

*These notes relate to the Commissioner for Children and Young People
(Scotland) Act 2003 (asp 17) which received Royal Assent on 1 May 2003*

COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 8: Initiation and conduct of investigation

48. Subsection (1) sets out procedural requirements which need to be fulfilled before the Commissioner can undertake an investigation.
49. Subsection (1)(a) requires the Commissioner to draw up terms of reference for the proposed investigation. The terms of reference will define the scope of the investigation which cannot be changed once an investigation has started.
50. In addition subsection (1)(b) requires that the Commissioner publishes notice of the investigation and its terms of reference in order to create awareness of it amongst those who may be affected by it. The precise means of publication employed by the Commissioner in order to satisfy this requirement will be a matter for the Commissioner's discretion.
51. Subsection (2) makes it clear that investigations by the Commissioner will be conducted in public unless the Commissioner considers that it is necessary or appropriate to take evidence in private. This could include, but is not limited to, circumstances in which a young child or a vulnerable person is giving evidence. In addition, given that the Commissioner will be required to consider the best interests and views of children and young people under sections 5(2)(a) and (b), this means that the Commissioner should ascertain their views as to privacy before they give evidence.