

*Changes to legislation: There are currently no known outstanding effects for the Health and Care Act 2022, SCHEDULE 11. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 11

Section 78

#### PATIENT CHOICE: UNDERTAKINGS BY INTEGRATED CARE BOARDS

##### Commencement Information

- I1** Sch. 11 not in force at Royal Assent, see [s. 186\(6\)](#)
- I2** [Sch. 11](#) in force at 1.1.2024 by [S.I. 2023/1431](#), [reg. 3\(d\)](#)

After Schedule 1 to the National Health Service Act 2006 insert—

#### “SCHEDULE 1ZA

Section 6F

#### PATIENT CHOICE: UNDERTAKINGS BY INTEGRATED CARE BOARDS

##### Introductory

- 1 This Schedule makes further provision about undertakings under section 6F.

##### Procedure

- 2 (1) NHS England must publish a procedure for entering into undertakings.  
(2) NHS England may revise the procedure and, if it does so, NHS England must publish the procedure as revised.  
(3) NHS England must consult such persons as it considers appropriate before publishing or revising the procedure.
- 3 (1) Where NHS England accepts an undertaking, NHS England must publish the undertaking.  
(2) But NHS England must not under sub-paragraph (1) publish any part of an undertaking which contains information which it is satisfied is—
  - (a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of the person to whom it relates;
  - (b) information relating to the private affairs of an individual the disclosure of which would, or might, significantly harm that person’s interests.

##### Variation of terms

- 4 The terms of an undertaking (including, in particular, the action specified under it and the period so specified within which the action must be taken) may be varied if both the integrated care board giving the undertaking and NHS England agree.

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### **Compliance certificates**

- 5 (1) Where NHS England is satisfied that an undertaking has been complied with, NHS England must issue a certificate to that effect (referred to in this Schedule as a “compliance certificate”).
- (2) An integrated care board which has given an undertaking may at any time make an application to NHS England for a compliance certificate.
- (3) The application must be made in such form, and accompanied by such information, as NHS England requires.
- (4) NHS England must decide whether or not to issue a compliance certificate, and give notice to the applicant of its decision, before the end of the period of 14 days beginning with the day after that on which the application is received.
- 6 (1) An appeal lies to the First-tier Tribunal against a decision of NHS England to refuse an application for a compliance certificate.
- (2) The grounds for an appeal under this paragraph are that the decision was—
- (a) based on an error of fact,
  - (b) wrong in law, or
  - (c) unfair or unreasonable.
- (3) On an appeal under this paragraph, the Tribunal may confirm NHS England’s decision or direct that it is not to have effect.

### **Inaccurate, incomplete or misleading information**

- 7 Where NHS England is satisfied that an integrated care board which has given an undertaking has supplied NHS England with inaccurate, misleading or incorrect information in relation to the undertaking—
- (a) NHS England may treat the integrated care board as having failed to comply with the undertaking, and
  - (b) if NHS England decides so to treat the integrated care board, NHS England must by notice revoke any certificate of compliance given to that integrated care board.”

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