



# Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016

2016 asp 14

## PART 2

### DUTY OF CANDOUR

#### *Duty of candour procedure*

#### **24 Reporting and monitoring**

- (1) A responsible person who provides a health service, a care service or a social work service during a financial year must prepare an annual report on the duty of candour as soon as reasonably practicable after the end of that financial year.
- (2) The report must set out in relation to the financial year—
  - (a) information about the number and nature of incidents to which the duty under section 21(1) has applied in relation to a health service, a care service or a social work service provided by the responsible person,
  - (b) an assessment of the extent to which the responsible person carried out the duty under section 21(1),
  - (c) information about the responsible person's policies and procedures in relation to the duty under section 21(1), including information about—
    - (i) procedures for identifying and reporting incidents, and
    - (ii) support available to staff and to persons affected by incidents,
  - (d) information about any changes to the responsible person's policies and procedures as a result of incidents to which the duty under section 21(1) has applied, and
  - (e) such other information as the responsible person thinks fit.
- (3) A report must not—
  - (a) mention the name of any individual, or
  - (b) contain any information which, in the responsible person's opinion, is likely to identify any individual.

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*Changes to legislation: There are currently no known outstanding effects for the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, Section 24. (See end of Document for details)*

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- (4) The responsible person must publish a report prepared under subsection (1) in such manner as the responsible person thinks appropriate.
- (5) On publishing a report, the responsible person must notify—
- (a) Healthcare Improvement Scotland, in the case of a report published by a responsible person which provides an independent health care service (within the meaning of section 10F(1) of the 1978 Act),
  - (b) the Scottish Ministers, in the case of a report published by any other responsible person which provides a health service,
  - (c) Social Care and Social Work Improvement Scotland, in the case of a report published by a responsible person which provides a care service or a social work service.
- (6) A person mentioned in subsection (7) may, for the purpose of monitoring compliance with the provisions of this Part, serve a notice on a responsible person requiring—
- (a) the responsible person to provide the person serving the notice with information about any matter mentioned in subsection (2) as specified in the notice, and
  - (b) that information to be provided within the time specified in the notice.
- (7) The persons are—
- (a) Healthcare Improvement Scotland, in relation to a responsible person which provides an independent health care service (within the meaning of section 10F(1) of the 1978 Act),
  - (b) the Scottish Ministers, in relation to any other responsible person which provides a health service,
  - (c) Social Care and Social Work Improvement Scotland, in relation to a responsible person which provides a care service or a social work service.
- (8) The Scottish Ministers, Healthcare Improvement Scotland and Social Care and Social Work Improvement Scotland may publish a report on compliance with the provisions of this Part by responsible persons.

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**Commencement Information**

**II** S. 24 in force at 1.4.2018 by S.S.I. 2018/56, art. 2, sch.

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