



# House of Commons

**Tuesday 5 July 2011**

## **PUBLIC BILL COMMITTEE PROCEEDINGS**

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### **HEALTH AND SOCIAL CARE (RE-COMMITTED) BILL**

*[FIFTH AND SIXTH SITTINGS]*

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**The Bill is re-committed in respect of the following Clauses and Schedules:**

**Clauses 1 to 6, 9 to 11, 19 to 24, 28 and 29, Schedules 1 to 3, Clauses 55 and 56, 58 and 59, 63 to 75, 100 and 101, 112 to 117, 147, Schedules 8 and 9, Clauses 149, 156, 165 and 166, 176, 178 to 180, 189 to 193, Schedule 15, Clauses 242, 265, 285 and 286, 295, 297 and 298.**

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Mr Simon Burns

Clause 19, page 15, line 4, after 'year', insert 'and such subsequent financial years as the Secretary of State considers appropriate'. *Agreed to 60*

Mr Simon Burns

Clause 19, page 15, line 8, leave out from 'mandate' to end of line 13 and insert 'the amounts that the Secretary of State has decided to specify in relation to the financial year for the purposes of section 223DA(2) and (3) (limits on capital and revenue resource use)'. *Agreed to 61*

Mr Simon Burns

Clause 19, page 15, leave out lines 15 to 20. *Agreed to 62*

Mr Simon Burns

Clause 19, page 15, leave out lines 21 to 27 and insert—  
'( ) any proposals that the Secretary of State has as to the amounts that the Secretary of State will specify in relation to subsequent financial years for the purposes of section 223DA(2) and (3)'. *Agreed to 63*

Mr Simon Burns

Clause 19, page 15, line 40, at end insert— *Agreed to 64*

**Health and Social Care (Re-committed) Bill, continued**

( ) the Healthwatch England committee of the Care Quality Commission, and’.

Mr Simon Burns

Clause 19, page 15, leave out lines 43 and 44.

*Agreed to* 65

Mr Simon Burns

Clause 19, page 16, line 1, leave out from ‘State’ to second ‘the’ in line 2 and insert ‘varies the amount specified for the purposes of section 223DA(2) or (3),’.

*Agreed to* 66

Mr Simon Burns

Clause 19, page 16, line 15, at end insert—

*Agreed to* 67

**‘13BA Duty to promote NHS Constitution**

(1) The Board must, in the exercise of its functions—

- (a) act with a view to securing that health services are provided in a way which promotes the NHS Constitution, and
- (b) promote awareness of the NHS Constitution among patients, staff and members of the public.

(2) In this section—

“health services” means services provided as part of the health service;

“patients” and “staff” have the same meanings as in Chapter 1 of Part 1 of the Health Act 2009 (see section 3(7) of that Act).’.

Liz Kendall  
Emily Thornberry  
Owen Smith

Clause 19, page 16, line 18, at end insert—

*Negated on division* 3

**‘13CA Duty as to commissioning of services**

In carrying out its duties in respect of the commissioning of services the Board must in the exercise of its functions have regard to the interdependency of services and the impact that the arrangements for the provision for one service may have on the financial and clinical sustainability of other services.’.

Mr Simon Burns

Clause 19, page 17, line 4, leave out ‘, promoting patient involvement etc.’.

*Agreed to* 68

Mr Simon Burns

Clause 19, page 17, leave out lines 11 to 14.

*Agreed to* 69

Mr Simon Burns

Clause 19, page 17, line 16, at end insert—

*Agreed to* 70

**Health and Social Care (Re-committed) Bill, continued****‘13FA Duty to promote involvement of each patient**

- (1) The Board must, in the exercise of its functions, promote the involvement of patients, and their carers and representatives (if any), in decisions about the provision of health services to the patients.
- (2) In this section, “health services” has the same meaning as in section 13F.

**13FB Duty as to patient choice**

- (1) The Board must, in the exercise of its functions, act with a view to enabling patients to make choices with respect to aspects of health services provided to them.
- (2) In this section, “health services” has the same meaning as in section 13F.’.

Mr Simon Burns

*Agreed to 71*

Clause 19, page 17, line 18, leave out from ‘must’ to ‘advice’ in line 19 and insert ‘obtain’.

Mr Simon Burns

*Agreed to 72*

Clause 19, page 17, line 20, leave out from ‘persons’ to end of line 21 and insert ‘who (taken together) have a broad range of professional expertise in—

- (a) the prevention, diagnosis or treatment of illness, and
- (b) the protection or improvement of public health.’.

Mr Simon Burns

*Agreed to 73*

Clause 19, page 17, leave out lines 40 to 44 and insert—

**‘13J Duty as to promoting integration**

- ( ) The Board must exercise its functions with a view to securing that health services are provided in an integrated way where it considers that this would—
  - (a) improve the quality of those services (including the outcomes that are achieved from their provision),
  - (b) reduce inequalities between persons with respect to their ability to access those services, or
  - (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.
- ( ) The Board must exercise its functions with a view to securing that the provision of health services is integrated with the provision of health-related services or social care services where it considers that this would—
  - (a) improve the quality of the health services (including the outcomes that are achieved from the provision of those services),
  - (b) reduce inequalities between persons with respect to their ability to access those services, or
  - (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.’.

Mr Simon Burns

*Agreed to 74*

Clause 19, page 18, line 3, at end insert—

‘( ) In this section—

**Health and Social Care (Re-committed) Bill, *continued***

“health services” means services provided as part of the health service;

“health-related services” means services that may have an effect on the health of individuals but are not health services or social care services;

“social care services” means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970).’.

Mr Simon Burns

*Agreed to* 75

Clause 19, page 18, line 14, at end insert—

**‘13KA Duty as respects variation in provision of health services**

The Board must not exercise its functions for the purpose of causing a variation in the proportion of services provided as part of the health service that is provided by persons of a particular description if that description is by reference to—

- (a) whether the persons in question are in the public or (as the case may be) private sector, or
- (b) some other aspect of their status.’.

Mr Simon Burns

*Agreed to* 76

Clause 19, page 18, line 27, leave out ‘a significant’ and insert ‘an’.

Dr John Pugh

*Withdrawn* 228

Clause 19, page 19, line 2, leave out from ‘available’ to end of line 3.

Mr Simon Burns

*Agreed to* 77

Clause 19, page 19, line 15, at end insert—

‘() Arrangements made under subsection (7) do not affect the liability of the Board for the exercise of any of its functions.’.

Mr Simon Burns

*Agreed to* 78

Clause 19, page 19, line 32, at end insert—

‘() The business plan must, in particular, explain how the Board proposes to discharge its duties under—

- (a) sections 13D and 13L, and
- (b) sections 223D to 223DB.’.

Mr Simon Burns

*Agreed to* 79

Clause 19, page 19, leave out lines 38 to 40.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Negated on division* 4

Clause 19, page 20, line 39, at end insert—

**Health and Social Care (Re-committed) Bill, continued**

‘(1A) The Secretary of State must publish guidance to the Board, to which the Board must have regard, about the exercise of its powers under subsection (1).’.

Mr Simon Burns

*Agreed to 80*

Clause 19, page 21, line 31, at end insert—

‘() Arrangements made under this section do not affect the liability of the Board for the exercise of any of its functions.’.

Mr Simon Burns

*Agreed to 81*

Clause 19, page 22, line 4, after ‘that’, insert ‘—

() ’.

Mr Simon Burns

*Agreed to 82*

Clause 19, page 22, line 6, at end insert ‘and

() the failure is significant.’.

Mr Simon Burns

*Agreed to 83*

Clause 19, page 22, line 14, at end insert—

‘() Where the Secretary of State exercises a power under subsection (1) or (3), the Secretary of State must publish the reasons for doing so.’.

Dr John Pugh

*Not called 229*

Clause 19, page 22, line 38, at end insert—

‘(i) the disclosure is necessary or expedient for the purposes of patient safety.’.

*Clause, as amended, agreed to.*

Mr Simon Burns

*Agreed to 84*

Clause 20, page 23, line 14, leave out from ‘when’ to end of line 15 and insert ‘the Board is notified in writing by the Secretary of State that the amount is allotted to it for that year.’.

Mr Simon Burns

*Agreed to 85*

Clause 20, page 23, leave out lines 21 to 26.

Mr Simon Burns

*Agreed to 86*

Clause 20, page 23, leave out lines 33 and 34.

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**Health and Social Care (Re-committed) Bill, *continued***

Mr Simon Burns

Clause 20, page 23, leave out lines 35 to 37.

*Agreed to* 87

Mr Simon Burns

Clause 20, page 23, line 38, leave out from beginning to end of line 5 on page 24.

*Agreed to* 88

Mr Simon Burns

Clause 20, page 24, leave out lines 6 to 15 and insert—

*Agreed to* 89**‘223D Financial duties of the Board: expenditure**

(1) The Board must ensure that total health expenditure in respect of each financial year does not exceed the aggregate of—

- (a) the amount allotted to the Board for that year under section 223B,
- (b) any sums received by the Board or commissioning consortia in that year under any provision of this Act (other than sums received by the Board under section 223B or by commissioning consortia under section 223H), and
- (c) any sums received by the Board or commissioning consortia in that year otherwise than under this Act for the purpose of enabling it or them to defray such expenditure.

(1A) In this section, “total health expenditure”, in relation to a financial year, means—

- (a) expenditure which is attributable to the performance by the Board of its functions in that year, other than sums paid by it under section 223H, and
- (b) expenditure which is attributable to the performance by commissioning consortia of their functions in that year.’.

Mr Simon Burns

Clause 20, page 24, line 17, after ‘the Board’, insert ‘or a commissioning consortium which is’.

*Agreed to* 90

Mr Simon Burns

Clause 20, page 24, line 19, leave out ‘expenditure within subsection (1)’ and insert ‘part of total health expenditure’.

*Agreed to* 91

Mr Simon Burns

Clause 20, page 24, line 21, leave out ‘under section 223B’ and insert ‘or a commissioning consortium under section 223B or (as the case may be) 223H’.

*Agreed to* 92

Mr Simon Burns

Clause 20, page 24, line 23, leave out ‘the expenditure of the Board’ and insert ‘total health expenditure’.

*Agreed to* 93

Mr Simon Burns

Clause 20, page 24, line 28, leave out from beginning to end of line 12 on page 25

*Agreed to* 94

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**Health and Social Care (Re-committed) Bill, *continued***

and insert—

**‘223DA Financial duties of the Board: controls on total resource use**

- (1) In this Chapter—
  - “total capital resource use”, in relation to a financial year, means the use of capital resources in that year by the Board and commissioning consortia (taken together);
  - “total revenue resource use”, in relation to a financial year, means the use of revenue resources in that year by the Board and commissioning consortia (taken together).
- (2) The Board must ensure that total capital resource use in a financial year does not exceed the amount specified by the Secretary of State.
- (3) The Board must ensure that total revenue resource use in a financial year does not exceed the amount specified by the Secretary of State.
- (4) The Secretary of State may give directions, in relation to a financial year, specifying descriptions of resources which must, or must not, be treated as capital resources or revenue resources for the purposes of this Chapter.
- (5) The Secretary of State may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must not be taken into account for the purposes of this Chapter.
- (6) The Secretary of State may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must be taken into account for the purposes of this section.
- (7) The amount specified for the purposes of subsection (2) or (3) may be varied only if—
  - (a) the Board agrees to the change, or
  - (b) the Secretary of State considers that there are exceptional circumstances which make the variation necessary.
- (8) Any reference in this Chapter to the use of capital resources or revenue resources is a reference to their expenditure, consumption or reduction in value.

**223DB Financial duties of the Board: additional controls on resource use**

- (1) The Secretary of State may direct the Board to ensure that total capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (2) The Secretary of State may direct the Board to ensure that total revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (3) The Secretary of State may direct the Board to ensure —
  - (a) that total revenue resource use in a financial year which is attributable to such prescribed matters relating to administration as are specified in the direction does not exceed an amount so specified;
  - (b) that the Board’s use of revenue resources in a financial year which is attributable to such prescribed matters relating to administration as are specified in the direction does not exceed an amount so specified.
- (4) The Secretary of State may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must, or must not, be taken into account for the purposes of subsection (1) or (as the case may be) subsection (2) or (3).
- (5) The Secretary of State may not give a direction under subsection (1) or (2) unless the direction is for the purpose of complying with a limit imposed by the Treasury.’

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**Health and Social Care (Re-committed) Bill, *continued***

*Clause, as amended, agreed to.*

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Mr Simon Burns

*Agreed to 95*

Clause 21, page 27, line 18, leave out ‘and’ and insert—

- ‘() that the applicants have made appropriate arrangements to ensure that the consortium will have a governing body which satisfies any requirements imposed by or under this Act and is otherwise appropriate, and’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Negated on division 5*

Clause 21, page 27, line 18, at end insert—

- ‘(ea) that the constitution contains provision for an executive board of the consortium, which must—
- (i) meet in public,
  - (ii) publish agendas and minutes of its meetings,
  - (iii) include appropriate representation of a range of clinicians among its membership,
  - (iv) include appropriate local democratic representation among its membership, and
  - (v) include appropriate patient representation among its membership,
- (eb) that the area specified by the constitution contains a sufficiently large population for the consortium to be able to commission health services for that population effectively.’.

Mr Simon Burns

*Agreed to 96*

Clause 21, page 29, line 28, at end insert—

**‘14IA Publication of constitution of consortia**

- (1) A commissioning consortium must publish its constitution.
- (2) If the constitution of a commissioning consortium is varied under section 14E or 14F, the consortium must publish the constitution as so varied.’.

Mr Simon Burns

*Agreed to 97*

Clause 21, page 29, line 35, at end insert—

- ‘() the publication of the constitutions of commissioning consortia under section 14IA.’.

Mr Simon Burns

*Agreed to 98*

Clause 21, page 29, line 35, at end insert—

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**Health and Social Care (Re-committed) Bill, *continued****'Governing bodies of consortia***14JA Governing bodies of commissioning consortia**

- (1) A commissioning consortium must have a governing body.
- (2) The main function of the governing body is to ensure that the consortium has made appropriate arrangements for ensuring that it complies with—
  - (a) its obligations under section 14K, and
  - (b) such generally accepted principles of good governance as are relevant to it.
- (3) The governing body also has—
  - (a) the function of determining the remuneration, fees and allowances payable to the employees of the consortium or to other persons providing services to it, and
  - (b) such other functions connected with the exercise of its main function as may be specified in the consortium's constitution or by regulations.
- (4) Only the following may be members of the governing body—
  - (a) a member of the consortium who is an individual;
  - (b) an individual appointed by virtue of regulations under section 14JC(2);
  - (c) an individual of a description specified in the constitution of the consortium.
- (5) A commissioning consortium may pay members of the governing body such remuneration and allowances as it considers appropriate.
- (6) Regulations may make provision requiring a commissioning consortium to obtain the approval of its governing body before exercising any functions specified in the regulations.
- (7) Regulations may make provision requiring governing bodies of commissioning consortia to publish, in accordance with the regulations, prescribed information relating to determinations made under subsection (3)(a).
- (8) The Board may publish guidance for governing bodies on the exercise of their function under subsection (3)(a).

**14JB Audit and remuneration committees of governing bodies**

- (1) The governing body of a commissioning consortium must have an audit committee and a remuneration committee.
- (2) The audit committee has—
  - (a) such functions in relation to the financial duties of the consortium as the governing body considers appropriate for the purpose of assisting it in discharging its function under section 14JA(2), and
  - (b) such other functions connected with the governing body's function under section 14JA(2) as may be specified in the consortium's constitution or by regulations.
- (3) The remuneration committee has—
  - (a) the function of making recommendations to the governing body as to the discharge of its function under section 14JA(3)(a), and
  - (b) such other functions connected with the governing body's function under section 14JA(2) as may be specified in the consortium's constitution or by regulations.

**14JC Regulations as to governing bodies of commissioning consortia**

- (1) Regulations may make provision specifying the minimum number of members of governing bodies of commissioning consortia.

**Health and Social Care (Re-committed) Bill, *continued***

- (2) Regulations may—
- (a) provide that the members of governing bodies must include the accountable officer of the consortium;
  - (b) provide that the members of governing bodies, or their audit or remuneration committees, must include—
    - (i) individuals who are health care professionals of a prescribed description;
    - (ii) individuals who are lay persons;
    - (iii) individuals of any other description which is prescribed;
  - (c) in relation to any description of individuals mentioned in regulations by virtue of paragraph (b), specify—
    - (i) the minimum number of individuals of that description who must be appointed;
    - (ii) the maximum number of such individuals who may be appointed;
  - (d) provide that the descriptions specified for the purposes of section 14JA(4)(c) may not include prescribed descriptions.
- (3) Regulations may make provision as to—
- (a) qualification and disqualification for membership of governing bodies or their audit or remuneration committees;
  - (b) how members are to be appointed;
  - (c) the tenure of members (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
  - (d) eligibility for re-appointment.
- (4) Regulations may make provision for the appointment of chairs and deputy chairs of governing bodies or their audit or remuneration committees, including provision as to—
- (a) qualification and disqualification for appointment;
  - (b) tenure of office (including the circumstances in which the chair or deputy chair ceases to hold office or may be removed or suspended from office);
  - (c) eligibility for re-appointment.
- (5) Regulations may—
- (a) make provision as to the matters which must be included in the constitutions of commissioning consortia under paragraph 5B of Schedule 1A;
  - (b) make such other provision about the procedure of governing bodies or their audit or remuneration committees as the Secretary of State considers appropriate, including provision about the frequency of meetings.
- (6) In this section—
- “health care professional” means an individual who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;
  - “lay person” means an individual who is not—
    - (a) a member of the consortium,
    - (b) a health care professional, or
    - (c) an individual of a prescribed description.’

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**Health and Social Care (Re-committed) Bill, *continued***

*Clause, as amended, agreed to.*

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Mr Simon Burns

*Agreed to 99*

Schedule 2, page 255, line 11, at end insert—

‘() The name of the consortium must comply with such requirements as may be prescribed.’

Mr Simon Burns

*Agreed to 100*

Schedule 2, page 255, line 14, leave out ‘remuneration and the other’.

Mr Simon Burns

*Agreed to 101*

Schedule 2, page 255, line 24, leave out ‘or’ and insert—

‘() its governing body, or’.

Mr Simon Burns

*Agreed to 102*

Schedule 2, page 255, line 30, at end insert—

‘() The constitution must also specify the arrangements made by the commissioning consortium for securing that there is transparency about the decisions of the consortium and the manner in which they are made.’

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not moved 51*

Schedule 2, page 255, line 30, at end insert—

‘(3) The constitution must make provision for dealing with any other personal and prejudicial interests of members or employees.’

Mr Simon Burns

*Agreed to 103*

Schedule 2, page 255, line 31, after ‘by’, insert ‘virtue of’.

Mr Simon Burns

*Agreed to 104*

Schedule 2, page 255, line 33, at end insert—

*‘Governing bodies of consortia*

5A (1) The constitution must specify the arrangements made by the commissioning consortium for the discharge of the functions of its governing body.

(2) The arrangements—

(a) must include provision for the appointment of the audit committee and remuneration committee of the governing body, and

(b) may include provision for the appointment of other committees or sub-committees of the governing body.

**Health and Social Care (Re-committed) Bill, continued**

- (3) Arrangements under sub-paragraph (2)(a) may include provision for the audit committee to include individuals who are not members of the governing body.
  - (4) Arrangements under sub-paragraph (2)(b) may include provision for a committee or sub-committee to include individuals who are not members of the governing body but are—
    - (a) members of the consortium, or
    - (b) individuals of a description specified in the constitution.
  - (5) The consortium may pay travel or other allowances to members of any committee or sub-committee of the governing body who are not members of the governing body.
  - (6) The arrangements may include provision for any functions of the governing body to be exercised on its behalf by—
    - (a) any committee or sub-committee of the governing body,
    - (b) a member of the governing body,
    - (c) a member of the consortium who is an individual (but is not a member of the governing body), or
    - (d) an individual of a description specified in the constitution.
- 5B (1) The constitution must specify the procedure to be followed by the governing body in making decisions.
- (2) The constitution must, in particular, make provision for dealing with conflicts of interests of members of the governing body.
- (3) The constitution must also specify the arrangements made by the commissioning consortium for securing that there is transparency about the decisions of the governing body and the manner in which they are made.
- (4) The provision made under sub-paragraph (3) must include provision for meetings of governing bodies to be open to the public, except where the consortium considers that it would not be in the public interest to permit members of the public to attend a meeting or part of a meeting.’

Mr Simon Burns

*Agreed to 105*

Schedule 2, page 256, line 14, leave out ‘it may determine’ and insert ‘its governing body determines under section 14JA(3)(a)’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Negated on division 52*

Schedule 2, page 256, line 14, after ‘determine’, insert ‘having due regard to the NHS pay scales agreed following recommendations by the NHS Pay Review Body and the Doctors and Dentists Pay Review Body, or any successor bodies,’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Negated on division 53*

Schedule 2, page 256, line 16, after ‘determine’, insert ‘having due regard to agreements made by the NHS Staff Council’.

Mr Simon Burns

*Agreed to 106*

Schedule 2, page 256, leave out lines 18 to 23.

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**Health and Social Care (Re-committed) Bill, continued**

Mr Simon Burns

*Agreed to* **107**

Schedule 2, page 257, line 20, leave out ‘223K’ and insert ‘223JA’.

*Schedule, as amended, agreed to.*

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Mr Simon Burns

*Agreed to* **108**

Clause 22, page 30, line 3, at end insert—

**‘14JD Duty to promote NHS Constitution**

- (1) Each commissioning consortium must, in the exercise of its functions—
  - (a) act with a view to securing that health services are provided in a way which promotes the NHS Constitution, and
  - (b) promote awareness of the NHS Constitution among patients, staff and members of the public.
- (2) In this section—
  - “health services” means services provided as part of the health service;
  - “patients” and “staff” have the same meanings as in Chapter 1 of Part 1 of the Health Act 2009 (see section 3(7) of that Act).’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called* **6**

Clause 22, page 30, line 6, at end insert—

**‘14KA Duty as to commissioning of services**

In carrying out its duties in respect of the commissioning of services each commissioning consortium must in the exercise of its functions have regard to the interdependency of services and the impact that the arrangements for the provision for one service may have on the financial and clinical sustainability of other services.’.

Mr Simon Burns

*Agreed to* **109**

Clause 22, page 30, line 28, leave out ‘, promoting patient involvement etc.’.

Mr Simon Burns

*Agreed to* **110**

Clause 22, page 30, leave out lines 35 to 38.

Mr Simon Burns

*Agreed to* **111**

Clause 22, page 30, line 40, at end insert—

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**Health and Social Care (Re-committed) Bill, *continued***
**‘14NA Duty to promote involvement of each patient**

- (1) Each commissioning consortium must, in the exercise of its functions, promote the involvement of patients, and their carers and representatives (if any), in decisions about the provision of health services to the patients.
- (2) The Board may publish guidance for commissioning consortia on the discharge of their duties under this section.
- (3) A commissioning consortium must have regard to any guidance published by the Board under subsection (2).
- (4) In this section, “health services” has the same meaning as in section 14N.

**14NB Duty as to patient choice**

- (1) Each commissioning consortium must, in the exercise of its functions, act with a view to enabling patients to make choices with respect to aspects of health services provided to them.
- (2) In this section, “health services” has the same meaning as in section 14N.’

Mr Simon Burns

*Agreed to 112*

Clause 22, page 31, line 2, leave out from ‘must’ to ‘advice’ in line 3 and insert ‘obtain’.

Mr Simon Burns

*Agreed to 113*

Clause 22, page 31, line 4, leave out from ‘persons’ to end of line 5 and insert ‘who (taken together) have a broad range of professional expertise in—

- (a) the prevention, diagnosis or treatment of illness, and
- (b) the protection or improvement of public health.’

Mr Simon Burns

*Agreed to 114*

Clause 22, page 31, line 5, at end insert—

- ‘(2) The Board may publish guidance for commissioning consortia on the discharge of their duties under subsection (1).
- (3) A commissioning consortium must have regard to any guidance published by the Board under subsection (2).’

Mr Simon Burns

*Agreed to 115*

Clause 22, page 31, line 5, at end insert—

**‘14OA Duty to promote innovation**

- (1) Each commissioning consortium must, in the exercise of its functions, promote innovation in the provision of health services (including innovation in the arrangements made for their provision).
- (2) In this section, “health services” means services provided as part of the health service.’

Mr Simon Burns

*Agreed to 116*

Clause 22, page 31, line 5, at end insert—

**Health and Social Care (Re-committed) Bill, continued****‘14OB Duty in respect of research**

Each commissioning consortium must, in the exercise of its functions, have regard to the need to promote—

- (a) research on matters relevant to the health service, and
- (b) the use in the health service of evidence obtained from research.’

Mr Simon Burns

*Agreed to* 117

Clause 22, page 31, line 5, at end insert—

**‘14OC Duty as to promoting integration**

- (1) Each commissioning consortium must exercise its functions with a view to securing that health services are provided in an integrated way where it considers that this would—
  - (a) improve the quality of those services (including the outcomes that are achieved from their provision),
  - (b) reduce inequalities between persons with respect to their ability to access those services, or
  - (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.
- (2) Each commissioning consortium must exercise its functions with a view to securing that the provision of health services is integrated with the provision of health-related services or social care services where it considers that this would—
  - (a) improve the quality of the health services (including the outcomes that are achieved from the provision of those services),
  - (b) reduce inequalities between persons with respect to their ability to access those services, or
  - (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.
- (3) In this section—
  - “health services” means services provided as part of the health service;
  - “health-related services” means services that may have an effect on the health of individuals but are not health services or social care services;
  - “social care services” means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970).’

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called* 7

Clause 22, page 31, line 5, at end insert—

**‘14OA Duty as to conflicts of interest**

- (1) Each commissioning consortium must exercise its functions so as to ensure that any conflicts of interest, and personal and prejudicial interests are dealt with.
- (2) The Secretary of State must issue guidance on how conflicts of interest and personal and prejudicial interests should be dealt with by commissioning consortia as part of their decision making.’

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**Health and Social Care (Re-committed) Bill, *continued***

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called* 8

Clause 22, page 31, line 12, leave out from second ‘are’ to end of line 13 and insert ‘fully consulted—’.

Mr Simon Burns

*Agreed to* 118

Clause 22, page 31, line 18, leave out ‘a significant’ and insert ‘an’.

Mr Simon Burns

*Agreed to* 119

Clause 22, page 31, line 24, at end insert—

- ‘( ) The commissioning consortium must include in its constitution—
  - (a) a description of the arrangements made by it under subsection (2), and
  - (b) a statement of the principles which it will follow in implementing those arrangements.’.

Mr Simon Burns

*Agreed to* 120

Clause 22, page 32, line 10, at end insert—

- ‘( ) Arrangements made under this section do not affect the liability of a commissioning consortium for the exercise of any of its functions.’.

Mr Simon Burns

*Agreed to* 121

Clause 22, page 32, line 22, at end insert—

- ‘( ) Arrangements made by virtue of this section do not affect the liability of a commissioning consortium for the exercise of any of its functions.’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called* 9

Clause 22, page 32, line 28, at end insert—

- ‘(1A) The Secretary of State must publish guidance to commissioning consortia about its exercise of powers under subsection (1), to which each commissioning consortia must have regard.’.

Mr Simon Burns

*Agreed to* 122

Clause 22, page 33, line 42, at end insert—

- ‘( ) Arrangements made under this section do not affect the liability of a commissioning consortium for the exercise of any of its functions.’.

Mr Simon Burns

*Agreed to* 123

Clause 22, page 34, line 29, leave out ‘section 14L’ and insert ‘sections 14L and 14P’.

**Health and Social Care (Re-committed) Bill, continued**

Mr Simon Burns

Clause 22, page 34, line 30, leave out '223K' and insert '223JA'. *Agreed to 124*

Mr Simon Burns

Clause 22, page 34, line 31, leave out from beginning to end of line 3 on page 35. *Agreed to 125*

Liz Kendall  
Emily Thornberry  
Owen Smith

Clause 22, page 34, line 41, leave out paragraph (b) and insert— *Not called 10*  
 (b) the consortium must provide information on its plan in response to the Health and Wellbeing Board, and  
 (c) before submitting the plan to the National Commissioning Board, the consortium must obtain the consent of the Health and Wellbeing Board.?

Mr Simon Burns

Clause 22, page 35, leave out lines 9 to 22. *Agreed to 126*

Mr Simon Burns

Clause 22, page 35, line 24, leave out 'subsections (10) to (13)' and insert 'this section and sections 14YA and 14YB'. *Agreed to 127*

Mr Simon Burns

Clause 22, page 35, line 27, leave out 'section' and insert 'Chapter'. *Agreed to 128*

Mr Simon Burns

Clause 22, page 35, line 27, after 'Board"', insert ', in relation to a commissioning consortium,?'. *Agreed to 129*

Mr Simon Burns

Clause 22, page 35, line 30, at end insert— *Agreed to 130*

**'14YA Revision of commissioning plans**

- (1) A commissioning consortium may revise a plan published by it under section 14Y.
- (2) If the commissioning consortium revises the plan in a way which it considers to be significant—
  - (a) the consortium must publish the revised plan, and
  - (b) subsections (8) and (9) of section 14Y apply in relation to the revised plan as they apply in relation to the original plan.
- (3) If the commissioning consortium revises the plan in any other way, the consortium must—
  - (a) publish a document setting out the changes it has made to the plan, and

**Health and Social Care (Re-committed) Bill, *continued***

- (b) give a copy of the document to the Board and each relevant Health and Wellbeing Board.’.

Mr Simon Burns

*Agreed to* 131

Clause 22, page 35, line 30, at end insert—

**‘14YB Consultation about commissioning plans**

- (1) This section applies where a commissioning consortium is—
  - (a) preparing a plan under section 14Y, or
  - (b) revising a plan under section 14YA in a way which it considers to be significant.
- (2) The commissioning consortium must consult individuals for whom it has responsibility for the purposes of section 3.
- (3) The consortium must involve each relevant Health and Wellbeing Board in preparing or revising the plan.
- (4) The consortium must, in particular—
  - (a) give each relevant Health and Wellbeing Board a draft of the plan or (as the case may be) the plan as revised, and
  - (b) consult each such Board on whether the draft takes proper account of each joint health and wellbeing strategy published by it which relates to the period (or any part of the period) to which the plan relates.
- (5) Where a Health and Wellbeing Board is consulted under subsection (4)(b), the Health and Wellbeing Board must give the consortium its opinion on the matter mentioned in that subsection.
- (6) Where a Health and Wellbeing Board is consulted under subsection (4)(b)—
  - (a) it may also give the Board its opinion on the matter mentioned in that subsection, and
  - (b) if it does so, it must give the consortium a copy of its opinion.
- (7) If a commissioning consortium revises or further revises a draft after it has been given to each relevant Health and Wellbeing Board under subsection (4), subsections (4) to (6) apply in relation to the revised draft as they apply in relation to the original draft.
- (8) A commissioning consortium must include in a plan published under section 14Y(7) or 14YA(2)—
  - (a) a summary of the views expressed by individuals consulted under subsection (2),
  - (b) an explanation of how the consortium took account of those views, and
  - (c) a statement of the final opinion of each relevant Health and Wellbeing Board consulted in relation to the plan under subsection (4).
- (9) In this section, “joint health and wellbeing strategy” means a strategy under section 116A of the Local Government and Public Involvement in Health Act 2007 which is prepared and published by a Health and Wellbeing Board by virtue of section 193 of the Health and Social Care Act 2011.’.

Mr Simon Burns

*Agreed to* 132

Clause 22, page 35, line 30, at end insert—

**‘14YC Opinion of Health and Wellbeing Boards on commissioning plans**

- (1) A relevant Health and Wellbeing Board—

**Health and Social Care (Re-committed) Bill, continued**

- (a) may give the Board its opinion on whether a plan published by a commissioning consortium under section 14Y(7) or 14YA(2) takes proper account of each joint health and wellbeing strategy published by the Health and Wellbeing Board which relates to the period (or any part of the period) to which the plan relates, and
  - (b) if it does so, must give the consortium a copy of its opinion.
- (2) In this section, “joint health and wellbeing strategy” has the same meaning as in section 14YB.’.

Mr Simon Burns

Clause 22, page 35, line 35, after ‘particular’, insert ‘—  
(a) ’.

*Agreed to* 133

Mr Simon Burns

Clause 22, page 35, line 36, at end insert ‘, and—

- (b) review the extent to which the consortium has contributed to the delivery of any joint health and wellbeing strategy to which it was required to have regard under section 116B(1)(b) of the Local Government and Public Involvement in Health Act 2007.

- (c) In preparing the review required by subsection (2)(b), the consortium must consult each relevant Health and Wellbeing Board.’.

*Agreed to* 134

Mr Simon Burns

Clause 22, page 36, line 9, leave out ‘and’ and insert—  
(c) section 14O.’

*Agreed to* 135

Mr Simon Burns

Clause 22, page 36, line 9, at end insert—  
(c) section 14P, and’

*Agreed to* 136

Mr Simon Burns

Clause 22, page 36, line 10, leave out ‘223K’ and insert ‘223JA’.

*Agreed to* 137

Mr Simon Burns

Clause 22, page 36, line 10, at end insert ‘, and  
(c) section 116B(1) of the Local Government and Public Involvement in Health Act 2007 (duty to have regard to assessments and strategies).’.

*Agreed to* 138

Mr Simon Burns

Clause 22, page 36, line 10, at end insert—

- (c) In conducting a performance assessment, the Board must consult each relevant Health and Wellbeing Board as to its views on the consortium’s contribution to the delivery of any joint health and wellbeing strategy to which the consortium was required to have regard under section 116B(1)(b) of that Act of 2007.’.

*Agreed to* 139

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**Health and Social Care (Re-committed) Bill, *continued***

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called* 37

Clause 22, page 36, line 10, at end insert—  
'(c) section 14OA'.

Mr Simon Burns

*Agreed to* 140

Clause 22, page 40, line 3, at end insert—  
“‘relevant Health and Wellbeing Board’, in relation to a commissioning consortium, has the meaning given by section 14Y(16);’.

*Clause, as amended, agreed to.*

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Mr Simon Burns

*Agreed to* 141

Clause 23, page 40, line 41, leave out ‘general’ and insert ‘expenditure’.

Mr Simon Burns

*Agreed to* 142

Clause 23, page 41, line 24, leave out from beginning to end of line 10 on page 42 and insert—

- ‘(1) For the purposes of this section and section 223JA—
- (a) a commissioning consortium’s capital resource use, in relation to a financial year, means the consortium’s use of capital resources in that year, and
  - (b) a commissioning consortium’s revenue resource use, in relation to a financial year, means the consortium’s use of revenue resources in that year.
- (2) A commissioning consortium must ensure that its capital resource use in a financial year does not exceed the amount specified by direction of the Board.
  - (3) A commissioning consortium must ensure that its revenue resource use in a financial year does not exceed the amount specified by direction of the Board.
  - (4) Any directions given in relation to a financial year under subsection (6) of section 223DA apply (in relation to that year) for the purposes of this section as they apply for the purposes of that section.
  - (5) The Board may by directions make provision for determining to which consortium a use of capital resources or revenue resources is to be attributed for the purposes of this section or section 223JA.
  - (6) Where the Board gives a direction under subsection (2) or (3), it must notify the Secretary of State.

**223JA Financial duties of consortia: additional controls on resource use**

- (1) The Board may direct a commissioning consortium to ensure that its capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (2) The Board may direct a commissioning consortium to ensure that its revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.

**Health and Social Care (Re-committed) Bill, *continued***

- (3) The Board may direct a commissioning consortium to ensure that its revenue resource use in a financial year which is attributable to prescribed matters relating to administration does not exceed an amount specified in the direction.
- (4) The Board may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must, or must not, be taken into account for the purposes of subsection (1) or (as the case may be) subsection (2) or (3).
- (5) The Board may not exercise the power conferred by subsection (1) or (2) in relation to particular matters unless the Secretary of State has given a direction in relation to those matters under subsection (1) of section 223DB or (as the case may be) subsection (2) of that section.
- (6) The Board may not exercise the power conferred by subsection (3) in relation to prescribed matters relating to administration unless the Secretary of State has given a direction in relation to those matters under subsection (3)(a) of section 223DB.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called* 38

Clause 23, page 42, line 11, leave out from beginning to end of line 3 on page 43.

Mr Simon Burns

*Agreed to* 143

Clause 23, page 42, line 11, leave out 'performance' and insert 'quality'.

Mr Simon Burns

*Agreed to* 144

Clause 23, page 42, line 13, leave out from 'consortium' to end of line 15.

Mr Simon Burns

*Agreed to* 145

Clause 23, page 42, line 15, at end insert—

- (1B) For the purpose of determining whether to make a payment under subsection (1) and (if so) the amount of the payment, the Board must take into account at least one of the following factors—
  - (a) the quality of relevant services provided during the financial year;
  - (b) any improvement in the quality of relevant services provided during that year (in comparison to the quality of relevant services provided during previous financial years);
  - (c) the outcomes identified during the financial year as having been achieved from the provision at any time of relevant services;
  - (d) any improvement in the outcomes identified during that financial year as having been so achieved (in comparison to the outcomes identified during previous financial years as having been so achieved).
- (1C) For that purpose, the Board may also take into account either or both of the following factors—
  - (a) relevant inequalities identified during that year;
  - (b) any reduction in relevant inequalities identified during that year (in comparison to relevant inequalities identified during previous financial years).

**Health and Social Care (Re-committed) Bill, continued**

- (1D) Regulations may make provision as to the principles or other matters that the Board must or may take into account in assessing any factor mentioned in subsection (1B) or (1C).
- (1E) Regulations may provide that, in prescribed circumstances, the Board may, if it considers it appropriate to do so—
- (a) not make a payment that would otherwise be made to a consortium under subsection (1), or
  - (b) reduce the amount of such a payment.
- (1F) Regulations may make provision as to how payments under subsection (1) may be spent (which may include provision as to circumstances in which the whole or part of any such payments may be distributed to members of the commissioning consortium).
- (1G) A commissioning consortium must publish an explanation of how the consortium has spent any payment made to it under subsection (1).
- (1H) In this section—
- “relevant services” means services provided in pursuance of arrangements made by the consortium—
- (a) under section 3 or 3A or Schedule 1, or
  - (b) by virtue of section 7A or 12;
- “relevant inequalities” means inequalities between the persons for whose benefit relevant services are at any time provided with respect to—
- (a) their ability to access the services, or
  - (b) the outcomes achieved for them by their provision.’.

Mr Simon Burns

*Agreed to 146*

Clause 23, page 42, line 16, leave out from beginning to end of line 3 on page 43.

*Clause, as amended, and Clauses 24, 28 and 29 agreed to on division.*

Liz Kendall  
Emily Thornberry  
Owen Smith  
Debbie Abrahams

*Not called 39*

Clause 28, page 46, line 38, at end add—

- (3) This section comes into force on a date to be specified by order by the Secretary of State.
- (4) The time specified in subsection (3) must be after such time as the Secretary of State is satisfied that the workforce education and training functions of strategic health authorities are being fulfilled by another body.’.

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Health and Social Care (Re-committed) Bill, *continued*

Mr Simon Burns

Schedule 3, page 262, line 4, leave out '223J and 223K(2)' and insert 'and 223J(3)'. *Agreed to* 147

*Schedule, as amended, agreed to.*

[Adjourned until Thursday at 9.00 am