

**Lords, Report Stage - HWE -- amendment gained yesterday.**

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## **Health and Social Care Bill — *Report* (4th Day) (Continued) 8:42 pm**

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### ***Clause 51 : Secretary of State's duty to keep health service functions under review***

Amendment 141

Moved by Baroness Cumberlege

**141:** Clause 51, page 83, line 26, at end insert "and its Healthwatch England committee"

#### **Baroness Cumberlege (Conservative)**

My Lords, this is a very simple and non-controversial amendment. Under Clause 51, the Secretary of State has a duty to keep under review the effectiveness of key bodies in the NHS. This is a crucial part of the Secretary of State's responsibilities in ensuring that he or she can exercise ministerial accountability for the health service. As this is a new body, through the Secretary of State, we will want to ensure that it is to carry out its functions effectively. Healthwatch England has to undertake certain tasks—for example, making annual reports to be laid before Parliament. Other reports will be at its discretion. These activities will be easy to monitor, but it will be much more difficult to assess the quality and the appropriateness of the advice and information or other assistance it chooses to give.

In her letter to noble Lords on 21 December, my noble friend Lady Northover told us that she did not expect Healthwatch England to give the CQC, the NHS Commissioning Board or other bodies an easy ride. She went on to state:

"We fully expect HealthWatch England to raise what at times may be awkward, difficult questions with respect to health ... and to be able to do this publicly".

It is the Government's intention to create not a patsy organisation but one that will be a champion of health and, on occasions, a difficult and awkward companion, focused on improving the quality of care in both health and social services. If it does not, it will not fully represent the voice of patients and service users.

The Care Quality Commission is one body listed in the clause. As the Bill stands, HealthWatch England will be a committee of the CQC. However, as we have discussed in many debates on the Bill—and I believe that more are to come when we come to debate the amendment of the noble Lord, Lord Patel—there will be a need for it to remain operationally independent of the Care Quality Commission. Therefore, I suggest that a review of the Care Quality Commission may not be an appropriate way of fully scrutinising the role of HealthWatch England, and that such scrutiny should be included in its own right in the clause.

That is why I tabled an amendment to add HealthWatch England to the list of bodies that the Secretary of State must keep under review. It would make it clear that HealthWatch England is independently accountable for how effectively it goes about its work, and cannot be overshadowed by-or hide behind-the review of the role of the CQC. I hope that my noble friend will look kindly on this simple and not very earth-shattering amendment. I beg to move.

**Lord Harris of Haringey** (Labour)

My Lords, I seek clarification on the amendment. I am sure that the noble Baroness, Lady Cumberlege, means well, but I note that the formulation she used was,

"and its Healthwatch England committee".

I am sure that it would have been possible to draft the amendment so that it referred simply to HealthWatch England, which would have avoided raising the question that we will come to at a later stage of whether HealthWatch England should be part of the CQC or any other august structure of the NHS. It is an important technical point; I hope that the amendment does not pre-empt any later discussions.

The motivation that the noble Baroness ascribed to the amendment-to demonstrate that HealthWatch England is independently accountable-is extremely important. It is entirely proper that HealthWatch England should be seen to be accountable to the Secretary of State. Certainly it should not exercise that accountability through another body, particularly one which it might on occasions wish to criticise, or about which it might want to raise important concerns or say that it has not done what it might have. Therefore, to demonstrate that HealthWatch England is independently accountable is an important objective. My concern is that the amendment may solidify something that at the moment comes later in the Bill, but which I trust will not remain there by the time we have finished Report: namely, the requirement that HealthWatch England is simply a committee of the CQC.

There is also a question about how accountability will work with respect to the Secretary of State. I suspect that the quotation from the noble Baroness, Lady Northover, to which the noble Baroness, Lady Cumberlege, so approvingly referred, about how difficult and painful would be some of the discussions with HealthWatch England, will sometimes apply also to the Secretary of State. When I was for a number of years director of the Association of Community Health Councils, I collected personal denunciations that I had received from successive Secretaries of State. They came from both parties: indeed, the most vehement denunciation was from a Secretary of State from my own party, who perhaps expected more from me than the criticisms that I had raised.

The point is that this will not be an easy relationship. Even the accountability that is envisaged by the reference to "keeping under review" will, I suspect, lead to tensions. However, I do not believe that one can have a body of this nature that is not accountable in some way to the Secretary of State. I simply look forward to the maturity of future Secretaries of State, of whatever party, who will recognise that a body such as HealthWatch England, and local healthwatch organisations, are intended sometimes to be irritants.

**Baroness Wheeler** (Labour)

My Lords, I would have liked to debate this amendment in the light of next week's debate on the status, powers and functions of HealthWatch England under Clause 180, when we will fully air once again the serious and continuing concerns across the House about the proposed relationship between HealthWatch England and the CQC, and hear from the Minister how the Government intend to address these concerns as they flesh out their proposals for healthWatch, and as the CQC comes under closer scrutiny. However, we support this amendment requiring the Secretary of State to include HealthWatch England in the organisations specified in the Bill that he or she must keep under review. Obviously we do this in the context of the separate independence of HealthWatch and not as a committee of the CQC.

However, it is also important to make it clear that we do not think that the measure in itself, or combined with other government proposals, for example, on the HealthWatch board membership, will be anywhere near enough to provide the independence that HealthWatch England needs if it is to be the robust and trusted patients' watchdog that is needed-and I emphasise trusted by the public.

The Minister must appreciate that the concerns across the House over the CQC's relationship are not addressed by referring to the close synergies between the two organisations or to the powers and influence of the CQC rubbing off on HealthWatch. In this context it is difficult not to dwell on the recent developments in the commission and the Department of Health performance and capability review of the commission. I say this as a genuine supporter of the CQC and its work-for example, last year's excellent special review of stroke services, and the one of residential care-but the department's major findings that the CQC needs to be more strategic, that accountabilities within the CQC are unclear, as well as the strong concern over the blurring of boundaries between the CQC board and executive team, do not augur well for the future relationship between the CQC and HealthWatch.

Of course, we will come to these matters in detail when we have the full debate on HealthWatch and local healthwatch organisations. I hope that at that stage the Minister will address these ongoing concerns, particularly about the clash of cultures between HealthWatch and the CQC, about public faith and trust and HealthWatch if it is to be formally linked to the CQC, and **the lack of confidence in the new arrangements by the overwhelming number of LINKs organisations and NALM. As the letter from NALM in the *Guardian* earlier this week underlined:**

**"Healthwatch will only be considered the true voice of the public, if it is seen to be independent of those it monitors".**

I look forward to next week's debate.

**Earl Howe** (Parliamentary Under Secretary of State (Quality), Health; Conservative)

My Lords, the Secretary of State has a duty to keep under review the effectiveness of the exercise of health service functions by certain national bodies. These bodies are listed at new Clause 247C, inserted by Clause 51 of the Bill.

As it is currently drafted, the Bill requires the Secretary of State to keep the effectiveness of the Care Quality Commission under review in so far as it is exercising functions in relation to the health service. However, it does not make explicit reference to the HealthWatch England committee. Yet, while

HealthWatch England will be established as a committee of the Care Quality Commission, it will have its own statutory functions that it must exercise outside of the CQC's other functions.

This is, therefore, a helpful and welcome amendment from my noble friends Lady Cumberlege and Lady Jolly. It helpfully clarifies the distinction, in terms of the Secretary of State's accountability, between the exercise of functions by HealthWatch England and that of the CQC.

The amendment would add HealthWatch England to the list of bodies the Secretary of State must keep under review in respect of how effectively it exercises its functions in relation to the health service in England. Importantly, it would emphasise that HealthWatch England itself is responsible for exercising the statutory functions of HealthWatch England.

I have reflected on this and I will be supporting this amendment. I hope that other noble Lords will join me in doing so.

**Baroness Cumberlege** (Conservative)

My Lords, I think we are on a roll. I am very excited that we have had another amendment accepted. I very much thank my noble friend.

I appreciate some of the other points that have been made in this debate, but I think we will be debating them next week and perhaps we could hold our fire until then. Indeed, we have debated them previously and noble Lords will know that I am in favour of the present proposal in the Bill that HealthWatch England should be a committee of the CQC, and that is why I have chosen those particular words.

I am very grateful to my noble friend. I think this is the first time ever this has happened to me and I feel very pleased about it. Thank you.

Amendment 141 agreed.

Amendment 142 not moved.