
Addendum to briefing notes on Government amendments to the Health and Social Care Bill: Lords Report Stage

March 2012

Addendum – amendments tabled March 1

Independent Advocacy Services – Amendment 22

1. This is a minor consequential amendment to ensure that the scope of Independent Advocacy Services (IAS) continues to cover public health when responsibility for public health services is transferred to the local authority.

Local Healthwatch organisational form – Amendments 8-10, 14-16, 17, 21, 30-32, 36, 40-42

2. This set of amendments provides for flexibility of local Healthwatch organisational form by removing the provisions for local Healthwatch to be a statutory body corporate and introducing provision for it to be a corporate body which is a social enterprise and which satisfies prescribed criteria. Local Healthwatch will still have a statutory function of carrying out certain activities, which are set out in the Bill. Local authorities will be responsible for commissioning local Healthwatch and will have some freedom and flexibility about what organisational form it will take. Amongst other things, it is anticipated that local authorities will take into account local needs in making decisions about this.
3. The amendments also make provision about what is a social enterprise for these purposes. For these purposes a body is a social enterprise if it is one which could reasonably be considered to be acting for the benefit of the community and it satisfies prescribed criteria. This will allow some flexibility for a local authority as to the precise types of social enterprise organisations that they could commission.
4. Local Healthwatch must, in turn, seek to secure that its sub-contractors are representative of:
 - a. people who live in the local authority's area;
 - b. those to whom care services are being or may be provided in that area;
and
 - c. people from that area to whom care services are being provided in any place.

Local authority arrangements with local Healthwatch – Amendments 7 and 19

5. Amendment 7 would give Healthwatch England an explicit power to write to a particular local authority if they have concerns that the activities of local Healthwatch are not being properly carried out. It also gives Healthwatch England an explicit power to make general recommendations to local authorities about the arrangements they make with Local Healthwatch.
6. Amendment 19 would introduce a new duty for the local authority to have regard to guidance from the Secretary of State on how the local authority and local Healthwatch manage potential conflicts of interest, and would require the local authority to also require local Healthwatch to have regard to this guidance.

Local Healthwatch use of trade marks – Amendment 13

7. The amendment provides a power for Care Quality Commission (CQC) to grant a licence for use of a registered trade mark to local Healthwatch organisations. The licence may include use of the trade mark by a local Healthwatch contractor, who is authorised by the local Healthwatch organisation to use the mark in carrying on local Healthwatch functions as part of the overall Healthwatch identity.
8. This amendment ensures that all local Healthwatch organisations across the country will have a unified identity through use of the trade mark, which will be granted to them by CQC on behalf of Healthwatch England. It would also prevent organisations who are not authorised by the CQC or who have not met all the requisite requirements for being identified by the public as a local Healthwatch from doing so.

Minor and technical amendment - Functions of the Council in relation to social work in England – Amendment 58

9. This amendment would amend article 12 of the Health and Social Work Professions Order 2001 to omit the "or" at the end of 12(1)(b), and insert an "or" immediately before the inserted (ca). This is merely to correct an inconsistency in drafting.

Information Centre – Development or operation of information or communications systems – Amendments 59-68

10. These amendments are intended to allow the Information Centre to develop or operate information and communication systems on behalf of the Secretary of State or the NHS Commissioning Board. The amendments would allow for the Secretary of State or the NHS Commissioning Board to direct the Information Centre (through regulations) to undertake their functions in relation to the development and operation of information or communication systems. For example, the Information Centre could be directed in relation to the operation of the NHS e-mail system.
11. This ensures a further degree of future-proofing to meet the information and communication needs of the future health and care system, as it evolves. The amendments do not introduce new functions to the Bill and would not expand the role of the Information Centre beyond information and informatics.