

Health and Care Bill

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Third Marshalled List]

Amendment
No.

Schedule 10

LORD HENDY

201A★

Page 215, line 14, at end insert –

“(4A) Rules under subsection (1) must –

- (a) provide that the agreed price properly accommodates the establishment and maintenance of terms and conditions of employment of workers of the providers of services mentioned in subsection (1) which are and will remain at any point in time equivalent to the terms and conditions of employment enjoyed by NHS staff employed in the public sector;
- (b) ensure that the terms and conditions of all workers affected are negotiated between trade unions representing NHS staff employed in the public sector and the employers of those staff;
- (c) require that the agreed price is payable only so long as and in respect of periods in which the terms and conditions of employment of workers of the providers of services mentioned in subsection (1) are at every point in time equivalent to the terms and conditions of employment enjoyed by NHS staff employed in the public sector; and
- (d) provide that the prices agreed by commissioners for the provision of health care services are the same for all providers of equivalent services whether in the public or private sector.”

Member’s explanatory statement

This amendment is intended to ensure that privatisation of NHS services do not undermine the terms and conditions of equivalent workers in the NHS.

201B★

Page 216, line 11, after “following” insert “on the likely impact of the proposed scheme”

Member's explanatory statement

This amendment, along with another amendment to Schedule 10, page 216 in the name of Lord Hendy, is intended to expand the scope of consultations and ensure that the relevant workers, through their unions, are included in them.

201C★ Page 216, line 13, at end insert —

- “(ba) all trade unions representing workers employed —
- (i) by or in services for which each integrated care board is responsible;
 - (ii) by each relevant provider; or
 - (iii) by any other provider of equivalent services in the public sector.”

Member's explanatory statement

This amendment, along with another amendment to Schedule 10, page 216 in the name of Lord Hendy, is intended to expand the scope of consultations and ensure that the relevant workers, through their unions, are included in them.

Clause 140**LORD KAMALL**

232A★ Page 116, line 41, leave out from beginning to end of line 9 on page 117 and insert —

- “(a) in relation to eligible needs met by a local authority, to any amount the local authority charged the adult under section 14(1)(a) or 48(5) for meeting those needs;
- (b) in relation to eligible needs met by a person other than a local authority, to what the cost of meeting those eligible needs would have been to the local authority that was the responsible local authority when the needs were met.”

Member's explanatory statement

This amendment de-couples the costs that accrue towards the care cap from the costs specified in the budgets and simplifies the drafting for determining those costs that accrue.

232B★ Page 117, leave out lines 13 and 14 and insert “at any time after a local authority was required to carry out a needs assessment that resulted in the preparation of a personal budget or an independent personal budget for the adult”

Member's explanatory statement

This amendment means that, where there is a delay in carrying out a needs assessment or a delay in preparing a budget, costs incurred by an adult after the local authority was required to carry out a needs assessment will accrue towards the care cap.

234A★ Page 117, line 25, after “Where” insert “, following a determination under section 13(1),”

Member's explanatory statement

This amendment clarifies that a local authority is only required to prepare an independent personal budget when there has been an eligibility determination.

- 234B★** Page 117, leave out lines 30 to 32 and insert –
- “(b) the adult has at any time either –
 - (i) asked a local authority that was, at that time, the responsible local authority, to prepare an independent personal budget, or
 - (ii) had needs met by a local authority as mentioned in section 24(1).”

Member’s explanatory statement

This amendment means that the responsible local authority will automatically be required to prepare an independent personal budget where an adult with eligible needs has a personal budget and then no longer has any needs met by a local authority.

- 234C★** Page 117, leave out lines 37 to 42 and insert –
- “(a) the current cost to the local authority of meeting those needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and
 - (c) the balance, if any, of the cost referred to in paragraph (a).”

Member’s explanatory statement

This amendment means that the personal budget will specify the cost the local authority is incurring in meeting needs, the cost the local authority is charging the adult under section 14(1)(a) for meeting those needs and the balance of the two costs.

- 234D★** Page 117, leave out lines 45 to 48 and insert –
- “(a) the current cost to the local authority of meeting those eligible needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and”

Member’s explanatory statement

This amendment means that the personal budget will specify the cost the local authority is incurring in meeting eligible needs and the cost the local authority is charging the adult under section 14(1)(a) for meeting those eligible needs.

- 234E★** Page 118, line 3, after “adult” insert “has needs which a local authority is required or decides to meet as mentioned in section 24(1) and”

Member’s explanatory statement

This amendment clarifies that the personal budget is only required to specify costs in respect of eligible needs which are not being met by any local authority, if a local authority is meeting some of the adult’s needs.

- 234F★** Page 118, leave out lines 5 and 6 and insert –
- “(a) what the current cost would be to the responsible local authority of meeting those eligible needs, and”

Member’s explanatory statement

This amendment means that, in relation to eligible needs that are not being met by a local authority, the personal budget must specify what it would currently cost the responsible local authority to meet those needs.

234G★ Page 118, leave out lines 9 to 13***Member's explanatory statement***

This amendment leaves out language that is no longer needed in light of the amendment to page 117, lines 37 to 42 and the amendment to page 117, lines 45 to 48 that both appear in the Minister's name.

234H★ Page 118, line 17, leave out from beginning to “(but” in line 18 and insert “what the current cost would be to the responsible local authority of meeting the adult's eligible needs”***Member's explanatory statement***

This amendment means that, in relation to eligible needs that are not being met by a local authority, the independent personal budget must specify what it would currently cost the responsible local authority to meet those needs.

234J★ Page 118, line 21, after “authority” insert “or at any time when the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1)”***Member's explanatory statement***

This amendment clarifies that the independent personal budget does not need to specify costs in respect of eligible needs which are not being met by any local authority if a local authority is meeting some of the adult's needs (those costs will be in the adult's personal budget).

234K★ Page 118, line 22, leave out paragraph (b)***Member's explanatory statement***

This amendment leaves out language that is no longer needed in light of the amendment to page 118, line 17 that appears in the Minister's name.

234L★ Page 118, line 32, leave out subsections (7) and (8) and insert—

“(7) In section 31 (adults with capacity to request direct payments), in subsection (1), for paragraph (a) substitute—

“(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.

(8) In section 32 (adults without capacity to request direct payments), in subsection (1), for paragraph (a) substitute—

“(a) a personal budget for an adult specifies an amount under section 26(1)(c) in respect of any needs, and”.

Member's explanatory statement

This amendment is consequential on the amendment to page 117, lines 37 to 42 that appears in the Minister's name.

After Clause 148

BARONESS FINLAY OF LLANDAFF

297H★ Insert the following new Clause—**“Retention of human tissues**

After section 11 of the Human Tissue Act 2004 insert—

“11A Tissue samples becoming part of medical records of deceased adults

- (1) This section applies to tissue samples removed from the body of a deceased adult (or from an organ which was removed from the body) during an examination of the body carried out on or after the day on which this section comes into force for the purposes of the functions of, or under the authority of, the Coroner.
- (2) If the NHS Trust or Health Board responsible for the administration of the hospital in which an examination referred to in subsection (1) was carried out receives a notice in writing from the Coroner that a tissue sample specified in the notice and removed from the body of a deceased adult so specified is no longer required for the purposes of the functions of the Coroner, on the date of the notice the tissue sample becomes, and accordingly must be retained as, part of the medical records of the deceased adult.
- (3) Where, by virtue of notice under subsection (2), tissue samples become part of the medical records of a deceased adult, they may be used for any of the following purposes—
 - (a) providing information about or confirming the cause of death;
 - (b) investigating the effect and efficacy of any medical or surgical intervention carried out on the person;
 - (c) obtaining information which may be relevant to the health of any other person (including a future person);
 - (d) audit;
 - (e) education, training or research, provided that appropriate consent for such use has been given under section 3(6).
- (4) Notice under subsection (2) may be—
 - (a) delivered in person,
 - (b) posted, or
 - (c) transmitted by electronic means.
- (5) Where notice is posted, it is to be deemed to have been received on the third day after the day of posting.
- (6) Where notice is transmitted by electronic means, it is to be deemed to have been received on the day of transmission.””

Member’s explanatory statement

Coroner Post Mortem (PM) examination and the storage of tissue removed during PM do not require consent from the family of the deceased. However, once the Coroner’s authority has ended, consent is required from the deceased’s relatives to retain the slides and tissue. In practice this results in most histology slides and paraffin blocks of tissue taken at Coroners’ PMs being disposed of and lost for teaching, educational and audit purposes. This would bring England and Wales in line with legislation in Scotland.

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17 January 2022
