



# House of Commons

Tuesday 12 July 2011

## PUBLIC BILL COMMITTEE PROCEEDINGS

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

[NINTH AND TENTH SITTINGS]

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Liz Kendall  
Emily Thornberry  
Owen Smith

Page 80, line 3, leave out Clause 64.

*Clause agreed to on division.*

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*Not selected* 16

Liz Kendall  
Emily Thornberry  
Owen Smith

Page 80, line 21, leave out Clause 65.

*Clause agreed to on division.*

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*Not selected* 17

Liz Kendall  
Emily Thornberry  
Owen Smith

Clause 66, page 81, line 5, leave out subsection (2).

*Negatived on division* 233

Liz Kendall  
Emily Thornberry  
Owen Smith

Page 81, line 1, leave out Clause 66.

*Not selected* 18

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

*Clause agreed to on division.*

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Mr Simon Burns

Clause 67, page 82, line 7, leave out paragraph (c) and insert— *Agreed to 158*  
 ‘(c) do not engage in anti-competitive behaviour which is against the interests of people who use such services.’

Liz Kendall  
 Emily Thornberry  
 Owen Smith

Clause 67, page 82, line 7, leave out from ‘to)’ to end of line 9 and insert ‘prevent collaboration or integration in the provision of health care services for those purposes.’ *Not called 43*

Liz Kendall  
 Emily Thornberry  
 Owen Smith

Clause 67, page 82, line 16, leave out paragraph (a) and insert— *Not called 44*  
 ‘(a) promoting collaboration and integration within the provision of services, and’.

Liz Kendall  
 Emily Thornberry  
 Owen Smith

Clause 67, page 82, line 16, leave out paragraph (a). *Not selected 234*

Liz Kendall  
 Emily Thornberry  
 Owen Smith

Page 81, line 44, leave out Clause 67. *Not selected 19*

*Clause agreed to on division.*

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Liz Kendall  
 Emily Thornberry  
 Owen Smith

Clause 68, page 82, line 40, leave out subsection (3). *Negated on division 236*

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

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 20

Page 82, line 22, leave out Clause 68.

*Clause agreed to on division.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 21

Page 83, line 32, leave out Clause 69.

*Clause agreed to on division.*

*Schedule 9 agreed to on division.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 22

Page 84, line 10, leave out Clause 70.

*Clause agreed to.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 23

Page 84, line 23, leave out Clause 71.

*Clause agreed to on division.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Negatived on division* 235

Clause 72, page 84, line 37, leave out paragraph (a).

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

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 24

Page 84, line 35, leave out Clause 72.

*Clause agreed to on division.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Negatived on division* 237

Clause 73, page 86, leave out lines 8 to 12.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 25

Page 86, line 1, leave out Clause 73.

*Clause agreed to on division.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 26

Page 87, line 8, leave out Clause 74.

*Clause agreed to on division.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 27

Page 87, line 24, leave out Clause 75

*Clause agreed to on division.*

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

Mr Simon Burns

*Agreed to 159*

Clause 100, page 100, line 41, leave out from first ‘of’ to end of line 42 and insert ‘preventing anti-competitive behaviour in the provision of health care services for those purposes which is against the interests of people who use such services;’.

Mr Simon Burns

*Agreed to 160*

Clause 100, page 101, line 19, leave out ‘public or (as the case may be) private ownership’ and insert ‘the public or (as the case may be) private sector’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected 28*

Page 100, line 29, leave out Clause 100.

*Clause, as amended, agreed to.*

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Mr Simon Burns

*Agreed to 161*

Clause 101, page 101, line 33, leave out from ‘to’ to end of line 34 and insert ‘prevent anti-competitive behaviour in the provision of health care services for the purposes of the NHS which is against the interests of people who use such services;’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called 45*

Clause 101, page 101, line 33, leave out ‘competition’ and insert ‘collaboration or integration’.

Mr Simon Burns

*Agreed to 162*

Clause 101, page 102, line 14, at end insert—

‘( ) Monitor must not include a condition under subsection (1)(c) that requires the licence holder (A) to provide another licence holder with access to facilities of A.’.

Mr Simon Burns

*Agreed to 163*

Clause 101, page 102, line 15, leave out subsections (3) and (4).

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called 46*

Clause 101, page 102, line 15, leave out subsection (3).

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

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 29

Page 101, line 21, leave out Clause 101.

*Clause, as amended, agreed to.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 31

Page 110, line 4, leave out Clause 112.

*Clause agreed to.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Negatived on division* 47

Clause 113, page 111, line 42, leave out subsection (12).

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 32

Page 111, line 1, leave out Clause 113.

*Clause agreed to.*

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Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 33

Page 112, line 5, leave out Clause 114.

*Clause agreed to.*

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Mr Simon Burns

*Agreed to* 164

Clause 115, page 112, line 23, leave out paragraphs (d) and (e).

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

Mr Simon Burns

*Agreed to 165*

Clause 115, page 112, line 29, leave out ‘must also’ and insert ‘may’.

Mr Simon Burns

*Agreed to 166*

Clause 115, page 112, line 33, at end insert—

‘(2A) Where a variation is agreed in accordance with rules provided for under subsection (2), the commissioner of the service in question must maintain and publish a written statement of—

- (a) the variation, and
- (b) such other variations as have already been agreed in accordance with rules provided for under that subsection in the case of that service.’.

Mr Simon Burns

*Agreed to 167*

Clause 115, page 112, line 34, after ‘also’, insert ‘—

- (a) specify variations to the national price for a service by reference to circumstances in which the service is provided or other factors relevant to the provision of the service,
- (b) provide for rules for determining the price payable for the provision for the purposes of the NHS of health care services which are not specified under subsection (1)(a), and
- (c) ’.

Mr Simon Burns

*Agreed to 168*

Clause 115, page 112, line 36, at end insert—

‘(3A) Rules provided for under subsection (3)(b) may specify health care services which are not specified under subsection (1)(a).

(3B) The national tariff may also provide for rules for determining, where a health care service is specified in more than one way under subsection (1)(a) or in more than one way in rules provided for under subsection (3)(b), which specification of the service is to apply in any particular case or cases of any particular description.’.

Mr Simon Burns

*Agreed to 169*

Clause 115, page 112, line 37, leave out subsection (4) and insert—

- ‘(4) The national tariff may include guidance as to—
- (a) the application of rules provided for under subsection (2), (3)(b) or (3B),
  - (b) the application of variations specified under subsection (3)(a), or
  - (c) the discharge of the duty imposed by subsection (2A),
- and a commissioner of a health care service for the purposes of the NHS must have regard to guidance under this subsection.’.

Mr Simon Burns

*Agreed to 170*

Clause 115, page 112, line 43, leave out ‘provide for different rules under subsection (1)(d)’ and insert ‘different variations under subsection (3)(a)’.

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

Mr Simon Burns

*Agreed to* 171

Clause 115, page 113, line 5, leave out ‘public or private ownership’ and insert ‘the public or (as the case may be) private sector’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not called* 48

Clause 115, page 113, line 6, at end insert—

‘(7A) A description for the purposes of subsection (6)(b) may be framed by reference to—

- (a) the level of workforce training undertaken by the provider, and
- (b) the extent to which the provision of its service leads to consequential costs for other providers.’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 34

Page 112, line 15, leave out Clause 115.

*Clause, as amended, agreed to.*

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Mr Simon Burns

*Agreed to* 172

Clause 116, page 113, line 19, after ‘115(1)(a)’, insert ‘, or in rules provided for in the national tariff under section 115(3)(b),’.

Mr Simon Burns

*Agreed to* 173

Clause 116, page 113, line 24, leave out subsections (2) to (4) and insert—

- ( ) In the case of a service specified in the national tariff under section 115(1)(a), the national tariff must—
  - (a) if the service is specified in accordance with subsection (1)(a), specify a national price for each component of the service;
  - (b) if it is specified in accordance with subsection (1)(b), specify a national price for the bundle;
  - (c) if it is specified in accordance with subsection (1)(c), specify a single price as the national price for each service in the group.
- ( ) In the case of a service specified in rules provided for in the national tariff under section 115(3)(b), the rules may—
  - (a) if the service is specified in accordance with subsection (1)(a), make provision for determining the price payable for each component of the service;
  - (b) if it is specified in accordance with subsection (1)(b), make provision for determining the price payable for the bundle;
  - (c) if it is specified in accordance with subsection (1)(c), make provision for determining the price payable for each service in the group.’.

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

Mr Simon Burns

*Agreed to 174*

Clause 116, page 113, line 36, after '115', insert 'or (as the case may be) in rules provided for under subsection (3)(b) of that section'.

Mr Simon Burns

*Agreed to 175*

Clause 116, page 113, line 37, at end insert—

- ( ) Where the commissioner of a health care service for the purposes of the NHS agrees to pay a price for the provision of the service other than the price that is payable by virtue of this Chapter, Monitor may direct the commissioner to take such steps within such period as Monitor may specify to secure that the position is, so far as practicable, restored to what it would have been if the commissioner had agreed to pay the price payable by virtue of this Chapter.
- ( ) Where the commissioner of a health care service fails to comply with rules provided for under section 115(2), (3) or (3B), Monitor may direct the commissioner to take such steps within such period as Monitor may specify—
  - (a) to secure that the failure does not continue or recur;
  - (b) to secure that the position is, so far as practicable, restored to what it would have been if the failure was not occurring or had not occurred.'

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected 35*

Page 113, line 17, leave out Clause 116.

*Clause, as amended, agreed to.*

Mr Simon Burns

*Agreed to 176*

Clause 117, page 114, line 6, leave out paragraph (c) and insert—

- (c) the prices, determined in each case by using the applicable method specified under paragraph (b), that Monitor proposes as the national prices of those services,'.

Mr Simon Burns

*Agreed to 177*

Clause 117, page 114, line 8, leave out paragraph (d).

Mr Simon Burns

*Agreed to 178*

Clause 117, page 114, line 11, leave out 'must also specify the rules for which Monitor proposes to provide' and insert 'may specify such rules as Monitor proposes to provide for'.

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

Mr Simon Burns

*Agreed to* 179

Clause 117, page 114, line 15, at end insert—

‘(4A) The notice may also specify—

- (a) such variations (by reference to circumstances in which a service is provided or other factors relevant to its provision) as Monitor proposes to specify to the prices that it proposes as the national prices,
- (b) such rules as Monitor proposes to provide for in the national tariff for determining the price payable for the provision for the purposes of the NHS of health care services not specified for the purposes of subsection (3)(a), and
- (c) such rules as Monitor proposes to provide for in the national tariff for determining, where a health care service is specified in more than one way for the purposes of subsection (3)(a) or in more than one way in rules specified for the purposes of paragraph (b), which specification of the service is to apply in any particular case or cases of any particular description.’.

Mr Simon Burns

*Agreed to* 180

Clause 117, page 114, line 15, at end insert—

‘(4B) The notice may include guidance as to the application of rules specified for the purposes of subsection (4) or (4A)(b) or (c) or the application of variations specified for the purposes of subsection (4A)(a).’.

Mr Simon Burns

*Agreed to* 181

Clause 117, page 114, line 22, leave out subsection (6).

Mr Simon Burns

*Agreed to* 182

Clause 117, page 114, line 35, at end insert—

- ‘() Such variations as are specified for the purposes of subsection (4A)(a), and such guidance on the application of those variations as is included for the purposes of subsection (4B), are only such variations and such guidance as Monitor considers should be so specified and included and—
  - (a) as Monitor and the Board agree will be so specified and included, or
  - (b) in default of agreement, as are determined by arbitration as being the variations that will be so specified and the guidance that will be so included.’.

Mr Simon Burns

*Agreed to* 183

Clause 117, page 114, line 36, leave out subsection (9).

Mr Simon Burns

*Agreed to* 184

Clause 117, page 114, line 41, leave out ‘The rules specified for the purposes of subsection (4) are only such rules’ and insert ‘Such rules as are specified for the purposes of subsection (4) or (4A)(c), and such guidance on those rules as is included for the purposes of subsection (4B), are only such rules and such guidance’.

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

Mr Simon Burns

*Agreed to* **185**

Clause 117, page 114, line 43, after ‘specified’, insert ‘and included’.

Mr Simon Burns

*Agreed to* **186**

Clause 117, page 114, line 44, after ‘specified’, insert ‘and included’.

Mr Simon Burns

*Agreed to* **187**

Clause 117, page 114, line 46, after ‘specified’, insert ‘and the guidance that will be so included’.

Mr Simon Burns

*Agreed to* **188**

Clause 117, page 114, line 46, at end insert—

‘(10A) Such rules as are specified for the purposes of subsection (4A)(b), and such guidance on those rules as is included for the purposes of subsection (4B), are only such rules and such guidance as Monitor considers should be so specified and included and—

- (a) as Monitor and the Board agree will be so specified and included, or
- (b) in default of agreement, as are determined by arbitration as being the rules that will be so specified and the guidance that will be so included.’.

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* **30**

Page 113, line 38, leave out Clause 117.

*Clause, as amended, agreed to.*

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Mr Simon Burns

*Agreed to* **189**

Clause 147, page 135, line 7, at end insert—

“‘anti-competitive behaviour’ has the meaning given in section [General duties: supplementary] and references to preventing anti-competitive behaviour are to be read in accordance with subsection (2) of that section;’.

Mr Simon Burns

*Agreed to* **190**

Clause 147, page 135, line 13, at end insert—

“‘facilities’ has the same meaning as in the National Health Service Act 2006 (see section 275 of that Act);’.

Mr Simon Burns

*Agreed to* **191**

Clause 147, page 135, line 16, leave out ‘56’ and insert ‘[General duties: supplementary]’.

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

Liz Kendall  
Emily Thornberry  
Owen Smith

*Not selected* 36

Page 135, line 6, leave out Clause 147.

*Clause, as amended, agreed to.*

[Adjourned until Thursday at 9.00 am