



# Local Government Act 1974

## 1974 CHAPTER 7

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

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

*Private adult social care: matters subject to investigation*

#### [<sup>F1</sup>34B Power to investigate

- (1) Under this Part, a Local Commissioner may investigate a matter—
  - (a) which relates to action taken by an adult social care provider in connection with the provision of adult social care, and
  - (b) in relation to which Condition 1 or 2 is met.
- (2) But a Local Commissioner may not conduct an investigation under this Part in respect of any action or matter described in Schedule 5A.
- (3) Condition 1 is met if a complaint about the matter which satisfies sections 34C and 34D has been made to a Local Commissioner.
- (4) Any question whether Condition 1 is met in relation to a matter is to be determined by a Local Commissioner.
- (5) Condition 2 is met if—
  - (a) the matter has come to the attention of a Local Commissioner, and
  - (b) section 34E applies to the matter.
- (6) Before investigating a matter under this Part a Local Commissioner must be satisfied that—
  - (a) the matter has been brought, by or on behalf of the person affected, to the notice of the adult social care provider to which it relates and that that provider has been afforded a reasonable opportunity to investigate the matter and to respond, or

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*Changes to legislation: Local Government Act 1974, Section 34B is up to date with all changes known to be in force on or before 08 May 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) View outstanding changes*

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- (b) in the particular circumstances, it is not reasonable to expect the matter to be brought to the notice of that provider or for that provider to be afforded a reasonable opportunity to investigate the matter and to respond.
- (7) In subsection (6) the reference to a person affected includes a reference to that person's personal representatives.
- (8) In deciding whether to initiate, continue or discontinue an investigation, a Local Commissioner must, subject to the provisions of this section and sections 34C to 34E, act in accordance with the Local Commissioner's own discretion.
- (9) Without prejudice to the discretion conferred by subsection (8), a Local Commissioner who is satisfied with action which the adult social care provider concerned has taken or proposes to take may in particular decide—
  - (a) not to investigate a matter, or
  - (b) to discontinue an investigation of a matter.
- (10) Her Majesty may by Order in Council amend Schedule 5A by adding, omitting or changing a description of an action or matter.
- (11) A statutory instrument containing an Order in Council made under subsection (10) is subject to annulment in pursuance of a resolution of either House of Parliament.]

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**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

**Changes to legislation:**

Local Government Act 1974, Section 34B is up to date with all changes known to be in force on or before 08 May 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(bzb) inserted by [2022 c. 30 Sch. 10 para. 2\(2\)\(a\)](#)
- s. 33(3B) inserted by [2022 c. 30 Sch. 10 para. 2\(4\)](#)
- s. 33ZA(1)(d) and word inserted by [2022 c. 30 Sch. 10 para. 3\(2\)\(b\)](#)
- s. 33ZA(3)(d) and word inserted by [2022 c. 30 Sch. 10 para. 3\(4\)\(b\)](#)
- s. 33ZB(4)(e)(f) inserted by [2022 c. 30 Sch. 10 para. 4\(b\)](#)