



Health and Care Act 2022

2022 CHAPTER 31

PART 4

THE HEALTH SERVICES SAFETY INVESTIGATIONS BODY

Reports

113 Final reports

- (1) When the HSSIB completes an investigation, it must publish a report on the outcome of the investigation (the “final report”).
- (2) The final report must—
 - (a) contain a statement of findings of fact made as a result of the investigation and an analysis of those findings,
 - (b) make such recommendations as to the action to be taken by any person as the HSSIB considers appropriate, and
 - (c) set out the HSSIB’s conclusions on the matters it considered in accordance with section 110(3) (but only if that provision is applicable to the investigation).
- (3) The final report must focus on ascertaining risks to the safety of patients and any recommendations as to the action to be taken by any person must focus on addressing those risks (rather than on the activities of individuals involved in the incident).
- (4) In particular, the final report may not include an assessment or determination of—
 - (a) blame,
 - (b) civil or criminal liability, or
 - (c) whether action needs to be taken in respect of an individual by a regulatory body.
- (5) Information which is protected material (see section 122(2)) may be disclosed in a final report if the HSSIB determines that the benefits to the safety of patients served by the disclosure outweigh—

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- (a) any adverse impact on current or future investigations by deterring persons from providing information to the HSSIB, and
 - (b) any adverse impact on securing the improvement of the safety of health care services provided to patients in England.
- (6) The final report may not, without their consent, include the name of any individual—
- (a) who has provided information to the HSSIB for the purposes of the investigation, or
 - (b) who was involved in the incident being investigated.
- (7) Where an investigation is carried out pursuant to a direction under section 111, the HSSIB must send a copy of the final report to the Secretary of State.

114 Interim reports

- (1) While the HSSIB is carrying out an investigation, it may publish a report on any matter relating to the investigation (an “interim report”).
- (2) An interim report may—
- (a) contain a statement of findings of fact made as a result of the investigation to date and an analysis of those findings,
 - (b) make such recommendations as to the action to be taken by any person as the HSSIB considers appropriate, and
 - (c) set out the HSSIB’s conclusions to date on the matters it has considered in accordance with section 110(3).
- (3) Subsections (3) to (7) of section 113 apply in relation to an interim report as they apply in relation to a final report.

115 Draft reports

- (1) Before it publishes a final or interim report, the HSSIB—
- (a) must send a draft of the report to any person who the HSSIB reasonably believes could be adversely affected by the report, and
 - (b) may send a draft of the report to any other person who the HSSIB believes should be sent a draft.
- (2) If a person who the HSSIB reasonably believes could have been adversely affected by the report has died, the draft report must be sent to the person (if any) who appears to the HSSIB to best represent the interests of the person who has died.
- (3) The HSSIB must notify every person to whom a draft report is sent that the person has an opportunity to comment on the draft report before the deadline specified by the HSSIB.
- (4) If a person’s comments on a draft report are not taken into account in the final or interim report as published, the HSSIB must explain to the person why that is.

116 Response to reports

- (1) This section applies where a final or interim report includes recommendations as to the action to be taken by any person.

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- (2) The HSSIB must, in such manner as it thinks appropriate, send the report to that person or make it available to them.
- (3) The report must specify the deadline for that person to provide a written response.
- (4) Before that deadline, the person must respond to the HSSIB in writing setting out the actions they propose to take in pursuance of the recommendations.
- (5) The HSSIB may publish the response.
- (6) Subsection (4) does not require a person to do anything that they could be required to do by an Act of Senedd Cymru made without the consent of a Minister of the Crown.

117 Admissibility of reports

- (1) A final report, an interim report and the draft of a final or interim report sent to a person under section 115 are not admissible in any proceedings within subsection (2).
- (2) Those proceedings are—
 - (a) proceedings to determine civil or criminal liability in respect of any matter;
 - (b) proceedings before any employment tribunal;
 - (c) proceedings before a regulatory body (including proceedings for the purposes of investigating an allegation);
 - (d) proceedings to determine an appeal against a decision made in proceedings falling within paragraphs (a) to (c).
- (3) But the High Court may order that a final or interim report is admissible in proceedings within subsection (2) on an application by a person who is a party to the proceedings or otherwise entitled to appear in them.
- (4) The HSSIB may make representations to the High Court about any application under subsection (3).
- (5) The High Court may make an order under subsection (3) only if it determines that the interests of justice served by admitting the report outweigh—
 - (a) any adverse impact on current or future investigations by deterring persons from providing information for the purposes of investigations, and
 - (b) any adverse impact on securing the improvement of the safety of health care services provided to patients in England.