



# Patient Safety Commissioner for Scotland Act 2023

2023 asp 6

## *Formal investigations*

### **8 Initiation of formal investigation**

- (1) A formal investigation into a health care safety issue begins when the Commissioner first makes the investigation's terms of reference publicly available.
- (2) As soon as practicable after making a formal investigation's terms of reference publicly available, the Commissioner must take reasonable steps to bring them to the attention of any person who, in the Commissioner's opinion, is likely to be—
  - (a) required under [section 13](#) to supply information in relation to the investigation, or
  - (b) the addressee of a recommendation in the report produced at the conclusion of the investigation.
- (3) Nothing in [this section](#) precludes the Commissioner from investigating an issue otherwise than by way of a formal investigation.

#### **Commencement Information**

- 11** S. 8 not in force at Royal Assent, see [s. 24\(2\)](#)  
**12** S. 8 in force at 1.5.2024 by [S.S.I. 2024/110](#), [reg. 2\(1\)](#)

### **9 Further provision about terms of reference**

- (1) The terms of reference for a formal investigation under [section 8](#) must—
  - (a) describe the issue to be investigated,
  - (b) identify (by name or description) any person to whom the Commissioner expects to address a recommendation in the report produced at the conclusion of the investigation,
  - (c) state whether the Commissioner expects to need access to individuals' information in the course of the investigation,

---

*Changes to legislation: There are currently no known outstanding effects for the Patient Safety Commissioner for Scotland Act 2023, Cross Heading: Formal investigations. (See end of Document for details)*

---

- (d) if the Commissioner does expect to need access to individuals' information, state—
  - (i) why that is the Commissioner's expectation, and
  - (ii) why the Commissioner expects to need that information in a form that does, or does not (as the case may be), allow individuals to be identified.
- (2) Before finalising the terms of reference for a formal investigation, the Commissioner—
  - (a) must consult the advisory group established in accordance with [section 16](#),
  - (b) may consult any other person that the Commissioner considers appropriate.

---

**Commencement Information**

- I3** S. 9 not in force at Royal Assent, see [s. 24\(2\)](#)
- I4** S. 9 in force at 1.5.2024 by [S.S.I. 2024/110](#), [reg. 2\(1\)](#)

## 10 Investigation report

- (1) Having concluded a formal investigation under [section 8](#), the Commissioner must—
  - (a) prepare a report on the investigation, and
  - (b) lay a copy of it before the Scottish Parliament.
- (2) The report must state—
  - (a) the Commissioner's findings in relation to the issue investigated and the reasons for them, and
  - (b) the Commissioner's recommendations in light of those findings.
- (3) The Commissioner must give a copy of the report to any person to whom a recommendation in the report is addressed.
- (4) The Commissioner may address a recommendation to a person in a report on a formal investigation whether or not—
  - (a) the person was identified in the investigation's terms of reference as a person to whom the Commissioner expected to address a recommendation,
  - (b) the Commissioner took steps to bring the investigation's terms of reference to the person's attention in accordance with [section 8\(2\)\(b\)](#).

---

**Commencement Information**

- I5** S. 10 not in force at Royal Assent, see [s. 24\(2\)](#)
- I6** S. 10 in force at 1.5.2024 by [S.S.I. 2024/110](#), [reg. 2\(1\)](#)

## 11 Requirement to respond to report

- (1) A person is subject to a requirement to respond to a recommendation in a report under [section 10](#) if—
  - (a) the report states—
    - (i) that the recommendation is addressed to the person, and

---

**Changes to legislation:** *There are currently no known outstanding effects for the Patient Safety Commissioner for Scotland Act 2023, Cross Heading: Formal investigations. (See end of Document for details)*

---

- (ii) the period within which the person's response to the recommendation is required, and
  - (b) the Commissioner gives the person a copy of the report.
- (2) A person complies with a requirement to respond to a recommendation by giving the Commissioner a written response to it before the end of the period within which the report states that the person's response is required.
- (3) A written response to a recommendation is a document setting out—
  - (a) what the person responding has done, or proposes to do, to give effect to the recommendation, and
  - (b) if the person does not intend to do anything to give effect to the recommendation (wholly or partly), the person's reasons for that.
- (4) The Commissioner may, in whatever manner the Commissioner considers appropriate—
  - (a) make publicly available (in full or in part) a person's written response to a recommendation,
  - (b) publicise a person's failure to comply with a requirement to respond to a recommendation.

---

**Commencement Information**

- 17** S. 11 not in force at Royal Assent, see [s. 24\(2\)](#)
- 18** S. 11 in force at 1.5.2024 by [S.S.I. 2024/110, reg. 2\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Patient Safety Commissioner for Scotland Act 2023, Cross Heading: Formal investigations.