



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 9

#### HEALTH AND ADULT SOCIAL CARE SERVICES: INFORMATION

### CHAPTER 1

#### INFORMATION STANDARDS

#### **250 Powers to publish information standards**

- (1) The Secretary of State or [<sup>F1</sup>NHS England] may prepare and publish an information standard.
- (2) For the purposes of this Part “an information standard” is a document containing standards in relation to the processing of information.
- (3) The Secretary of State may exercise the power under subsection (1) only in relation to information concerning, or connected with, the provision of health services or of adult social care in England.
- (4) [<sup>F2</sup>NHS England] may exercise the power under subsection (1) only in relation to information concerning, or connected with, the provision of NHS services.
- (5) An information standard must include guidance about the implementation of the standard.
- (6) The following must have regard to an information standard published under this section—
  - (a) the Secretary of State;
  - (b) the Board;
  - (c) any public body which exercises functions in connection with the provision of health services or of adult social care in England;

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- (d) 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.

(7) In this section—

“adult social care”—

- (a) includes all forms of personal care and other practical assistance provided for individuals who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or any other similar circumstances, are in need of such care or other assistance, but
- (b) does not include anything provided by an establishment or agency for which Her Majesty's Chief Inspector of Education, Children's Services and Skills is the registration authority under section 5 of the Care Standards Act 2000;

“health services” means services which must or may be provided as part of the health service in England; and for that purpose “the health service” has the same meaning as in the National Health Service Act 2006 (see section 275(1) of that Act);

[<sup>F3</sup>“NHS services” means services the provision of which is arranged by NHS England or an integrated care board (including services the provision of which is arranged by it in the exercise of functions of another person by virtue of any provision of the National Health Service Act 2006);]

[<sup>F4</sup>“processing” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(4) and (14) of that Act);]

“public body” means a body or other person whose functions—

- (a) are of a public nature, or
- (b) include functions of that nature,

but in the latter case, the body or person is a public body to the extent only of those functions.

#### Textual Amendments

- F1** Words in s. 250(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 19](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F2** Words in s. 250(4) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F3** Words in s. 250(7) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 9 para. 22](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F4** Words in s. 250(7) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 172](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), [reg. 2\(1\)\(g\)](#)

#### Commencement Information

- I1** S. 250 in force at 1.4.2013 by [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

## 251 Information standards: supplementary

- (1) Before publishing an information standard, the Secretary of State or the Board must consult such persons as the Secretary of State or (as the case may be) the Board considers appropriate.

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- (2) For the purposes of section 250 the Secretary of State or the Board may adopt an information standard prepared or published by another person.

#### Commencement Information

**I2** S. 251 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

## [<sup>F5</sup>CHAPTER 1A

### CONTINUITY OF INFORMATION

#### Textual Amendments

**F5** Pt. 9 Ch. 1A inserted (25.6.2015) by Health and Social Care (Safety and Quality) Act 2015 (c. 28), ss. 2, 6(4); S.I. 2015/1438, reg. 2(a)

#### 251A Consistent identifiers

- (1) The Secretary of State must by regulations specify a description of consistent identifier for the purposes of this section.
- (2) “Consistent identifier” means any identifier (such as, for example, a number or code used for identification purposes) that—
  - (a) relates to an individual, and
  - (b) forms part of a set of similar identifiers that is of general application.
- (3) Subsection (4) applies if—
  - (a) a relevant health or adult social care commissioner or provider (“the relevant person”) processes information about an individual, and
  - (b) the individual is one to whom a consistent identifier of the description specified under subsection (1) relates.
- (4) If this subsection applies the relevant person must include the consistent identifier in the information processed (but this is subject to subsections (5) to (8)).
- (5) Subsection (4) applies only so far as the relevant person considers that the inclusion is—
  - (a) likely to facilitate the provision to the individual of health services or adult social care in England, and
  - (b) in the individual's best interests.
- (6) The relevant person need not comply with subsection (4) if the relevant person reasonably considers that one or more of the following criteria apply—
  - (a) the relevant person does not know the consistent identifier and is not reasonably able to learn it;
  - (b) the individual objects, or would be likely to object, to the inclusion of the consistent identifier in the information;
  - (c) the information concerns, or is connected with, the provision of health services or adult social care by an anonymous access provider;

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- (d) for any other reason the relevant person is not reasonably able, or should not be required, to comply with subsection (4).
- (7) This section does not permit the relevant person to do anything which, but for this section, would be inconsistent with—
- (a) any provision [<sup>F6</sup>of the data protection legislation], or
  - (b) a common law duty of care or confidence.
- (8) This section does not require the relevant person to do anything which the relevant person is required to do by or under provision included in a contract by virtue of any provision of the National Health Service Act 2006 (and, accordingly, any such requirement is to be treated as arising under the contract, and not under this section).
- [ In this section, “the data protection legislation” has the same meaning as in the Data <sup>F7</sup>(9) Protection Act 2018 (see section 3 of that Act).]

#### Textual Amendments

- F6** Words in s. 251A(7)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 173\(2\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F7** S. 251A(9) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 173\(3\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

#### [<sup>F8</sup>251B] **Duty to share information**

- (1) This section applies in relation to information about an individual that is held by a relevant health or adult social care commissioner or provider (“the relevant person”).
- (2) The relevant person must ensure that the information is disclosed to—
- (a) persons working for the relevant person, and
  - (b) any other relevant health or adult social care commissioner or provider with whom the relevant person communicates about the individual,
- but this is subject to subsections (3) to (6).
- (3) Subsection (2) applies only so far as the relevant person considers that the disclosure is—
- (a) likely to facilitate the provision to the individual of health services or adult social care in England, and
  - (b) in the individual's best interests.
- (4) The relevant person need not comply with subsection (2) if the relevant person reasonably considers that one or more of the following apply—
- (a) the individual objects, or would be likely to object, to the disclosure of the information;
  - (b) the information concerns, or is connected with, the provision of health services or adult social care by an anonymous access provider;
  - (c) for any other reason the relevant person is not reasonably able, or should not be required, to comply with subsection (2).
- (5) This section does not permit the relevant person to do anything which, but for this section, would be inconsistent with—
- (a) any provision [<sup>F9</sup>of the data protection legislation], or

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(b) a common law duty of care or confidence.

(6) This section does not require the relevant person to do anything which the relevant person is required to do under a common law duty of care (and, accordingly, any such requirement is to be treated as arising under that common law duty and not under this section).

[ In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]

#### Textual Amendments

- F8** S. 251B inserted (1.10.2015) by [Health and Social Care \(Safety and Quality\) Act 2015 \(c. 28\)](#), [ss. 3, 6\(4\)](#); [S.I. 2015/1438](#), [reg. 3\(b\)](#)
- F9** Words in s. 251B(5)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), [s. 212\(1\)](#), [Sch. 19 para. 174\(2\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), [reg. 2\(1\)\(g\)](#)
- F10** S. 251B(7) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), [s. 212\(1\)](#), [Sch. 19 para. 174\(3\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), [reg. 2\(1\)\(g\)](#)

#### [<sup>F11</sup>251C] Continuity of information: interpretation

- (1) This section applies for the purposes of sections 251A and 251B and this section.
- (2) “Relevant health or adult social care commissioner or provider” means—
- (a) any public body so far as it exercises functions in connection with the provision of health services, or of adult social care in England, and
  - (b) any person (other than a public body) so far as the person provides such services or care—
    - (i) pursuant to arrangements made with a public body exercising functions in connection with the provision of the services or care, and
    - (ii) otherwise than as a member or officer of a body or an employee of a person,
- but this is subject to subsection (3).
- (3) The Secretary of State may by regulations provide for a person to be excluded from the definition of “relevant health or adult social care commissioner or provider”, whether generally or in particular cases.
- (4) Regulations under subsection (3) may, in particular, provide for a person to be excluded in relation to the exercise of particular functions or the exercise of functions in relation to particular descriptions of person, premises or institution.
- (5) A reference to an inclusion or a disclosure being likely to facilitate the provision to an individual of health services or adult social care in England is to its being likely to facilitate that provision directly (rather than by means of a clinical trial, a study, an audit, or any other indirect means).
- (6) “Anonymous access provider” means a relevant health or adult social care commissioner or provider (whether “the relevant person” under section 251A(3)(a) or 251B(1) or another person) whose services or care are, or may be, received by individuals anonymously due to the nature of the services or care.

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- (7) Other terms have the same meaning as in section 250 (and “processes” and “processed” are to be read in accordance with the meaning of “processing” in that section).]]

**Textual Amendments**

- F11** S. 251C inserted (25.6.2015) by [Health and Social Care \(Safety and Quality\) Act 2015 \(c. 28\), ss. 4, 6\(4\); S.I. 2015/1438, reg. 2\(b\)](#) (with reg. 4)

**Modifications etc. (not altering text)**

- C1** S. 251C modified (temp.) (25.6.2015) by [The Health and Social Care \(Safety and Quality\) Act 2015 \(Commencement No. 1 and Transitory Provision\) Regulations 2015 \(S.I. 2015/1438\), reg. 4](#)

## CHAPTER 2

[<sup>F12</sup>NHS ENGLAND: HEALTH AND SOCIAL CARE INFORMATION ETC.]

**Textual Amendments**

- F12** Pt. 9 Ch. 2 heading substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(2\)](#) (with reg. 3)

**Modifications etc. (not altering text)**

- C2** Pt. 9 Ch. 2: power to amend conferred (1.7.2022) by [2021 c. 3, s 43\(3\)](#) (as inserted by [Health and Care Act 2022 \(c. 31\), ss. 101\(5\)\(b\), 186\(6\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30))

<sup>F13</sup>... *General duties*

**Textual Amendments**

- F13** Words in s. 252 cross-heading omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(3\)](#) (with reg. 3)

<sup>F14</sup>**252 The Health and Social Care Information Centre**

.....

**Textual Amendments**

- F14** S. 252 omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(4\)](#) (with reg. 3)

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**253 [F15NHS England data functions: general]**

(1) [F16NHS England must have regard to the following when exercising its relevant data functions other than those under the Medicines and Medical Devices Act 2021—]

(a) the information standards published by the Secretary of State or [F17NHS England] under section 250,

(b) such guidance issued by the Secretary of State as the Secretary of State may require,

[F18(c) . . . . .]

[F19(ca) the need to respect and promote the privacy of recipients of health services and of adult social care in England,]F20 ...

[F21(cb) the need to promote the effective and efficient planning, development and provision of health services and of adult social care in England,]

(d) the need to promote the effective, efficient and economic use of resources in the provision of health services and of adult social care in England [F22, and

(e) the need to balance the needs mentioned in this subsection against one another, so far as they compete.]

[F23(2) NHS England must seek to minimise the burdens it imposes on others when exercising its relevant data functions other than those under the Medicines and Medical Devices Act 2021.]

[F24(2A) . . . . .]

(3) In this Chapter—

“adult social care”—

(a) includes all forms of personal care and other practical assistance provided for individuals who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or any other similar circumstances, are in need of such care or other assistance, but

(b) does not include anything provided by an establishment or agency for which Her Majesty's Chief Inspector of Education, Children's Services and Skills is the registration authority under section 5 of the Care Standards Act 2000;

“health services” means services which must or may be provided as part of the health service in England.

**Textual Amendments**

**F15** S. 253 heading substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(5\)\(a\)](#) (with reg. 3)

**F16** Words in s. 253(1) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(5\)\(b\)\(i\)](#) (with reg. 3)

**F17** Words in s. 253 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

**F18** S. 253(1)(c) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(5\)\(b\)\(ii\)](#) (with reg. 3)

**F19** S. 253(1)(ca) inserted (15.7.2014) by [Care Act 2014 \(c. 23\)](#), [ss. 122\(2\)](#), 127(1); [S.I. 2014/1714](#), art. 3(2)(d)



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- F20** Word in s. 253(1)(ca) omitted (1.10.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 97(2)(a)**, 186(6); S.I. 2022/1003, reg. 2(a)
- F21** S. 253(1)(cb) inserted (1.10.2022) by Health and Care Act 2022 (c. 31), **ss. 97(2)(b)**, 186(6); S.I. 2022/1003, reg. 2(a)
- F22** S. 253(1)(e) and word inserted (1.10.2022) by Health and Care Act 2022 (c. 31), **ss. 97(2)(c)**, 186(6); S.I. 2022/1003, reg. 2(a)
- F23** S. 253(2) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(5)(c)** (with reg. 3)
- F24** S. 253(2A) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(5)(d)** (with reg. 3)

#### Commencement Information

- I3** S. 253 in force at 1.4.2013 by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

#### *Functions: information systems*

### 254 Powers to direct [<sup>F25</sup>NHS England] to establish information systems

- (1) The Secretary of State <sup>F26</sup>... may direct [<sup>F27</sup>NHS England] 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.

<sup>F28</sup>(3) .....

<sup>F29</sup>(4) .....

- (5) Before giving a direction under subsection (1) the Secretary of State <sup>F30</sup>... must consult [<sup>F31</sup>NHS England].

<sup>F32</sup>(6) .....

<sup>F33</sup>(7) .....

#### Textual Amendments

- F25** Words in s. 254 heading substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(a)** (with reg. 3)
- F26** Words in s. 254(1) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(b)(i)** (with reg. 3)



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- F27** Words in s. 254(1) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(b)(ii)** (with reg. 3)
- F28** S. 254(3) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(c)** (with reg. 3)
- F29** S. 254(4) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 94(3)**; S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)
- F30** Words in s. 254(5) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(d)(i)** (with reg. 3)
- F31** Words in s. 254(5) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(d)(ii)** (with reg. 3)
- F32** S. 254(6) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(e)** (with reg. 3)
- F33** S. 254(7) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(6)(e)** (with reg. 3)

#### Modifications etc. (not altering text)

- C3** S. 254 modified (1.7.2022) by The Health and Care Act 2022 (Commencement No. 2 and Transitional and Saving Provision) Regulations 2022 (S.I. 2022/734), **reg. 9** (with regs. 13, 29, 30)

#### Commencement Information

- I4** S. 254 partly in force; s. 254 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I5** 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 [<sup>F34</sup>NHS England] to establish information systems

- (1) Any person (including a devolved authority) may request [<sup>F35</sup>NHS England] 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) [<sup>F36</sup>NHS England] must comply with a mandatory request unless [<sup>F36</sup>NHS England] 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.

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<sup>F37</sup>(5) .....

<sup>F38</sup>(6) .....

(7) Subsection (8) applies where [<sup>F39</sup>NHS England] has discretion under this section as to whether to comply with—

- (a) a mandatory request, or
- (b) other request under subsection (1).

(8) In deciding whether to comply with the request, [<sup>F40</sup>NHS England]—

- (a) must, in particular, consider whether doing so would interfere to an unreasonable extent with the exercise by [<sup>F40</sup>NHS England] 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 [<sup>F40</sup>NHS England] under section 263, and
  - (ii) advice or guidance given by [<sup>F40</sup>NHS England] under section 265.

(9) In this section “principal body” means—

- <sup>F41</sup>(a) .....
- (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.

#### Textual Amendments

- F34** Words in s. 255 heading substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(7\)\(a\)](#) (with reg. 3)
- F35** Words in s. 255(1) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(7\)\(b\)](#) (with reg. 3)
- F36** Words in s. 255(3) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(7\)\(c\)](#) (with reg. 3)
- F37** S. 255(5) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(7\)\(d\)](#) (with reg. 3)
- F38** S. 255(6) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(7\)\(d\)](#) (with reg. 3)
- F39** Words in s. 255(7) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(7\)\(e\)](#) (with reg. 3)
- F40** Words in s. 255(8) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(7\)\(f\)](#) (with reg. 3)

*Status: Point in time view as at 01/10/2023.*

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**F41** S. 255(9)(a) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 95](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

#### Commencement Information

**I6** S. 255 partly in force; s. 255 in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)

**I7** 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

- (1) A request under section 255 is a confidential collection request if it is a request for <sup>[F42]</sup>NHS England] 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 <sup>[F42]</sup>NHS England] by the person holding it, or
  - (c) relates to information which may otherwise be lawfully disclosed to <sup>[F42]</sup>NHS England] or to R by the person holding it.

#### Textual Amendments

**F42** Words in s. 256 substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 17\(8\)](#) (with reg. 3)

#### Commencement Information

**I8** 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

- (1) <sup>[F43]</sup>NHS England] must publish procedures for—
  - (a) the making and consideration of requests under section 255, and
  - (b) the reconsideration by <sup>[F43]</sup>NHS England] 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 <sup>[F43]</sup>NHS England] within a reasonable period for the purposes of the reconsideration.
- (3) <sup>[F43]</sup>NHS England] 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 <sup>[F43]</sup>NHS England].
- (5) <sup>[F43]</sup>NHS England] must publish details of—
  - (a) any mandatory request, and

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- (b) any other request under section 255 with which [F43NHS England] is obliged, or decides, to comply.

#### Textual Amendments

**F43** Words in s. 257 substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(9)** (with reg. 3)

#### Commencement Information

**I9** S. 257 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)

### 258 Information systems: supplementary

- (1) Before establishing an information system pursuant to a direction under section 254 or a request under section 255 [F44NHS England] must consult—
- (a) the person who gave the direction or made the request,
  - (b) representatives of other persons who [F44NHS England] 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 [F44NHS England] considers appropriate.
- (2) If [F44NHS England] 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, [F44NHS England] may destroy the information.

#### Textual Amendments

**F44** Words in s. 258 substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(10)** (with reg. 3)

#### Modifications etc. (not altering text)

**C4** S. 258 modified (1.7.2022) by [The Health and Care Act 2022 \(Commencement No. 2 and Transitional and Saving Provision\) Regulations 2022 \(S.I. 2022/734\)](#), **reg. 9** (with regs. 13, 29, 30)

#### Commencement Information

**I10** 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

- (1) [F45NHS England] may—
- (a) require any person mentioned in subsection (2) to provide it with any information which [F46NHS England] considers it necessary or expedient for [F46NHS England] 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—
- (a) a health or social care body;

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- (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 [F47NHS England] 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, [F47NHS England] may, however, request any person mentioned in subsection (2) to provide it with any information which [F47NHS England] considers it necessary or expedient for [F47NHS England] 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 [F47NHS England] in such form and manner, and within such period, as [F47NHS England] may specify.
- (6) If [F47NHS England] considers it appropriate to do so, [F47NHS England] may make a payment to any person who has provided information to [F47NHS England] pursuant to a request made under subsection (1)(b) in respect of the costs to that person of doing so.
- (7) If [F47NHS England] considers it appropriate to do so, [F47NHS England] may make a payment to any person mentioned in subsection (2)(b) who has provided information to [F47NHS England] pursuant to a request made under subsection (4) in respect of the costs to that person of doing so.
- (8) [F47NHS England] must publish a procedure for notifying persons of requirements imposed, and requests made, under this section.
- (9) In imposing requirements under this section [F47NHS England] 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.

#### Textual Amendments

- F45** Words in s. 259(1) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(11\)\(a\)\(i\)](#) (with reg. 3)
- F46** Words in s. 259(1)(a) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(11\)\(a\)\(ii\)](#) (with reg. 3)
- F47** Words in s. 259(3)-(9) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(11\)\(b\)](#) (with reg. 3)

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### Commencement Information

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

## 260 Publication of information

- (1) [<sup>F48</sup>NHS England] must publish all information which it obtains by complying with a direction under section 254 or a request under section 255 unless the information falls within subsection (2); and, subject to subsection (3), if the information falls within that subsection, [<sup>F48</sup>NHS England] 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 [<sup>F49</sup>NHS England], 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) [<sup>F49</sup>NHS England] 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 [<sup>F49</sup>NHS England] by the Secretary of State <sup>F50</sup>....
- (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 [<sup>F51</sup>NHS England] publishes information which it obtains by complying with <sup>F52</sup>... a mandatory request under section 255, [<sup>F51</sup>NHS England]—
  - (a) must comply with the requirements (if any) specified in the <sup>F53</sup>... 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 [<sup>F54</sup>NHS England] publishes information which it obtains by complying with a request under section 255 other than a mandatory request, [<sup>F54</sup>NHS England]—
  - (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, [<sup>F55</sup>NHS England] must have regard to—
  - (a) the need for the information to be easily accessible,
  - (b) the persons who [<sup>F55</sup>NHS England] considers likely to use the information, and



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- (c) the uses to which [<sup>F55</sup>NHS England] 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).

#### Textual Amendments

- F48** Words in s. 260(1) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(a)** (with reg. 3)
- F49** Words in s. 260(2) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(b)(i)** (with reg. 3)
- F50** Words in s. 260(2)(d) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(b)(ii)** (with reg. 3)
- F51** Words in s. 260(4) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(c)(i)(aa)** (with reg. 3)
- F52** Words in s. 260(4) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(c)(i)(bb)** (with reg. 3)
- F53** Words in s. 260(4)(a) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(c)(ii)** (with reg. 3)
- F54** Words in s. 260(5) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(d)** (with reg. 3)
- F55** Words in s. 260(6) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(12)(d)** (with reg. 3)

#### Commencement Information

- I12** S. 260 partly in force; s. 260 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I13** 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

(1) [<sup>F56</sup>NHS England] 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).

[<sup>F57</sup>(1A) But [<sup>F58</sup>NHS England] may do so only if it considers that disseminating the information would be for [<sup>F59</sup>purposes connected with]—

- (a) the provision of health care or adult social care, or  
(b) the promotion of health.]



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- (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) [F58NHS England], 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) [F58NHS England] is prohibited from publishing the information only by virtue of it falling within section 260(2)(c) and [F58NHS England] considers it would be in the public interest for the information to be disseminated;
  - (e) [F58NHS England] 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 [F58NHS England] to disseminate information which [F58NHS England] is prohibited from publishing only by virtue of the direction.
- (4) [F60NHS England] 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 [F60NHS England] collected the information.
- (5) [F61NHS England] 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,
  - (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 [F62NHS England] from disseminating information (otherwise than by publishing it) under or by virtue of any other provision of this or any other Act.

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Health and Social Care Act 2012, PART 9 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [<sup>F63</sup>(8) For the purposes of this section, the provision by NHS England of information which it has obtained by complying with a direction under section 254 to the Secretary of State is to be treated as dissemination by NHS England of that information to the Secretary of State.
- (9) For the purposes of this section and section 262, the provision by NHS England of information which it has obtained by complying with a request under section 255 to the person who made the request is to be treated as dissemination by NHS England of that information to that person.]

**Textual Amendments**

- F56** Words in s. 261(1) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(13)(a)** (with reg. 3)
- F57** S. 261(1A) inserted (15.7.2014) by Care Act 2014 (c. 23), **ss. 122(3)**, 127(1); S.I. 2014/1714, art. 3(2) (d)
- F58** Words in s. 261(1A)-(3) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(13)(b)** (with reg. 3)
- F59** Words in s. 261(1A) substituted (1.10.2022) by Health and Care Act 2022 (c. 31), **ss. 97(3)**, 186(6); S.I. 2022/1003, reg. 2(a)
- F60** Words in s. 261(4) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(13)(c)** (with reg. 3)
- F61** Words in s. 261(5) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(13)(d)** (with reg. 3)
- F62** Words in s. 261(7) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(13)(e)** (with reg. 3)
- F63** S. 261(8)(9) substituted for s. 261(8) (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(13)(f)** (with reg. 3)

**Commencement Information**

- I14** S. 261 partly in force; s. 261 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I15** 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**

- <sup>F64</sup>(1) .....
- <sup>F64</sup>(2) .....
- <sup>F64</sup>(3) .....

- (4) A request under section 255 may request [<sup>F65</sup>NHS England] 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.

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Health and Social Care Act 2012, PART 9 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) A <sup>F66</sup>... request under section 255 may request, [<sup>F67</sup>NHS England] not to exercise the power conferred by section 261(1) or (4) in relation to information which it obtains by complying with the <sup>F68</sup>... request.
- (6) Section 255(3) does not apply in relation to anything included in a mandatory request by virtue of subsection (4) or (5).
- [<sup>F69</sup>(7) A request made to NHS England in accordance with this section to disseminate information may include a request about the persons to whom the information is to be disseminated and the form, manner and timing of dissemination.]

#### Textual Amendments

- F64** S. 262(1)-(3) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(14)(a)** (with reg. 3)
- F65** Words in s. 262(4) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(14)(b)** (with reg. 3)
- F66** Words in s. 262(5) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(14)(c)(i)** (with reg. 3)
- F67** Words in s. 262(5) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(14)(c)(ii)** (with reg. 3)
- F68** Words in s. 262(5) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(14)(c)(iii)** (with reg. 3)
- F69** S. 262(7) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(14)(d)** (with reg. 3)

#### Commencement Information

- I16** S. 262 partly in force; s. 262 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I17** 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)

#### [<sup>F70</sup>262A] **Publication and other dissemination: supplementary**

In exercising any function <sup>F71</sup>... of publishing or otherwise disseminating information [<sup>F72</sup>obtained in connection with the exercise of its relevant data functions, NHS England] must have regard to any advice given to it by the committee appointed by the Health Research Authority under paragraph 8(1) of Schedule 7 to the Care Act 2014 (committee to advise in connection with information dissemination etc).]

#### Textual Amendments

- F70** S. 262A inserted (1.1.2015) by [Care Act 2014 \(c. 23\)](#), **ss. 122(4)**, 127(1); [S.I. 2014/2473](#), art. 5(l)
- F71** Words in s. 262A omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(15)(a)** (with reg. 3)

*Status: Point in time view as at 01/10/2023.*

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**F72** Words in s. 262A substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(15\)\(b\)](#) (with reg. 3)

## 263 Code of practice on confidential information

- (1) [<sup>F73</sup>NHS England] 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, [<sup>F74</sup>NHS England] must consult—
  - (a) the Secretary of State, [<sup>F75</sup>and]
  - <sup>F76</sup>(b) .....
  - (c) such other persons as [<sup>F77</sup>NHS England] considers appropriate.
- <sup>F78</sup>(4) NHS England must not publish the code without the approval of the Secretary of State.]
- (5) [<sup>F79</sup>NHS England] 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.
- <sup>F80</sup>(8) .....

### Textual Amendments

- F73** Words in s. 263(1) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(16\)\(a\)](#) (with reg. 3)
- F74** Words in s. 263(3) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(16\)\(b\)\(i\)](#) (with reg. 3)
- F75** Word in s. 263(3)(a) inserted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 17\(16\)\(b\)\(ii\)](#) (with reg. 3)

*Status: Point in time view as at 01/10/2023.*

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- F76** S. 263(3)(b) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(16)(b)(iii)** (with reg. 3)
- F77** Words in s. 263(3)(c) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(16)(b)(iv)** (with reg. 3)
- F78** S. 263(4) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(16)(c)** (with reg. 3)
- F79** Words in s. 263(5) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(16)(d)** (with reg. 3)
- F80** S. 263(8) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(16)(e)** (with reg. 3)

#### Commencement Information

- I18** S. 263 in force at 1.4.2013 by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

## 264 Information Register

[<sup>F81</sup>NHS England] must maintain and publish a register containing descriptions of the information which has been obtained by virtue of this Chapter.

#### Textual Amendments

- F81** Words in s. 264 substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(17)** (with reg. 3)

#### Commencement Information

- I19** S. 264 in force at 1.4.2013 by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

## 265 Advice or guidance

- (1) [<sup>F82</sup>NHS England]—
- (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 <sup>F83</sup>..., give advice or guidance on any such matter as may be specified in the request to—
    - (i) the Secretary of State <sup>F84</sup>...;
    - (ii) such other persons as may be specified in the request.
- (2) Those persons are—
- (a) the Secretary of State,
  - <sup>F85</sup>(b) .....
  - (c) any person who makes, or is proposing to make, a request under section 255,
  - (d) any health or social care body, and

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- (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 [<sup>F86</sup>NHS England] to give the Secretary of 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.

#### Textual Amendments

- F82** Words in s. 265(1) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(18)(a)(i)** (with reg. 3)
- F83** Words in s. 265(1)(b) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(18)(a)(ii)(aa)** (with reg. 3)
- F84** Words in s. 265(1)(b)(i) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(18)(a)(ii)(bb)** (with reg. 3)
- F85** S. 265(2)(b) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(18)(b)** (with reg. 3)
- F86** Words in s. 265(3) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(18)(c)** (with reg. 3)

#### Commencement Information

- I20** S. 265 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)

*Functions: quality of health and social care information*

## 266 Assessment of quality of information

[<sup>F87</sup>NHS England] must from time to time—



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- (a) assess the extent to which information it collects pursuant to a direction under section 254 or a request under 255 meets the information standards published under section 250 (so far as they are applicable), and
- (b) publish a record of the results of the assessment.

#### Textual Amendments

**F87** Words in s. 266 substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(19)** (with reg. 3)

#### Commencement Information

**I21** S. 266 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)

### 267 Power to establish accreditation scheme

- (1) Regulations may make provision for the establishment and operation of a scheme for the accreditation of information service providers (“the accreditation scheme”).
- (2) The regulations may provide that the accreditation scheme is to be established and operated by [<sup>F88</sup>NHS England] or such other person as the Secretary of State may specify in the regulations (the “operator”).
- (3) The regulations may, in particular, confer power on the operator—
  - (a) to establish the procedure for accrediting information service providers under the scheme,
  - (b) to set the criteria to be met by a provider in order to be accredited (“the accreditation criteria”),
  - (c) to keep an accreditation under the scheme under review, and
  - (d) to charge a reasonable fee in respect of an application for accreditation.
- (4) The regulations may make provision requiring the operator—
  - (a) to publish details of the scheme, including, in particular, the accreditation criteria,
  - (b) to provide for the review of a decision to refuse an application for accreditation, and
  - (c) to provide advice to applicants for accreditation with a view to ensuring that they meet the accreditation criteria.
- (5) In this section “information service provider” means any person other than a public body who provides services involving the collection, analysis, publication or other dissemination of information in connection with the provision of health services or of adult social care in England.

#### Textual Amendments

**F88** Words in s. 267(2) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(20)** (with reg. 3)



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#### Commencement Information

- I22** S. 267 partly in force; s. 267 in force for specified purposes at Royal Assent, see s. 306(1)(d)  
**I23** S. 267 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)

*Functions: other*

### 268 Database of quality indicators

- (1) Regulations may make provision conferring functions on [<sup>F89</sup>NHS England] in connection with the establishment, maintenance and publication of a database of quality indicators in relation to the provision of health services and of adult social care in England.
- (2) The regulations may, in particular, make provision about—
  - (a) the persons who may propose a quality indicator for inclusion in the database,
  - (b) the giving of advice and guidance by [<sup>F89</sup>NHS England] to such persons in relation to such a proposal,
  - (c) the assessment and approval of quality indicators proposed for inclusion in the database by such person as the Secretary of State or [<sup>F90</sup>NHS England] may direct, and
  - (d) the inclusion in the database of guidance about how providers may demonstrate performance measured against the quality indicators.
- (3) In this section a “quality indicator” means a factor by reference to which performance in the provision of services or care can be measured.

#### Textual Amendments

- F89** Words in s. 268 substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), Sch. para. 17(21) (with reg. 3)  
**F90** Words in s. 268 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### Commencement Information

- I24** S. 268 partly in force; s. 268 in force for specified purposes at Royal Assent, see s. 306(1)(d)  
**I25** S. 268 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)

### 269 Power to confer functions in relation to identification of GPs

- (1) Regulations may make provision conferring functions on [<sup>F91</sup>NHS England] in connection with the verification of the identity of general medical practitioners for purposes connected with the health service in England.
- (2) In subsection (1) “general medical practitioners” means persons registered in the General Practitioner Register kept by the General Medical Council.

*Status: Point in time view as at 01/10/2023.*

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### Textual Amendments

**F91** Words in s. 269(1) substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(22)** (with reg. 3)

### Commencement Information

**I26** S. 269 partly in force; s. 269 in force for specified purposes at Royal Assent, see s. 306(1)(d)  
**I27** S. 269 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)

## 270 Additional functions

- (1) [<sup>F92</sup>NHS England] may do any of the following—
- (a) acquire, produce, manufacture and supply goods,
  - (b) acquire land by agreement and manage and deal with land,
  - (c) supply accommodation to any person,
  - (d) supply services to any person and provide new services,
  - (e) provide instruction for any person, and
  - (f) develop and exploit ideas and exploit intellectual property.
- (2) But [<sup>F92</sup>NHS England] may exercise a power under subsection (1) only—
- (a) if doing so involves, or is connected with, the collection, analysis, publication or other dissemination of information, and
  - (b) to the extent that its exercise does not to any significant extent interfere with the performance by [<sup>F92</sup>NHS England] of any function under or by virtue of any other provision of this or any other Act.
- (3) [<sup>F92</sup>NHS England] may—
- (a) charge for anything it does in the exercise of a power under subsection (1), and
  - (b) calculate any such charge on the basis that it considers to be the appropriate commercial basis.
- [<sup>F93</sup>(4) Nothing in this section is to be read as limiting any power that NHS England has apart from this section to do the things listed in subsection (1).]

### Textual Amendments

**F92** Words in s. 270 substituted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(23)(a)** (with reg. 3)

**F93** S. 270(4) inserted (1.2.2023) by [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(23)(b)** (with reg. 3)

### Commencement Information

**I28** S. 270 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)

## <sup>F94</sup>271 Arrangements with other bodies

.....

*Status: Point in time view as at 01/10/2023.*

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**Textual Amendments**

**F94** Ss. 271-273 omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(24)** (with reg. 3)

**<sup>F94</sup>272 Failure by Information Centre to discharge any of its functions**

.....

**Textual Amendments**

**F94** Ss. 271-273 omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(24)** (with reg. 3)

**<sup>F94</sup>273 Protection from personal liability**

.....

**Textual Amendments**

**F94** Ss. 271-273 omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), **Sch. para. 17(24)** (with reg. 3)

*General and supplementary*

**274 Powers of Secretary of State or [<sup>F95</sup>NHS England] to give directions**

[<sup>F96</sup>(1) Regulations may make provision conferring powers on the Secretary of State to give directions—

- (a) requiring a health or social care body to exercise such of NHS England’s relevant data functions as may be specified;
- (b) requiring NHS England or another health or social care body to exercise such information functions of the Secretary of State as may be specified;
- (c) requiring NHS England to exercise such of the information functions of any health or social care body as may be specified;
- (d) requiring NHS England to exercise such systems delivery functions of the Secretary of State as may be specified.]

[<sup>F97</sup>(1A) Regulations may make provision conferring powers on NHS England to give directions requiring a health or social care body to exercise such information functions of NHS England as may be specified.]

(2) A function required to be exercised by a direction given by the Secretary of State <sup>F98</sup>... by virtue of subsection (1) is subject to directions given by the Secretary of State <sup>F99</sup>... about the exercise of the function.

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[<sup>F100</sup>(2A) A function required to be exercised by a direction given by NHS England by virtue of subsection (1A) is subject to directions given by NHS England about the exercise of the function.]

(3) A power conferred on the Secretary of State under subsection (1)(a) must provide that a direction may be given in respect of a function of [<sup>F101</sup>NHS England] only if the function relates to information which is of a description prescribed in the regulations and—

- (a) in respect of which the Secretary of State may give a direction under section 254, or
- (b) which the Secretary of State considers is information in respect of which a mandatory request may be made under section 255.

<sup>F102</sup>(4) .....

(5) A power conferred under subsection (1)(a) [<sup>F103</sup>or (1A)] must provide that a direction must include provision requiring the body in question to provide [<sup>F104</sup>NHS England] with the information it needs to comply with the duty under section 264 (duty to publish information register).

(6) A power conferred on the Secretary of State under subsection (1)(d) must provide that a direction may include provision about payments by the Secretary of State to [<sup>F105</sup>NHS England] for things done in the exercise of the function in respect of which the direction is given.

<sup>F106</sup>(7) .....

(8) A power conferred under subsection (1)(d) must provide that the giving of a direction does not prevent the Secretary of State <sup>F107</sup>... from exercising the function in respect of which the direction is given.

(9) In this section—

“information function” means a function in relation to the collection, analysis, publication or other dissemination of information;

[<sup>F108</sup>“NHS services” means services the provision of which is arranged by NHS England or an integrated care board (including services the provision of which is arranged by it in the exercise of functions of another person by virtue of any provision of the National Health Service Act 2006);]

“specified” means specified in a direction given under regulations made under [<sup>F109</sup>subsection (1) or (1A)];

[<sup>F110</sup>“systems delivery function” means a function which is exercisable in relation to the development or operation of information or communications systems in connection with the provision of health services or of adult social care in England.]

#### Textual Amendments

**F95** Words in s. 274 heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 20**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F96** S. 274(1) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(a)** (with reg. 3)

*Status: Point in time view as at 01/10/2023.*

*Changes to legislation: Health and Social Care Act 2012, PART 9 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F97** S. 274(1A) inserted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(b)** (with reg. 3)
- F98** Words in s. 274(2) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(c)(i)** (with reg. 3)
- F99** Words in s. 274(2) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(c)(ii)** (with reg. 3)
- F100** S. 274(2A) inserted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(d)** (with reg. 3)
- F101** Words in s. 274(3) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(e)** (with reg. 3)
- F102** S. 274(4) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(f)** (with reg. 3)
- F103** Words in s. 274(5) inserted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(g)(i)** (with reg. 3)
- F104** Words in s. 274(5) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(g)(ii)** (with reg. 3)
- F105** Words in s. 274(6) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(h)** (with reg. 3)
- F106** S. 274(7) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(i)** (with reg. 3)
- F107** Words in s. 274(8) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(j)** (with reg. 3)
- F108** Words in s. 274(9) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 9 para. 24**; S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)
- F109** Words in s. 274(9) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(k)(i)** (with reg. 3)
- F110** Words in s. 274(9) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(25)(k)(ii)** (with reg. 3)

#### Commencement Information

- I29** S. 274 partly in force; s. 274 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I30** S. 274 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)

#### [<sup>F111</sup>274A] Secretary of State's guidance about NHS England data functions

- (1) The Secretary of State must publish guidance for NHS England about the exercise of—
- (a) its relevant data functions, and
  - (b) its other functions in connection with its relevant data functions.

*Status: Point in time view as at 01/10/2023.*

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- (2) Before publishing guidance under this section the Secretary of State must consult NHS England and any other persons that the Secretary of State considers appropriate in relation to the guidance.
- (3) NHS England must have regard to guidance published under this section.]

#### Textual Amendments

**F111** S. 274A inserted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(26)** (with reg. 3)

## 275 Interpretation of this Chapter

In this Chapter—

“adult social care” has the meaning given by section 253(3);

<sup>F112</sup> ...

“devolved authority” means—

- (a) the Scottish Ministers;
- (b) the Welsh Ministers; and
- (c) a Northern Ireland Minister;

“health care” has the meaning given by section 255(10);

“health or social care body” has the meaning given by section 259(11);

“the health service” has the same meaning as in the National Health Service Act 2006 (see section 275(1) of that Act);

“health services” has the meaning given by section 253(3);

“mandatory request” has the meaning given by section 255(4);

“Northern Ireland Minister” includes the First Minister, the deputy First Minister and a Northern Ireland Department;

“public body” means a body or other person whose functions—

- (a) are of a public nature, or
- (b) include functions of that nature,

but in the latter case, the body or person is a public body to the extent only of those functions;

[<sup>F113</sup>“relevant data functions” has the meaning given by section 253(3);]

“relevant person” has the meaning given by section 260(7).

#### Textual Amendments

**F112** Words in s. 275 omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 21**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F113** Words in s. 275 inserted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(27)** (with reg. 3)

#### Commencement Information

**I31** S. 275 in force at 1.4.2013 by S.I. 2013/160, **art. 2(2)** (with arts. 7-9)



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## 276 Dissolution of predecessor body

The Special Health Authority known as the Health and Social Care Information Centre is abolished.

### Commencement Information

**I32** S. 276 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

## 277 Consequential provision

Schedule 19 (which contains consequential provision) has effect.

### Commencement Information

**I33** S. 277 in force at 1.4.2013 by S.I. 2013/160, art. 2(2) (with arts. 7-9)

## [<sup>F114</sup>CHAPTER 3

### INFORMATION ABOUT ADULT SOCIAL CARE

### Textual Amendments

**F114** Pt. 9 Ch. 3 inserted (31.7.2022 but only for the insertion of ss. 277A (for specified purposes), 277B, 277C, 1.10.2022 but only for the insertion of s. 277A(6)) by [Health and Care Act 2022 \(c. 31\)](#), ss. 99, 186(6); S.I. 2022/734, reg. 3 (with regs. 13, 29, 30); S.I. 2022/1003, reg. 2(b)

## 277A Provision of adult social care information to Secretary of State

- (1) The Secretary of State may require a relevant provider of adult social care services to provide the Secretary of State with information that relates to—
  - (a) the person on whom the requirement is imposed,
  - (b) their activities in connection with the provision of adult social care in England, or
  - (c) any person to whom they have provided—
    - (i) adult social care in England, or
    - (ii) adult social care, outside England, in pursuance of arrangements made by an English local authority.
- (2) The Secretary of State may impose a requirement under subsection (1) only if the information is sought for purposes connected with the health care system, or adult social care system, in England.
- (3) A requirement under subsection (1) may specify—
  - (a) the form and manner in which information is to be provided, and
  - (b) when information is to be provided.
- (4) A requirement under subsection (1) must be in writing.



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- (5) 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 any enactment (other than a restriction which allows disclosure if authorised by an enactment).
- (6) For enforcement of requirements under subsection (1), see section 277E.
- (7) In this section—
- “adult social care”—
- (a) includes all forms of personal care and other practical assistance provided for individuals who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or any other similar circumstances, are in need of such care or other assistance, but
  - (b) does not include anything provided by an establishment or agency for which Her Majesty’s Chief Inspector of Education, Children’s Services and Skills is the registration authority under section 5 of the Care Standards Act 2000;
- “English local authority” means—
- (a) a county council in England;
  - (b) a district council for an area in England for which there is no county council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London (in its capacity as a local authority);
- “relevant provider of adult social care services” means a person who is required to be registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of Part 1 of that Act) involving or connected with the provision of adult social care.

## **277B Restrictions on onward disclosure of information**

- (1) Information provided under section 277A may not be disclosed by the Secretary of State except for purposes connected with the health care system, or adult social care system, in England.
- (2) Commercially sensitive information provided under section 277A may not be disclosed by the Secretary of State (even for the purposes mentioned in subsection (1)) unless the Secretary of State considers that the disclosure is appropriate, having taken into account the public interest as well as the interests of the person to whom the commercially sensitive information relates.
- (3) Subsections (1) and (2) do not restrict the disclosure of information where—
  - (a) the person to whom the information relates has consented to the disclosure,
  - (b) the information has previously been lawfully disclosed to the public,
  - (c) the disclosure is in accordance with any court order,
  - (d) the disclosure is necessary or expedient for the purposes of protecting the welfare of any individual,

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- (e) 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,
  - (f) the disclosure is in connection with the investigation of a criminal offence (whether or not in the United Kingdom), or
  - (g) the disclosure is for the purpose of criminal proceedings (whether or not in the United Kingdom).
- (4) In this section “commercially sensitive information” means commercial information whose disclosure the Secretary of State thinks might significantly harm the legitimate business interests of the person to whom it relates.

### 277C Directions to certain bodies to exercise functions under this Chapter

- (1) The Secretary of State may direct [<sup>F115</sup>NHS England] to exercise the functions of the Secretary of State under section 277A (and where a direction is given, section 277B applies accordingly).
  - (2) The Secretary of State may direct a Special Health Authority performing functions only or mainly in respect of England to exercise the functions of the Secretary of State under section 277A (and where a direction is given, section 277B applies accordingly).
  - [<sup>F116</sup>(3) The Secretary of State may give directions to a Special Health Authority about the exercise of any functions that it is directed to exercise under subsection (2) (including directions as to the processing of information that the Authority obtains in exercising those functions).]
- [ For power to give directions to NHS England as to the exercise of functions, see <sup>F117</sup>(4) section 13ZC of the National Health Service Act 2006.]

#### Textual Amendments

- F115** Words in s. 277C(1) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(28)(a)** (with reg. 3)
- F116** S. 277C(3) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(28)(b)** (with reg. 3)
- F117** S. 277C(4) inserted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 17(28)(c)** (with reg. 3)

### 277D Arrangements with third parties

- (1) The Secretary of State may make arrangements for any person prescribed by regulations under this subsection to exercise the functions of the Secretary of State under section 277A (and where arrangements are made, section 277B applies accordingly).
- (2) Arrangements under subsection (1) may—
  - (a) provide for the Secretary of State to make payments to the person;

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- (b) make provision as to the circumstances in which any such payments are to be repaid to the Secretary of State.
- (3) Section 304(9) (differential provision) applies in relation to the power to make arrangements under subsection (1) as it applies to a power of the Secretary of State to give directions under this Act.]

## [<sup>F118</sup>CHAPTER 4

### ENFORCEMENT

#### Textual Amendments

**F118** Pt. 9 Ch. 4 inserted (1.10.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. **100(2)**, 186(6); S.I. 2022/1003, reg. 2(c)

#### **277E Enforcement of provisions under this Part**

- (1) Regulations may make provision conferring on the Secretary of State the power to impose a financial penalty on a person, other than a public body, who without reasonable excuse—
  - (a) fails to comply with an information standard (unless the requirement for the person to comply has been waived by virtue of regulations under section 250(6B));
  - (b) fails to comply with a requirement to provide information imposed under section 251ZA(1), 251D(1)(b), 259(1)(a) or (aa) or 277A(1);
  - (c) provides information in response to such a requirement that is false or misleading to a material extent.
- (2) The amount of the financial penalty is to be specified in, or determined in accordance with, the regulations.
- (3) The regulations must include provision—
  - (a) requiring the Secretary of State, before imposing a financial penalty on a person, to give the person written notice (a “notice of intent”) of the proposed financial penalty;
  - (b) ensuring that the person is given an opportunity to make representations about the proposed financial penalty;
  - (c) requiring the Secretary of State, after the period for making representations, to decide whether to impose the financial penalty;
  - (d) requiring the Secretary of State, if the Secretary of State decides to impose the financial penalty, to give the person notice in writing (a “final notice”) imposing the penalty;
  - (e) enabling a person on whom a financial penalty is imposed to appeal to the First-tier Tribunal in accordance with the regulations;
  - (f) as to the powers of the Tribunal on such an appeal.
- (4) The provision that may be made by the regulations includes provision—
  - (a) enabling a notice of intent or final notice to be withdrawn or amended;

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- (b) requiring the Secretary of State to withdraw a final notice in circumstances specified in the regulations;
  - (c) for a financial penalty to be increased by an amount specified in or determined in accordance with the regulations in the event of late payment;
  - (d) for the recovery of financial penalties in the county court.
- (5) In this section “public body” has the meaning given by section 250(7).

**277F Directions to Special Health Authority to exercise functions under section 277E**

The Secretary of State may—

- (a) direct a Special Health Authority performing functions only or mainly in respect of England to exercise the functions of the Secretary of State under regulations made under section 277E;
- (b) give the Special Health Authority directions about the exercise of those functions (including directions as to the processing of information that the body obtains in exercising those functions).]

**Status:**

Point in time view as at 01/10/2023.

**Changes to legislation:**

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