



Health and Social Care Act 2012

2012 CHAPTER 7

PART 9 **E+W**

HEALTH AND ADULT SOCIAL CARE SERVICES: INFORMATION

CHAPTER 2 **E+W**

THE HEALTH AND SOCIAL CARE INFORMATION CENTRE

Functions: information systems

254 Powers to direct Information Centre to establish information systems **E+W**

- (1) The Secretary of State or the Board may direct the Information Centre to establish and operate a system for the collection or analysis of information of a description specified in the direction.
- (2) A direction may be given under subsection (1) by the Secretary of State only if—
 - (a) the Secretary of State considers that the information which could be obtained by complying with the direction is information which it is necessary or expedient for the Secretary of State to have in relation to the exercise by the Secretary of State of the Secretary of State's functions in connection with the provision of health services or of adult social care in England, or
 - (b) the Secretary of State otherwise considers it to be in the interests of the health service in England or of the recipients or providers of adult social care in England for the direction to be given.
- (3) A direction may be given under subsection (1) by the Board only if the Board considers that the information which could be obtained by complying with the direction is information which it is necessary or expedient for the Board to have in relation to its exercise of functions in connection with the provision of NHS services.

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- (4) In this Chapter “NHS services” means services the provision of which is arranged by the Board or a clinical commissioning group under the National Health Service Act 2006 (including pursuant to arrangements made under section 7A of that Act) or section 117 of the Mental Health Act 1983 (after-care).
- (5) Before giving a direction under subsection (1) the Secretary of State or (as the case may be) the Board must consult the Information Centre.
- (6) A function conferred by a direction given by the Secretary of State or the Board under subsection (1) is subject to directions given by the Secretary of State or (as the case may be) the Board about the Information Centre's exercise of the function.
- (7) The Information Centre may charge the Board a reasonable fee in respect of the cost of complying with a direction given by the Board under subsection (1).

Commencement Information

- I1** S. 254 partly in force; s. 254 in force for specified purposes at Royal Assent, see s. 306(1)(d)
I2 S. 254 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

255 Powers to request Information Centre to establish information systems E+W

- (1) Any person (including a devolved authority) may request the Information Centre to establish and operate a system for the collection or analysis of information of a description specified in the request.
- (2) 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 it is necessary or expedient for the person to have in relation to the person's exercise of functions, or carrying out of activities, in connection with the provision of health care or adult social care.
- (3) The Information Centre must comply with a mandatory request unless the Centre considers that the request relates to information of a description prescribed in regulations.
- (4) For the purposes of this Chapter 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 it is necessary or expedient for the body to have in relation to its discharge of a duty in connection with the provision of health services or of adult social care in England.
- (5) The Secretary of State or the Board may direct the Information Centre not to comply with a request specified in the direction which is not a mandatory request.
- (6) The Secretary of State or the Board may direct the Information Centre to comply with a request specified in the direction which was made by a person outside England.
- (7) Subsection (8) applies where the Information Centre has discretion under this section as to whether to comply with—
 - (a) a mandatory request, or

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- (b) other request under subsection (1).
- (8) In deciding whether to comply with the request, the Information Centre—
 - (a) must, in particular, consider whether doing so would interfere to an unreasonable extent with the exercise by the Centre of any of its functions, and
 - (b) may take into account the extent to which the principal body or other person making the request has had regard to—
 - (i) the code of practice prepared and published by the Centre under section 263, and
 - (ii) advice or guidance given by the Centre under section 265.
- (9) In this section “principal body” means—
 - (a) Monitor,
 - (b) the Care Quality Commission,
 - (c) the National Institute for Health and Care Excellence, and
 - (d) such other persons as may be prescribed in regulations.
- (10) In this Chapter “health care” includes all forms of health care whether relating to physical or mental health and also includes procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition.

Commencement Information

- I3** S. 255 partly in force; s. 255 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I4** S. 255 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

256 Requests for collection under section 255: confidential information **E+W**

- (1) A request under section 255 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 255 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.

Commencement Information

- I5** S. 256 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

257 Requests under section 255: supplementary **E+W**

- (1) The Information Centre must publish procedures for—

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- (a) the making and consideration of requests under section 255, and
 - (b) the reconsideration by the Centre of a decision not to comply with such a request.
- (2) The procedure mentioned in subsection (1)(b) must provide for the person who made the request to have an opportunity to make representations to the Information Centre within a reasonable period for the purposes of the reconsideration.
- (3) The Information Centre may charge a person a reasonable fee in respect of the cost of complying with a request made by that person under section 255.
- (4) Before making a request under section 255 a person must consult the Information Centre.
- (5) The Information Centre must publish details of—
- (a) any mandatory request, and
 - (b) any other request under section 255 with which the Centre is obliged, or decides, to comply.

Commencement Information

I6 S. 257 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

258 Information systems: supplementary E+W

- (1) Before establishing an information system pursuant to a direction under section 254 or a request under section 255 the Information Centre must consult—
- (a) the person who gave the direction or made the request,
 - (b) representatives of other persons who the Centre considers are likely to use the information to which the direction or request relates,
 - (c) representatives of persons from whom any information will be collected, and
 - (d) such other persons as the Centre considers appropriate.
- (2) If the Information Centre reasonably believes that there is no longer a need to retain information which it has obtained by complying with a direction under section 254 or a request under section 255, the Centre may destroy the information.

Commencement Information

I7 S. 258 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

259 Powers to require and request provision of information E+W

- (1) The Information Centre may—
- (a) require 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 purposes of any function it exercises by virtue of this Chapter, and
 - (b) request any other person to provide it with such information.
- (2) Those persons are—

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- (a) a health or social care body;
 - (b) any 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.
- (3) 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 256(2)(c).
- (4) 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.
- (5) A requirement under subsection (1)(a) must be complied with by providing the information to the Information Centre in such form and manner, and within such period, as the Centre may specify.
- (6) If the Information Centre considers it appropriate to do so, the Centre may make a payment to any person who has provided information to the Centre pursuant to a request made under subsection (1)(b) in respect of the costs to that person of doing so.
- (7) 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 (4) in respect of the costs to that person of doing so.
- (8) The Information Centre must publish a procedure for notifying persons of requirements imposed, and requests made, under this section.
- (9) In imposing requirements under this section the Information Centre must co-operate with any other person who is authorised to require the provision of information by a person mentioned in subsection (2).
- (10) The provision of information under this section—
 - (a) does not breach any obligation of confidence owed by the person providing it, but
 - (b) is subject to any express restriction on disclosure imposed by or under another Act (other than any restriction which allows disclosure if authorised by or under an Act).
- (11) In this Chapter “health or social care body” means a public body which exercises functions in connection with the provision of health services or of adult social care in England.

Commencement Information

18 S. 259 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

260 Publication of information **E+W**

- (1) The Information Centre must publish all information which it obtains by complying with a direction under section 254 or a request under section 255 unless the information

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falls within subsection (2); and, subject to subsection (3), if the information falls within that subsection, the Centre must not publish it.

- (2) Information falls within this subsection if—
- (a) 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 the Centre, after taking into account the public interest as well as the interests of the relevant person, considers that it is not appropriate for the information to be published,
 - (b) 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,
 - (c) the Centre considers that—
 - (i) the information fails to meet the information standards published under section 250 (so far as they are applicable), and
 - (ii) it would not be in the public interest to publish the information, or
 - (d) the information is of a description specified in a direction given to the Centre by the Secretary of State or the Board.
- (3) A direction under section 254 may provide that the obligation to publish imposed by subsection (1) applies to information falling within subsection (2)(a) which is obtained by complying with the direction.
- (4) Where the Information Centre publishes information which it obtains by complying with a direction under section 254 or a mandatory request under section 255, the Centre—
- (a) must comply with the requirements (if any) specified in the direction or mandatory request as to the form, manner and timing of publication of the information, and
 - (b) may publish the information in such other form and such other manner, and at such other times, as it considers appropriate.
- (5) Where the Information Centre publishes information which it obtains by complying with a request under section 255 other than a mandatory request, the Centre—
- (a) may act in accordance with such provision (if any) as may be included in the request as to the form, manner and timing of publication of the information, and
 - (b) may publish the information in such other form and such other manner, and at such other times, as it considers appropriate.
- (6) In considering the appropriate form, manner and timing of publication of information under this section, the Information Centre must have regard to—
- (a) the need for the information to be easily accessible,
 - (b) the persons who the Centre considers likely to use the information, and
 - (c) the uses to which the Centre considers the information is likely to be put.
- (7) In this Chapter “relevant person” means—
- (a) any person who provides health care or adult social care, or
 - (b) any body corporate not falling within paragraph (a).

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Commencement Information

- I9** S. 260 partly in force; s. 260 in force for specified purposes at Royal Assent, see s. 306(1)(d)
I10 S. 260 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

261 Other dissemination of information **E+W**

- (1) The Information Centre may disseminate (other than by way of publication), to any such persons and in such form and manner and at such times, as it considers appropriate, any information—
 - (a) which it obtains by complying with a direction under section 254 or a request under section 255, and
 - (b) which falls within subsection (2).
- (2) Information falls within this subsection if—
 - (a) the information is required to be published under section 260;
 - (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 Centre, 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 260(2)(c) and the Centre considers it would be in the public interest for the information to be disseminated;
 - (e) the Centre is prohibited from publishing the information only by virtue of a direction given under section 260(2)(d) and that direction provides that the power in subsection (1) applies to the information.
- (3) A direction under section 260(2)(d) may require the Information Centre to disseminate information which the Centre is prohibited from publishing only by virtue of the direction.
- (4) 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 254 or a request under section 255 (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.
- (5) The Information Centre may also disclose information which it obtains by complying with a direction under section 254 or a request under section 255 (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,

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- (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).
- (6) Paragraphs (a), (b) and (f) of subsection (5) have effect notwithstanding any rule of common law which would otherwise prohibit or restrict the disclosure.
- (7) Nothing in this section or section 262 prevents the Information Centre from disseminating information (otherwise than by publishing it) under or by virtue of any other provision of this or any other Act.
- (8) For the purposes of this section and section 262 the provision by the Information Centre of information which it has obtained by complying with a direction under section 254 or a request under section 255 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.

Commencement Information

- I11** S. 261 partly in force; s. 261 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I12** S. 261 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

262 Other dissemination: directions and requests under sections 254 and 255 E+W

- (1) A direction under section 254 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 260;
 - (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 260(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 254 may require the Information Centre to exercise—

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- (a) the power conferred by section 261(4) 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 261(1) or (5)) or any other Act to disseminate information which it obtains by complying with the direction.
- (4) A request under section 255 may request the Information Centre to exercise—
- (a) the power conferred by section 261(1) or (4) 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 254 may require, and a request under section 255 may request, the Information Centre not to exercise the power conferred by section 261(1) or (4) in relation to information which it obtains by complying with the direction or request.
- (6) Section 255(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.

Commencement Information

I13 S. 262 partly in force; s. 262 in force for specified purposes at Royal Assent, see s. 306(1)(d)

I14 S. 262 in force at 1.4.2013 in so far as not already in force by S.I. 2013/160, art. 2(2) (with arts. 7-9)

263 Code of practice on confidential information **E+W**

- (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

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- (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.

Commencement Information

I15 S. 263 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

264 Information Register E+W

The Information Centre must maintain and publish a register containing descriptions of the information which has been obtained by virtue of this Chapter.

Commencement Information

I16 S. 264 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

265 Advice or guidance E+W

- (1) The Information Centre—
 - (a) may give advice or guidance to any person mentioned in subsection (2) on any matter relating to the collection, analysis, publication or other dissemination of information, and
 - (b) must, if requested to do so by the Secretary of State or the Board, give advice or guidance on any such matter as may be specified in the request to—
 - (i) the Secretary of State or (as the case may be) the Board;
 - (ii) such other persons as may be specified in the request.
- (2) Those persons are—
 - (a) the Secretary of State,
 - (b) the Board,
 - (c) any person who makes, or is proposing to make, a request under section 255,
 - (d) any health or social care body, and
 - (e) any person (including a devolved authority) who collects, or is proposing to collect, information which relates to the provision of health care or adult social care.
- (3) The Secretary of State must, at least once in any review period, exercise the power under subsection (1)(b) by requesting the Information Centre to give the Secretary of

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State advice about ways in which the burdens relating to the collection of information imposed on health or social care bodies and other persons may be minimised.

- (4) For the purposes of subsection (3) a review period is—
 - (a) the period of 3 years beginning with the day on which this section comes into force, and
 - (b) each subsequent period of 3 years.
- (5) A health or social care body to whom advice or guidance is given under this section must have regard to the advice or guidance in exercising functions in connection with the provision of health services or of adult social care in England.
- (6) 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 any advice or guidance given to the person under this section.

Commencement Information

I17 S. 265 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

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