



## FACTSHEET 14

# The Care Bill – false or misleading information

*“Any public statement made by a healthcare organisation about its performance must be truthful and not misleading by omission”*

Francis Inquiry Recommendation 177

*This factsheet is about how the Care Bill will make it a criminal offence for healthcare providers to give false and misleading information.*

## Context

The Francis Inquiry found that false or misleading information, such as inaccurate statements about mortality rates, allows poor and dangerous care to continue.

A criminal offence will help to stop providers giving false or misleading information. Those who do can be prosecuted. This will give people more confidence in the information they receive from the NHS and will make the NHS more open, honest and accountable.

## What the Bill will do

The Care Bill will make it a criminal offence for care providers to give false or misleading information.

The Bill gives the Government the power to set the type of care provider and the type of information that the offence will cover. It can do this through regulations that will sit alongside the Bill.

The offence is a strict liability offence. This means it does not need to be proven that

the provider knew it had supplied false or misleading information. Providers can offer a defence if they can show they have taken all reasonable steps to ensure the information was correct. Providers who are knowingly reckless or wilful in giving false or misleading information would be committing an offence.

The criminal offence will apply to the organisation as a whole (as a legal corporate entity).

Where an organisation is found to have committed the offence, the offence could also apply to senior staff if they were involved in committing the offence.

Initially, regulations will limit the criminal offence to providers of NHS secondary care. This includes NHS Trusts, Foundation Trusts, and independent providers of NHS secondary care such as private companies and charities.

Regulations will also set out the type of information covered by the offence. This could include mortality rates.

The Police and the Crown Prosecution Service (CPS) will investigate providers and bring a prosecution against an organisation if they have committed an offence.

Punishments from the courts may include:

- remedial orders (the organisation must take specific steps to put things right)
- publication orders (to publish details of the offence)
- an unlimited fine

Failing to act on a remedial or publication order is an offence and can be punished with an unlimited fine.

Providers who make a genuine mistake would not be prosecuted, as long as they can show they took all reasonable steps to make sure their information was as accurate as possible.