

Health, Social Care and Sport Committee

5th Meeting, 2023 (Session 6), Tuesday, 7 February 2023

Patient Safety Commissioner for Scotland Bill

Note by the clerk

Background

1. The Scottish Government introduced [the Patient Safety Commissioner for Scotland Bill](#) in the Scottish Parliament on 6 October 2022.
2. The Health, Social Care and Sport Committee has been designated by the Parliamentary Bureau as the lead Committee for Stage 1 scrutiny of the Bill.

Purpose of the Bill

3. The purpose of the Bill is to establish a new Parliamentary Commissioner, the Patient Safety Commissioner for Scotland, independent of the NHS and government, who will:
 - promote and improve patient safety by amplifying the patient voice within the patient safety system;
 - develop a system-wide view of the healthcare system in Scotland and use it to identify wider safety issues; and
 - promote better coordination across the patient safety landscape in Scotland in responding to concerns about safety issues.
4. The Bill would confer investigatory and information-gathering powers on the Commissioner and would require the Commissioner to prepare and publish reports on safety issues which have been identified in the provision of health care and to make recommendations as to how these can be addressed. The Commissioner would also be able to publish reports and make recommendations without carrying out a formal investigation if they consider it appropriate to do so. The Bill would also make it a requirement for certain organisations to respond to a report.
5. The Bill also makes provision for routine matters related to the proposed new Commissioner such as accounts, annual reporting, the Commissioner's

appointment, and the appointment of staff. In addition, amendments are made to certain legislation dealing with public authorities to apply the legislation in question to the Commissioner.

6. To achieve its purpose, the Bill contains the following sections:

Section 1 of the Bill establishes a new office of Patient Safety Commissioner for Scotland. Section 1 also introduces schedule 1, which makes provision in connection with the office of Patient Safety Commissioner such as in relation to status, remuneration, terms of appointment and various matters of an administrative nature.

Section 2 of the Bill provides that the Commissioner is to have certain general functions; to advocate for systemic improvement in the safety of health care and to promote the importance of the views of patients and other members of the public in relation to the safety of health care. Section 2 also provides that, in exercising those functions, the Commissioner may carry out a range of activities including (but not limited to) gathering information and making recommendations for systemic improvements in the safety of health care.

Sections 3-15 relate to how the Commissioner will operate, including guiding principles (section 3), inclusive communication (section 4), strategic planning (sections 5-7), formal investigations (sections 8 and 9), investigation reports (section 10), requirements to respond to reports (section 11) and the gathering and use of information (sections 12-15)

Sections 16-19 relate to miscellaneous provisions, including setting up an advisory group (section 16), additional reports (section 17), protection from actions of defamation (section 18) and directions about premises and sharing of resources (section 19).

Sections 20-25 relate to final provisions, including modification of other enactments (section 20, interpretation (Section 21), ancillary provision (section 22), regulation-making powers (section 23), commencement (Section 24) and short title (section 25).

7. Further details on the Bill can be found in the [Explanatory Notes](#) and [Policy Memorandum](#) accompanying the Bill.

Scrutiny

8. The Committee agreed its approach to Stage 1 scrutiny of the Patient Safety Commissioner for Scotland Bill during its meeting on 25 October 2022.

9. The Committee issued a [call for written views](#) on the Bill on 26 October 2022, which ran until 14 December 2022 and received 54 submissions.
10. The Committee's Stage 1 scrutiny will consist of six sessions in Spring 2023:

Session 1	Private session with the Bill team from the Scottish Government.
Session 2	Evidence session with Baroness Cumberlege
Session 3	Evidence session with patient representatives
Session 4	Evidence session with organisations relating to patient safety
Session 5	Evidence session with industry bodies and professionals
Session 6	Evidence session with the Minister for Public Health, Women's Health and Sport

11. The Public Finance and Administration Committee issued a [call for views on the estimated financial implications of the Bill](#) as set out in its accompanying Financial Memorandum (FM). This ran from 28 October 2022 until 6 Jan 2023 and did not receive any responses.
12. At its meeting on [15 November 2022](#), the Delegated Powers and Law Reform (DPLR) Committee considered the Bill at Stage 1. The [DPLR Committee reported](#) that it was content with the delegated powers provisions contained in the Bill.

Today's meeting

13. The Scottish Government introduced the Bill in response to recommendations made by the [Independent Medicines and Medical Devices Safety Review](#). This review followed a number of instances where patients raised concerns about the safety of medical interventions which were not heeded by healthcare professionals, resulting in harm. Examples include transvaginal mesh used for organ prolapse and sodium valproate to treat epilepsy in women capable of childbearing, both of which resulted in patients suffering harm because of these treatments and damaged trust in the healthcare system.
14. The Bill proposes the creation of a Patient Safety Commissioner for Scotland who will have a broader remit than originally recommended by the Cumberlege review, covering patient safety across all healthcare settings. As such, the evidence today will be in relation to issues highlighted as part of the Cumberlege review, but also in relation to wider patient safety issues in Scotland.

15. At today's meeting, the Committee will take evidence from two panels of witnesses, comprising patient representatives and organisations relating to patient safety respectively.
16. Some of the content of this meeting may be sensitive or potentially distressing and the Committee encourages anyone affected by any of the issues discussed today to seek support. In particular, Breathing Space is a free confidential service for people in Scotland and is able to provide a range of supports on its website breathingspace.scot or by calling 0800 83 85 87.

Clerks to the Committee

2 February 2023