

Statutory Document No. 2022/0213



Manx Care Act 2021

CHILDREN AND YOUNG PERSONS 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 Children and Young Persons Act 2001 (Amendment) Regulations 2022.

2 Commencement

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

3 Amendment of the Children and Young Persons Act 2001

(1) After section 97 (appeals to the High Court) insert —

97A Complaints in respect of social services

(1) The Department shall by regulations make provision in respect of complaints in respect of services provided and functions performed under this Act by —

- (a) the Department;
- (b) Manx Care in discharging, under the *Manx Care Act 2021*, the functions the Department has under this Act; and
- (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 —

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

- (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*;
 - (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 the 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**.
- (2) In paragraph 5(3) of schedule 2 (children looked after by Department), omit “(including any complaint)”.

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 Children and Young Persons Act 2001 by inserting new section 97A into that Act.

New section 97A requires regulations to be made that set out provisions in respect of complaints about services provided or functions performed (such as section 46 investigations) under the Children and Young Persons Act 2001 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 an independent adjudicator (the Health and Social Care Ombudsman Body, which is established 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 97A about other matters related to complaints.