



Scottish Biometrics Commissioner Act 2020

2020 asp 8

Reporting

20 Reports and recommendations

- (1) If the Commissioner determines that a person who is required by section 9(1) to comply with the code of practice has not done or is not doing so, the Commissioner must prepare and publish a report about that failure unless the Commissioner considers that it is sufficiently minor not to merit it.
- (2) The Commissioner may prepare and publish a report about any other matter relating to the Commissioner's functions.
- (3) The Commissioner must lay a copy of any report published under subsection (1) or (2) before the Scottish Parliament.
- (4) A report prepared under subsection (1) may relate to separate failures by different persons.
- (5) A report under subsection (1) or (2) may include recommendations—
 - (a) in relation to compliance with section 9(1),
 - (b) in relation to the technology used or capable of being used for the purpose of acquiring, retaining, using or destroying biometric data, and
 - (c) about any other matter relating to the Commissioner's functions.
- (6) The Commissioner must ensure that a report does not include any information that, in the Commissioner's opinion, it would be inappropriate to include on the ground that to do so—
 - (a) would or might be unlawful,
 - (b) would or might prejudice the administration of justice, or
 - (c) would not be in the public interest.

21 Requirement to respond to reports

- (1) Where a report under section 20(1) or (2) includes a recommendation—

Status: This is the original version (as it was originally enacted).

- (a) addressed to a person in relation to whom the Commissioner has functions under section 2(1), and
 - (b) relating to the technology used or capable of being used for the purpose of acquiring, retaining, using or destroying biometric data,the Commissioner must, in the report, impose on the person a requirement to respond to the recommendation.
- (2) Where a report under section 20(1) or (2) includes a recommendation—
 - (a) addressed to a person in relation to whom the Commissioner has functions under section 2(1), and
 - (b) which is not a recommendation to which the duty in subsection (1) applies,the Commissioner may, in the report, impose on the person a requirement to respond to the recommendation.
- (3) Where a requirement to respond is imposed under subsection (1) or (2)—
 - (a) the Commissioner must give a copy of the report to the person to whom the recommendation is addressed, and
 - (b) the person must provide a written statement within such reasonable period as the Commissioner specifies.
- (4) The statement must set out—
 - (a) what the person has done or proposes to do in response to the recommendation, or
 - (b) if the person does not intend to implement the recommendation (in full or in part), the reasons for that.

22 Publication of responses to reports

- (1) The Commissioner must—
 - (a) publish any statement provided in response to a requirement to respond imposed under section 21, and
 - (b) lay a copy of it before the Scottish Parliament.
- (2) Subsection (1) does not apply if, or to the extent that, the Commissioner considers publication and laying to be inappropriate.
- (3) In particular, the Commissioner must ensure that, so far as reasonably practicable, the version of the statement which is published and laid under subsection (1) does not include any information which would not, under section 20(6), be included in a report.
- (4) The Commissioner may, in such manner as the Commissioner considers appropriate, publicise a failure to comply with a requirement to respond.