COMMONS AMENDMENTS

[The page and line references are to Bill 123, the Bill as first printed for the Commons.]

Clause 7
1 Page 8, line 23, leave out subsection (6)

Clause 17
2 Page 16, line 34, leave out “will not” and insert “is not permitted to, or may (but need not),”
3 Page 16, line 43, leave out “will not” and insert “is not permitted to, or may (but need not),”

Clause 25
4 Page 24, line 21, at end insert—
“(14) The regulations may in particular specify that the paragraphs in question do not apply as regards specified needs or matters.”

Clause 26
5 Page 24, line 40, at end insert—
“(4) Regulations may make provision for excluding costs to a local authority from a personal budget if the costs are incurred in meeting needs for which the authority—
(a) does not make a charge, or
(b) is not permitted to make a charge.”

Clause 33
6 Page 29, line 22, at end insert—
“(da) cases or circumstances in which an adult who lacks capacity to request the making of direct payments must or may nonetheless be regarded for the purposes of this Part or the regulations as having capacity to do so;”

Page 29, line 24, leave out “request the making of direct payments” and insert “make such a request”

Page 29, line 25, leave out “the purposes of this Part or the regulations” and insert “any of those purposes”

Clause 34

Page 30, line 36, after “amount” insert “or loan”

Page 30, line 38, after “amount” insert “or loan”

Clause 48

Leave out Clause 48

Clause 60

Page 51, line 37, leave out “‘Parent’ and ‘carer’ each have” and insert “‘Carer’ has”

Clause 61

Page 52, line 20, leave out “with ‘parent’ having the meaning given in section 59”

Clause 62

Page 53, line 19, at end insert—

“(5A) Where, in the case of a carer to whom a child’s carer’s assessment relates, the child becomes 18, the local authority must decide whether to treat the assessment as a carer’s assessment; and if the authority decides to do so, this Part applies to the child’s carer’s assessment as if it were a carer’s assessment that had been carried out after the child had become 18.

(5B) In considering what to decide under subsection (5A), a local authority must have regard to—

(a) when the child’s carer’s assessment was carried out, and

(b) whether it appears to the authority that the circumstances of the carer to whom the child’s carer’s assessment relates have changed in a way that might affect the assessment.”

Clause 63

Page 53, line 30, at end insert—

“(4) “Carer” has the same meaning as in section 61.”
Clause 64
16 Page 54, line 20, leave out subsection (7)

Clause 65
17 Page 55, line 40, leave out subsection (9)

Clause 67
18 Page 56, leave out lines 43 to 46 and insert—
   “(1) Subsections (2) to (4) apply where a local authority in England providing services for a child in need in the exercise of functions conferred by section 17—
   (a) are required by section 59(1) or 64(1) of the Care Act 2014 to carry out a child’s needs assessment or young carer’s assessment in relation to the child, or
   (b) are required by section 61(1) of that Act to carry out a child’s carer’s assessment in relation to a carer of the child.”
19 Page 57, line 1, leave out “requested”
20 Page 57, line 3, after “60(6)” insert “, 62(5A)”
21 Page 57, line 7, leave out “requested”
22 Page 57, line 9, after “60(6)” insert “, 62(5A)”
23 Page 57, line 15, leave out “decide to comply with the request but”
24 Page 57, line 21, at end insert—
   “(4A) Subsection (5) applies where a local authority in England providing services for a child in need in the exercise of functions conferred by section 17—
   (a) receive a request for a child’s needs assessment or young carer’s assessment to be carried out in relation to the child or for a child’s carer’s assessment to be carried out in relation to a carer of the child, but
   (b) have yet to be required by section 59(1), 61(1) or 64(1) of the Care Act 2014 to carry out the assessment.”
25 Page 57, line 38, after first “assessment”,” insert “child’s carer’s assessment”,”
26 Page 58, leave out lines 11 to 13 and insert—
   “(1) Subsections (2) to (4) apply where a local authority in England making arrangements for a disabled child under section 2 are required by section 59(1) of the Care Act 2014 to carry out a child’s needs assessment in relation to the child.”
27 Page 58, line 14, leave out “requested”
28 Page 58, line 20, leave out “requested”
29 Page 58, line 27, leave out “decide to comply with the request but”
30 Page 58, line 33, at end insert—
“(4A) Subsection (5) applies where a local authority in England making arrangements for a disabled child under section 2—
(a) receive a request for a child’s needs assessment to be carried out in relation to the child, but
(b) have yet to be required by section 59(1) of the Care Act 2014 to carry out the assessment.”

31 Page 59, line 6, leave out subsection (4)

After Clause 72

32 Insert the following new Clause—

“Part 1 appeals

(1) Regulations may make provision for appeals against decisions taken by a local authority in the exercise of functions under this Part in respect of an individual (including decisions taken before the coming into force of the first regulations made under this subsection).

(2) The regulations may in particular make provision about—
(a) who may (and may not) bring an appeal;
(b) grounds on which an appeal may be brought;
(c) pre-conditions for bringing an appeal;
(d) how an appeal is to be brought and dealt with (including time limits);
(e) who is to consider an appeal;
(f) matters to be taken into account (and disregarded) by the person or body considering an appeal;
(g) powers of the person or body deciding an appeal;
(h) what action is to be taken by a local authority as a result of an appeal decision;
(i) providing information about the right to bring an appeal, appeal procedures and other sources of information and advice;
(j) representation and support for an individual bringing or otherwise involved in an appeal;
(k) investigations into things done or not done by a person or body with power to consider an appeal.

(3) Provision about pre-conditions for bringing an appeal may require specified steps to have been taken before an appeal is brought.

(4) Provision about how an appeal is to be dealt with may include provision for—
(a) the appeal to be treated as, or as part of, an appeal brought or complaint made under another procedure;
(b) the appeal to be considered with any such appeal or complaint.

(5) Provision about who is to consider an appeal may include provision—
(a) establishing, or requiring or permitting the establishment of, a panel or other body to consider an appeal;
(b) requiring an appeal to be considered by, or by persons who include, persons with a specified description of expertise or experience.
(6) Provision about representation and support for an individual may include provision applying any provision of or made under section 68, with or without modifications.

(7) The regulations may make provision for—
   (a) an appeal brought or complaint made under another procedure to be treated as, or as part of, an appeal brought under the regulations;
   (b) an appeal brought or complaint made under another procedure to be considered with an appeal brought under the regulations;
   (c) matters raised in an appeal brought under the regulations to be taken into account by the person or body considering an appeal brought or complaint made under another procedure.

(8) The regulations may include provision conferring functions on a person or body established by or under an Act (including an Act passed after the passing of this Act); for that purpose, the regulations may amend, repeal, revoke or otherwise modify an enactment.

(9) Regulations may make provision, in relation to a case where an appeal is brought under regulations under subsection (1)—
   (a) for any provision of this Part to apply, for a specified period, as if a decision (“the interim decision”) differing from the decision appealed against had been made;
   (b) as to what the terms of the interim decision are, or as to how and by whom they are to be determined;
   (c) for financial adjustments to be made following a decision on the appeal.

(10) The period specified under subsection (9)(a) may not begin earlier than the date on which the decision appealed against was made, or end later than the date on which the decision on the appeal takes effect.”

Clause 78

33 Page 69, line 39, leave out paragraph (d)

Clause 79

34 Page 71, line 18, at end insert—

“Child’s carer’s assessment | Section 61(2)
Child’s needs assessment | Section 59(2)”

35 Page 71, line 29, at end insert—

“Parent | Section 59(6)”

36 Page 72, line 3, at end insert—
After Clause 85

Insert the following new Clause—

“Rights of appeal

(1) In section 26 of the Health and Social Care Act 2008 (registration procedure: notice of proposals), after subsection (4) insert—

“(4A) Where a proposal under subsection (4) names an individual and specifies action that the Commission would require the registered person to take in relation to that individual, the Commission must give that individual notice in writing of the proposal.”

(2) In section 28 of that Act (notice of decisions), in subsection (6), for “subsection (7)” substitute “subsections (7) to (9)”.

(3) In that section, after subsection (7) insert—

“(8) But in a case where notice of the proposal has been given to an individual under section 26(4A) subsection (7) does not apply unless, by the time the Commission receives the applicant’s notification, it has received notification from the individual that he or she does not intend to appeal.

(9) And if the Commission receives notification from the individual after it receives the applicant’s notification and before the end of the period mentioned in subsection (6)(a), the decision is to take effect when the Commission receives the individual’s notification.”

Clause 89

Page 80, line 29, leave out “or local authority”

Clause 108

Page 95, line 2, after “individuals” insert “aged 18 or over who are”

Clause 118

Page 102, line 19, at end insert—

“(3A) After subsection (7) of that section insert—

“(8) Where the administrator recommends taking action in relation to another NHS foundation trust or an NHS trust, the references in subsection (5) to a commissioner also include a reference to a person to which the other NHS foundation trust or the NHS trust provides services under this Act that would be affected by the action.”.”
Page 102, line 27, at end insert—

“(5A) In section 65H of that Act (consultation requirements), in subsection (4)—
(a) after “trust special administrator must” insert “—
(a)”, and
(b) at the end insert “, and
(b) in the case of each affected trust, hold at least one meeting to seek responses from staff of the trust and from such persons as the trust special administrator may recognise as representing staff of the trust.”

(5B) In subsection (7) of that section, after paragraph (b) (but before paragraph (ba) inserted by section 84(10)(a)) insert—
“(bza) any affected trust;
(bzb) any person to which an affected trust provides goods or services under this Act that would be affected by the action recommended in the draft report;
(bzc) any local authority in whose area the trust provides goods or services under this Act;
(bzd) any local authority in whose area an affected trust provides goods or services under this Act;
(bze) any Local Healthwatch organisation for the area of a local authority mentioned in paragraph (bzc) or (bzd)).”

(5C) In subsection (8) of that section, omit paragraph (e).

(5D) In subsection (9) of that section—
(a) after “trust special administrator must” insert “—
(a)”,
(b) after “subsection (7)(b),” (but before the insertion made by section 84(10)(b)) insert “(bzb),”, and
(c) at the end insert—
“(b) hold at least one meeting to seek responses from representatives of each of the trusts from which the administrator must request a written response under subsection (7)(bza), and
(c) hold at least one meeting to seek responses from representatives of each of the local authorities and Local Healthwatch organisations from which the administrator must request a written response under subsection (7)(bzc), (bzd) and (bze)).”

(5E) After subsection (11) of that section, insert—
“(11A) In this section, “affected trust” means—
(a) where the trust in question is an NHS trust, another NHS trust, or an NHS foundation trust, which provides goods or services under this Act that would be affected by the action recommended in the draft report;
(b) where the trust in question is an NHS foundation trust, another NHS foundation trust, or an NHS trust, which provides services under this Act that would be affected by the action recommended in the draft report.
(11B) In this section, a reference to a local authority includes a reference to the council of a district only where the district is comprised in an area for which there is no county council.”

(5F) In subsection (12)(a) of that section, after “subsection (7)(b)”, insert “, (bzb), (bzc) and (bdz).”

42 Page 103, line 22, at end insert—
“(ba) in that paragraph, after sub-paragraph (7) insert—
“(8) Omit subsection (8).”.”

43 Page 103, line 26, at end insert—
“(ca) in paragraph 17, in sub-paragraph (2)(a), for “paragraph (b)” substitute “paragraphs (b), (bzb), (bzc) and (bdz),”

(cb) in that paragraph, after sub-paragraph (4) insert—
“(4A) In subsection (11A)—
(a) omit paragraph (a), and
(b) in paragraph (b), omit “where the trust in question is an NHS foundation trust,” and “, or an NHS trust,”.””

After Clause 118

44 Insert the following new Clause—

“Integration of care and support with health services etc: integration fund

(1) At the end of section 223B of the National Health Service Act 2006 (funding of the National Health Service Commissioning Board) insert—

“(6) Where the mandate specifies objectives relating to service integration, the requirements that may be specified under section 13A(2)(b) include such requirements relating to the use by the Board of an amount of the sums paid to it under this section as the Secretary of State considers it necessary or expedient to impose.

(7) The amount referred to in subsection (6)—
(a) is to be determined in such manner as the Secretary of State considers appropriate, and
(b) must be specified in the mandate.

(8) The reference in subsection (6) to service integration is a reference to the integration of the provision of health services with the provision of health-related services or social care services, as referred to in sections 13N and 14Z1.”

(2) After section 223G of that Act (meeting expenditure of clinical commissioning groups out of public funds) insert—

“223GA Expenditure on integration

(1) Where the mandate includes a requirement in reliance on section 223B(6) (requirements relating to use by the Board of an amount paid to the Board where mandate specifies service integration
objectives), the Board may direct a clinical commissioning group
that an amount (a “designated amount”) of the sums paid to the
group under section 223G is to be used for purposes relating to
service integration.

(2) The designated amount is to be determined—
(a) where the mandate includes a requirement (in reliance on
section 223B(6)) that designated amounts are to be
determined by the Board in a manner specified in the
mandate, in that manner;
(b) in any other case, in such manner as the Board considers
appropriate.

(3) The conditions under section 223G(7) subject to which the payment
of a designated amount is made must include a condition that the
group transfers the amount into one or more funds (“pooled
funds”) established under arrangements under section 75(2)(a)
(“pooling arrangements”).

(4) The conditions may also include—
(a) conditions relating to the preparation and agreement by the
group and each local authority and other clinical
commissioning group that is party to the pooling
arrangements of a plan for how to use the designated
amount (a “spending plan”);
(b) conditions relating to the approval of a spending plan by the
Board;
(c) conditions relating to the inclusion of performance
objectives in a spending plan;
(d) conditions relating to the meeting of any performance
objectives included in a spending plan or specified by the
Board.

(5) Where a condition subject to which the payment of a designated
amount is made is not met, the Board may—
(a) withhold the payment (in so far as it has not been made);
(b) recover the payment (in so far as it has been made);
(c) direct the clinical commissioning group as to the use of the
designated amount for purposes relating to service
integration or for making payments under section 256.

(6) Where the Board withholds or recovers a payment under
subsection (5)(a) or (b)—
(a) it may use the amount for purposes consistent with such
objectives and requirements relating to service integration
as are specified in the mandate, and
(b) in so far as the exercise of the power under paragraph (a)
involves making a payment to a different clinical
commissioning group or some other person, the making of
the payment is subject to such conditions as the Board may
determine.

(7) The requirements that may be specified in the mandate in reliance
on section 223B(6) include requirements to consult the Secretary of
State or other specified persons before exercising a power under subsection (5) or (6).

(8) The power under subsection (5)(b) to recover a payment may be exercised in a financial year after the one in respect of which the payment was made.

(9) The payments that may be made out of a pooled fund into which a designated amount is transferred include payments to a local authority which is not party to the pooling arrangements in question in connection with the exercise of its functions under Part 1 of the Housing Grants, Construction and Regeneration Act 1996 (disabilities facilities grants).

(10) In exercising a power under this section, the Board must have regard to the extent to which there is a need for the provision of each of the following—
(a) health services (see subsection (12)),
(b) health-related services (within the meaning given in section 14Z1), and
(c) social care services (within the meaning given in that section).

(11) A reference in this section to service integration is a reference to the integration of the provision of health services with the provision of health-related services or social care services, as referred to in sections 13N and 14Z1.

(12) “Health services” means services provided as part of the health service in England.”.

Insert the following new Clause—

“The Health and Social Care Information Centre: restrictions on dissemination of information

(1) Chapter 2 of Part 9 of the Health and Social Care Act 2012 (the Health and Social Care Information Centre) is amended as follows.

(2) In section 253(1) (general duties), after paragraph (c) (but before the “and” after it) insert—
“(ca) the need to respect and promote the privacy of recipients of health services and of adult social care in England,”.

(3) In section 261 (other dissemination of information), after subsection (1) insert—
“(1A) But the Information Centre may do so only if it considers that disseminating the information would be for the purposes of—
(a) the provision of health care or adult social care, or
(b) the promotion of health.”

(4) After section 262 insert—

“262A Publication and other dissemination: supplementary

In exercising any function under this Act of publishing or otherwise
disseminating information, the Information Centre 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).”

Clause 121

46 Page 105, line 6, at end insert—
“(ia) regulations under section [Part 1 appeals] which include provision that amends or repeals a provision of an Act of Parliament.”

Clause 123

47 Page 106, line 15, leave out “3” and insert “4”

Clause 125

48 Page 107, line 6, leave out subsection (2)

Schedule 7

49 Page 141, line 34, at end insert—
“(c) to the Health and Social Care Information Centre in connection with—
(i) the exercise by the Centre of functions conferred in regulations under section 251 of the National Health Service Act 2006 (processing of patient information for medical purposes);
(ii) any publication or other dissemination by the Centre of information which is in a form which identifies an individual to whom the information relates or enables the identity of such an individual to be ascertained.”

50 Page 142, line 4, at end insert—
“8A Regulations may provide for the committee appointed under paragraph 8(1) to be required, in giving advice, to have regard to specified factors or matters.”

In the Title

51 Line 5, after “Authority;” insert “to make provision about integrating care and support with health services;”
COMMONS AMENDMENTS

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