

HYSBYSIAD YNGHYLCH GWELLIANNAU NOTICE OF AMENDMENTS

Cyflwynwyd ar 24 Ionawr 2019
Tabled on 24 January 2019

Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) Public Services Ombudsman (Wales) Bill

Mark Isherwood

223

Page 22, after line 34, insert a new section –

‘The Nolan Principles

[] **The Nolan Principles**

- (1) In the course of undertaking any functions under this Part in relation to a listed authority, the Ombudsman must have regard to the extent to which that authority has had regard to the Nolan Principles.
- (2) For the purposes of this part, “Nolan Principles” means –
 - (a) Selflessness (holders of public office should act solely in terms of the public interest);
 - (b) Integrity (holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships);
 - (c) Objectivity (holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias);
 - (d) Accountability (Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this);
 - (e) Openness (holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing);
 - (f) Honesty (holders of public office should be truthful);



- (g) Leadership (holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs).’.

Tudalen 22, ar ôl llinell 35, mewnosoder adran newydd –

‘Egwyddorion Nolan

[] Egwyddorion Nolan

- (1) Wrth gyflawni unrhyw swyddogaethau o dan y Rhan hon mewn perthynas ag awdurdod rhestredig, rhaid i'r Ombwdsmon roi sylw i'r graddau y mae'r awdurdod hwnnw wedi ystyried Egwyddorion Nolan.
- (2) At ddibenion y rhan hon, ystyr "Egwyddorion Nolan" yw –
 - (a) Anhunanoldeb (ni ddylai deiliaid swyddi cyhoeddus ond gweithredu er budd y cyhoedd);
 - (b) Uniondeb (ni ddylai deiliaid swyddi cyhoeddus eu rhoi eu hunain o dan unrhyw rwymedigaeth i bobl neu sefydliadau a allai geisio dylanwadu'n amhriodol arnynt wrth iddynt wneud eu gwaith. Ni ddylent weithredu na gwneud penderfyniadau er mwyn cael manteision ariannol neu unrhyw fanteision perthnasol eraill iddynt eu hunain, eu teulu neu eu ffrindiau. Rhaid iddynt ddatgan a datrys unrhyw fuddiannau a pherthynas);
 - (c) Gwrthrychedd (rhaid i ddeiliaid swyddi cyhoeddus weithredu a gwneud penderfyniadau'n ddiduedd, yn deg ac ar sail teilyngdod, gan ddefnyddio'r dystiolaeth orau a heb wahaniaethu neu ragfarn);
 - (d) Atebolrwydd (mae deiliaid swyddi cyhoeddus yn atebol i'r cyhoedd am eu penderfyniadau ac am yr hyn y maent yn ei wneud a rhaid iddynt ganiatáu i eraill graffu arnynt yn y modd sydd yn angenrheidiol er mwyn sicrhau hynny);
 - (e) Bod yn agored (dylai deiliaid swyddi cyhoeddus weithredu a gwneud penderfyniadau mewn modd agored a thryloyw. Ni ddylai gwybodaeth gael ei chadw rhag y cyhoedd oni bai bod rhesymau clir a chyfreithlon dros wneud hynny);
 - (f) Gonestrwydd (dylai deiliaid swyddi cyhoeddus fod yn eirwir);
 - (g) Arweinyddiaeth (dylai deiliaid swyddi cyhoeddus ymddwyn yn unol â'r egwyddorion hyn. Dylent fynd ati i hyrwyddo a chefnogi'r egwyddorion hyn yn gadarnhaol a bod yn barod i herio ymddygiad gwael pryd bynnag y'i gwelir).’.



Mark Isherwood

224

Section 34, page 23, after line 6, insert –

‘() Subject to the condition in subsection (1), the Ombudsman may recommend that a listed authority make a compensation payment to an aggrieved person.’.

Adran 34, tudalen 23, ar ôl llinell 7, mewnosoder –

‘() Yn ddarostygedig i’r amod yn is-adran (1), caiff yr Obwdsmon argymhell bod awdurdod rhestredig yn gwneud taliad i ddigolledu person a dramgwyddwyd.’.

Mark Isherwood

225

Page 41, after line 9, insert a new section –

[] Meaning of “palliative care”

- (1) This section applies for the purposes of this Act.
- (2) In deciding whether a particular form of care amounts to palliative care or not, the Ombudsman may give due regard to any relevant guidance on the definition of “palliative care” provided from time to time by –
 - (a) the World Health Organisation, and
 - (b) the National Institute for Health and Care Excellence (NICE).’.

Tudalen 41, ar ôl llinell 11, mewnosoder adran newydd –

[] Ystyr “gofal lliniarol”

- (1) Mae’r adran hon yn gymwys at ddibenion y Ddeddf hon.
- (2) Wrth benderfynu a yw math penodol o ofal yn cyfateb i ofal lliniarol ai peidio, caiff yr Ombwdsmon roi sylw dyledus i unrhyw ganllawiau perthnasol ar y diffiniad o “ofal lliniarol” a ddarperir o bryd i’w gilydd gan –
 - (a) Sefydliad Iechyd y Byd, a
 - (b) Y Sefydliad Cenedlaethol dros Ragoriaeth mewn Iechyd a Gofal (NICE).’.

Mark Isherwood

226

Schedule 3, page 67, line 8, after ‘Wales’, insert ‘(includes a county council, county borough council and all Community councils in Wales)’.

Atodlen 3, tudalen 67, llinell 8, ar ôl ‘Nghymru’, mewnosoder ‘(yn cynnwys cyngor sir, cyngor bwrdeistref sirol a phob cyngor cymuned yng Nghymru)’.



Mark Isherwood

24A

As an amendment to amendment 24, line 16, after “authority”, insert ‘provided the condition in subsection ([*first new subsection to be inserted by amendment 24B*]) is met.’.

Fel gwelliant i welliant 24, llinell 18, ar ôl “perthnasol”, mewnosoder ‘cyn belled â bod yr amod yn is-adran ([*yr is-adran gyntaf sy’n cael ei mewnosod gan welliant 24B*]) yn cael ei fodloni.’.

Mark Isherwood

24B

As an amendment to amendment 24, after line 46 insert –

- () The condition is that the “health-related service” provider has received public funding, within the three years before the date of the action to which the investigation relates.
- () In subsection (6) “public funding” means funding from –
 - (a) the Welsh Ministers,
 - (b) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c.42),
 - (c) an NHS Trust, or
 - (d) a county council or county borough council in Wales.’.

Fel gwelliant i welliant 24, ar ôl llinell 49, mewnosoder –

- () ‘Yr amod yw bod y darparwr “gwasanaeth sy’n gysylltiedig ag iechyd” wedi cael cyllid cyhoeddus, o fewn tair blynedd cyn dyddiad y cam gweithredu y mae’r ymchwiliad yn ymwneud ag ef.
- () Yn is-adran (6) ystyr “cyllid cyhoeddus” yw cyllid gan –
 - (a) Gweinidogion Cymru,
 - (b) Bwrdd Iechyd Lleol a sefydlwyd o dan adran 11 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42),
 - (c) Ymddiriedolaeth y GIG, neu
 - (d) cyngor sir neu gyngor bwrdeistref sirol yng Nghymru.’.

Leanne Wood

227

Section 14, page 8, line 13, leave out ‘not’.

Adran 14, tudalen 8, llinell 13, hepgorer ‘Ni chaniateir i’r’ a mewnosoder ‘Caiff yr’.

Leanne Wood

228

Section 14, page 8, line 15, leave out subsection (2).

Adran 14, tudalen 8, llinell 15, hepgorer is-adran (2).



Leanne Wood

229

Page 47, after line 40, insert a new section –

‘PART []

INDEPENDENT REVIEW PANEL

[] Independent Review Panel

- (1) There is to be an Independent Review Panel of the Public Service Ombudsman for Wales that must review the performance of the Ombudsman in discharging his or her functions. (referred to in this Act as the “Independent Review Panel”).
- (2) The Assembly must appoint persons to be members of an independent review panel.
- (3) The Assembly must secure that, as far as it is practicable, there are at least 3, but not more than 5, members of the Independent Review Panel at any time.
- (4) Schedule [*schedule to be inserted by amendment 230*] makes further provision about the members of the Independent Review Panel.
- (5) The Independent Review Panel must annually prepare a general report on how the Ombudsman has performed in undertaking his or her functions (an “annual report”).
- (6) Any person who has had their complaint considered and decided upon by the Ombudsman may refer their case to the Independent Review Panel for a further review.
- (7) Following a request under sub-section (6), the Independent Review Panel may investigate and prepare a report with respect to the matter referred if it decides that it is reasonable to do so.
- (8) The Independent Review Panel may require the Ombudsman to supply information or any documents relevant to the review.
- (9) The Independent Review Panel may not review the work of the Ombudsman in relation to Schedule 4 to the Public Services Ombudsman (Wales) Act 2005 (c.10) (Conduct of Local Government Members and Employees).
- (10) The Independent Review Panel must lay a copy of the annual report prepared under subsection (5) before the Assembly.
- (11) Any report prepared by the Independent Review Panel under sub-section (7) must be sent to the Ombudsman and may contain recommendations.
- (12) The Ombudsman must give due regard to any recommendations made by the Independent Review Panel and must send a written reply to the aggrieved person and the Independent Review Panel in relation to any such recommendations.
- (13) If a report prepared under this section 5 –
 - (a) mentions the name of any person other than a listed authority, care home provider, domiciliary care provider or independent palliative care provider in respect of a matter which may be investigated by the Ombudsman under this Act, or



- (b) includes any details which, in the opinion of the Independent Review Panel, are likely to identify any such person and which, in the Independent Review Panel's opinion, can be omitted without impairing the effectiveness of the report.

that information must not be included in a version of the report laid before the Assembly under sub-section (9).'

Tudalen 47, ar ôl llinell 38, mewnosoder adran newydd –

'RHAN []

PANEL ADOLYGU ANNIBYNNOL

[] Panel Adolygu Annibynnol

- (1) Bydd Panel Adolygu Annibynnol o'r Ombwdsmon Gwasanaethau Cyhoeddus Cymru y bydd yn rhaid iddo adolygu perfformiad yr Ombwdsmon wrth i'r Ombwdsmon arfer ei swyddogaethau (y cyfeirir ato yn y Ddeddf hon fel "Panel Adolygu Annibynnol").
- (2) Rhaid i'r Cynulliad benodi personau i fod yn aelodau o banel adolygu annibynnol.
- (3) Rhaid i'r Cynulliad sicrhau, i'r graddau y bo'n ymarferol, fod o leiaf 3, ond dim mwy na 5, aelod o'r Panel Adolygu Annibynnol ar unrhyw adeg.
- (4) Mae Atodlen [yr atodlen newydd sy'n cael ei mewnosod gan welliant 230] yn gwneud darpariaeth bellach ynglŷn ag aelodau o'r Panel Adolygu Annibynnol.
- (5) Rhaid i'r Panel Adolygu Annibynnol baratoi adroddiad cyffredinol yn flynyddol ar sut y mae'r Ombwdsmon wedi perfformio wrth arfer ei swyddogaethau ("adroddiad blynyddol").
- (6) Caiff unrhyw berson y mae'r Ombwdsmon wedi ystyried ei gŵyn a gwneud penderfyniad arni, atgyfeirio ei achos at y Panel Adolygu Annibynnol i gynnal adolygiad pellach arno.
- (7) Yn dilyn cais o dan is-adran (6), caiff y Panel Adolygu Annibynnol ymchwilio i'r mater a atgyfeiriwyd a pharatoi adroddiad mewn perthynas ag ef os yw'n penderfynu ei fod yn rhesymol gwneud hynny.
- (8) Caiff y Panel Adolygu Annibynnol ei gwneud yn ofynnol i'r Ombwdsmon gyflenwi gwybodaeth neu unrhyw ddogfennau sy'n berthnasol i'r adolygiad.
- (9) Ni chaiff y Panel Adolygu Annibynnol adolygu gwaith yr Ombwdsmon mewn perthynas ag Atodlen 4 i Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 (p.10) (Ymddygiad Aelodau a Chyflogeion Llywodraeth Leol).
- (10) Rhaid i'r Panel Adolygu Annibynnol osod copi o'r adroddiad blynyddol a baratowyd o dan is-adran (5) gerbron y Cynulliad.
- (11) Rhaid anfon unrhyw adroddiad a baratowyd gan y Panel Adolygu Annibynnol o dan is-adran (7) at yr Ombwdsmon a chaiff gynnwys argymhellion.
- (12) Rhaid i'r Ombwdsmon roi sylw dyledus i unrhyw argymhellion a wnaed gan y Panel Adolygu Annibynnol a rhaid iddo anfon ateb ysgrifenedig at y person a dramgwyddwyd ac at y Panel Adolygu Annibynnol mewn perthynas ag argymhellion o'r fath.



(13) Os yw adroddiad a baratowyd o dan adran 5—

- (a) yn crybwyll enw unrhyw berson heblaw awdurdod rhestredig, darparwr cartref gofal, darparwr gofal cartref neu ddarparwr gofal lliniarol annibynnol mewn perthynas â mater y caiff yr Ombwdsmon ymchwilio iddo o dan y Ddeddf hon, neu
- (b) yn cynnwys unrhyw fanylion sydd, ym marn y Panel Adolygu Annibynnol, yn debygol o wneud unrhyw berson o'r fath yn hysbys ac y gellir, ym marn y Panel Adolygu Annibynnol, eu hepgor heb amharu ar effeithiolrwydd yr adroddiad,

ni chaniateir cynnwys yr wybodaeth honno mewn fersiwn o'r adroddiad a osodir gerbron y Cynulliad o dan is-adran (9).'

Leanne Wood

230

Page 70, after line 6, insert a new schedule—



'SCHEDULE []

(introduced by section [new section to be inserted by amendment 229])

PART 1

APPOINTMENT

Appointment

- 1 The Assembly may not appoint a person to be a member of the Independent Review Panel if the person is disqualified from being a member of the Independent Review Panel on grounds of employment.

Remuneration, allowances and pensions

- 2 (1) The Assembly may pay remuneration to the members of the Independent Review Panel.
(2) The Assembly may pay allowances (including, but not limited to, travelling and subsistence allowances) and gratuities to the members of the Independent Review Panel.
(3) The Assembly may pay –
(a) pensions to, or in respect of, persons who have been members of the Independent Review Panel, and
(b) amounts for or towards provision of pensions to, or in respect of, persons who have been members of the Independent Review Panel.

Terms of appointment

- 3 (1) A member of the Independent Review Panel holds office subject to the terms of his or her appointment.
(2) But that is subject to the other provisions of this Schedule.

Duration of appointment

- 4 (1) A person appointed as a member of the Independent Review Panel holds office (by virtue of that appointment) for 7 years.
(2) But that is subject to Part 2 of this Schedule.

PART 2

END OF APPOINTMENT

Resignation

- 5 A member of the Independent Review Panel may resign from office if he or she gives the Welsh Ministers not less than 2 months' notice in writing of his or her intention to do so.



Disqualification from membership

- 6 A person ceases to be a member of the Independent Review Panel if the person is disqualified from being a member of the Independent Review Panel on grounds of employment.

Dismissal

- 7 The Assembly may dismiss a member of the Independent Review Panel if the Assembly is satisfied that the person –
- (a) is unfit to continue as a member of the Independent Review Panel, or
 - (b) is unable or unwilling to act as a member of the Independent Review Panel.

Payments on ceasing to hold office

- 8 The Assembly may make a payment to a person who ceases to be a member of the Independent Review Panel if it appears to the Assembly that there are special circumstances which make it right that the person should receive the payment in compensation.

PART 3

DISQUALIFICATION

Disqualification on grounds of employment

- 9 A person is disqualified from being a member of the Independent Review Panel on grounds of employment if the person is –
- (a) a Member of Parliament;
 - (b) a Member of the National Assembly for Wales;
 - (c) a member of the Ombudsman's staff.'

Tudalen 70, ar ôl llinell 6, mewnosoder atodlen newydd –



'ATODLEN []

(a gyflwynir gan adran [yr adran newydd sydd i'w mewnosod gan welliant 229])

RHAN 1

PENODI

Penodi

- 1 Ni chaiff y Cynulliad benodi person i fod yn aelod o'r Panel Adolygu Annibynnol os yw'r person wedi ei anghymhwysu rhag bod yn aelod o'r Panel Adolygu Annibynnol ar sail cyflogaeth.

Cydnabyddiaeth ariannol, lwfansau a phensiynau

- 2 (1) Caiff y Cynulliad dalu cydnabyddiaeth ariannol i aelodau o'r Panel Adolygu Annibynnol.
- (2) Caiff y Cynulliad dalu lwfansau (gan gynnwys lwfansau teithio a lwfansau cynhaliath, ond heb fod yn gyfyngedig iddynt) ac arian rhodd i aelodau'r Panel Adolygu Annibynnol.
- (3) Caiff y Cynulliad dalu—
- (a) pensiynau i bersonau a fu'n aelodau o'r Panel Adolygu Annibynnol neu mewn cysylltiad â hwy, a
- (b) symiau ar gyfer darparu pensiynau, neu tuag at ddarparu pensiynau, i bersonau a fu'n aelodau o'r Panel Adolygu Annibynnol, neu mewn cysylltiad â hwy.

Telerau penodi

- 3 (1) Mae aelod o'r Panel Adolygu Annibynnol yn dal y swydd yn ddarostyngedig i delerau ei benodiad.
- (2) Ond mae hynny'n ddarostyngedig i ddarpariaethau eraill yn yr Atodlen hon.

Cyfnod y penodiad

- 4 (1) Mae person a benodir yn aelod o'r Panel Adolygu Annibynnol yn dal y swydd (yn rhinwedd y penodiad hwnnw) am 7 mlynedd.
- (2) Ond mae hynny'n ddarostyngedig i Ran 2 o'r Atodlen hon.

RHAN 2

DIWEDD PENODIAD

Ymddiswyddo

- 5 Caiff aelod o'r Panel Adolygu Annibynnol ymddiswyddo o'i swydd os yw'n rhoi hysbysiad ysgrifenedig o ddim llai na 2 fis i Weinidogion Cymru o'i fwriad i wneud hynny.



Anghymhwysu rhag bod yn aelod

- 6 Bydd person yn peidio â bod yn aelod o'r Panel Adolygu Annibynnol os bydd y person wedi ei anghymhwysu rhag bod yn aelod o'r Panel Adolygu Annibynnol ar sail cyflogaeth.

Diswyddo

- 7 Caiff y Cynulliad ddiswyddo aelod o'r Panel Adolygu Annibynnol os yw'r Cynulliad wedi ei fodloni—
- (a) ei fod yn anaddas i barhau'n aelod o'r Panel Adolygu Annibynnol, neu
 - (b) nad yw'n gallu gweithredu fel aelod o'r Panel Adolygu Annibynnol neu ei fod yn anfodlon gwneud hynny.

Taliadau pan fydd aelod yn peidio â dal y swydd

- 8 Caiff y Cynulliad wneud taliad i berson sy'n peidio â bod yn aelod o'r Panel Adolygu Annibynnol os yw'n ymddangos i'r Cynulliad fod amgylchiadau arbennig yn ei gwneud hi'n iawn y dylai'r person gael y taliad digolledu.

RHAN 3

ANGHYMHWYSO

Anghymhwysu ar sail cyflogaeth

- 9 Mae person yn cael ei anghymhwysu rhag bod yn aelod o'r Panel Adolygu Annibynnol ar sail cyflogaeth os yw'r person—
- (a) yn Aelod Seneddol;
 - (b) yn Aelod o Gynulliad Cenedlaethol Cymru;
 - (c) yn aelod o staff yr Ombwdsmon.'.

