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Subject:

PUBLIC SERVICES OMBUDSMAN ACT (NORTHERN IRELAND) 2016

Circular Number:
2016/08

Date of Issue:
07/04/16

Audience:

- Principals and Boards of Governors of all grant aided schools;
- Education Authority;
- Council for Catholic Maintained Schools;
- Northern Ireland Commission for Catholic Education;
- Northern Ireland Council for Integrated Education;
- Comhairle na Gaelscolaíochta;
- Northern Ireland Council for the Curriculum, Examinations and Assessment;
- General Teaching Council for Northern Ireland;
- Youth Council for Northern Ireland;
- Governing Bodies Association

Summary of Contents:

This Circular explains the impact for public bodies in the education sector and schools of the introduction of the Public Services Ombudsman Act (Northern Ireland) 2016.

Enquiries:

Any enquiries about the contents of this Circular should be addressed to:

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Governor Awareness:
Essential

Status of Contents:
Information for Schools and education sector bodies.

Related Documents:
None

Superseded Documents:
None

Expiry Date:
Not Applicable

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PUBLIC SERVICES OMBUDSMAN ACT (NORTHERN IRELAND) 2016

1. The Public Services Ombudsman Act (Northern Ireland) 2016 has completed its Final Stage in the Assembly and has received Royal Assent. Its main powers come into effect on 1 April 2016 and, at that point, The Ombudsman (Northern Ireland) Order 1996 and The Commissioner for Complaints (Northern Ireland) Order 1996 will be repealed and the two offices established under those Orders – the Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints - will cease to exist and will be replaced by a single statutory office of Northern Ireland Public Services Ombudsman (NIPSO).
2. The new Act provides for a number of important additional powers for the new NIPSO as well as changes to remit and reporting arrangements. These will impact on all government departments as well as most public sector organisations including those in the education sector.
3. The key changes arising from the Public Services Ombudsman Act 2016 can be summarised as follows:
 - a. All listed authorities will be legally required to give a complainant written notice that the organisation's internal complaints process has been exhausted, that the complainant may refer the matter to the NIPSO if he/she remains dissatisfied, of the time limit for making such a referral and how to contact the NIPSO;
 - b. There will no longer be a requirement for complainants to obtain MLA sponsorship in order to bring a complaint;
 - c. Complainants must bring their complaint to NIPSO within six months of completion of the internal complaints process but the NIPSO may investigate a late complaint if there are special circumstances that would make it proper to do so;
 - d. NIPSO will not investigate complaints about employment matters;
 - e. NIPSO will have jurisdiction to investigate complaints of maladministration about commercial and contractual matters;

- f. NIPSO will have jurisdiction to investigate complaints about the Northern Ireland Audit Office (NIAO) and the Assembly Commission;
 - g. The person appointed as NIPSO will automatically become the Northern Ireland Judicial Appointments Ombudsman;
 - h. NIPSO will, from 1 April 2018, have the power to investigate an issue on his/her own initiative without first receiving a complaint;
 - i. NIPSO will be able to investigate complaints about Further Education institutions and Queens University / University of Ulster (from 1 October 2016) and the Boards of Governors of grant aided schools (from 1 April 2017);
 - j. NIPSO will have a complaints standard authority role and will work with each sector to develop standard complaints handling procedures. A commencement date for these provisions has not been fixed;
 - k. Where NIPSO finds maladministration and injustice, a complainant will be able to seek damages (unlimited) in the County Court; and
 - l. The NIPSO may make a special report to the Assembly where he or she finds maladministration and injustice, and that injustice has not been remedied.
4. Schedule 3 of the Act contains a list of public bodies that will fall within the NIPSO's remit, these are known as 'listed authorities'. For the purposes of the Act the following bodies in the education sector are listed authorities:
- The Board of Governors of a grant aided school;
 - The Council for Catholic Maintained Schools;
 - The Education Authority;
 - The General Teaching Council for Northern Ireland;
 - Northern Ireland Council for the Curriculum, Examinations and Assessment;
 - The Youth Council for Northern Ireland.
5. NIPSO's powers in relation to the listed authorities set out in paragraph 4 above come into operation on 1 April 2016 with the exception of those relating to the Board of Governors of a grant aided schools which come into effect on 1 April 2017.

6. The creation of NIPSO will have implications for existing parental and organisational complaint procedures. Your attention is drawn in particular to Articles 35 and 36 of the Act which specify that the NIPSO must publish a statement of principles covering complaints handling procedures and a listed authority must ensure that its complaint handling procedures comply with the NIPSO statement of principles.

7. A link to the Public Services Ombudsman Act (Northern Ireland) 2016 is set out here http://www.legislation.gov.uk/niu/2016/4/pdfs/niu_20160004_en.pdf