



Local Government Act 1974

1974 CHAPTER 7

PART III

LOCAL GOVERNMENT ADMINISTRATION

26 Matters subject to investigation.

[^{F1}(1) For the purposes of section 24A(1)(b), in relation to an authority to which this Part of this Act applies, the following matters are subject to investigation by a Local Commissioner under this Part of this Act—

- (a) alleged or apparent maladministration in connection with the exercise of the authority's administrative functions;
- (b) an alleged or apparent failure in a service which it was the authority's function to provide;
- (c) an alleged or apparent failure to provide such a service.]

[^{F1}(1A) Subsection (1) is subject to the following provisions of this section.]

^{F2}(2)

^{F2}(3)

^{F2}(4)

(5) Before proceeding to investigate [^{F3}a matter], a Local Commissioner shall satisfy himself that

[^{F4}(a) [^{F5}the matter has] been brought, by or on behalf of [^{F6}the person affected], to the notice of the authority to which [^{F7}it relates] and that that authority has been afforded a reasonable opportunity [^{F8}to investigate the matter and to respond]; or

(b) in the particular circumstances, it is not reasonable to expect [^{F9}the matter to be] brought to the notice of that authority or for that authority to be afforded a reasonable opportunity [^{F10}to investigate the matter and to respond].]

Status: Point in time view as at 01/12/2008. This version of this provision has been superseded.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)

- (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 [F11 person affected] 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 [F11 person affected] has or had a right of appeal to a Minister of the Crown F12 ...; or
 - (c) any action in respect of which the [F11 person affected] 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 [F11 person affected] to resort or have resorted to it.

[F13(6A) A Local Commissioner shall not conduct an investigation under this Part of this Act in respect of [F14 any action taken by or on behalf of an authority in the exercise] of any of the authority's functions otherwise than in relation to England.]

- (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 [F15 following area—
 - [where the [F17 matter] relates to a National Park authority, the area of the Park for which it is such an authority;]
 - F16(a)
 - F18(a)
 - F19(b)
 - [where the [F21 matter] relates to the [F22 Homes and Communities] Agency, any designated area within the meaning of [F23 Part 1 of the Housing and Regeneration Act 2008];]
 - F20(ba)
 - (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 [F24 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.

F25(10)

[F26(11) In this section—

- (a) references to a [F27 person affected] include references to his personal representatives; and
- F28(b)

F29(12)

F30(13)

Status: Point in time view as at 01/12/2008. 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)

Textual Amendments

- F1** S. 26(1)(1A) substituted for s. 26(1) (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), **ss. 173(2)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F2** S. 26(2)-(4) repealed (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), **ss. 173(3)**, 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(i)(ii)(v) (with art. 6(5))
- F3** Words in s. 26(5) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(2)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F4** S. 26(5)(a)(b) substituted (1.8.2007) by **The Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007** (S.I. 2007/1889), arts. 1(1), **15**
- F5** Words in s. 26(5)(a) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(2)(b)(i)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F6** Words in s. 26(5)(a) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(2)(b)(ii)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F7** Words in s. 26(5)(a) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(2)(b)(iii)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F8** Words in s. 26(5)(a) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(2)(b)(iv)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F9** Words in s. 26(5)(b) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(2)(c)(i)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F10** Words in s. 26(5)(b) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(2)(c)(ii)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F11** Words in s. 26(6) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(3)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F12** Words in s. 26(6)(b) repealed (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005** (c. 10), s. 40, **Sch. 6 para. 11(2)**, **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F13** S. 26(6A) inserted (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005** (c. 10), s. 40, **Sch. 6 para. 11(3)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F14** Words in s. 26(6A) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(4)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F15** 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)**
- F16** 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**)
- F17** Word in s. 26(7)(aa) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(5)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F18** S. 26(7)(a) omitted (1.12.2008) by **Housing and Regeneration Act 2008** (c. 17), s. 325(1), **Sch. 8 para. 18(3)(a)**, **Sch. 16**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6-13)
- F19** 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**
- F20** 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**
- F21** Word in s. 26(7)(ba) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(5)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F22** Words in s. 26(7)(ba) substituted (1.12.2008) by **Housing and Regeneration Act 2008** (c. 17), s. 325(1), **Sch. 8 para. 18(3)(b)(i)**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6-13)
- F23** Words in s. 26(7)(ba) substituted (1.12.2008) by **Housing and Regeneration Act 2008** (c. 17), s. 325(1), **Sch. 8 para. 18(3)(b)(ii)**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6-13)
- F24** Words substituted by **Local Government Act 1988** (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(5)**
- F25** S. 26(10) repealed (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 3(6)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))

Status: Point in time view as at 01/12/2008. 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)

- F26** S. 26(11) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. II para. 51(b)**
- F27** Words in s. 26(11)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F28** S. 26(11)(b) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(7)(b)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F29** S. 26(12) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(8)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F30** S. 26(13) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(8)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))

Modifications etc. (not altering text)

- C1** s. 26 modified by S.I. 1991/559, **art. 2(3)(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:

Point in time view as at 01/12/2008. 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.