

Health and Social Care Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 180

EARL HOWE

- 1 Page 176, line 34, leave out “Advice given by Healthwatch England” and insert “Healthwatch England and Local Healthwatch organisations”

Clause 180

EARL HOWE

- 2 Page 176, line 36, after “(2)” insert “, (2A), (2B)”

Clause 180

EARL HOWE

- 3 Page 177, line 2, leave out “advice on” and insert “general advice”

Clause 180

EARL HOWE

- 4 Page 177, line 3, leave out “or in pursuance of”

Clause 180

EARL HOWE

- 5 Page 177, line 5, at end insert—
“(aa) the making of arrangements in pursuance of arrangements made under section 221(1) of that Act (see section 222(2B) of that Act);”

Clause 180

EARL HOWE

- 6 Page 177, line 6, leave out “by the organisations”

Clause 180

EARL HOWE

- 7 Page 177, line 7, at end insert—

“(2A) The function in this subsection is a power to make recommendations of a general nature to English local authorities about the making of arrangements under section 221(1) of that Act.

(2B) The function in this subsection is a power, where the Healthwatch England committee is of the opinion that the activities specified in section 221(2) of that Act are not being carried on properly in an English local authority’s area, to give the authority concerned written notice of its opinion.”

Clause 181

EARL HOWE

- 8 Leave out Clause 181

Schedule 15

EARL HOWE

- 9 Leave out Schedule 15

Clause 182

EARL HOWE

- 10 Page 180, line 37, at end insert—

“() After subsection (3A) insert—

“(3B) Each local authority must ensure that only one set of arrangements under subsection (1) in relation to its area is in force at any one time.””

Clause 182

EARL HOWE

- 11 Page 180, line 38, leave out subsection (7) and insert—

“(7) In the title to section 221, omit “: local involvement networks”.

Clause 182

EARL HOWE

12 Page 180, line 39, at end insert—

“() For the cross-heading preceding that section substitute “Local arrangements”.”

Clause 182

EARL HOWE

13 Page 180, line 39, at end insert—

“() After section 45B of the Health and Social Care Act 2008 (inserted by section 180(4)), insert—

“45C Granting licence to use trade mark

- (1) The Commission may grant a Local Healthwatch organisation a licence authorising the use, in relation to the carrying on of activities under arrangements made under section 221(1) of the Local Government and Public Involvement in Health Act 2007, of a registered trade mark of which the Commission is the proprietor.
- (2) A licence under this section may not provide for the grant of a sub-licence by the licensee other than a sub-licence authorising the use of the mark by a Local Healthwatch contractor in relation to the carrying on of Local Healthwatch arrangements.
- (3) In this section—
 - “Local Healthwatch arrangements” has the meaning given by section 222 of the Local Government and Public Involvement in Health Act 2007,
 - “Local Healthwatch contractor” has the meaning given by section 223 of that Act, and
 - “registered trade mark” and “use” have the same meaning as in the Trade Marks Act 1994.”

Clause 183

EARL HOWE

14 Page 181, leave out lines 2 to 4 and insert—

- “(2) The arrangements must be made with a body corporate which—
- (a) is a social enterprise, and
 - (b) satisfies such criteria as may be prescribed by regulations made by the Secretary of State.
- (2A) For so long as the arrangements are in force, the body with which they are made—
- (a) has the function of carrying on in A’s area the activities specified in section 221(2), and

- (b) is to be known as the “Local Healthwatch organisation” for A’s area.
- (2B) But the arrangements may authorise the Local Healthwatch organisation to make, in pursuance of those arrangements, arrangements (“Local Healthwatch arrangements”) with a person (other than A) for that person—
- (a) to assist the organisation in carrying on in A’s area some or all of the activities, or
 - (b) (subject to provision made under section 223(2)(e)) to carry on in A’s area some (but not all) of the activities on the organisation’s behalf.”

Clause 183

EARL HOWE

15 Page 181, line 5, leave out subsection (3) and insert—

- “(3) In subsection (3), for the words from the beginning to “who is not” substitute “None of the following is capable of being a Local Healthwatch organisation”.”

Clause 183

EARL HOWE

16 Page 181, line 7, leave out subsection (4) and insert—

- “(4) For subsection (4) substitute—
- “(4) The arrangements must secure the result that Local Healthwatch arrangements will not be made with a body of a description specified in subsection (3) or with the National Health Service Commissioning Board.””

Clause 183

EARL HOWE

17 Page 181, line 19, leave out subsection (7) and insert—

- “(7) For subsection (8) substitute—
- “(8) For the purposes of this section, a body is a social enterprise if—
- (a) a person might reasonably consider that it acts for the benefit of the community in England, and
 - (b) it satisfies such criteria as may be prescribed by regulations made by the Secretary of State.
- (9) Regulations made by the Secretary of State may provide that activities of a prescribed description are to be treated as being, or as not being, activities which a person might reasonably consider to be activities carried on for the benefit of the community in England.

- (10) In subsections (8) and (9), “community” includes a section of the community; and regulations made by the Secretary of State may make provision about what does, does not or may constitute a section of the community.””

Clause 183

EARL HOWE

18 Page 181, line 19, at end insert—

“() For the title to section 222 substitute “Local Healthwatch organisations.”

Clause 183

EARL HOWE

19 Page 181, line 19, at end insert—

“() After section 222 insert—

“222A Local authority arrangements: conflicts of interest

- (1) In making arrangements under section 221(1), a local authority must have regard to any conflicts guidance issued by the Secretary of State.
- (2) Arrangements under section 221(1) must require the Local Healthwatch organisation, in exercising its function of carrying on the activities specified in section 221(2) or in making Local Healthwatch arrangements, to have regard to any conflicts guidance issued by the Secretary of State.
- (3) In this section, “conflicts guidance” means guidance about managing conflicts between—
 - (a) the making of arrangements under section 221(1), and
 - (b) the carrying-on of the activities specified in section 221(2).
- (4) In this section, “Local Healthwatch arrangements” has the meaning given by section 222.”

Clause 183

EARL HOWE

20 Page 181, line 20, leave out subsections (8) to (11)

After Clause 183

EARL HOWE

21 Insert the following new Clause—

“Local arrangements: power to make further provision

- (1) Section 223 (power to make further provision about local authority arrangements) is amended as follows.
- (2) In subsection (1), for “require prescribed provision to be included in local involvement network arrangements” substitute “include prescribed provision”.
- (3) After that subsection insert—
 - “(1A) The Secretary of State may make regulations which provide that local authority arrangements must require Local Healthwatch arrangements to include prescribed provision.”
- (4) In subsection (2)—
 - (a) for “must require local involvement network arrangements to include” substitute “must include or (as the case may be) must require Local Healthwatch arrangements to include”,
 - (b) in paragraphs (a), (c) and (d), for “a local involvement network” substitute “a Local Healthwatch organisation or a Local Healthwatch contractor”, and
 - (c) after paragraph (d) insert “;
 - (e) prescribed provision relating to the activities which a Local Healthwatch contractor may not carry on on a Local Healthwatch organisation’s behalf;
 - (f) prescribed provision relating to the obtaining by a Local Healthwatch organisation of a licence under section 45C of the Health and Social Care Act 2008 and the grant by the organisation to a Local Healthwatch contractor of a sub-licence;
 - (g) prescribed provision relating to the use by a Local Healthwatch organisation or a Local Healthwatch contractor of the trade mark to which a licence under that section relates;
 - (h) prescribed provision relating to the infringement of the trade mark to which a licence under that section relates;
 - (i) prescribed provision relating to the imposition of a requirement on a Local Healthwatch organisation to act with a view to securing that its Local Healthwatch contractors (taken together) are representative of—
 - (i) people who live in the local authority’s area,
 - (ii) people to whom care services are being or may be provided in that area, and
 - (iii) people from that area to whom care services are being provided in any place.”
- (5) After subsection (2) insert—
 - “(2A) The provision which may be prescribed in relation to a Local Healthwatch contractor includes provision that relates to the contractor—

- (a) only in so far as it assists the Local Healthwatch organisation in the carrying on of activities specified in section 221(2);
 - (b) only in so far as it carries on such activities on the organisation's behalf.
- (2B) Regulations under this section may make provision which applies to all descriptions of Local Healthwatch contractor, which applies to all those descriptions subject to specified exceptions or which applies only to such of those descriptions as are prescribed."
- (6) In subsection (3) –
- (a) before the definition of “a local involvement network” insert –
 - ““care services” has the meaning given by section 221;”,
 - (b) omit the definition of “a local involvement network”,
 - (c) for the definition of “local involvement network arrangements” substitute –
 - ““Local Healthwatch arrangements” has the meaning given by section 222;”
 - (d) after that definition insert –
 - ““Local Healthwatch contractor”, in relation to a Local Healthwatch organisation, means a person with whom the organisation makes Local Healthwatch arrangements;”, and
 - (e) after the definition of “prescribed provision” insert “;
 - “trade mark”, and “use” and “infringement” in relation to a trade mark, each have the same meaning as in the Trade Marks Act 1994.””

Clause 184

EARL HOWE

- 22 Page 182, line 14, at end insert –
- “() a complaint under section 73C(1) of the National Health Service Act 2006;
 - () a complaint to a Local Commissioner under Part 3 of the Local Government Act 1974 about a matter which could be the subject of a complaint under section 73C(1) of the National Health Service Act 2006; or”

Clause 184

EARL HOWE

- 23 Page 182, line 29, leave out subsection (5)

Clause 184

EARL HOWE

- 24 Page 182, line 36, leave out “or” and insert “the arrangements or arrangements

made”

Clause 184

EARL HOWE

- 25 Page 182, line 41, leave out from “to” to end of line 44 and insert “ –
- “(a) a person providing services under arrangements under this section;
 - (b) a person arranging for the provision of services in pursuance of arrangements under this section;
 - (c) a person providing services under arrangements made in pursuance of arrangements under this section.”

Clause 184

EARL HOWE

- 26 Page 182, line 45, leave out subsection (8)

Clause 184

EARL HOWE

- 27 Page 183, line 2, leave out “or in pursuance of arrangements under this section” and insert “arrangements under this section or arrangements made in pursuance of the arrangements”

Clause 185

EARL HOWE

- 28 Page 183, line 42, after “organisation” insert “or a Local Healthwatch contractor”

Clause 185

EARL HOWE

- 29 Page 184, line 1, leave out “or in pursuance of”

Clause 185

EARL HOWE

- 30 Page 184, leave out lines 4 and 5 and insert –
- “(b) in compliance with a requirement imposed by virtue of section 223(2)(i).”

Clause 185

EARL HOWE

31 Page 184, line 5, at end insert –

“(3A) For the purposes of subsection (1), something is done by a Local Healthwatch contractor if it is done by that contractor in the carrying-on, under Local Healthwatch arrangements, of activities specified in section 221(2).”

Clause 185

EARL HOWE

32 Page 184, line 5, at end insert –

“() After subsection (4) insert –

“(5) In this section –

“Local Healthwatch arrangements” has the meaning given by section 222;

“Local Healthwatch contractor” has the meaning given by section 223.””

Clause 185

EARL HOWE

33 Page 184, line 7, after “organisations” insert “or contractors”

Clause 185

EARL HOWE

34 Page 184, line 11, after “organisation” insert “or a Local Healthwatch contractor”

Clause 185

EARL HOWE

35 Page 184, line 12, leave out subsection (7) and insert –

“(7) In subsection (4), in paragraph (a), after “section 221(1)” insert “or Local Healthwatch arrangements”.”

Clause 185

EARL HOWE

36 Page 184, line 13, at end insert –

“() After subsection (5) insert –

“(5A) In this section –

“Local Healthwatch arrangements” has the meaning given by section 222;

“Local Healthwatch contractor” has the meaning given by section 223.””

Clause 185

EARL HOWE

37 Page 184, line 16, after “organisations” insert “or contractors”

Clause 185

EARL HOWE

38 Page 184, line 19, after “organisation” insert “or a Local Healthwatch contractor”

Clause 185

EARL HOWE

39 Page 184, line 23, leave out “or in pursuance of”

Clause 185

EARL HOWE

40 Page 184, line 24, after “221(2).” insert—

“(7A) For the purposes of this section, something is done by a Local Healthwatch contractor if it is done by that contractor in the carrying-on, under Local Healthwatch arrangements, of activities specified in section 221(2).”

Clause 185

EARL HOWE

41 Page 184, line 24, at end insert—

“() In subsection (8), before the definition of “overview and scrutiny committee” insert—

““Local Healthwatch arrangements” has the meaning given by section 222;

“Local Healthwatch contractor” has the meaning given by section 223;””

Clause 186

EARL HOWE

42 Leave out Clause 186

Clause 187

EARL HOWE

- 43 Page 185, line 29, leave out subsection (2) and insert –
“(2) In subsection (2), omit “by a local authority with another person (“H”).”

Clause 187

EARL HOWE

- 44 Page 185, line 33, leave out sub-paragraph (i)

Clause 187

EARL HOWE

- 45 Page 185, line 35, leave out sub-paragraph (ii) and insert –
“(ii) omit “, for each local involvement network,””

Clause 187

EARL HOWE

- 46 Page 185, line 37, leave out sub-paragraph (iii) and insert –
“(iii) for “the network”, in the first place it appears, substitute
“the Local Healthwatch organisation”,
(iiia) for “the network”, in the second place it appears, substitute
“the organisation”,”

Clause 187

EARL HOWE

- 47 Page 185, line 39, leave out “or (as the case may be)” and insert “the arrangements
or arrangements made”

Clause 187

EARL HOWE

- 48 Page 185, line 40, leave out paragraph (b)

Clause 187

EARL HOWE

- 49 Page 185, line 41, leave out paragraph (c) and insert –
“(c) omit sub-paragraph (ii),”

Clause 187

EARL HOWE

- 50 Page 186, line 3, leave out subsection (4)

Clause 187

EARL HOWE

- 51 Page 186, line 13, leave out “or H in respect of the organisation” and insert “in its capacity as such, and the amounts spent by its Local Healthwatch contractors in their capacity as such,”

Clause 187

EARL HOWE

- 52 Page 186, line 31, leave out “or” and insert “the arrangements made under section 221(1) or arrangements made”

Clause 187

EARL HOWE

- 53 Page 186, line 33, at end insert –
 “() In subsection (9), after the definition of “financial year” insert –
 ““Local Healthwatch contractor” has the meaning given by section 223;”.”

Clause 188

EARL HOWE

- 54 Page 186, line 43, leave out from “the” to end of line 45 and insert “Local Healthwatch organisation for the authority’s area.”

Clause 188

EARL HOWE

- 55 Page 187, line 1, leave out subsection (3) and insert –
 “(3) A scheme under this section may make provision for rights and liabilities relating to an individual’s contract of employment; and the scheme may, in particular, make provision which is the same as or similar to provision in the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
 (3A) A scheme under this section may provide for the transfer of property, rights or liabilities –
 (a) whether or not they would otherwise be capable of being transferred;

- (b) irrespective of any requirement for consent that would otherwise apply.
- (3B) A scheme under this section may create rights, or impose liabilities, in relation to property, rights or liabilities transferred.
- (3C) A scheme under this section may provide for things done by or in relation to the transferor for the purposes of or in connection with anything transferred to be –
 - (a) treated as done by or in relation to the transferee or its employees;
 - (b) continued by or in relation to the transferee or its employees.
- (3D) A scheme under this section may in particular make provision about continuation of legal proceedings.”

Clause 188

EARL HOWE

56 Page 187, line 8, at end insert –

- “() A scheme under this section may include supplementary, incidental and consequential provision.”

After Clause 188

EARL HOWE

57 Insert the following new Clause –

“Consequential provision

- (1) In the Schedule to the Public Bodies (Admission to Meetings) Act 1960, after paragraph (bk) (as inserted by paragraph 2 of Schedule 13) insert –
 - “(bl) Local Healthwatch organisations, as regards the carrying on of activities specified in section 221(1) of the Local Government and Public Involvement in Health Act 2007 (local care services);”.
- (2) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975, at the appropriate place insert –
 - “Director of a Local Healthwatch organisation.”
- (3) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, at the appropriate place insert –
 - “Director of a Local Healthwatch organisation.”
- (4) In Part 2 of Schedule 1 to the Freedom of Information Act 2000 (local government), after paragraph 35D insert –
 - “35E A Local Healthwatch organisation, in respect of information held in connection with –
 - (a) arrangements made under section 221(1) of the Local Government and Public Involvement in Health Act 2007, or

- (b) arrangements made in pursuance of arrangements made under section 221(1) of that Act.”
- (5) In section 65H of the National Health Service Act 2006 (NHS foundation trust special administration provisions: consultation requirements), in subsection (8), for subsection (e) substitute—
“(e) a Local Healthwath organisation;”.
- (6) In section 4 of the Health and Social Care Act 2008 (matters to which the Care Quality Commission must have regard)—
(a) in subsection (1)(c)—
(i) for “local involvement networks” substitute “Local Healthwatch organisations or Local Healthwatch contractors”, and
(ii) omit “in their areas”.
(b) for subsection (3) substitute—
“(3) In subsection (1)(c), “Local Healthwatch contractor” has the meaning given by section 223 of the Local Government and Public Involvement in Health Act 2007.”

Clause 214

EARL HOWE

- 58 Page 212, line 38, leave out “, after sub-paragraph (c) insert—” and insert “—
(a) omit the “or” preceding paragraph (c), and
(b) after that paragraph insert “; or”

Schedule 19

EARL HOWE

- 59 Page 424, line 17, leave out “the exercise of its functions” and insert “any function exercisable by it to be exercised”

Clause 266

EARL HOWE

- 60 Page 251, line 8, leave out “it has”

Clause 270

EARL HOWE

- 61 Page 252, line 16, at end insert—
“(d) requiring the Centre to exercise such systems delivery functions of the Secretary of State or (as the case may be) the Board as may be specified.”

Clause 270

EARL HOWE

62 Page 252, line 16, at end insert –

- “() A function required to be exercised by a direction given by the Secretary of State or the Board by virtue of subsection (1) is subject to directions given by the Secretary of State or (as the case may be) the Board about the exercise of the function.”

Clause 270

EARL HOWE

63 Page 252, line 33, at end insert –

- “() A power conferred on the Secretary of State under subsection (1)(d) must provide that a direction may include provision about payments by the Secretary of State to the Information Centre for things done in the exercise of the function in respect of which the direction is given.
- () A power conferred on the Board under subsection (1)(d) must provide that a direction must permit the Information Centre to charge the Board a reasonable fee in respect of the cost of complying with the direction.
- () A power conferred under subsection (1)(d) must provide that the giving of a direction does not prevent the Secretary of State or (as the case may be) the Board from exercising the function in respect of which the direction is given.”

Clause 270

EARL HOWE

64 Page 252, line 38, at end insert –

““systems delivery function” –

- (a) in relation to the Secretary of State, means a function of the Secretary of State which is exercisable in relation to the development or operation of information or communications systems in connection with the provision of health services or of adult social care in England;
- (b) in relation to the Board, means a function of the Board which is exercisable in relation to the development or operation of information or communications systems in connection with the provision of NHS services.”

Schedule 23

EARL HOWE

65 Page 444, line 5, at end insert –

<p>“The Special Health Authority know as the NHS Business Services Authority</p>	<p>The Health and Social Care Information Centre”</p>
--	---

Schedule 23

EARL HOWE

66 Page 444, line 21, second column, at end insert –

	<p>“The Health and Social Care Information Centre”</p>
--	--

Schedule 24

EARL HOWE

67 Page 445, line 38, at end insert –

<p>“The Special Health Authority know as the NHS Business Services Authority</p>	<p>The Health and Social Care Information Centre”</p>
--	---

Schedule 24

EARL HOWE

68 Page 446, line 18, second column, at end insert –

	<p>“The Health and Social Care Information Centre”</p>
--	--