



# Health and Social Care Act 2008

## 2008 CHAPTER 14

### PART 5

#### MISCELLANEOUS

##### *National Information Governance Board for Health and Social Care*

#### **157 National Information Governance Board for Health and Social Care**

(1) After section 250 of the National Health Service Act 2006 insert—

*“The National Information Governance Board for Health and Social Care*

##### **250A National Information Governance Board: functions**

- (1) There is to be a board known as the National Information Governance Board for Health and Social Care.
- (2) The functions of the Board are—
  - (a) to monitor the practice followed by relevant bodies in relation to the processing of relevant information,
  - (b) to keep the Secretary of State, and such bodies as the Secretary of State may designate by direction, informed about the practice being followed by relevant bodies in relation to the processing of relevant information,
  - (c) to publish guidance on the practice to be followed in relation to the processing of relevant information,
  - (d) to advise the Secretary of State on particular matters relating to the processing of relevant information by any person, and
  - (e) to advise persons who process relevant information on such matters relating to the processing of relevant information by them as the Secretary of State may from time to time designate by direction.

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*Status: Point in time view as at 01/04/2009.*

**Changes to legislation:** There are currently no known outstanding effects for the Health and Social Care Act 2008,  
 Cross Heading: National Information Governance Board for Health and Social Care. (See end of Document for details)

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- (3) The Board must, in exercising its functions, seek to improve the practice followed by relevant bodies in relation to the processing of relevant information.
- (4) In this section “relevant information” means—
- (a) patient information,
  - (b) any other information obtained or generated in the course of the provision of the health service, and
  - (c) any information obtained or generated in the course of the exercise by a local social services authority in England of its adult social services functions.
- (5) In subsection (4) “patient information” means—
- (a) information (however recorded) which relates to the physical or mental health or condition of an individual (“P”), to the diagnosis of P's condition or to P's care or treatment, and
  - (b) information (however recorded) which is to any extent derived, directly or indirectly, from that information,
- whether or not the identity of the individual in question is ascertainable from the information.
- (6) The Board must provide advice under subsection (2)(d) if requested to do so by the Secretary of State; and may provide advice under subsection (2)(d) or (e) without being requested to do so by the person to whom the advice is to be provided.
- (7) A relevant body must have regard to any guidance published under subsection (2)(c) and any advice given to it under subsection (2)(e); and the Secretary of State must have regard to any advice given under subsection (2)(d).
- (8) The Board may request any relevant body to provide the Board with specified information for the purpose of enabling the Board to ascertain whether the relevant body has had proper regard to—
- (a) guidance given under subsection (2)(c),
  - (b) advice given under subsection (2)(e), and
  - (c) any advice given to the relevant body by the Secretary of State.
- (9) In this section—
- “adult social services functions”, in relation to a local social services authority, means the authority's social services functions (within the meaning of the Local Authority Social Services Act 1970), other than those for which the authority's director of children's services is responsible under section 18 of the Children Act 2004;
- “processing”, in relation to information, has the same meaning as in the Data Protection Act 1998;
- “relevant body” means—
- (a) any body or person engaged in the provision of the health service, including a body or person so engaged under contract, or
  - (b) any body or person providing social care services;

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“social care services” means services provided by a local social services authority in England in the exercise of its adult social services functions.

#### **250B National Information Governance Board: Wales**

- (1) The functions of the National Information Governance Board for Health and Social Care, except—
  - (a) its functions under section 252 in relation to regulations under section 251, and
  - (b) its functions under subsection (2),are exercisable only in relation to England.
- (2) In relation to Wales, the Secretary of State may seek the views of the Board on such matters concerned with the processing of information falling within section 250A(4)(a) or (b) as the Secretary of State considers appropriate.

#### **250C National Information Governance Board: further provisions.**

- (1) The Secretary of State may by regulations make provision about the National Information Governance Board for Health and Social Care.
- (2) The regulations may, in particular, make provision as to—
  - (a) the appointment of the chair and other members of the Board by the Secretary of State or such other person as may be prescribed,
  - (b) the terms of appointment of members,
  - (c) the establishment and membership of committees or sub-committees of the Board,
  - (d) the delegation by the Board of its functions, and
  - (e) the proceedings of the Board.
- (3) The regulations may make provision as to the payment by the Secretary of State of such expenses incurred by the Board or any committee or sub-committee of the Board as the Secretary of State may determine.
- (4) The regulations may also make provision for the payment to members of the Board or any committee or sub-committee of the Board of such remuneration or allowances as the Secretary of State may determine.
- (5) Regulations under this section cannot include provision by virtue of section 272(8)(a) amending or repealing an Act.

#### **250D National Information Governance Board: annual reports**

- (1) The National Information Governance Board for Health and Social Care must, not later than 3 months after the end of each reporting year—
  - (a) prepare a report on its activities during the year, and
  - (b) send a copy of the report to the Secretary of State.
- (2) In subsection (1) “reporting year” means—
  - (a) such period of not more than 12 months beginning with the day on which the Board is first established as the Board may determine, and

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(b) each successive period of 12 months.”

(2) The Patient Information Advisory Group (as continued by section 252 of the National Health Service Act 2006 (c. 41)) is abolished.

#### Commencement Information

- I1** S. 157 partly in force; s. 157 in force for specified purposes at Royal Assent, see s. 170
- I2** S. 157 in force at 1.1.2009 in so far as not already in force by [S.I. 2008/2497](#), [art. 7\(2\)\(a\)](#)
- I3** S. 157(1) in force at 1.10.2008 for specified purposes by [S.I. 2008/2497](#), [art. 7\(1\)\(a\)](#)

### 158 Duty to consult Board in relation to regulations about patient information

For section 252 of the National Health Service Act 2006 substitute—

#### “252 Consultation with National Information Governance Board

- (1) Before laying before Parliament a draft of any statutory instrument containing regulations under section 251(1), or making any regulations pursuant to section 251(5)(b), the Secretary of State must seek and have regard to the views of the National Information Governance Board for Health and Social Care on the proposed regulations.
- (2) The Secretary of State must publish, in such manner as the Secretary of State considers appropriate, any views received from the Board on the proposed regulations.”

#### Commencement Information

- I4** [S. 158](#) in force at 1.1.2009 by [S.I. 2008/2497](#), [art. 7\(2\)\(b\)](#)

**Status:**

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