



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 5

#### PUBLIC INVOLVEMENT AND LOCAL GOVERNMENT

#### CHAPTER 1

#### PUBLIC INVOLVEMENT

#### *Local Healthwatch organisations*

#### **185 Independent advocacy services**

- (1) After section 223 of the Local Government and Public Involvement in Health Act 2007 insert—

#### **“223A Independent advocacy services**

- (1) Each local authority must make such arrangements as it considers appropriate for the provision of independent advocacy services in relation to its area.
- (2) In this section, “independent advocacy services” means services providing assistance (by way of representation or otherwise) to persons making or intending to make—
- a complaint under a procedure operated by a health service body or independent provider;
  - a complaint under section 113(1) or (2) of the Health and Social Care (Community Health and Standards) Act 2003;
  - a complaint to the Health Service Commissioner for England;
  - a complaint to the Public Services Ombudsman for Wales which relates to a Welsh health body;

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*Status: Point in time view as at 27/03/2012. This version of this provision has been superseded.*

*Changes to legislation: Health and Social Care Act 2012, Section 185 is up to date with all changes known to be in force on or before 18 June 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)*

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- (e) a complaint under section 73C(1) of the National Health Service Act 2006;
  - (f) a complaint to a Local Commissioner under Part 3 of the Local Government Act 1974 about a matter which could be the subject of a complaint under section 73C(1) of the National Health Service Act 2006; or
  - (g) a complaint of such description as the Secretary of State may by regulations prescribe which relates to the provision of services as part of the health service and—
    - (i) is made under a procedure of a description prescribed in the regulations, or
    - (ii) gives rise, or may give rise, to proceedings of a description prescribed in the regulations.
- (3) Each local authority may make such other arrangements as it considers appropriate for the provision of services in relation to its area providing assistance to individuals in connection with complaints relating to the provision of services as part of the health service.
- (4) Arrangements under this section may not provide for a person to make arrangements for the provision of services by a Local Healthwatch organisation.
- (5) In making arrangements under this section, a local authority must have regard to the principle that the provision of services under the arrangements or arrangements made in pursuance of the arrangements should, so far as practicable, be independent of any person who is—
- (a) the subject of a relevant complaint; or
  - (b) involved in investigating or adjudicating on such a complaint.
- (6) A local authority may make payments to—
- (a) a person providing services under arrangements under this section;
  - (b) a person arranging for the provision of services in pursuance of arrangements under this section;
  - (c) a person providing services under arrangements made in pursuance of arrangements under this section.
- (7) The Secretary of State may by regulations make provision requiring a person providing services under arrangements under this section or arrangements made in pursuance of the arrangements to have cover against the risk of a claim in negligence arising out of the provision of the services.
- (8) The Secretary of State may give directions to a local authority about the exercise of its functions under this section.
- (9) A direction under subsection (8) may be varied or revoked.
- (10) In this section—
- “the health service” has the same meaning as in the National Health Service Act 2006;
  - “health service body” means—

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- (a) in relation to England, a body which, under section 2(1) of the Health Service Commissioners Act 1993, is subject to investigation by the Health Service Commissioner for England;
  - (b) in relation to Wales, a Welsh health service body (within the meaning of the Public Services Ombudsman (Wales) Act 2005);
- “independent provider” means—
- (a) in relation to England, a person who, under section 2B(1) of the Health Service Commissioners Act 1993, is subject to investigation by the Health Service Commissioner for England;
  - (b) in relation to Wales, a person who is an independent provider in Wales (within the meaning of the Public Services Ombudsman (Wales) Act 2005);
- “Welsh health body” means—
- (a) a Local Health Board,
  - (b) an NHS trust managing a hospital or other establishment or facility in Wales,
  - (c) a Special Health Authority not discharging functions only or mainly in England,
  - (d) an independent provider in Wales (within the meaning of the Public Services Ombudsman (Wales) Act 2005),
  - (e) a family health service provider in Wales (within the meaning of that Act), or
  - (f) a person with functions conferred under section 113(2) of the Health and Social Care (Community Health and Standards) Act 2003.”
- (2) Omit section 248 of the National Health Service Act 2006 (arrangements by the Secretary of State for the provision of independent advocacy arrangements).
  - (3) In section 134 of the Mental Health Act 1983 (correspondence of patients), in subsection (3A)(b)(ii), for “section 248 of the National Health Service Act 2006” substitute “section 223A of the Local Government and Public Involvement in Health Act 2007”.
  - (4) In section 59 of the Safeguarding Vulnerable Groups Act 2006 (vulnerable adults), in subsection (10)(e), for “section 248 of the National Health Service Act 2006 (c. 41)” substitute “section 223A of the Local Government and Public Involvement in Health Act 2007”.

#### Commencement Information

**II** S. 185 partly in force; s. 185 in force for specified purposes at Royal Assent, see s. 306(1)(d)

**Status:**

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