

Health and Social Care Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 4

EARL HOWE

- 1** Page 3, line 5, leave out from “must” to end of line 6 and insert “have regard to the desirability of securing, so far as consistent with the interests of the health service—”

Clause 4

EARL HOWE

- 2** Page 3, line 11, at end insert—
- “() If, in the case of any exercise of functions, the Secretary of State considers that there is a conflict between the matters mentioned in subsection (1) and the discharge by the Secretary of State of the duties under section 1, the Secretary of State must give priority to the duties under that section.””

Clause 5

EARL HOWE

- 3** Page 3, line 16, leave out “have regard to the need to”

Clause 6

EARL HOWE

- 4** Page 3, line 29, after “means” insert “—
() ”

Clause 6

EARL HOWE

- 5 Page 3, line 30, leave out from “and” to end of line 33 and insert—
- “() this Act,
 - () the Health and Social Care Act 2008,
 - () the Health Act 2009, and
 - () the Health and Social Care Act 2012.””

Clause 12

EARL HOWE

- 6 Page 7, line 17, at end insert—
- “() After subsection (1E) insert—
 - “(1F) In exercising its functions under this section and section 3A, a clinical commissioning group must act consistently with—
 - (a) the discharge by the Secretary of State and the Board of their duty under section 1(1) (duty to promote a comprehensive health service), and
 - (b) the objectives and requirements for the time being specified in the mandate published under section 13A.””

Clause 12

EARL HOWE

- 7 Page 7, line 22, at end insert—
- “() In section 272 of that Act (orders, regulations, rules and directions), in subsection (6) before paragraph (za) insert—
 - “(zza) regulations under section 3(1D),”.”

Clause 20

EARL HOWE

- 8 Page 15, line 10, at end insert—
- “() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

Clause 20

EARL HOWE

- 9 Page 15, line 22, at end insert—
- “(6) In section 273 of that Act (further provision about orders and directions), in subsection (4)(b)—
 - (a) before paragraph (i) insert—

- “(zi) section 7 about a function of a person other than the Secretary of State,” and
- (b) in paragraph (i) after “a function” insert “of the Secretary of State”.”

Clause 22

EARL HOWE

- 10** Page 17, line 9, at end insert –

“() Requirements included in the mandate have effect only if regulations so provide.”

Clause 22

EARL HOWE

- 11** Page 17, line 21, at end insert –

“() Revisions to the mandate which consist of adding, omitting or modifying requirements have effect only if regulations so provide.”

Clause 22

EARL HOWE

- 12** Page 18, line 17, leave out from “must” to end of line 18 and insert “have regard to the desirability of securing, so far as consistent with the interests of the health service –”

Clause 22

EARL HOWE

- 13** Page 18, line 23, at end insert –

“() If, in the case of any exercise of functions, the Board considers that there is a conflict between the matters mentioned in subsection (1) and the discharge by the Board of its duties under sections 1(1) and 1G(3)(b), the Board must give priority to those duties.”

Clause 22

EARL HOWE

- 14** Page 18, line 34, leave out from “decisions” to end of line and insert “which relate to –

- (a) the prevention or diagnosis of illness in the patients, or
- (b) their care or treatment.”

Clause 22

EARL HOWE

- 15 Page 19, line 13, leave out “have regard to the need to”

Clause 22

EARL HOWE

- 16 Page 19, line 16, at end insert—

“13LA Duty as to promoting education and training

The Board must, in exercising its functions, have regard to the need to promote education and training for the persons mentioned in section 1E(1) so as to assist the Secretary of State in the discharge of the duty under that section.”

Clause 22

EARL HOWE

- 17 Page 22, line 16, after “13E” insert “, 13G”

Clause 22

EARL HOWE

- 18 Page 25, line 9, leave out “This section has” and insert “Paragraphs (a) to (c) and (h) of subsection (1) have”

Clause 22

EARL HOWE

- 19 Page 25, line 33, at end insert—
“section 13LA,”

Clause 24

EARL HOWE

- 20 Page 29, line 16, leave out “in writing by” and insert “by order of”

Schedule 2

EARL HOWE

- 21 Page 281, line 33, after “interests of” insert “—
(a) ”

Schedule 2

EARL HOWE

- 22 Page 281, line 34, at end insert “, or
(b) members of its committees or sub-committees.”

Schedule 2

EARL HOWE

- 23 Page 282, line 34, after “members of” insert “–
(a) ”

Schedule 2

EARL HOWE

- 24 Page 282, line 34, at end insert –
“(b) its audit committee, and
(b) any committees or sub-committees appointed by virtue of paragraph 6(2)(b).”

Clause 25

EARL HOWE

- 25 Page 37, line 8, leave out from “decisions” to end of line 9 and insert “which relate to –
(a) the prevention or diagnosis of illness in the patients, or
(b) their care or treatment.”

Clause 25

EARL HOWE

- 26 Page 37, line 10, leave out “may” and insert “must”

Clause 25

EARL HOWE

- 27 Page 37, line 34, leave out “have regard to the need to”

Clause 25

EARL HOWE

- 28 Page 37, line 36, at end insert –

“14XA Duty as to promoting education and training

Each clinical commissioning group must, in exercising its functions, have regard to the need to promote education and training for the persons mentioned in section 1E(1) so as assist the Secretary of State in the discharge of the duty under that section.”

Clause 25

EARL HOWE

- 29 Page 44, line 17, after “14Q” insert “, 14S”

Clause 25

EARL HOWE

- 30 Page 48, line 39, leave out “This section has” and insert “Paragraphs (a) to (c) and (h) of subsection (1) have”

Clause 25

EARL HOWE

- 31 Page 49, line 24, at end insert –
“section 14XA,”

Clause 29

EARL HOWE

- 32 Page 56, line 8, after “6C” insert “(1) or (3)”

Clause 29

EARL HOWE

- 33 Page 56, line 40, at end insert –
“() A local authority must have regard to any guidance given by the Secretary of State in relation to its director of public health, including guidance as to appointment and termination of appointment, terms and conditions and management.”

Clause 30

EARL HOWE

- 34 Page 57, line 12, after “6C” insert “(1) or (3)”

Clause 30

EARL HOWE

35 Page 57, line 20, at end insert—

“() A document published under subsection (1), and guidance given under subsection (3), may include guidance as to the appointment of officers of the local authority to discharge any functions mentioned in subsection (2), and as to their terms and conditions, management and dismissal.”

Clause 31

EARL HOWE

36 Page 57, line 36, after “6C” insert “(1) or (3)”

Clause 35

EARL HOWE

37 Page 66, line 11, at end insert—

“() The duty in subsection (3) does not apply in relation to the proposal if the Secretary of State so directs by an instrument in writing.”

Clause 35

EARL HOWE

38 Page 66, leave out lines 14 to 17

Clause 35

EARL HOWE

39 Page 66, line 39, at end insert—

“() The duty in subsection (2) does not apply in relation to the proposal if the Secretary of State so directs by an instrument in writing.”

Clause 35

EARL HOWE

40 Page 66, leave out lines 42 to 45

Clause 35

EARL HOWE

41 Page 67, line 34, at end insert—

“() The duty in subsection (2) does not apply in relation to the proposal if the Secretary of State so directs by an instrument in writing.”

Clause 35

EARL HOWE

42 Page 67, leave out lines 37 to 40

Clause 48

EARL HOWE

43 Page 80, line 10, at end insert—

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

Clause 48

EARL HOWE

44 Page 81, line 6, at end insert—

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

Clause 48

EARL HOWE

45 Page 81, line 16, at end insert—

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

Clause 48

EARL HOWE

46 Page 82, line 10, at end insert—

“() Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”

Clause 52

EARL HOWE

47 Page 84, line 6, at end insert—

“() The report must include the Secretary of State’s assessment of the effectiveness of the discharge of the duties under sections 1A and 1B.”

Schedule 4

EARL HOWE

- 48 Page 317, line 7, at end insert –
“() after paragraph (e) insert –
“(ea) paragraph 11 of Schedule A1,
(eb) paragraph 14 of Schedule 1A,”.”

Schedule 4

EARL HOWE

- 49 Page 317, line 35, at end insert –
“() In subsection (9), for “section 224 or 226” substitute “section 225”.”

Schedule 4

EARL HOWE

- 50 Page 318, line 24, at end insert –
“() In the heading to the section, omit “Strategic Health Authorities and”.”

Schedule 4

EARL HOWE

- 51 Page 318, line 30, at end insert –
“() In the heading to the section, omit “Strategic Health Authorities and”.”

Schedule 4

EARL HOWE

- 52 Page 321, line 18, at end insert “, and
(b) before paragraph (a) insert –
“(za) section 14A(1),”.”

Schedule 5

EARL HOWE

- 53 Page 326, line 37, at end insert –
“*Health and Safety at Work etc. Act 1974 (c. 37)*

(1) Section 60 of the Health and Safety at Work etc. Act 1974 (supplementary provision about the Employment Medical Advisory Service) is amended as follows.

- (2) In subsection (1) for “each Primary Care Trust and Local Health Board” substitute “the National Health Service Commissioning Board or each clinical commissioning group (in relation to England) and each Local Health Board (in relation to Wales)”.
- (3) In subsection (2)—
- (a) omit “for one of their”, and
 - (b) for ““each” to “its”” substitute ““the National” to “arranges””.

Schedule 5

EARL HOWE

- 54 Page 333, line 9, at end insert—

“Local Government and Housing Act 1989 (c. 42)

In section 2 of the Local Government and Housing Act 1989 (politically restricted posts), in subsection (6), after paragraph (za) insert—

“(zb) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;”.

Schedule 5

EARL HOWE

- 55 Page 334, line 24, at end insert—

“() in that paragraph, after “or” (in the first place it occurs) insert “a”,
() in the words after paragraph (b) in that subsection, omit “authority or”;

Schedule 5

EARL HOWE

- 56 Page 334, line 33, at end insert “, and
() in the words after that paragraph, omit “Trust, Authority or.”

Schedule 5

EARL HOWE

- 57 Page 334, line 34, leave out from beginning to end of line 6 on page 335

Schedule 5

EARL HOWE

- 58 Page 342, line 1, leave out “Minister” substitute “the Welsh Ministers” and insert “Minister considers” substitute “the Welsh Ministers consider”

Schedule 5

EARL HOWE

59 Page 342, line 6, at end insert—

- “
- () The Licensing Act 2003 is amended as follows.
 - () In section 5(3) (statement of licensing policy)—
 - (a) in paragraph (ba) omit “Primary Care Trust or”, and
 - (b) after that paragraph insert—
 - “(bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority’s area,”.
 - () In section 13(4) (authorised persons, interested parties and responsible authorities)—
 - (a) in paragraph (ba) omit “Primary Care Trust or”, and
 - (b) after that paragraph insert—
 - “(bb) the local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of any area in which the premises are situated,”.
- ”

Schedule 5

EARL HOWE

60 Page 342, line 8, at end insert—

- “
- () In section 69(4) (authorised persons, interested parties and responsible authorities)—
 - (a) in paragraph (ba) omit “Primary Care Trust or”, and
 - (b) after that paragraph insert—
 - “(bb) the local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of any area in which the premises are situated,”.
 - () In section 172B(4) (procedural requirements for early morning alcohol restriction order)—
 - (a) in paragraph (d) omit “Primary Care Trust or”, and
 - (b) after that paragraph insert—
 - “(da) the local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the area specified in the order,”.
- ”

Schedule 5

EARL HOWE

61 Page 354, line 24, at end insert—*“Charities Act 2011 (c. 25)*

In section 149 of the Charities Act 2011 (audit or examination of English NHS charity accounts), in subsection (7) —

- (a) omit paragraph (a),
- (b) omit paragraph (b),
- (c) before paragraph (c) insert—
 - “(ba) the National Health Service Commissioning Board,
 - (bb) a clinical commissioning group,
 - (bc) trustees for the National Health Service Commissioning Board appointed in pursuance of paragraph 11 of Schedule A1 to the National Health Service Act 2006, or
 - (bd) trustees for a clinical commissioning group appointed in pursuance of paragraph 14 of Schedule 1A to that Act,” and
- (d) omit paragraph (f).”

Schedule 6

EARL HOWE

62 Page 356, line 13, at end insert—

- “(o) The amendment made by section 20(6) does not affect—
- (a) the validity of any direction made by an instrument in writing which continues to have effect by virtue of sub-paragraph (2),
 - (b) any power to vary such a direction otherwise than for the purpose of directing the Special Health Authority concerned to exercise an additional function, or
 - (c) any power to revoke such a direction.”

Clause 64

EARL HOWE

63 Page 90, leave out line 2 and insert—*“(1) In exercising its functions, Monitor must have regard, in particular, to”***Clause 64**

EARL HOWE

64 Page 90, line 3, at end insert—

- “(2) Monitor must, in exercising its functions, also have regard to the following matters in so far as they are consistent with the matter referred to in subsection (1) –

Clause 64

EARL HOWE

- 65 Page 90, line 5, after “NHS” insert “and in the efficiency of their provision”

Clause 64

EARL HOWE

- 66 Page 90, line 6, leave out paragraph (c)

Clause 64

EARL HOWE

- 67 Page 90, line 20, leave out paragraph (h)

Clause 69

EARL HOWE

- 69 Page 93, line 38, after “Monitor’s” insert “, other than a function it has by virtue of section 70 or 71,”

Clause 76

EARL HOWE

- 70 Page 98, line 26, after “(1)(a)” insert “or (b)”

Clause 76

EARL HOWE

- 71 Page 98, line 32, at end insert –

- “() Before publishing guidance revised under subsection (4), Monitor must consult the persons mentioned in subsection (2).”

Clause 77

EARL HOWE

- 72 Page 98, line 34, leave out subsection (1) and insert –

- “() For the purposes of Part 3 of the Enterprise Act 2002 (completed and anticipated mergers), each of the following cases is to be treated as being

(in so far as it would not otherwise be) a case in which two or more enterprises cease to be distinct enterprises.”

Clause 77

EARL HOWE

73 Page 98, line 37, leave out “have ceased” and insert “cease”

Clause 77

EARL HOWE

74 Page 98, line 40, leave out “have ceased” and insert “cease”

Clause 78

EARL HOWE

75 Page 99, line 5, leave out paragraph (a) and insert –
 “(a) the effectiveness of competition in the provision of health care services for the purposes of the NHS in promoting the interests of people who use such services,”

Clause 87

EARL HOWE

76 Page 104, line 36, leave out subsection (3) and insert –
 “(3) Monitor may not set or revise the criteria unless the Secretary of State has by order approved the criteria or (as the case may be) revised criteria.”

Clause 97

EARL HOWE

77 Page 109, line 13, at end insert –
 “(da) for the purpose of enabling health care services provided for the purposes of the NHS to be provided in an integrated way where Monitor considers that this would achieve one or more of the objectives referred to in subsection (2A);
 (db) for the purpose of enabling the provision of health care services provided for the purposes of the NHS to be integrated with the provision of health-related services or social care services where Monitor considers that this would achieve one or more of the objectives referred to in subsection (2A);
 (dc) for the purpose of enabling co-operation between providers of health care services for the purposes of the NHS where Monitor considers that this would achieve one or more of the objectives referred to in subsection (2A);”

Clause 97

EARL HOWE

78 Page 109, line 22, at end insert—

“(2A) The objectives referred to in subsection (2)(da), (db) and (dc) are—

- (a) improving the quality of health care services provided for the purposes of the NHS (including the outcomes that are achieved from their provision) or the efficiency of their provision,
- (b) reducing inequalities between persons with respect to their ability to access those services, and
- (c) reducing inequalities between persons with respect to the outcomes achieved for them by the provision of those services.”

Clause 97

EARL HOWE

79 Page 109, line 29, at end insert—

“() In subsection (2)(db), “health-related services” and “social care services” each have the meaning given in section 61(11).”

Clause 118

EARL HOWE

80 Page 125, line 18, leave out “licence holder” and insert “relevant provider”

Clause 118

EARL HOWE

81 Page 127, line 9, at end insert—

“(13A) In this section, a “relevant provider” is—

- (a) a licence holder, or
- (b) such other person, of such description as may be prescribed, as provides health care services for the purposes of the NHS.”

Clause 118

EARL HOWE

82 Page 127, line 10, leave out subsection (14)

Clause 120

EARL HOWE

83 Page 127, line 38, leave out “licence holders” and insert “relevant providers”

Clause 120

EARL HOWE

84 Page 128, line 1, leave out “licence holders” and insert “relevant providers”

Clause 120

EARL HOWE

85 Page 128, line 7, leave out “licence holders” and insert “relevant providers”

Clause 120

EARL HOWE

86 Page 128, line 10, leave out “licence holders” and insert “relevant providers”

Clause 120

EARL HOWE

87 Page 128, line 21, leave out “licence holder’s” and insert “relevant provider’s”

Clause 120

EARL HOWE

88 Page 128, line 22, at end insert –

“() In this section and section 121 and Schedule 12, “relevant provider” has the meaning given in section 118(13A).”

Clause 120

EARL HOWE

89 Page 128, line 23, leave out subsection (7)

Schedule 12

EARL HOWE

90 Page 381, line 18, leave out “licence holder” and insert “relevant provider”

Clause 121

EARL HOWE

91 Page 128, line 32, leave out “licence holders” and insert “relevant providers”

Clause 121

EARL HOWE

- 92 Page 129, line 20, leave out “licence holders” and insert “relevant providers”

Clause 126

EARL HOWE

- 93 Page 132, line 16, leave out “licence holder” and insert “relevant provider”

Clause 126

EARL HOWE

- 94 Page 132, line 25, at end insert –

“() In this section, “relevant provider” has the meaning given in section 118(13A).”

Clause 149

EARL HOWE

- 95 Page 148, line 26, at end insert –

- “() Until section 8 comes into force, the references in this Part to the National Health Service Commissioning Board (other than the reference in section 95(11)(b)) are to be read as references to the NHS Commissioning Board Authority.
- () Until the day specified by Secretary of State for the purposes of section 14A of the National Health Service Act 2006, the references in this Part to a clinical commissioning group (other than the reference in section 95(11)(a)) are to be read as references to a Primary Care Trust.
- () Until section 180 comes into force, the following provisions in this Part are to be read as if the words “and its Healthwatch England committee” were omitted –
- (a) section 84(4)(c);
 - (b) section 85(5)(a)(iii);
 - (c) section 96(2)(e);
 - (d) section 100(2)(e).”

Clause 174

EARL HOWE

- 96 Page 167, line 24, at end insert –

“() If, at any time before section 8 comes into force, Monitor obtains the approval of the NHS Commissioning Board Authority to publish guidance under section 65DA(4)(c) or (5) of the National Health Service Act 2006,

that approval is to be treated for the purposes of subsection (6)(b) of that section as approval obtained from the National Health Service Commissioning Board.”

Schedule 14

EARL HOWE

97 Page 392, line 20, leave out “section 78” and insert “sections 78 and 79”

Schedule 14

EARL HOWE

98 Page 400, line 12, at end insert –

“*Charities Act 2011 (c.25)*

The Charities Act 2011 is amended as follows.

In section 149 (audit or examination of English NHS charity accounts), in subsection (7), omit paragraphs (c), (d) and (e).

In section 150 (audit or examination of Welsh NHS charity accounts), in subsection (4) –

- (a) in paragraph (b), omit the words from “all or most” to the end,
- (b) in paragraph (c), omit “falling within paragraph (b)”, and
- (c) in paragraph (d), omit “such”.

Clause 180

EARL HOWE

99 Page 176, leave out lines 26 to 29

Clause 180

EARL HOWE

100 Page 176, line 30, leave out subsection (3) and insert –

“(3) After sub-paragraph (5) insert –

“(5A) Regulations under sub-paragraph (1A) must make provision requiring a person who has power to appoint a member of the Healthwatch England committee to secure that a majority of the members of the committee are not members of the Commission.

(5B) Regulations under sub-paragraph (1A) may specify other results which a person who has power to appoint a member of the committee must secure.

(5C) Regulations under sub-paragraph (1A) may, in particular, make provision as to –

- (a) eligibility for appointment;

(b) procedures for selecting or proposing persons for appointment.

(5D) Regulations under sub-paragraph (1A) may, in particular, make provision as to—

- (a) the removal or suspension of members of the committee;
- (b) the payment of remuneration and allowances to members.””

Clause 180

EARL HOWE

101 Page 177, line 47, after “State” insert “and to every Local Healthwatch organisation”

Clause 180

EARL HOWE

102 Page 179, line 5, leave out subsection (14) and insert—

“(14) The Healthwatch England committee is to be treated for the purposes of section 2(1) of the Public Bodies (Admission to Meetings) Act 1960 as a body that includes all the members of the Care Quality Commission.”

Clause 195

EARL HOWE

103 Page 195, line 28, leave out “other functions of the authority” and insert “functions that are exercisable by the authority”

Clause 253

EARL HOWE

104 Page 243, line 26, leave out second “and” and insert “or”

Clause 253

EARL HOWE

105 Page 243, line 30, leave out from beginning to second “it is” and insert “the Secretary of State considers that the information which could be obtained by complying with the direction is information which”

Clause 253

EARL HOWE

106 Page 243, line 38, leave out from “if” to “it is” in line 39 and insert “the Board considers that the information which could be obtained by complying with the

direction is information which”

Clause 254

EARL HOWE

- 107 Page 244, line 11, leave out second “and” and insert “or”

Clause 254

EARL HOWE

- 108 Page 244, line 13, leave out from beginning to “it is” in line 14 and insert “A request may be made under subsection (1) by a person only if the person considers that the information which could be obtained by complying with the request is information which”

Clause 254

EARL HOWE

- 109 Page 244, line 20, leave out from “Chapter” to “it is” in line 23 and insert “a request under subsection (1) is a mandatory request if –
- (a) it is made by a principal body, and
 - (b) the body considers that the information which could be obtained by complying with the request is information which”

Clause 254

EARL HOWE

- 110 Page 244, line 41, leave out “relevant” and insert “principal”

Clause 254

EARL HOWE

- 111 Page 244, line 42, after “to” insert –
- (i) the code of practice prepared and published by the Centre under section [*Code of practice on confidential information*], and
 - (ii) ”

Clause 254

EARL HOWE

- 112 Page 244, line 44, leave out “relevant” and insert “principal”

After Clause 254

EARL HOWE

113 Insert the following new Clause –**“Requests for collection under section 254: confidential information**

- (1) A request under section 254 is a confidential collection request if it is a request for the Information Centre to establish and operate a system for the collection of information which is in a form which –
 - (a) identifies any individual to whom the information relates who is not an individual who provides health care or adult social care, or
 - (b) enables the identity of such an individual to be ascertained.
- (2) A person may make a confidential collection request under section 254 only if the request –
 - (a) is a mandatory request,
 - (b) relates to information which the person making the request (“R”) may require to be disclosed to R or to the Information Centre by the person holding it, or
 - (c) relates to information which may otherwise be lawfully disclosed to the Information Centre or to R by the person holding it.”

Clause 256

EARL HOWE

114 Page 245, line 32, leave out “that” and insert “any”**Clause 256**

EARL HOWE

115 Page 245, line 36, leave out “collected pursuant to” and insert “obtained by complying with”**Clause 256**

EARL HOWE

116 Page 245, line 37, leave out “or information derived from such information,”**Clause 257**

EARL HOWE

117 Page 246, line 9, at end insert –

- “(2A) But the Information Centre may not impose a requirement under subsection (1)(a) for the purpose of complying with a confidential collection request falling within section [*Requests for collection under section 254: confidential information*](2)(c).

- (2B) In such a case, the Information Centre may, however, request any person mentioned in subsection (2) to provide it with any information which the Centre considers it necessary or expedient for the Centre to have for the purpose of complying with the request.”

Clause 257

EARL HOWE

- 118** Page 246, line 16, at end insert—

“() If the Information Centre considers it appropriate to do so, the Centre may make a payment to any person mentioned in subsection (2)(b) who has provided information to the Centre pursuant to a request made under subsection (2B) in respect of the costs to that person of doing so.”

Clause 257

EARL HOWE

- 119** Page 246, line 18, leave out “subsection (1)” and insert “this section”

Clause 258

EARL HOWE

- 120** Page 246, line 32, leave out “collects pursuant to” and insert “obtains by complying with”

Clause 258

EARL HOWE

- 121** Page 247, line 9, leave out “collected pursuant to” and insert “obtained by complying with”

Clause 258

EARL HOWE

- 122** Page 247, line 10, leave out “collects pursuant to” and insert “obtains by complying with”

Clause 258

EARL HOWE

- 123** Page 247, line 18, leave out “collects pursuant to” and insert “obtains by complying with”

Clause 259

EARL HOWE

- 124** Page 247, line 39, leave out “collects pursuant to” and insert “obtains by complying with”

Clause 259

EARL HOWE

- 125** Page 247, line 46, after “and” insert “–
- (i) the relevant person has consented to the dissemination, or
 - (ii) ”

Clause 259

EARL HOWE

- 126** Page 248, line 2, at end insert –
- “() the information is in a form which identifies any individual to whom the information relates who is not a relevant person or enables the identity of such an individual to be ascertained and the individual has consented to the dissemination;”

Clause 259

EARL HOWE

- 127** Page 248, line 11, at end insert –
- “(3A) The Information Centre may also disseminate, in such form and manner and at such times as it considers appropriate, any information which it collects pursuant to a direction under section 253 or a request under section 254 (whether or not it falls within subsection (2)) to any person to whom the information could have been lawfully disclosed by the person from whom the Centre collected the information.
 - (3B) The Information Centre may also disclose information which it obtains by complying with a direction under section 253 or a request under section 254 (whether or not it falls within subsection (2)) if –
 - (a) the information has previously been lawfully disclosed to the public,
 - (b) the disclosure is made in accordance with any court order,
 - (c) the disclosure is necessary or expedient for the purposes of protecting the welfare of any individual,
 - (d) the disclosure is made to any person in circumstances where it is necessary or expedient for the person to have the information for the purpose of exercising functions of that person conferred under or by virtue of any provision of this or any other Act,
 - (e) the disclosure is made in connection with the investigation of a criminal offence (whether or not in the United Kingdom), or

- (f) the disclosure is made for the purpose of criminal proceedings (whether or not in the United Kingdom).
- (3C) Paragraphs (a), (b) and (f) of subsection (3B) have effect notwithstanding any rule of common law which would otherwise prohibit or restrict the disclosure.”

Clause 259

EARL HOWE

- 128 Page 248, line 12, leave out subsections (4) and (5)

Clause 259

EARL HOWE

- 129 Page 248, line 22, after “section” insert “or section [*Dissemination: directions under section 253 and requests under section 254*]”

Clause 259

EARL HOWE

- 130 Page 248, line 23, leave out from “it)” to first “any” in line 24 and insert “under or by virtue of”

Clause 259

EARL HOWE

- 131 Page 248, line 25, leave out subsection (7)

Clause 259

EARL HOWE

- 132 Page 248, line 28, at end insert—

“() For the purposes of this section and section [*Dissemination: directions under section 253 and requests under section 254*] the provision by the Information Centre of information which it has obtained by complying with a direction under section 253 or a request under section 254 to the person who gave the direction or made the request is to be treated as dissemination by the Centre of that information to that person.”

After Clause 259

EARL HOWE

- 133 Insert the following new Clause—

“Other dissemination: directions under section 253 and requests under section 254

- (1) A direction under section 253 may require the Information Centre to disseminate information which it obtains by complying with the direction if the information falls within subsection (2).
- (2) Information falls within this subsection if –
 - (a) the information is required to be published under section 258;
 - (b) the information is in a form which identifies any relevant person to whom the information relates or enables the identity of such a relevant person to be ascertained and –
 - (i) the relevant person has consented to the dissemination, or
 - (ii) the person giving the direction, after taking into account the public interest as well as the interests of the relevant person, considers that it is appropriate for the information to be disseminated;
 - (c) the information is in a form which identifies any individual to whom the information relates who is not a relevant person or enables the identity of such an individual to be ascertained and the individual has consented to the dissemination;
 - (d) the Centre is prohibited from publishing the information only by virtue of it falling within section 258(2)(c) and the person giving the direction considers it would be in the public interest for the information to be disseminated.
- (3) A direction under section 253 may require the Information Centre to exercise –
 - (a) the power conferred by section 259(3A) in relation to information which it collects pursuant to the direction, or
 - (b) any other power it has under or by virtue of any other provision of this Act (other than section 259(1) or (3B)) or any other Act to disseminate information which it obtains by complying with the direction.
- (4) A request under section 254 may request the Information Centre to exercise –
 - (a) the power conferred by section 259(1) or (3A) in relation to information which it obtains by complying with the request, or
 - (b) any other power it has to disseminate such information under or by virtue of any other provision of this or any other Act.
- (5) A direction under section 253 may require, and a request under section 254 may request, the Information Centre not to exercise the power conferred by section 259(1) or (3A) in relation to information which it obtains by complying with the direction or request.
- (6) Section 254(3) does not apply in relation to anything included in a mandatory request by virtue of subsection (4) or (5).
- (7) A requirement imposed on, or a request made to, the Information Centre in accordance with this section to disseminate information may include a requirement or request about the persons to whom the information is to be disseminated and the form, manner and timing of dissemination.”

After Clause 259

EARL HOWE

134 Insert the following new Clause –**“Code of practice on confidential information**

- (1) The Information Centre must prepare and publish a code in respect of the practice to be followed in relation to the collection, analysis, publication and other dissemination of confidential information concerning, or connected with, the provision of health services or of adult social care in England.
- (2) For the purposes of this section “confidential information” is –
 - (a) information which is in a form which identifies any individual to whom the information relates or enables the identity of such an individual to be ascertained, or
 - (b) any other information in respect of which the person who holds it owes an obligation of confidence.
- (3) Before publishing the code, the Information Centre must consult –
 - (a) the Secretary of State,
 - (b) the Board, and
 - (c) such other persons as the Centre considers appropriate.
- (4) The Information Centre must not publish the code without the approval of –
 - (a) the Secretary of State, and
 - (b) the Board, so far as the code relates to information concerning, or connected with, the provision of NHS services.
- (5) The Information Centre must keep the code under review and may revise it as it considers appropriate (and a reference in this section to the code includes a reference to any revised code).
- (6) A health or social care body must have regard to the code in exercising functions in connection with the provision of health services or of adult social care in England.
- (7) A person, other than a public body, who provides health services, or adult social care in England, pursuant to arrangements made with a public body exercising functions in connection with the provision of such services or care must, in providing those services or that care, have regard to the code.”

Clause 260

EARL HOWE

135 Page 248, line 31, leave out “collected” and insert “obtained”

Clause 300

EARL HOWE

- 136** Page 269, line 24, at end insert—
“() the first regulations under section 84 (licensing requirement: exemption regulations);”

Clause 300

EARL HOWE

- 137** Page 269, line 24, at end insert—
“() the first order under section 87 (approval by Secretary of State of licensing criteria);”

