



Public Services Ombudsman (Wales) Act 2005

CHAPTER 10

PUBLIC SERVICES OMBUDSMAN (WALES) ACT 2005

PART 1

THE PUBLIC SERVICES OMBUDSMAN FOR WALES

- 1 The Public Services Ombudsman for Wales

PART 2

INVESTIGATION OF COMPLAINTS RELATING TO LISTED AUTHORITIES

Power of investigation

- 2 Power of investigation
- 3 Alternative resolution of complaints

Complaints

- 4 Who can complain
- 5 Requirements: complaints made to the Ombudsman
- 6 Requirements: complaints referred to the Ombudsman

Matters which may be investigated

- 7 Matters which may be investigated
- 8 Exclusion: matters not relating to Wales
- 9 Exclusion: other remedies
- 10 Other excluded matters
- 11 Decisions taken without maladministration

Status: Point in time view as at 03/04/2017.

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Decisions not to investigate etc.

- 12 Decisions not to investigate or to discontinue investigation

Investigation procedure and evidence

- 13 Investigation procedure
14 Information, documents, evidence and facilities
15 Obstruction and contempt

Reports of investigations

- 16 Reports of investigations
17 Publicising reports
18 Publicising reports: health care providers
19 Action following receipt of a report
20 Non-action following receipt of a report
21 Reports: alternative procedure

Special reports

- 22 Special reports
23 Special reports: supplementary
24 Special reports relating to the Welsh Assembly Government etc.

...

- 25 Consultation and co-operation with other ombudsmen
25A Working jointly with the Commissioner for Older People in Wales
25B Working collaboratively with the Commissioner for Older People in Wales

...

- 26 Disclosure of information
27 Disclosure prejudicial to safety of State or contrary to public interest

Listed authorities

- 28 Listed authorities
29 Restrictions on power to amend Schedule 3
30 Provisions in orders adding persons to Schedule 3

Miscellaneous

- 31 Power to issue guidance
32 Protection from defamation claims
33 Publicity for complaints procedures
34 Compensation for the person aggrieved

PART 2A

**INVESTIGATION OF COMPLAINTS RELATING TO OTHER
PERSONS: SOCIAL CARE AND PALLIATIVE CARE**

Application of this Part

- 34A Matters to which this Part applies

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Investigation of complaints

- 34B Power to investigate complaints
- 34C Alternative resolution of complaints
- 34D Who can complain
- 34E Requirements: complaints made to the Ombudsman
- 34F Requirements: complaints referred to the Ombudsman

Decisions not to investigate etc

- 34G Decisions not to investigate complaints or to discontinue investigations

Investigation procedure and evidence

- 34H Investigation procedure
- 34I Information, documents, evidence and facilities
- 34J Obstruction and contempt

Reports about investigations

- 34K Investigation reports
- 34L Further publicity for investigation reports
- 34M Action following receipt of investigation reports
- 34N Reports: alternative procedure

Special reports

- 34O Circumstances in which special reports may be prepared
- 34P Special reports
- 34Q Further publicity for special reports

Interpretation

- 34R Meaning of “care home” and “care home provider”
- 34S Meaning of “domiciliary care” and “domiciliary care provider”
- 34T Meaning of “palliative care service” and “independent palliative care provider”

PART 2B

INVESTIGATION OF COMPLAINTS: SUPPLEMENTARY

Consultation and co-operation

- 34U Consultation and co-operation with other ombudsmen
- 34V Working jointly with other Commissioners
- 34W Working collaboratively with other Commissioners

Disclosure

- 34X Disclosure of information
- 34Y Disclosure prejudicial to safety of State or contrary to public interest
- 34Z Protection from defamation claims

PART 3

MISCELLANEOUS AND GENERAL

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Conduct of local government members and employees

35 Conduct of local government members and employees

Abolition of existing bodies and offices

36 Abolition of existing bodies and offices

37 Transfer of property, staff etc.

38 Undetermined complaints

General

39 Amendments and repeals

40 Commencement

41 Interpretation

42 Former health care providers social landlords, social care providers and palliative care providers : modifications

43 Consequential, transitional provisions etc.

44 Orders, regulations and directions

45 Extent

46 Short title

SCHEDULES

SCHEDULE 1 — Public Services Ombudsman for Wales: appointment etc.

Appointment

1 The Ombudsman is to be appointed by Her Majesty on...

Status

2 (1) The Ombudsman is a corporation sole.

Term of office

3 (1) A person's term of office as the Ombudsman is...

Acting Public Services Ombudsman for Wales

4 (1) If the office of the Ombudsman becomes vacant, Her...

Disqualification

5 (1) A person is disqualified from being the Ombudsman or...

6 (1) A person who holds office as the Ombudsman or...

7 (1) A person who has ceased to hold office as...

8 The references in paragraphs 6 and 7 to a paid...

Remuneration etc.

9 (1) The Assembly must — (a) pay a person who...

Special financial provisions

(1) Any sums payable by the Ombudsman in consequence of...

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Staff

11 (1) The Ombudsman may appoint such staff as he thinks...

Advisers

12 (1) The Ombudsman may obtain advice from any person who,...

Delegation

13 (1) Any function of the Ombudsman may be discharged on...

Annual and extraordinary reports

14 (1) The Ombudsman— (a) must annually prepare a general report...

Estimates

15 (1) For each financial year other than the first financial...

Accounts

16 (1) The Ombudsman must— (a) keep proper accounting records; and...

Audit

17 (1) The accounts prepared by the Ombudsman for a financial...

Accounting officer

18 (1) The Ombudsman is the accounting officer for the office...

Examinations into the use of resources

19 (1) The Auditor General for Wales may carry out examinations...

Examinations by the Comptroller and Auditor General

20 (1) For the purposes of enabling him to carry out...

Supplementary powers

21 The Ombudsman may do anything (including acquire or dispose of...

SCHEDULE 2 — Excluded matters : Part 2

- 1 Action taken by or with the authority of the Welsh...
- 2 The commencement or conduct of proceedings before a court of...
- 3 Action taken by a member of the administrative staff of...
- 4 Action taken in respect of appointments, removals, pay, discipline, superannuation...
- 5 Action relating to the determination of the amount of rent...
- 6 (1) Action taken by an authority specified in sub-paragraph (2)...
- 7
- 8 Action under— (a) the National Health Service Act 1977,
- 9 Action taken by a Local Health Board in the discharge...
- 10

SCHEDULE 3 — Listed authorities

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Government of Wales The Welsh Assembly Government. The National Assembly...
 Local government, fire and police A local authority in Wales....
 Environment The Committee on Climate Change. A National Park authority...
 Health and social care Social Care Wales . The Board...
 Housing A social landlord in Wales.
 Education and training
 Arts and leisure The Arts Council of Wales. The Sports...
 Miscellaneous The Building Regulations Advisory Committee for Wales.

SCHEDULE 3A — Excluded Matters: Part 2A

- 1 The commencement or conduct of proceedings before a court of...
- 2 Action taken in respect of appointments or removals, pay, discipline,...

SCHEDULE 4 — Conduct of local government members and employees

- 1 The Local Government Act 2000 (c. 22) is amended as...
- 2 In section 49 (principles governing conduct of members of relevant...
- 3 In section 51 (duty of relevant authorities to adopt codes...
- 4 In section 53 (standards committees), in subsection (11)(k), for “the...
- 5 In section 62 (investigations: further provisions) in subsection (7)—
- 6 In section 63 (restrictions on disclosure of information) in subsection...
- 7 In the heading to section 67, for “Local Commissioner” substitute...
- 8 In section 67— (a) after subsection (1) insert—
- 9 For the italic heading immediately preceding section 68 substitute “...
- 10 For the heading to section 68 substitute “ Public Services...
- 11 In section 68— (a) in subsection (1), for “A Local...
- 12 For the heading to section 69 substitute “ Investigations by...
- 13 In section 69— (a) in subsection (1), for “A Local...
- 14 In section 70 (investigations: further provisions)— (a) in subsection (2),...
- 15 In section 71 (reports etc.)— (a) in subsections (1) to...
- 16 In section 72 (interim reports), in subsections (1), (3) and...
- 17 In section 73 (matters referred to monitoring officers) in subsection...
- 18 In section 74 (law of defamation), for “a Local Commissioner...
- 19 In section 78 (decisions of interim case tribunals) in subsection...
- 20 In section 79 (decisions of case tribunals) in subsection (12)(a)(ii),...
- 21 In section 80 (recommendations by case tribunals) in subsection (6) (b),...
- 22 In section 81 (disclosure and registration of members' interests etc.)...
- 23 In section 82 (code of conduct for local government employees)...
- 24 In section 83 (interpretation of Part 3) in subsection (1)—...

SCHEDULE 5 — Transfer of staff, property etc.

Interpretation

- 1 In this Schedule— “the commencement date” means the date on...

Transfer of staff

- 2 On the commencement date each relevant employee transfers to and...
- 3 The contract of employment of a relevant employee transferred under...

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- 4 Accordingly— (a) all rights, powers, duties and liabilities of the...
- 5 But if a relevant employee informs the relevant existing authority...
- 6 Paragraph 5 does not affect any right of a relevant...

Transfer of property, rights and liabilities

- 7 On the commencement date all property, rights and liabilities to...
- 8 The reference in paragraph 7 to rights and liabilities does...
- 9 Paragraph 7 has effect in relation to any property, rights...
- 10 Anything (including legal proceedings) which is in the process of...
- 11 Anything done by an existing authority for the purpose of,...
- 12 On and after the commencement date, the Ombudsman is to...

SCHEDULE 6 — Consequential amendments

Parliamentary Commissioner Act 1967 (c. 13)

- 1 The Parliamentary Commissioner Act 1967 is amended as follows.
- 2 In section 3 (administrative provisions) in subsection (2), for “of...
- 3 In section 4 (departments etc. subject to investigation) in subsection...
- 4 In section 11 (provision for secrecy of information) in subsection...
- 5 (1) Section 11A is amended as follows.

Superannuation Act 1972 (c. 11)

- 6 In Schedule 1 to the Superannuation Act 1972 (kinds of...

Local Government Act 1974 (c. 7)

- 7 The Local Government Act 1974 is amended as follows.
- 8 (1) Section 23 (the Commissions for Local Administration) is amended...
- 9 (1) Section 23A (annual reports for representatives etc.) is amended...
- 10 In section 25(1) (authorities subject to investigation)—
- 11 (1) Section 26 (matters subject to investigation) is amended as...
- 12 (1) Section 29 (investigations: further provisions) is amended as follows...
- 13 (1) Section 32 (law of defamation and disclosure of information)...
- 14 Omit section 32A (use of information by Local Commissioner in...
- 15 (1) Section 33 (consultation between Local Commissioner and other commissioners...
- 16 (1) Section 34(1) (interpretation of Part 3) is amended as...
- 17 For the title to Schedule 4, substitute “ The Commission...
- 18 (1) Schedule 4 is amended as follows.

House of Commons Disqualification Act 1975 (c. 24)

- 19 In Schedule 1 to the House of Commons Disqualification Act...

National Health Service Act 1977 (c. 49)

- 20 (1) Section 19A of the National Health Service Act 1977...

Mental Health Act 1983 (c. 20)

- 21 In section 134 of the Mental Health Act 1983 (correspondence...

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Finance Act 1989 (c. 26)

- 22 In section 182 of the Finance Act 1989 (disclosure of...

Local Government and Housing Act 1989 (c. 42)

- 23 The Local Government and Housing Act 1989 is amended as...
24 (1) Section 5 (designation and reports of monitoring officer) is...
25 (1) Section 5A (reports of monitoring officer: local authorities operating...

Social Security Administration Act 1992 (c. 5)

- 26 In section 123 of the Social Security Administration Act 1992...

Health Service Commissioners Act 1993 (c. 46)

- 27 The Health Service Commissioners Act 1993 is amended as follows....
28 In the heading before section 1, for “Commissioners” substitute “...
29 For the heading to section 1, substitute “ The Commissioner...
30 (1) Section 1 is amended as follows.
31 (1) Section 2 (the bodies subject to investigation) is amended...
32 (1) Section 2A (health service providers subject to investigation) is...
33 (1) Section 2B (independent providers subject to investigation) is amended...
34 In the heading to section 3, for “Commissioners” substitute “...
35 (1) Section 3 is amended as follows.
36 (1) Section 4 (availability of other remedy) is amended as...
37 In section 6 (general health services and service committees) in...
38 (1) Section 7 (personnel, contracts etc.) is amended as follows...
39 (1) Section 9 (requirements to be complied with) is amended...
40 (1) Section 10 (referral of complaint by health service body)...
41 (1) Section 11 (procedure in respect of investigations) is amended...
42 In section 12 (evidence) in subsections (1), (1A) and (2),...
43 In section 13 (obstruction and contempt), in subsection (1), for...
44 For the heading to section 14 substitute “ Reports by...
45 (1) Section 14 is amended as follows.
46 Omit sections 14A to 14C (reports by the Welsh Commissioner)...
47 (1) Section 15 (confidentiality of information) is amended as follows....
48 In section 16 (information prejudicial to the safety of the...
49 (1) Section 17 (use of information by Commissioner in other...
50 (1) Section 18 (consultation during investigations) is amended as follows....
51 In section 18A (disclosure of information to Information Commissioner) in...
52 (1) Section 19 (interpretation) is amended as follows.
53 (1) Schedule 1 is amended as follows.
54 Omit Schedule 1A (the Welsh Commissioner).

Deregulation and Contracting Out Act 1994 (c. 40)

- 55 In section 79(1) of the Deregulation and Contracting Out Act...

Housing Act 1996 (c. 52)

- 56 The Housing Act 1996 is amended as follows.

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- 57 In section 51(7) (schemes for investigation of housing complaints), for...
58 Omit sections 51A to 51C and Schedule 2A (the Social...

Audit Commission Act 1998 (c. 18)

- 59 In section 49(1) of the Audit Commission Act 1998 (restriction...

Data Protection Act 1998 (c. 29)

- 60 In section 31 of the Data Protection Act 1998 (regulatory...

Government of Wales Act 1998 (c. 38)

- 61 The Government of Wales Act 1998 is amended as follows....
62 In section 12(1) (disqualification from being Assembly member)—
63 In section 13(3) (exceptions and relief from disqualification), for “or...
64 In section 70 (openness), in subsection (5)(a) for “the Welsh...
65 Omit section 111 (Welsh Administration Ombudsman).
66 In section 144 (accounts, audit and reports), in subsection (8)(a)—...
67 In section 146 (transfer etc. of functions from Comptroller and...
68 In section 156 (defined expressions), omit the entry for the...
69 Omit Schedule 9 (Welsh Administration Ombudsman).

Freedom of Information Act 2000 (c. 36)

- 70 The Freedom of Information Act 2000 is amended as follows....
71 In section 76(1) (disclosure of information between Information
Commission and...
72 In Schedule 1 (public authorities), in Part 6—

Scottish Public Services Ombudsman Act 2002 (asp 11)

- 73 In section 21(1) of the Scottish Public Services Ombudsman Act...

Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

- 74 The Health and Social Care (Community Health and Standards) Act...
75 In section 113 (complaints about health care) in subsection (4)—...
76 In section 114 (complaints about social services) in subsection (5)—...

Public Audit (Wales) Act 2004 (c. 23)

- 77 In section 54 of the Public Audit (Wales) Act 2004...

SCHEDULE 7 — Repeals

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