



# Commissioner for Older People (Wales) Act 2006

## 2006 CHAPTER 30

*Disclosure of information etc.*

### 18 Power to disclose information

- (1) This section applies to—
  - (a) information obtained by the Commissioner in the discharge of any of his functions;
  - (b) information obtained by the Commissioner from the Public Services Ombudsman for Wales by virtue of section [F<sup>1</sup>34V] of the Public Services Ombudsman (Wales) Act 2005 (c. 10) (working jointly with the Commissioner for Older People in Wales) [F<sup>2</sup>or section 66 of the Public Services Ombudsman (Wales) Act 2019 (working jointly with specified persons) ];
  - (c) information obtained by the Commissioner from another ombudsman by virtue of any provision in an enactment relating to that ombudsman which corresponds to any provision of section 17;
  - (d) information obtained by the Commissioner from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 (c. 36) (disclosure between Information Commissioner and ombudsmen).
- (2) Information to which this section applies must not be disclosed except where its disclosure is authorised by subsection (3).
- (3) The Commissioner may disclose information to which this section applies—
  - (a) for the purpose of the discharge of any of his functions;
  - (b) if he is satisfied that the condition in subsection (4) is met and the disclosure is to a permitted person;
  - (c) for the purpose of proceedings for an offence of perjury alleged to have been committed in the course of an examination by the Commissioner under regulations made under section 10;

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- (d) for the purpose of an inquiry with a view to the taking of proceedings mentioned in paragraph (c);
  - (e) for the purpose of proceedings under section 11;
  - (f) if the information is to the effect that a person is likely to constitute a threat to the health or safety of one or more persons and the disclosure is to a person to whom the Commissioner thinks it should be disclosed in the public interest;
  - (g) if the information is information to which subsection (6) applies and the disclosure is to the Information Commissioner;
  - (h) if the information was obtained by the Commissioner more than 70 years before the date of the disclosure and the disclosure is to a person to whom the Commissioner thinks it should be disclosed in the public interest.
- (4) The condition is that the disclosure is—
- (a) appropriate for the purpose of the discharge by the permitted person of any of his functions; and
  - (b) in the public interest.
- (5) In determining for the purpose of this section whether disclosure of information is in the public interest, the Commissioner must take into account the interests of—
- (a) any person to whom the information relates; and
  - (b) such other persons he thinks appropriate.
- (6) This subsection applies to information if it appears to the Commissioner to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise a power conferred by an enactment mentioned in subsection (7); or
  - (b) the commission of an offence mentioned in subsection (8).
- (7) The enactments are—
- <sup>[F3]</sup>(a) sections 142 to 154, 160 to 164 or 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018 (certain provisions relating to enforcement);]
  - (b) section 48 of the Freedom of Information Act 2000 (c. 36) (practice recommendations); and
  - (c) Part 4 of that Act (enforcement).
- <sup>[F4]</sup>(8) The offences are those under—
- (a) a provision of the Data Protection Act 2018 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc); or
  - (b) section 77 of the Freedom of Information Act 2000 (offence of altering etc records with intent to prevent disclosure).]
- (9) In this section—
- “other ombudsman” has the same meaning as in section 17;
  - “permitted person” means—
- (a) the <sup>[F5]</sup>Welsh Ministers];
  - (aa) <sup>[F6]</sup>the First Minister for Wales;
  - (ab) the Counsel General to the Welsh Assembly Government;]
  - (b) the Public Services Ombudsman for Wales;
  - (c) the Children's Commissioner for Wales;
  - (d) the Children's Commissioner;
  - (e) the Commissioner for Children and Young People for Northern Ireland;

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- (f) a housing ombudsman appointed in accordance with a scheme approved under section 51 of the Housing Act 1996 (c. 52);
  - (g) a council for a county or county borough in Wales;
  - (h) a council for a county or district in England;
  - (i) a council for a London borough;
  - (j) a chief of police of a police force for a police area;
  - (k) the chief constable of the British Transport Police Force.
- (10) The [F7Welsh Ministers] may by order amend the definition of “permitted person” in subsection (9) by—
- (a) adding a person;
  - (b) omitting a person;
  - (c) changing a description of a person.

#### Textual Amendments

- F1** Word in s. 18(1)(b) substituted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199, Sch. 3 para. 33; [S.I. 2014/2718](#), **art. 2(b)**
- F2** Words in s. 18(1)(b) inserted (23.7.2019) by [Public Services Ombudsman \(Wales\) Act 2019 \(anaw 3\)](#), s. 77(1), **Sch. 5 para. 23**; [S.I. 2019/1096](#), reg. 2
- F3** S. 18(7)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 112(2)** (with [ss. 117, 209, 210](#), [Sch. 20 para. 47\(1\)](#)); [S.I. 2018/625](#), reg. 2(1)(g)
- F4** S. 18(8) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 112(3)** (with [ss. 117, 209, 210](#), [Sch. 20 para. 47\(2\)](#)); [S.I. 2018/625](#), reg. 2(1)(g)
- F5** Words in s. 18(9)(a) substituted (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\)](#) of [Government of Wales Act 2006 \(c. 32\)](#)) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, **Sch. 1 para. 137(2)(a)**
- F6** S. 18(9)(aa)(ab) inserted (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\)](#) of [Government of Wales Act 2006 \(c. 32\)](#)) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, **Sch. 1 para. 137(2)(b)**
- F7** Words in s. 18(10) substituted (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\)](#) of [Government of Wales Act 2006 \(c. 32\)](#)) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, **Sch. 1 para. 137(3)**

## 19 Protection against defamation

- (1) For the purposes of the law of defamation, the following are absolutely privileged—
- (a) the publication of a matter by the Commissioner in a report made under regulations made under section 15 or paragraph 8 of Schedule 1;
  - (b) the publication in communications between the Commissioner and the Public Services Ombudsman for Wales or another ombudsman of a matter which the Commissioner is permitted to disclose to that ombudsman by virtue of subsection (3)(a) of section 18;

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- (c) the publication in communications from the Commissioner to a person mentioned in subsection (3) of a matter in connection with an examination by the Commissioner into a case under regulations made under section 10.
- (2) For the purposes of the law of defamation, the publication in communications from a person mentioned in subsection (3) to the Commissioner of a matter in connection with an examination by the Commissioner into a case under regulations made under section 10 has qualified privilege.
- (3) The persons referred to in subsections (1)(c) and (2) are—
- (a) the person whose case is being examined;
  - (b) a person whose conduct is the subject of the examination;
  - (c) a person with whom the Commissioner is communicating for the purpose of obtaining information about the case; and
  - (d) a person acting on behalf of a person falling within paragraphs (a) to (c).
- (4) In this section “other ombudsman” has the same meaning as in section 17.

**Changes to legislation:**

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