

SCHEDULES

SCHEDULE 14

Section 123

PROHIBITION ON DISCLOSURE OF HSSIB MATERIAL: EXCEPTIONS

Disclosures for purposes of investigations

- 1 (1) The HSSIB, or an individual connected with the HSSIB, may disclose protected material to an individual connected with the HSSIB if—
 - (a) the person making the disclosure, or
 - (b) an authorised person,reasonably believes that the disclosure is necessary for the purposes of the carrying out of the HSSIB’s investigation function.
- (2) In this paragraph “authorised person” means an individual connected with the HSSIB who is authorised by the HSSIB for the purposes of this paragraph.
- 2 The HSSIB, or an individual connected with the HSSIB, may disclose protected material to a person not connected with the HSSIB if the Chief Investigator reasonably believes that the disclosure is necessary for the purposes of the carrying out of the HSSIB’s investigation function.

Disclosures relating to prosecution or investigation of offences

- 3 The HSSIB, or an individual connected with the HSSIB, may disclose protected material to a person if the Chief Investigator reasonably believes that the disclosure is necessary for the purposes of the prosecution or investigation of an offence under section 121 (offences relating to investigations) or 124 (unlawful disclosure).

Disclosures relating to safety risks

- 4 The HSSIB, or an individual connected with the HSSIB, may disclose protected material to a person where—
 - (a) the Chief Investigator reasonably believes that the disclosure of the material is necessary to address a serious and continuing risk to the safety of any patient or to the public,
 - (b) the Chief Investigator reasonably believes that the person is in a position to address the risk, and
 - (c) the disclosure is only to the extent necessary to enable the person to take steps to address the risk.

Disclosure by order of the High Court

- 5 (1) A person may apply to the High Court for an order that any protected material be disclosed by the HSSIB to the person for the purposes specified in the application.

Status: This is the original version (as it was originally enacted).

- (2) Those purposes may include onward disclosure by the person making the application to a person specified in the application.
- (3) The HSSIB may make representations to the High Court about any application under this paragraph.
- (4) The High Court may make an order on an application under this paragraph only if it determines that the interests of justice served by the disclosure outweigh—
 - (a) any adverse impact on current and future investigations by deterring persons from providing information for the purposes of investigations, and
 - (b) any adverse impact on securing the improvement of the safety of health care services provided to patients in England.

Exercise of Chief Investigator’s functions

- 6 (1) The Chief Investigator may arrange for the Chief Investigator’s functions under any provision of this Schedule to be exercised by an investigator.
- (2) An arrangement under this paragraph may relate to a particular case, a particular class of case or all cases.

Guidance

- 7 (1) The HSSIB must publish guidance as to—
 - (a) when it might be appropriate for protected material to be disclosed under paragraph 2, 3, or 4,
 - (b) the types of protected material which it might be appropriate to disclose under any such provision, and
 - (c) the processes which should be used when disclosing protected material under any such provision.
- (2) If the HSSIB revises the guidance, the HSSIB must publish it as revised.