



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 14

PATIENT AND PUBLIC INVOLVEMENT IN HEALTH AND SOCIAL CARE

Consultation about health services

233 Duty to involve users of health services

(1) Section 242 of the National Health Service Act 2006 (public involvement and consultation) is amended as mentioned in subsections (2) to (4) below.

(2) For subsection (1) (bodies to which section applies) substitute—

“(1) This section applies to—

- (a) relevant English bodies, and
- (b) relevant Welsh bodies.

(1A) In this section—

“relevant English body” means—

- (a) a Strategic Health Authority,
- (b) a Primary Care Trust,
- (c) an NHS trust that is not a relevant Welsh body, or
- (d) an NHS foundation trust;

“relevant Welsh body” means an NHS trust all or most of whose hospitals, establishments and facilities are in Wales.

(1B) Each relevant English body must make arrangements, as respects health services for which it is responsible, which secure that users of those services, whether directly or through representatives, are involved (whether by being consulted or provided with information, or in other ways) in—

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- (a) the planning of the provision of those services,
 - (b) the development and consideration of proposals for changes in the way those services are provided, and
 - (c) decisions to be made by that body affecting the operation of those services.
- (1C) Subsection (1B)(b) applies to a proposal only if implementation of the proposal would have an impact on—
- (a) the manner in which the services are delivered to users of those services, or
 - (b) the range of health services available to those users.
- (1D) Subsection (1B)(c) applies to a decision only if implementation of the decision (if made) would have an impact on—
- (a) the manner in which the services are delivered to users of those services, or
 - (b) the range of health services available to those users.
- (1E) The reference in each of subsections (1C)(a) and (1D)(a) to the delivery of services is to their delivery at the point when they are received by users.
- (1F) For the purposes of subsections (1B) to (1E), a person is a “user” of any health services if the person is someone to whom those services are being or may be provided.
- (1G) A relevant English body must have regard to any guidance given by the Secretary of State as to the discharge of the body's duty under subsection (1B).
- (1H) The guidance mentioned in subsection (1G) includes (in particular)—
- (a) guidance given by the Secretary of State as to when, or how often, involvement under arrangements under subsection (1B) is to be carried out;
 - (b) guidance given by the Secretary of State as to the form to be taken by such involvement in any case specified by the guidance.”
- (3) In subsection (2) (each body to which section applies must make arrangements), for “body to which this section applies” substitute “ relevant Welsh body ”.
- (4) In subsection (5) (directions about arrangements under subsection (2)), for “subsection (2)” substitute “ this section ”.
- (5) After that section insert—

“242A Strategic Health Authorities: further duty to involve users

- (1) The Secretary of State must by regulations require each Strategic Health Authority to make arrangements which secure that health service users are, directly or through representatives, involved (whether by being consulted or provided with information, or in other ways) in prescribed matters.
- (2) In this section “health service users” means persons to whom health services are being or may be provided in the area of the Strategic Health Authority.

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- (3) A Strategic Health Authority must have regard to any guidance given by the Secretary of State as to the discharge of the authority's duty under regulations under this section.
- (4) The guidance mentioned in subsection (3) includes (in particular)—
 - (a) guidance given by the Secretary of State as to when, or how often, involvement under arrangements under the regulations is to be carried out;
 - (b) guidance given by the Secretary of State as to the form to be taken by such involvement in any case specified by the guidance.
- (5) Any duty of a Strategic Health Authority under regulations under this section is in addition to the authority's duty under section 242(1B).

242B Directions in cases where Strategic Health Authority arranges involvement

- (1) The Secretary of State may make regulations enabling a Strategic Health Authority, in circumstances mentioned in subsection (2), to direct a Primary Care Trust that persons who would otherwise be involved in a particular matter under arrangements made by the Primary Care Trust under section 242 are not to be involved in that matter under those arrangements.
- (2) The circumstances referred to in subsection (1) are where the persons concerned are to be involved (whether by the Strategic Health Authority, by the Strategic Health Authority and the Primary Care Trust acting jointly, or otherwise) under arrangements made or to be made by the Strategic Health Authority.
- (3) Regulations under this section may include provision—
 - (a) for the consequences of compliance with a direction, including provision that a Primary Care Trust is not to be taken to have failed to comply with its duty under section 242(1B) by reason of compliance with a direction,
 - (b) enabling a direction to be given where involvement under arrangements made by the Primary Care Trust has already begun, and as to the provision that may be made by the direction in such a case,
 - (c) requiring prescribed information to be provided by a Primary Care Trust to a Strategic Health Authority,
 - (d) requiring prescribed information to be provided by a Strategic Health Authority to a Primary Care Trust,
 - (e) enabling a Strategic Health Authority to direct a Primary Care Trust to act jointly with the Strategic Health Authority in carrying out involvement.”

Commencement Information

- I1** S. 233(1)-(4) in force at 3.11.2008 by [S.I. 2008/2434](#), [art. 2\(2\)\(a\)](#)
- I2** S. 233(5) in force at 26.9.2008 for specified purposes by [S.I. 2008/2434](#), [art. 2\(1\)](#)
- I3** S. 233(5) in force at 3.11.2008 for specified purposes by [S.I. 2008/2434](#), [art. 2\(2\)\(b\)](#)
- I4** S. 233(5) in force at 22.2.2010 in so far as not already in force by [S.I. 2010/112](#), [art. 3](#)

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234 Reports on consultation

- (1) In Chapter 1 of Part 2 of the National Health Service Act 2006 (c. 41) (Strategic Health Authorities), after section 17 insert—

“17A Reports on consultation

- (1) Each Strategic Health Authority must, at such times as the Secretary of State may direct, prepare a report—
- (a) on the consultation it has carried out, or proposes to carry out, before making commissioning decisions, and
 - (b) on the influence that the results of consultation have on its commissioning decisions.
- (2) In subsection (1) “commissioning decisions”, in relation to a Strategic Health Authority, means (subject to any directions under subsection (5)(e)) decisions as to the carrying-out of functions exercisable by it for the purpose of securing, by arrangement with any person or body, the provision of services as part of the health service.
- (3) Each Strategic Health Authority must also, at such times as the Secretary of State may direct, prepare a report—
- (a) on any relevant consultation carried out by the authority, and
 - (b) on the influence that the results of any relevant consultation have had on such matters as may be specified in the direction.
- (4) In subsection (3) “relevant consultation” means consultation in relation to matters specified by the direction under that subsection.
- (5) The Secretary of State may give directions as to—
- (a) the periods to be covered by reports under this section;
 - (b) the matters to be dealt with by reports under this section;
 - (c) the form and content of reports under this section;
 - (d) the publication of reports under this section;
 - (e) decisions that are to be treated as being, or that are to be treated as not being, commissioning decisions for the purposes of subsection (1).”
- (2) In Chapter 2 of Part 2 of the National Health Service Act 2006 (Primary Care Trusts), after section 24 insert—

“24A Report on consultation

- (1) Each Primary Care Trust must, at such times as the Secretary of State may direct, prepare a report—
- (a) on the consultation carried out, or proposed to be carried out, before the making by the Primary Care Trust of commissioning decisions, and
 - (b) on the influence that the results of consultation have on its commissioning decisions.
- (2) In subsection (1) “commissioning decisions”, in relation to a Primary Care Trust, means (subject to any directions under subsection (3)(e)) decisions as to the carrying out of its functions under Parts 4 to 7.

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- (3) The Secretary of State may give directions as to—
- (a) the periods to be covered by reports under this section;
 - (b) the matters to be dealt with by reports under this section;
 - (c) the form and content of reports under this section;
 - (d) the publication of reports under this section;
 - (e) decisions that are to be treated as being, or that are to be treated as not being, commissioning decisions for the purposes of subsection (1).”

Commencement Information

I5 S. 234 in force at 3.11.2008 by [S.I. 2008/2434](#), [art. 2\(2\)\(c\)](#)

Status:

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Changes to legislation:

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