

Statutory Document No. 2022/0211

*Manx Care Act 2021*

NATIONAL HEALTH SERVICE ACT 2001 (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 National Health Service Act 2001 (Amendment) Regulations 2022.

2 Commencement

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

3 Amendments to the National Health Service Act 2001

(1) The *National Health Service Act 2001* is amended as follows.

(2) For section 38² (complaints procedure) substitute —

38 Complaints in respect of health services

(1) The Department shall by regulations make provision in respect of complaints in respect of services under Part 2 (primary health services) or Part 3 (hospital and specialist services) provided by—

- (a) the Department;
- (b) Manx Care in discharging the functions the Department has under either of those Parts on behalf of the Department under section 13 of the *Manx Care Act 2021*; and
- (c) any person or body in discharging any of Manx Care's functions under the *Manx Care Act 2021*,

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

² Section 38 was amended by Schedule 5 to 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 of the *Social Services Act 2011*; 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 services referred to in subsection (1), 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). **22**.
- (3) In section 42(1) (regulations), after “36” insert **37** and 38 **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 amend the National Health Service Act 2001 by substituting section 38 of that Act.

New section 38 requires regulations to make provision in respect of complaints in respect of services under Part 2 or 3 of the National Health Service Act 2001 (primary health services and hospital and specialist services) 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 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 38 about other matters related to complaints.

These Regulations also amend section 42(1) of the National Health Service Act 2001 by requiring regulations made under section 38 to be approved by Tynwald before they can have any effect.