRIVATELY ARRANGED OR FUNDED ADULT SOCIAL CARE

*[<sup>F1</sup>Arrangements with other Commissioners etc.*

#### Textual Amendments

**F1** Pt. 3A inserted (1.10.2010) by [Health Act 2009 \(c. 21\), s. 40\(1\), Sch. 5 para. 2](#); S.I. 2010/1863, art. 2

#### **34M Consultation with other Commissioners**

- (1) Subsection (2) applies if, at any stage in the course of an investigation under this Part, a Local Commissioner forms the opinion that the matters which are the subject of the investigation include a matter which could be the subject of an investigation by—
- the Parliamentary Commissioner, in accordance with the PCA 1967;
  - the Health Service Commissioner, in accordance with the HSCA 1993;
  - the Scottish Public Services Ombudsman in accordance with the SPSOA 2002; or
  - the Public Services Ombudsman for Wales, in accordance with the PSOWA 2005 [<sup>F2</sup>or the PSOWA 2019].
- (2) The Local Commissioner—
- must consult with the appropriate Commissioner or Ombudsman about the matter, and
  - where a complaint was made about the matter must, if the Local Commissioner considers it necessary, inform the person initiating the complaint under this Part of the steps necessary to initiate a complaint under the PCA 1967, the HSCA 1993, the SPSOA 2002 or the PSOWA 2005, as the case may be.

*Status: Point in time view as at 23/07/2019.*

*Changes to legislation: Local Government Act 1974, Cross Heading: Arrangements with other Commissioners etc. is up to date with all changes known to be in force on or before 13 June 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)*

- (3) Consultation under subsection (2)(a) in relation to a matter under investigation under this Part may be about anything relating to the matter, including—
- (a) the conduct of any investigation into the matter, and
  - (b) the form, content and publication of any report or statement of the results of or conclusions on such an investigation.
- (4) Subsection (5) applies if, at any stage in the course of conducting an investigation under the PCA 1967, the Parliamentary Commissioner forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part.
- (5) The Parliamentary Commissioner—
- (a) must consult with the appropriate Local Commissioner about the complaint, and
  - (b) if the Parliamentary Commissioner considers it necessary, must inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part.
- (6) Where a Local Commissioner is consulted about a complaint under the PCA 1967 by virtue of subsection (5), subsection (3) applies (with the necessary modifications) as it applies in relation to consultations held by virtue of subsection (2).
- (7) Nothing in the following provisions applies in relation to the disclosure of information in the course of consultations held in accordance with this section—
- (a) section 11(2) of the PCA 1967;
  - (b) section 15 of the HSCA 1993;
  - (c) section 19 of the SPSOA 2002;
  - (d) section [F<sup>3</sup>34X] of the PSOWA 2005;
  - (e) section 34K(1) of this Act.

#### Textual Amendments

- F2** Words in s. 34M(1)(d) inserted (23.7.2019) by [Public Services Ombudsman \(Wales\) Act 2019](#) (anaw 3), s. 77(1), [Sch. 5 para. 8](#); S.I. 2019/1096, reg. 2
- F3** Word in s. 34M(7)(d) substituted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014](#) (anaw 4), s. 199(2), [Sch. 3 para. 9](#); S.I. 2014/2718, art. 2(b)

### 34N Collaborative working with other Commissioners

- (1) If, at any stage in the course of an investigation under this Part, a Local Commissioner forms the opinion that the matters which are the subject of the investigation include a matter within the jurisdiction of—
- (a) the Parliamentary Commissioner,
  - (b) the Health Service Commissioner, or
  - (c) both,
- the Local Commissioner may conduct an investigation under this Part jointly with that Commissioner or those Commissioners.
- (2) A Local Commissioner must obtain the consent of the person affected or the complainant (if any) before agreeing to a joint investigation referred to in subsection (1).

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- (3) If a Local Commissioner forms the opinion that a complaint being investigated by—
- (a) the Parliamentary Commissioner,
  - (b) the Health Service Commissioner, or
  - (c) both,
- relates partly to a matter within the Local Commissioner's jurisdiction by virtue of this Part, the Local Commissioner may conduct an investigation under this Part jointly with that Commissioner or those Commissioners.
- (4) If a Local Commissioner conducts an investigation jointly with another person, the requirements of section 34H(1)(c) and (5) (so far as relating to a case where the Local Commissioner conducts an investigation under this Part) may be satisfied by a statement or report made jointly with that person.

### **34O Disclosure of information by Local Commissioner to Information Commissioner**

- (1) A Local Commissioner may disclose to the Information Commissioner any information obtained by, or furnished to, the Local Commissioner under or for the purposes of this Part if the information appears to the Local Commissioner to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—
    - [<sup>F4</sup>(i) sections 142 to 154, 160 to 164 or 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018 (certain provisions relating to enforcement),]
    - (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or
    - (iii) Part 4 of that Act (enforcement), or
  - [<sup>F5</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).]
- (2) Nothing in section 34K(1) applies in relation to the disclosure of information in accordance with this section.

#### **Textual Amendments**

- F4** S. 34O(1)(a)(i) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 6(a)** (with ss. 117, 209, 210, Sch. 20 para. 47(1)); S.I. 2018/625, reg. 2(1)(g)
- F5** S. 34O(1)(b) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 6(b)** (with ss. 117, 209, 210, Sch. 20 para. 47(2)); S.I. 2018/625, reg. 2(1)(g)

### **34P Disclosure of information by Local Commissioner to Care Quality Commission**

- (1) A Local Commissioner may disclose to the Care Quality Commission any information obtained by, or furnished to, the Local Commissioner under or for the purposes of this Part if the information appears to the Local Commissioner to relate to a matter in respect of which the Care Quality Commission has functions under any enactment.

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- (2) Nothing in section 34K(1) applies in relation to the disclosure of information in accordance with this section.]

**Status:**

Point in time view as at 23/07/2019.

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