

Why is the legal duty to arrange provision of medical services missing from clause 15 of the Health and Care Bill?

Health and Care Bill

Integrated care boards: functions

15 Commissioning hospital and other health services

For sections 3 and 3A of the National Health Service Act 2006 substitute –

“3 Duties of integrated care boards as to commissioning certain health services

- (1) An integrated care board must arrange for the provision of the following to such extent as it considers necessary to meet the reasonable requirements of the people for whom it has responsibility –
 - (a) hospital accommodation,
 - (b) other accommodation for the purpose of any service provided under this Act,
 - (c) dental services other than primary dental services (for primary dental services, see Part 5),
 - (d) nursing and ambulance services,
 - (e) such other services or facilities for the care of pregnant women, women who are breastfeeding and young children as the board considers are appropriate as part of the health service,
 - (f) such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as the board considers are appropriate as part of the health service, and
 - (g) such other services or facilities as are required for the diagnosis and treatment of illness.

Section 3(1) of the NHS Act 2006 as it is now

National Health Service Act 2006

3

[F1Duties of clinical commissioning groups as to commissioning certain health services]

- (1) **[F2**A clinical commissioning group must arrange for the provision of the following to such extent as it considers necessary to meet the reasonable requirements of the persons for whom it has responsibility**]** —
- (a) hospital accommodation,
 - (b) other accommodation for the purpose of any service provided under this Act,
 - (c) medical, dental, ophthalmic, nursing and ambulance services,
 - (d) such other services or facilities for the care of pregnant women, women who are breastfeeding and young children **[F3**as the group considers**]** are appropriate as part of the health service,
 - (e) such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness **[F3**as the group considers**]** are appropriate as part of the health service,
 - (f) such other services or facilities as are required for the diagnosis and treatment of illness.

This is section 3(1) now after it was amended by the Health and Social Care Act 2012

Section 3(1) as it was from 2006-2012

National Health Service Act 2006

3 Secretary of State's duty as to provision of certain services

- (1) The Secretary of State must provide throughout England, to such extent as he considers necessary to meet all reasonable requirements—
 - (a) hospital accommodation,
 - (b) other accommodation for the purpose of any service provided under this Act,
 - (c) medical, dental, ophthalmic, nursing and ambulance services,
 - (d) such other services or facilities for the care of pregnant women, women who are breastfeeding and young children as he considers are appropriate as part of the health service,
 - (e) such other services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as he considers are appropriate as part of the health service,
 - (f) such other services or facilities as are required for the diagnosis and treatment of illness.

Section 3(1) as it was from 1977-2006

National Health Service Act 1977

Services
generally.

3.—(1) It is the Secretary of State's duty to provide throughout England and Wales, to such extent as he considers necessary to meet all reasonable requirements—

- (a) hospital accommodation ;
- (b) other accommodation for the purpose of any service provided under this Act ;
- (c) medical, dental, nursing and ambulance services ;
- (d) such other facilities for the care of expectant and nursing mothers and young children as he considers are appropriate as part of the health service ;
- (e) such facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as he considers are appropriate as part of the health service ;
- (f) such other services as are required for the diagnosis and treatment of illness.

Section 3(1) equivalent as it was from 1973-1977

National Health Service Reorganisation Act 1973

(2) It shall be the duty of the Secretary of State to provide throughout England and Wales, to such extent as he considers necessary to meet all reasonable requirements,—

- (a) hospital accommodation ;
- (b) other accommodation for the purpose of any service provided under the Health Service Acts ;
- (c) medical, dental, nursing and ambulance services ;
- (d) such other facilities for the care of expectant and nursing mothers and young children as he considers are appropriate as part of the health service ;
- (e) such facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as he considers are appropriate as part of the health service in place of arrangements of a kind which immediately before the passing of this Act it was the function of local health authorities to make in pursuance of section 12 of the Health Services and Public Health Act 1968 ;
- (f) such other services as are required for the diagnosis and treatment of illness ;

and regulations may provide for the making and recovery of charges in respect of facilities designated by the regulations as facilities provided in pursuance of paragraph (d) or (e) of this subsection.

Section 3(1) as it was from 1946-1973

National Health Service Act, 1946.

HOSPITAL AND SPECIALIST SERVICES.

Provision of Services by Minister.

3.—(1) As from the appointed day, it shall be the duty of the Minister to provide throughout England and Wales, to such extent as he considers necessary to meet all reasonable requirements, accommodation and services of the following descriptions, that is to say:—

Provision of hospital and specialist services.

- (a) hospital accommodation;
- (b) medical, nursing and other services required at or for the purposes of hospitals;
- (c) the services of specialists, whether at a hospital, a health centre provided under Part III of this Act or a clinic or, if necessary on medical grounds, at the home of the patient;

and any accommodation and services provided under this section are in this Act referred to as “ hospital and specialist services ”.

Clause 15 only affects non-primary medical services as these are covered elsewhere in the Bill

126

Health and Care Bill
Schedule 3 – Conferral of primary care functions on integrated care boards etc
Part 1 – Conferral of functions etc

Medical services

3 For section 83 and the italic heading before it substitute—

“Meaning of primary medical services

82A Primary medical services for purposes of this Act

- (1) Regulations may provide that services of a prescribed description must, or must not, be regarded as primary medical services for the purposes of this Act. 5
- (2) Regulations under this section may, in particular, describe services by reference to the manner or circumstances in which they are provided. 10

Duty of integrated care boards to arrange primary medical services

82B Duty of integrated care boards to arrange primary medical services

- (1) Each integrated care board must exercise its powers so as to secure the provision of primary medical services to such extent as it considers necessary to meet the reasonable requirements of the persons for whom it has responsibility. 15
- (2) For the purposes of this section an integrated care board has responsibility for—
 - (a) the group of people for whom it has core responsibility (see section 14Z31), and 20
 - (b) such other people as may be prescribed (whether generally or in relation to a prescribed service).