

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9 – Health and adult social care services: information

Chapter 2 - The Health and Social Care Information Centre

General and supplementary

Section 274 - Powers of the Secretary of State or Board to give directions

1459. This section enables the Secretary of State or the NHS Commissioning Board, through regulations, to give certain directions. These directions could require:
- a) a health or social care body to exercise an information function of the Information Centre (for example the Centre's function of requiring other health or social care bodies to provide information);
 - b) the Centre or another health or social care body to exercise an information function of the Secretary of State or the Board;
 - c) the Centre to exercise an information function of a health or social care body;
 - d) the Centre to carry out systems delivery functions of the Secretary of State or the Board that are exercisable in relation to the development or operation of information or communications systems.
1460. This section could be used, for example, to provide in regulations for the Secretary of State or the Board to direct that another body should collect information that the Centre could be mandated to collect (a direction under a) above). An example could be where there is no intention to publish or disseminate the information that is to be collected or analysed more widely, other than for a single, primary use. It might be an inefficient use of the Centre's resources for it to collect or analyse information solely for the purpose of passing the information to another body. Similarly, it may be more efficient for the Centre to collect certain information instead of this being done as an ancillary function by another health or social care body (a direction under (c) above).
1461. *Subsection (2)* ensures that the Secretary of State or the Board is able to direct the Centre about *how* it is to perform functions it is directed to undertake under *subsection (1)*.
1462. *Subsections (6) and (7)* make provision for the Centre to be appropriately resourced for exercising Secretary of State or Board functions in relation to information or communications systems. Where a direction giving power relating to a systems delivery function is conferred on the Secretary of State, the regulations must ensure that a direction could include provision for payments to be made to the Centre. Where such a power is conferred on the Board, the regulations must ensure that a direction will enable the Centre to charge the Board a reasonable fee for carrying out the function which is the subject of the direction.