

# Care Bill [HL]

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## Proposed amendment

*Putting the Independent Information Governance Oversight Panel on a statutory footing; independent oversight over certain Directions and the accreditation scheme; revoking certain Directions*

### The Oversight Panel

- (1) There shall be a body corporate to be known as the Independent Information Governance Oversight Panel for Health and Social Care (referred to in this section as “the Oversight Panel”).
- (2) The main duty of the Oversight Panel shall be to provide independent advice on all matters relating to the processing of relevant information in relation to health and adult social care.
- (3) In exercising its main duty, the Oversight Panel shall:
  - (a) provide advice and make recommendations and proposals on such processing to the Secretary of State, and report annually; and
  - (b) provide advice on such processing to any other person or body in relation to health and adult social care.
- (4) Any person or body who is advised by the Oversight Panel pursuant to this section shall have regard to that advice.
- (5) The Secretary of State and the Board (‘NHS England’) when making Directions under section 254(1), and regulations under section 267, must seek and have regard to the advice of the Oversight Panel.
- (6) The Secretary of State or, as the case may be, NHS England must lay before Parliament a response to the advice given by the Oversight Panel under subsection (5).
- (7) The Secretary of State may by regulations make provision about the Oversight Panel relating, in particular, to appointment of the chair and other members, terms of appointment, establishment and membership of committees or sub-committees, its proceedings and payment of remuneration, allowances and expenses.
- (8) The Health and Social Care Information Centre (Establishment of Information Systems for NHS Services: Collection and Analysis of Primary Care Data) Directions 2013 and The Health and Social Care Information Centre (Establishment of Information Systems for NHS Services: Data Services for Commissioners) Directions 2013 are revoked.

## **Explanation**

This section would place on a statutory footing the current non-statutory Independent Information Governance Oversight Panel, set up by the Secretary of State, and its present non-statutory terms of reference. It would also require persons and bodies across the health and social care system to have regard to its advice.

In this section "relevant information" has the same meaning as in section 20A of the Health and Social Care Act 2008, as amended by section 280 (3) of the Health and Social Care Act 2012.

Subsection (5) would ensure independent oversight of Directions by the Secretary of State and the Board ('NHS England') to the Health and Social Care Information Centre to establish and operate information systems under section 254 (1) of the 2012 Act, and of the regulations that the Secretary of State is empowered to make under s.267 to establish an accreditation scheme for private sector information providers, by requiring them to seek and take regard of the views of the Oversight Panel. Parliament would also have to be informed of the responses to those views under subsection (6).

Subsection (8) of this amendment would revoke the Directions made by NHS England in December 2013 in order to implement the care.data programme and in March 2013 to establish data services for commissioners. The Directions need to be replaced as they wrongly specify the operation of the patient objection process as determined by the Secretary of State. To ensure the Secretary of State's assurance that patient opt-out will be on a statutory footing is met, a separate Direction that specifies Patient Objections Management for these and all subsequent Directions should first be issued.