



**Northern Ireland
Assembly**

**Committee for the Office of the First Minister
and deputy First Minister**

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From: Kathy O'Hanlon Clerk to the Committee

Date: 3 July 2015

To: Shauna Mageean Senior Assistant Clerk
Ad Hoc Committee on the Public Services Ombudsperson Bill
Gordon Nabney
Examiner of Statutory Rules

Subject: Public Services Ombudsperson Bill

At its Committee meeting of 1 July 2015, the Committee noted draft amendments arising from advice of the Examiner of Statutory Rules to the Ad Hoc Committee on the Public Services Ombudsperson Bill.

The Committee agreed to share the draft amendments with the Ad Hoc Committee and the Examiner of Statutory Rules.

Regards

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Enc

Amendments Paper 4 (complaints handling procedures and misc amdt)

Clause 24, Page 9, Line 22

Leave out “complaints procedure” and insert “complaints handling procedure”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 25, page 9, line 26

Leave out “complaints procedure” and insert “complaints handling procedure”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 25, page 9, line 28

Leave out “complaints procedure” and insert “complaints handling procedure”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 25, page 9, line 30

Leave out “complaints procedure” and insert “complaints handling procedure”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 26, page 10, line 2

Leave out “complaints procedure” and insert “complaints handling procedure”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 26, page 10, line 5

Leave out “complaints procedure” and insert “complaints handling procedure”

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Clause 27, page 10, line 13

Leave out lines 13 to 21

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Amendments Paper 4 (complaints handling procedures and misc amdt)

Clause 27, page 10, line 22

Leave out “complaints procedure” and insert “complaints handling procedure”

Chair, Committee for the Office of the First Minister and deputy First Minister

New Part

After clause 33 insert –

“PART 3

COMPLAINTS HANDLING PROCEDURE

Meaning of complaints handling procedure

34. (1) In this Act “complaints handling procedure” is the procedure of a listed authority for –

- (a) examining complaints, or
- (b) reviewing decisions,

in respect of matters which the Ombudsperson may investigate.

(2) But for the purposes of this Act, the following do not form part of a complaints handling procedure –

- (a) a right of appeal, complaint, reference or review to or before a tribunal constituted under any statutory provision or by virtue of Her Majesty’s prerogative,
- (b) a remedy by way of proceedings in a court of law.

Statement of principles

35. (1) The Ombudsperson must publish a statement of principles concerning complaints handling procedures of listed authorities.

(2) The first statement of principles is not to be published unless a draft of the statement has been laid before, and approved by a resolution of, the Assembly.

(3) Before laying a draft statement of principles before the Assembly, the Ombudsperson must consult –

- (a) Ministers of Northern Ireland departments, and
- (b) such listed authorities and other persons as the Ombudsperson thinks fit.

(4) The Ombudsperson must, in preparing the draft statement of principles, have regard to any representations made during the consultation.

(5) The statement of principles comes into force when it is published by the Ombudsperson.

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(6) The Ombudsperson may from time to time revise and re-publish the statement of principles.

(7) Where the Ombudsperson considers that any revision of the statement of principles is material, subsections (2) to (5) apply to that statement of principles as they do to the first statement of principles.

Obligation for listed authority to have complaints handling procedure

36. (1) A listed authority must ensure –

- (a) it has a complaints handling procedure in respect of action taken by the listed authority, and
- (b) any such procedure complies with the statement of principles.

(2) A listed authority which is responsible, [by virtue of any statutory provision] for a complaints handling procedure –

- (a) in relation to, or
- (b) operated by,

another listed authority, must ensure the procedure complies with the statement of principles.

Model complaints handling procedures

37. (1) The Ombudsperson may publish model complaints handling procedures (referred to in this Act as “model CHP”) for listed authorities.

(2) A model CHP must comply with the statement of principles.

(3) The Ombudsperson may publish different model CHPs for different purposes.

(4) Before publishing a model CHP the Ombudsperson must consult such listed authorities and other persons as the Ombudsperson thinks fit.

(5) The Ombudsperson may from time to time revise and re-publish any model CHP; and in doing so, subsection (4) applies.

(6) Where a model CHP is revised and re-published, section 38 has effect with the following modifications –

- (a) any specification under section 38(1) in relation to the model CHP continues in effect as a specification in relation to the revised and re-published model CHP,
- (b) any other reference to a model CHP is to the model CHP as revised and re-published,
- (c) section 38(2)(b) is omitted.

(7) The Ombudsperson may withdraw any model CHP at any time; and any specification under section 38(1) in relation to the model CHP ceases to have effect upon that withdrawal.

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Obligation for listed authority to comply with model CHPs

38. (1) The Ombudsperson may specify a listed authority to which a model CHP is relevant, and must notify the authority accordingly.

(2) Where subsection (1) applies –

- (a) the listed authority must ensure that there is a complaints handling procedure which complies with the model CHP,
- (b) the authority must submit a description of the complaints handling procedure, having taken account of the relevant model CHP, within 6 months of the specification.

(3) A listed authority may, with the consent of the Ombudsperson, modify the application of the model CHP which is relevant to it, but only to the extent that is necessary for the effective operation of the procedure by the authority.

(4) The Ombudsperson may revoke a specification at any time.

Declaration of non-compliance of complaints handling procedure

39. (1) The Ombudsperson may make a declaration of non-compliance in relation to a complaints handling procedure if subsection (2) or (3) applies.

(2) This subsection applies where the Ombudsperson –

- (a) has specified that a model CHP is relevant to a listed authority, and
- (b) is of the opinion that a listed authority's complaints handling procedure does not comply with the model CHP.

(3) This subsection applies where the Ombudsperson –

- (a) has not specified that a model CHP is relevant to a listed authority, and
- (b) is of the opinion that a listed authority's complaints handling procedure does not comply with the statement of principles.

(4) Where a declaration is made, the Ombudsperson –

- (a) must give reasons in writing,
- (b) may specify such modifications to the complaints handling procedure as would result in the declaration being withdrawn.

(5) Where a declaration is made, the listed authority must submit a description of its complaints handling procedure to the Ombudsperson, having taken account of the reasons given under subsection (4)(a) and any modifications specified under (4)(b), within 2 months of the declaration.

(6) The Ombudsperson may withdraw a declaration at any time if the Ombudsperson thinks fit.

Amendments Paper 4 (complaints handling procedures and misc amdt)

Submission of description of complaints handling procedure: general

40. (1) A listed authority must submit a description of its complaints handling procedure to the Ombudsperson if the Ombudsperson so directs.

(2) The description must be submitted within three months of being so directed, or such other period as the Ombudsperson may direct.

(3) Sections 38(2)(b) and 39(5) are subject to any direction given under this section.

(4) Where a listed authority has submitted a description of its complaints handling procedure to the Ombudsperson under this Act or otherwise, the authority must provide such additional information in relation to that procedure as the Ombudsperson may reasonably request.

(5) The additional information must be provided within such period as the Ombudsperson directs.

Application of other enactments

41. The duties in sections 36 and 38(2)(a) do not apply to the extent that –

- (a) the listed authority lacks necessary powers (other than by virtue of this Act) to ensure compliance with the duties, or
- (b) the duties are inconsistent with any other statutory provision.

Promotion of best practice etc.

42. (1) The Ombudsperson must –

- (a) monitor practice and identify any trends in practice as respects the way in which listed authorities handle complaints,
- (b) promote best practice in relation to such complaints handling,
- (c) encourage co-operation and the sharing of best practice among listed authorities in relation to complaints handling.

(2) A listed authority must co-operate with the Ombudsperson in the exercise of the function in subsection (1).

(3) The duty in subsection (2) does not apply to the extent that –

- (a) the listed authority lacks the necessary powers (other than by virtue of this Act) to ensure compliance with the duty, or
- (b) the duty is inconsistent with any other statutory provision.”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 50, page 20, line 16

At the end insert –

Amendments Paper 4 (complaints handling procedures and misc amdt)

““complaints handling procedure” has the meaning given in section 34,”

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Clause 50, page 20, line 38

At the end insert –

““model CHP” has the meaning given in section 37,”

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Clause 50, page 21, line 1

At the end insert –

““statement of principles” has the meaning given in section 35,”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 55, page 21, line 31

At the end insert –

“(a) section 34,”

Chair, Committee for the Office of the First Minister and deputy First Minister

Clause 55, page 22, line 23

At the end insert –

“(7) Part 3 (other than section 34) comes into operation on such day as the Assembly Commission may by order appoint.”

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New paragraph

Schedule 1, page 27, line 4

At the end insert –

“Delegation of functions

14. - (1) Any function of the Ombudsperson may be performed by any member of staff of the Ombudsperson authorised by the Ombudsperson for that purpose.

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(2) Any function of the Ombudsperson may be performed by any other person authorised by the Ombudsperson for that purpose if –

- (a) that other person is suitably qualified to do so, and
- (b) there are special circumstances which make it proper to do so.”

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Schedule 1, page 27, line 19

Leave out lines 19 and 20.

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Schedule 3, page 34, line 32

Leave out line 32

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Schedule 3, page 33, line 10

At the end add –

“The Police Rehabilitation and Retraining Trust”

Chair, Committee for the Office of the First Minister and deputy First Minister

Editorial amendment

Clause 24, page 9, line 19

In the title, leave out “complaint procedure” and insert “complaints handling procedure”

Editorial amendment

Clause 27, page 10, line 12

In the title, leave out “complaints procedure” and insert “complaints handling procedure”