



Local Government Act 1974

1974 CHAPTER 7

PART III

LOCAL GOVERNMENT ADMINISTRATION

26 Matters subject to investigation.

- (1) Subject to the provisions of this Part of this Act where a written complaint is made by or on behalf of a member of the public who claims to have sustained injustice in consequence of maladministration in connection with action taken by or on behalf of an authority to which this Part of this Act applies, being action taken in the exercise of administrative functions of that authority, a Local Commissioner may investigate that complaint.
- (2) A complaint shall not be entertained under this Part of this Act unless [^{F1}it is made in writing to the Local Commissioner specifying the action alleged to constitute maladministration or]—
 - (a) it is made in writing to a member of the authority, or of any other authority concerned, specifying the action alleged to constitute maladministration, and
 - (b) it is referred to the Local Commissioner, with the consent of the person aggrieved, or of a person acting on his behalf, by that member, or by any other person who is a member of any authority concerned, with a request to investigate the complaint.
- (3) If the Local Commissioner is satisfied that any member of any authority concerned has been requested to refer the complaint to a Local Commissioner, and has not done so, the Local Commissioner may, if he thinks fit, dispense with the requirements in subsection (2)(b) above.
- (4) A complaint shall not be entertained unless it was made to [^{F2}the Local Commissioner or] a member of any authority concerned within twelve months from the day on which the person aggrieved first had notice of the matters alleged in the complaint, but a Local Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers that [^{F3}it is reasonable] to do so.

Status: Point in time view as at 01/10/1998. This version of this provision has been superseded.

Changes to legislation: Local Government Act 1974, Section 26 is up to date with all changes known to be in force on or before 09 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)

- (5) Before proceeding to investigate a complaint, a Local Commissioner shall satisfy himself that the complaint has been brought, by or on behalf of the person aggrieved, to the notice of the authority to which the complaint relates and that that authority has been afforded a reasonable opportunity to investigate, and reply to, the complaint.
- (6) A Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters, that is to say,—
 - (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment;
 - (b) any action in respect of which the person aggrieved has or had a right of appeal to a Minister of the Crown; or
 - (c) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that a Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person aggrieved to resort or have resorted to it.

- (7) A Local Commissioner shall not conduct an investigation in respect of any action which in his opinion affects all or most of the inhabitants of the [^{F4}following area—
 - [^{F5}(aa) where the complaint relates to a National Park authority, the area of the Park for which it is such an authority;]
 - (a) where the complaint relates to the Commission for the New Towns, the area of the new town or towns to which the complaint relates;
 - ^{F6}(b)
 - [^{F7}(ba) where the complaint relates to the Urban Regeneration Agency, any designated area within the meaning of Part III of the Leasehold Reform, Housing and Urban Development Act 1993;]
 - (c) in any other case, the area of the authority concerned.]
- (8) Without prejudice to the preceding provisions of this section, a Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action or matter as is described in Schedule 5 to this Act.
- (9) Her Majesty may by Order in Council amend the said Schedule 5 so as to [^{F8}add to or exclude from the provisions of that Schedule (as it has effect for the time being)] such actions or matters as may be described in the Order; and any Order made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In determining whether to initiate, continue or discontinue an investigation, a Local Commissioner shall, subject to the preceding provisions of this section, act at discretion; and any question whether a complaint is duly made under this Part of this Act shall be determined by the Local Commissioner.

[^{F9}(11) In this section—

- (a) references to a person aggrieved include references to his personal representatives; and
- (b) references to a member of an authority concerned include, in the case of a complaint relating to a joint authority established by Part IV of the Local Government Act 1985, references to a member of a constituent council of that authority.]

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- (12) A complaint shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before 1st April 1974, or in respect of any default or alleged default first arising before that date.
- [^{F10}(13) A complaint as regards an authority mentioned in section 25(1)(ba), (bb)^{F11} . . . or (bd) above shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before the coming into force of Schedule 3 to the Local Government Act 1988, or in respect of any default or alleged default first arising before its coming into force; and subsection (12) above shall have effect subject to this.]

Textual Amendments

- F1** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(2)**
- F2** Words inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(3)(7)**
- F3** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(3)(7)**
- F4** S. 26(7)(a)–(c) and words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(4)**
- F5** S. 26(7)(aa) inserted (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 18(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7, Sch. 23 para. 12)
- F6** S. 26(7)(b) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F7** S. 26(7)(ba) inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 6(2)**; S.I. 1993/2762, **art. 3**
- F8** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(5)**
- F9** S. 26(11) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. II para. 51(b)**
- F10** S. 26(13) inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(6)**
- F11** Words in s. 26(13) repealed (1.10.1998) by 1998 c. 38, S. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

Modifications etc. (not altering text)

- C1** s. 26 modified by S.I. 1991/559, **art. 2(3)** and art. 2(5)
- C2** S. 26 modified by S.I. 1986/452, **art. 8(3)(5)**
- C3** S. 26(11)(b) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(k)**
- C4** S. 26(11)(b) extended by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 8(k)**

Status:

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