

Statutory Document No. 2022/0212

*Manx Care Act 2021*

SOCIAL SERVICES ACT 2011 (AMENDMENT) REGULATIONS 2022

Approved by Tynwald: 21 June 2022
Coming into operation in accordance with regulation 2

The Department of Health and Social Care makes the following Regulations under section 39 of the Manx Care Act 2021.

1 Title

These Regulations are the Social Services Act 2011 (Amendment) Regulations 2022.

2 Commencement

If approved by Tynwald, these Regulations come into operation the day after they are approved¹.

3 Amendment of section 26 of the Social Services Act 2011

For section 26² (complaints about social care functions) of the Social Services Act 2011 substitute —

26 Complaints in respect of social care services and carer support

- (1) The Department shall by regulations make provision in respect of complaints in respect of social care services or carer support provided, by—
- (a) the Department;
 - (b) Manx Care in discharging, under the *Manx Care Act 2021*, the functions the Department has under Part 2 or 3; and

¹ Tynwald procedure – approval required under section 39 of the Manx Care Act 2021.

² Section 26 was amended by Schedule 5 to the Manx Care Act 2021.

- (c) any person or body in discharging any of Manx Care's functions under the *Manx Care Act 2021*, ("service providers").
- (2) Regulations under subsection (1) shall provide —
- (a) for a complaint to be considered by a service provider;
 - (b) for a complaint about a service provider's handling, consideration or disposal of a complaint to be considered by the Health and Social Care Ombudsman Body established under section 26A; and
 - (c) the processes for the handling, considering and disposing of complaints referred to in paragraphs (a) and (b).
- (3) Regulations may make provision about —
- (a) the persons who may make a complaint;
 - (b) the complaints which may, or may not, be made under the regulations;
 - (c) the persons to whom complaints may be made;
 - (d) complaints which need not be considered;
 - (e) the period within which complaints must be made;
 - (f) the procedure to be followed in making, handling, considering and disposing of a complaint;
 - (g) matters which are excluded from consideration;
 - (h) the making of a report or recommendations about —
 - (i) a complaint or complaints;
 - (ii) the handling, consideration and disposal of complaints; and
 - (iii) any matter related to a matter referred to in subparagraph (i) or (ii),and such a report may be required to be laid before Tynwald;
 - (i) the action to be taken as a result of a complaint;
 - (j) action which may be taken to improve —
 - (i) the handling, consideration and disposal of complaints; or
 - (ii) the provision of social care services or carer support, as a consequence of a complaint or otherwise;
 - (k) the provision of training and support to persons.
- (4) Regulations may require —

- (a) any person or body who handles, considers or disposes of a complaint under the regulations; or
 - (b) any other person or body,
- to make information available to the public about the procedures to be followed under the regulations.
- (5) The regulations may also—
- (a) provide for different parts or aspects of a complaint to be treated differently;
 - (b) require the production of information or documents in order to —
 - (i) enable a complaint to be properly considered; or
 - (ii) monitor the handling, consideration and disposal of complaints;
 - (c) confer a power on a person or body to give a direction to another person or body;
 - (d) provide for a complaint made to one person or body to be referred to another person or body;
 - (e) authorise the disclosure of information or documents relevant to a complaint to a person or body—
 - (i) who is considering a complaint under the regulations;
 - (ii) to whom a complaint has been referred; or
 - (iii) for the purpose of monitoring the handling, consideration and disposal of complaints,and any such disclosure may be authorised notwithstanding any enactment or rule of law to the contrary.
- (6) The regulations may make provision about complaints which raise both matters falling to be considered under the regulations and matters falling to be considered under other statutory complaints procedures, including in particular provision for—
- (a) enabling such a complaint to be made under the regulations; and
 - (b) securing that matters falling to be considered under other statutory complaints procedures are treated as if they had been raised in a complaint made under the appropriate procedures;
- and in this subsection “statutory complaints procedures” means procedures established by or under any enactment.

- (7) Regulations may require, or otherwise provide for, the issuing of a code of practice by any person or body in connection with any matter addressed by this section or regulations under this section.
- (8) Regulations may permit a person or body to exercise a discretion in respect of any matters specified in the regulations.
- (9) Regulations may make such supplemental, incidental, consequential, transitional or saving provisions as the Department considers necessary or expedient for the better performance of, or giving full effect to, the regulations.
- (10) Subsections (2) to (9) do not limit subsection (1).

26A Health and Social Care Ombudsman Body

- (1) There is established a body known as the Health and Social Care Ombudsman Body.
- (2) The Health and Social Care Ombudsman Body shall consist of the following persons appointed by the Appointments Commission –
 - (a) a chairperson who must be a barrister, advocate or solicitor of not less than 7 years' standing; and
 - (b) not less than 7, but not more than 10, other persons who have such experience in the fields of health, social care, dispute resolution and administrative justice as the Appointments Commission considers appropriate.
- (3) The Department shall make regulations prescribing –
 - (a) persons who are ineligible for appointment to the Health and Social Care Ombudsman Body; and
 - (b) the terms of appointment of the members of the Health and Social Care Ombudsman Body.
- (4) The Department may make regulations in respect of the Health and Social Care Ombudsman Body in respect of the matters not dealt with in subsection (3) and such regulations may, without limiting this subsection, make provision referred to in subsections (5) to (7).
- (5) Regulations may make provision in relation to –
 - (a) the payment of remuneration, allowances and expenses to any person in connection with the work of the Health and Social Care Ombudsman Body;
 - (b) the removal or resignation from office, the suspension, and the termination of appointment, of a member of the Health and Social Care Ombudsman Body; and
 - (c) such other matters relating to the Health and Social Care Ombudsman Body and its members and other persons as

the Department considers necessary or expedient for the better performance of, or giving full effect to, the regulations.

- (6) Regulations may permit a person or body to exercise a discretion in respect of any matters specified in the regulations.
- (7) Regulations may make such supplemental, incidental, consequential, transitional or saving provisions as the Department considers necessary or expedient for the better performance of, or giving full effect to, the regulations. **22**.

MADE 21 JUNE 2022

LAWRIE HOOPER

Minister for Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute section 26 of the Social Services Act 2011 with new sections 26 and 26A.

New section 26 requires regulations to make provision in respect of complaints in respect of social care services and carer support provided, or to be provided, by the Department of Health and Social Care, Manx Care or other persons or bodies (“service providers”). Those regulations must provide: (a) for a complaint to be considered by a service provider; (b) for a complaint about a service provider’s handling, consideration or disposal of a complaint to be considered by the Health and Social Care Ombudsman Body constituted under new section 26A of the Social Services Act 2011; and (c) the processes for the handling, considering and disposing of the complaints referred to in (a) and (b). Regulations may also be made under new section 26 about other matters related to complaints.

New section 26A of the Social Services Act 2011 provides for the establishment and constitution of a body known as the Health and Social Care Ombudsman Body. It also requires regulations to be made prescribing persons ineligible for appointment to that body and the terms of appointment of members of the body. Regulations may also make provision about other matters in respect of the Body.