



BRIEFING PAPER

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Health and Social Care (National Data Guardian) Bill 2017-19

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Summary

This House of Commons Library briefing provides information on key provisions in the [*Health and Social Care \(National Data Guardian\) Bill 2017-19*](#).

Peter Bone MP presented the Bill on 5 September 2017 as a Private Member's Bill (Presentation Bill). This briefing has been prepared ahead of the Bill's Report Stage and Third Reading on 6 July 2018.

The Bill would place on a statutory footing the office of the National Data Guardian for Health and Social Care, a role currently held by Dame Fiona Caldicott. The National Data Guardian is responsible for advising and producing guidance on patient data and confidentiality.

Prior to the establishment of the National Data Guardian in 2014, Dame Fiona Caldicott chaired the 2013 Information Governance Review, which revised the seven 'Caldicott Principles' of how patient data should be processed. A further review, on data security, consent and opt-outs, was published by the National Data Guardian in 2016.

A commitment to place the office on a statutory footing was included in the 2017 Conservative Party General Election manifesto. The Bill, as introduced, has received cross-party support.

The *Health and Social Care (National Data Guardian) Bill 2017-19* applies to England only.

1. Background

1.1 The National Data Guardian (NDG) for Health and Social Care

The *Health and Social Care Act 2008* introduced a new statutory body, the National Information Governance Board for Health and Social Care (NIGB), to oversee the processing of patient data. Its functions were to:

- monitor the practice followed by relevant bodies in relation to the processing of relevant information,
- keep the Secretary of State, and such bodies as the Secretary of State may designate by direction, informed about the practice being followed by relevant bodies in relation to the processing of relevant information,
- publish guidance on the practice to be followed in relation to the processing of relevant information,
- advise the Secretary of State on particular matters relating to the processing of relevant information by any person, and
- advise persons who process relevant information on such matters relating to the processing of relevant information by them as the Secretary of State may from time to time designate by direction.¹

In 2010, the Coalition Government confirmed its intention to abolish the NIGB, as part of a wider Government review of non-departmental public bodies (NDPB) across Government. The rationale was set out in the following PQ:

Following a review of the department's advisory non-departmental public bodies, my right honourable friend the Secretary of State announced, on 14 October 2010, his intention to abolish the National Information Governance Board (NIGB). It is anticipated that the NIGB's statutory functions will transfer to the Care Quality Commission, and that other advice the board currently provides will in future come from within the department, or other bodies.²

NIGB was one of 30 Department of Health NDPBs recommended for abolition.³ The *Health and Social Care Act 2012* formally repealed the statutory basis for the NIGB.

In 2012, the Government commissioned an independent review of information governance across the health and care system in England, in response to the recommendations of the second phase NHS Future Forum report.⁴ The review was led by Dame Fiona Caldicott, the then chair of the NIGB, and previous chair of the 1997 [Report on the Review of Patient-Identifiable Information](#). The 1997 report set out six principles for processing patient information, known as the Caldicott Principles.

¹ Section 157(1), *Health and Social Care Act 2008*. Repealed by the *Health and Social Care Act 2012*.

² [PQ HL4400, 1 December 2010](#)

³ Cabinet Office, [Public bodies reform reports](#), October 2010

⁴ [NHS Future Forum recommendations to Government – second phase](#), January 2012

The [Information Governance Review](#) (also known as Caldicott2) was sent to the Secretary of State in March 2013 and published in April 2013, with seven revised Caldicott Principles and 26 recommendations for Government. In March 2013, just prior to its receipt by the Secretary of State for Health, Jeremy Hunt wrote to Dame Fiona asking her to chair a new independent panel on information governance, that would oversee the implementation of the recommendations in her forthcoming review.⁵

The panel, known as the Independent Information Governance Oversight Panel (IIGOP), was formed in 2013, and was then renamed the National Data Guardian for Health and Social Care (NDG) in 2014.

Dame Fiona was appointed as the first NDG, supported by a 12-person panel. The panel's terms of reference set out the main principles that guide the NDG's work:

- encouraging clinicians and other members of care teams to share information to enable joined-up care, better diagnosis and treatment
- ensuring there are no surprises for the citizen about how their health and care data is being used and that they are given a choice about this
- building a dialogue with the public about how we all wish health and care information to be used, to include a range of voices including commercial companies providing drugs and services to the NHS, researchers discovering new connections that transform treatments, and those managing the services.⁶

In 2016, the NDG published its [Review of Data Security, Consent and Opt-Outs](#) (Caldicott3), which set out a number of recommendations, including the introduction of 10 new data security standards across the NHS, and a national data opt-out programme for patients. More information can be found in the Commons Library briefing paper, [Patient health records and confidentiality](#).

1.2 Calls for a statutory footing

Since the abolition of the NIGB, monitoring the information governance practices of health and care providers has been the responsibility of the Care Quality Commission. However, the abolition of its other statutory functions was raised as a concern by the IIGOP in its 2014 annual report:

The disestablishment of the National Information Governance Board (NIGB) on 31st March 2013 left the system in England without a statutory arbiter, to which organisations could turn for the authoritative resolution of difficult questions. Although IIGOP has tried to assist organisations over the past year by offering its opinion, when asked, it has not had the NIGB's level of statutory authority or resource.⁷

An amendment to the *Care Bill 2014* that would have put the IIGOP on a statutory footing was proposed by Lord Owen. In response, the

⁵ Letter from the Secretary of State for Health to Dame Fiona Caldicott, [Independent Advisory Panel on Information Governance](#), 5 March 2013

⁶ The National Data Guardian's Panel, [Terms of Reference](#), September 2017

⁷ IIGOP, [Report to the Secretary of State for Health: The First Year](#), December 2014, p7

then Health Minister Earl Howe expressed sympathy with the amendment, but noted that the Government were still exploring the best way to enforce oversight of patient data and confidentiality:

Let me say immediately that we are sympathetic to the desire to see the oversight panel placed on a statutory footing. In an area as complex and important as information governance, it is essential that we have a source of clear, authoritative advice, available to all parts of the health and care system, which creates the right conditions for informed judgments to be made on the use of information, and on decisions to share or not to share. When the Secretary of State asked Dame Fiona Caldicott to chair the Independent Information Governance Oversight Panel, it was in recognition of her extensive knowledge and experience in this area. I agree with the noble Lord, Lord Turnberg, that Dame Fiona is uniquely well placed to lead the panel in providing strong, visible leadership to the health and care sector. It is our clear intention that the panel be best supported to do this. My department continues to work closely with Dame Fiona to ensure that the panel is equipped to deliver the role it has been charged with performing.

There may well be merit in establishing the panel in law and giving legal force to its advice on data sharing. I strongly feel, however, that on this important matter, so crucial to people's privacy and confidentiality, to the safe and efficient operation of the health and care system, and to the research agenda, it is vital that we ensure the system of oversight, scrutiny and advice is robust and coherent. I undertake that we will explore with Dame Fiona Caldicott and all interested parties how best to achieve this, which may include using existing legal powers to establish an independent committee able to advise on data-sharing matters. Dame Fiona Caldicott has confirmed that she would explore options on existing legal powers to establish an independent committee and has noted the importance of considering further and clarifying the functions of the panel before doing so. I hope that those statements, as far as they go—and they are intended to be helpful—will reassure the noble Lord, Lord Owen, and other noble Lords.⁸

In 2015, the Department of Health carried out a consultation on the functions of the NDG. It published a summary of responses in 2016, acknowledging broad support for putting the NDG on a statutory footing, and committing to doing so at the earliest opportunity.⁹

Following on from the consultation, Jo Churchill MP sponsored a Private Member's Bill with the support of the Government, the [Health and Social Care \(National Data Guardian\) Bill 2016-17](#). However, as a result of the calling of the 2017 General Election, the Bill did not have sufficient time to pass through Parliament.

The Conservative Party's 2017 General Election manifesto set out a commitment to put the NDG on a statutory footing to "ensure data security standards are properly enforced."¹⁰

⁸ [HL Deb 7 May 2014, c1528](#)

⁹ Department of Health, [Roles and Functions of the National Data Guardian for Health and Care: A summary of consultation responses and Government conclusions](#), July 2016, p22

¹⁰ The Conservative and Unionist Party, [Forward, Together: Our Plan for a Stronger Britain and a Prosperous Future](#), May 2017, p80

In the 2017 Parliament, another Private Member's Bill was introduced with the backing of the Government, the [*Health and Social Care \(National Data Guardian\) Bill 2017-19*](#), this time sponsored by Peter Bone MP.

2. The Bill

The clause numbers refer to those from the Bill as first introduced in the House of Commons, Bill 94 of 2017-19.

Clause 1: National Data Guardian for Health and Social Care

Clause 1 relates to the role of the NDG, whom the Secretary of State for Health and Social Care is required to appoint.

Under this clause, the NDG can publish guidance about the processing of health and adult social care data in England, and would be required to keep any guidance under review, as well as consulting with appropriate bodies in relation to any guidance.

Any public bodies exercising health or adult social care functions would be required to have regard to any NDG guidance.

In addition, the NDG is able to give information and advice on the processing of health and care data.

Further provisions about the NDG's role are set out in schedule 1. These include:

- The NDG can hold the office for up to three years, and can only be re-appointed once;
- The NDG can be removed from the role by the Secretary of State if they are unable, unwilling or unfit to carry out their role;
- The NDG must produce an annual report, including a statement of accounts and any guidance produced during the year, which the Secretary of State is required to lay before Parliament.

Clause 2: Interpretation

Clause 2 provides definitions of various terms in the Bill, including adult social care, and health and adult social care data. The latter term is defined as follows:

information (however recorded) that—

(a) relates to—

(i) the physical or mental health or condition of an individual, the diagnosis of his or her condition or his or her care or treatment;

(ii) adult social care provided to an individual (or an assessment for such care);

(iii) adult carer support provided to an individual (or an assessment for such support), whether or not the identity of the individual is ascertainable, or

(b) is to any extent derived, directly or indirectly, from such information

Clause 3: Consequential amendments

This clause refers to consequential amendments made in schedule 2.

These include:

- Amending the *Parliamentary Commissioner Act 1967* to confirm that the NDG is subject to oversight by the Parliamentary Ombudsman;
- Amending the *Freedom of Information Act 2000* to confirm that the NDG is subject to this legislation;
- Amending the *Equality Act 2010* to confirm that the NDG is subject to the public sector equality duty.

Clause 4: Extent

Clause 4 sets out the legal territorial extent of the Bill, extending to England and Wales. However, the Bill would only be in force in England.

Clause 5: Commencement

Statutory instruments are required for the Bill to come into force. It will not automatically come into force upon receiving Royal Assent.

3. Progress of the Bill

3.1 Second Reading

The Bill had its Second Reading on 1 December 2017. There was not sufficient time to debate the Bill, but it was agreed to without objection.

3.2 Money Resolution debate

The debate on whether to authorise money for the Bill took place on 21 May 2018. The Bill's explanatory notes estimated the following costs:

The Bill will require expenditure to fund the office of the National Data Guardian for Health and Social Care in order that it can undertake its statutory functions. The Department of Health has estimated that these costs will be approximately £700,000 per annum.

The Bill may result in some implementation costs for the bodies and individuals required to have regard to the Data Guardian's published guidance, in that they will need to review and assess the relevance of the guidance.¹¹

Peter Bone noted that the Government is already funding the NDG in its current, non-statutory form, and therefore questioned how much additional funding would be necessary to implement the Bill.

During the Money Resolution debate, the Bill received support from the Labour Party's Shadow Health Minister, Justin Madders:

There is well-recorded Labour support for the Bill. The use of data has the potential to improve every aspect of the NHS by, for instance, transforming the way in which we diagnose illnesses such as cancer, and improving the patient experience by ensuring that every clinician at every stage has access to the complete picture. However, as we know from experience, the use of data in the NHS can be controversial, with high levels of suspicion among patients.

That suspicion is not unfounded. Official figures show that more than 100,000 patients were caught up in NHS data blunders in 2016-17. The number of serious data incidents has doubled in a year, and now, on average, there is one every three weeks. Last year it emerged that NHS Shared Business Services had failed to deliver just under 709,000 letters from hospitals to GPs' surgeries, and that the correspondence had been left in an unknown warehouse. Those examples show the importance of effective, modern data protection laws with robust safeguards, which are central to securing the public's trust and confidence in the use of personal information within the NHS. The establishment of a state-backed national data guardian for health and social care is one of the ways in which we can improve practice across the NHS and increase public confidence.¹²

However, there were some concerns raised by Labour, Conservative and SNP speakers about the granting of a Money Resolution debate for the Bill

¹¹ [Health and Social Care \(National Data Guardian\) Bill: Explanatory Notes](#), October 2017, para 46-47

¹² [HC Deb 21 May 2018, c674](#)

before several other Private Member's Bills that were presented earlier. David Linden highlighted this in relation to two particular Bills:

Tonight, however, we have heard from the hon. Member for Wellingborough, whose Bill got its Second Reading on the nod, without debate, whereas hon. Members including me came here on a Friday from our constituencies to debate the Parliamentary Constituencies (Amendment) Bill. We spent some four hours doing that, and the Bill was passed. It is the ninth Bill of the Session, whereas this Bill from the hon. Member for Wellingborough is No. 94, so we face the rather bizarre spectacle tonight of a Bill that was ninety-fourth jumping over the Bill of the hon. Member for Manchester, Gorton (Afzal Khan) and, indeed, the laudable Bill of my hon. Friend the Member for Na h-Eileanan an Iar (Angus Brendan MacNeil) that relates to child refugees. Once again, we see this Government playing party politics with private Members' legislation.¹³

The Money Resolution passed without a division.

3.3 Public Bill Committee

The Bill was considered in Public Bill Committee in one sitting on 6 June 2018. No amendments were proposed, and the Bill passed through Committee Stage unchanged.

The Committee was attended by the following Members:

- Dame Cheryl Gillan (Chair)
- Mr Peter Bone (Wellingborough) (Con)
- Chris Bryant (Rhondda) (Lab)
- Sir Christopher Chope (Christchurch) (Con)
- Philip Davies (Shipley) (Con)
- Martyn Day (Linlithgow and East Falkirk) (SNP)
- Jackie Doyle-Price, (Parliamentary Under-Secretary of State for Health and Social Care)
- Kevin Foster (Torbay) (Con)
- Justin Madders (Ellesmere Port and Neston) (Lab)
- Tom Pursglove (Corby) (Con)
- Will Quince (Colchester) (Con)
- Maggie Throup (Erewash) (Con)

The following MPs were members of the Committee but did not attend on 6 June 2018:

- Rosie Cooper (West Lancashire) (Lab)
- Kate Hoey (Vauxhall) (Lab)
- Seema Malhotra (Feltham and Heston) (Lab/Co-op)

¹³ [HC Deb 21 May 2018, c678](#)

- Jim Shannon (Strangford) (DUP)
- Stephen Twigg (Liverpool, West Derby) (Lab/Co-op)

Although no amendments were moved, a number of issues were debated, including some highlighted as part of the Government's 2015 consultation on the role of the NDG. These issues are explored further below.

Inclusion of public health data

Shadow Health Minister Justin Madders queried why the Bill did not explicitly give the NDG remit over public health services, given the large amount of data used by bodies in the provision of these services, which are commissioned by local authorities.

The Health and Social Care Minister, Jackie-Doyle Price, confirmed that the Bill as drafted did cover public health.

Inclusion of children's social care data

The Government's 2016 response to its consultation on the role of the NDG acknowledged strong support for the inclusion of children's social care data within the NDG's remit:

The quotes from respondents below, reflect these points:

- "ADCS members feel it is sensible to bring information governance in both adult and children's services in line. This reflects the approach being taken in a significant number of local authorities in terms of organising services." Association of Directors of Children's Services
- "LGA/ADASS welcomes that consideration is being given to children's services as part of the National Data Guardian remit. Historically, as the consultation indicates, children's social care data has not been traditionally in scope of arrangements for health and care services. We believe that Children's Social Care should be included as part of the remit of the National Data Guardian" LGA/ADASS (Local Government Association/ Association of Directors of Adult Social Services)
- "We are starting to realise that we need joined up services, with joined up organisations and single identifiers (NHS number). If and when the NHS number becomes the principle way of identifying clients and patients across health and social care, this will impact adults and children alike. Therefore, we have to be consistent to begin with and I feel it should be part of the programme" Health and social care professional
- "If Children's Care is not included, they won't be the NDG for health and care" Leeds City Council
- "It would be utterly perverse for those who are at the most risk of data being used inappropriately to have the least protection from the National Data Guardian."
MedConfidential¹⁴

Shadow Health Minister Justin Madders raised the issue about the NDG's remit on the face of the Bill not extending to children's social care. In

¹⁴ Department of Health, [Roles and Functions of the National Data Guardian for Health and Care: A summary of consultation responses and Government conclusions](#), July 2016, p13

response, the Health and Social Care Minister, Jackie Doyle-Price, noted that this was because children's social care was covered by a different legal framework, but that the NDG would not be prevented from engaging with relevant bodies on this issue:

On the point about children, it is our interpretation that the provisions do not prevent the National Data Guardian from engaging constructively with the Department for Education on adult social care data and its interaction with or effect on children's data. Clearly, this is something we will monitor, but, bearing in mind that the whole ethos behind the creation of the National Data Guardian is to spread good practice and make representations rather than regulations, the concern that the hon. Gentleman (Justin Madders) has expressed is important, but we do not think it will get in the way of sensible engagement.¹⁵

Secretary of State having regard to advice

In his comments on clause 1, Peter Bone addressed concerns that the Secretary of State for Health and Social Care was not explicitly set out in the Bill as someone who should have regard to advice produced by the NDG. He noted that the Department for Health and Social Care was already covered by the Bill, therefore an additional, specific reference to the Secretary of State would be superfluous.

Appointment of the NDG

Shadow Health Minister Justin Madders raised concerns that the Bill gives the Secretary of State for Health and Social Care the power to appoint the NDG without qualification or additional oversight:

There seems to be a discrepancy that leaves the Data Guardian in an inferior position to either the existing Confidentiality Advisory Group or the Health Research Authority. I would be grateful to know if that was the intention of the legislation. The power to appoint the Data Guardian rests entirely with the Secretary of State, seemingly without any qualification. Is it envisaged that the Health Committee might get an opportunity to comment on such appointments? Recent appointments in the health sector have proven controversial, so it would be appropriate for the Select Committee to comment.¹⁶

Although the Health and Social Care Minister, Jackie Doyle-Price, did not respond on this specific point, Peter Bone said that although pre-appointment scrutiny by the Health and Social Care Committee was not written onto the face of the Bill, it was understood that they would have a role in the appointment of the NDG.

In the campaign group medConfidential's briefing on the 2016-17 version of the Bill, they argued that the NDG must first have served as a so-called 'Caldicott Guardian'¹⁷ of a large NHS organisation. This briefing stated that the Government had also been saying this in private, and they expected this

¹⁵ [PBC Deb 6 June 2018, c11](#)

¹⁶ [PBC Deb 6 June 2018, c6](#)

¹⁷ A Caldicott Guardian is a senior person responsible for protecting the confidentiality of personal health and care information and for making sure it is used properly. All NHS organisations and local authorities are required to appoint a Caldicott Guardian.

addition to make it onto the face of the Bill.¹⁸ However, it did not make it into either the 2016-17 or 2017-19 version of the Bill. No members of the Public Bill Committee raised the issue of the NDG's qualifications during Committee Stage debate.

Cost of the NDG

Following on from the Money Resolution debate, which explored the Government's estimated £700,000 plus implementation cost estimate, Peter Bone provided some further details on the cost of putting the NDG on a statutory footing:

I want to make clear that, although the estimated cost is £725,000 per year, that is only an additional £225,000 per year and relates to putting the Data Guardian on a statutory footing. As the Committee will know, there is already a Data Guardian, which costs £500,000; we are just putting this on a statutory footing and saying it is the right thing to do.¹⁹

The Health and Social Care Minister, Jackie Doyle-Price, also stated that the Government had been "generous" in its estimates of the implementation costs.²⁰

Organisations reporting on adherence to guidance

Another issue raised during the Government's 2015 consultation on the role of the NDG related to whether organisations should have to report on how they were adhering to and implementing any guidance published by the NDG. A range of opinions were submitted, with some respondents in favour of informing the public how any guidance was being followed, with others concerned about requirements becoming a bureaucratic burden for organisations.

The Shadow Health Minister, Justin Madders, highlighted the responses to the consultation in favour of introducing such a requirement, and stated that there was an expectation that such a requirement would have been included in the Bill:

Labour Members might have expected it to include an obligation for data controllers not only to have regard to advice, but to publish their response to that advice. That expectation is not unrealistic, given that the responses to question 5 of the Government's consultation were overwhelmingly supportive of such a provision.

[...]

That would certainly provide reassurances that the National Data Guardian will have real authority and act as an independent voice for patients, but without such statutory backing it is foreseeable that its independence and authority could be undermined. Without a requirement for organisations that receive advice to provide evidence of their response in a way that can be easily disseminated, there is no way we can be sure that the Data Guardian will be effective in doing the important job required by the Bill.²¹

¹⁸ medConfidential, [National Data Guardian Bill: probing amendments for Committee Stage](#), February 2017, p6

¹⁹ [PBC Deb 6 June 2018, c5](#)

²⁰ [PBC Deb 6 June 2018, c9](#)

²¹ [PBC Deb 6 June 2018, c7](#)

Justin Madders pointed to the example of NHS bodies not adhering to National Institute of Health and Care Excellence (NICE) guidance, as their only statutory responsibility was to 'have regard to' this advice. He argued therefore that without a requirement to report how they were following NDG guidance, adherence to it might be limited.

In response, Peter Bone noted that such a requirement would be burdensome on health and social care organisations, and that lack of adherence to NDG guidance could be enforced by regulators such as the Care Quality Commission and the Information Commissioner's Office:

A point was raised about advice and having written reports on what is being done, but the argument against that is that we want to see action. There is some confusion—the Data Guardian is not a regulator, and therefore that is not its role. All organisations are covered by a regulator and will take into account what the National Data Guardian says. That is why I do not think that such a provision would work.²²

Organisations reporting information to the NDG

In its briefing on the 2016-17 version of the Bill, the campaign group medConfidential argued that the NDG needed to be properly informed about relevant issues in order to provide appropriate guidance, and proposed a mandatory register of data sharing agreements that the NDG could access:

For the National Data Guardian to take a view on an issue, the Guardian first has to know that there is an issue on which to take a view. While some bodies are likely to cooperate in this, the Bill as drafted provides no obligation that they do. And it is precisely those bodies which raise issues of concern that are least likely to cooperate (e.g. TPP, Pharmacy2U).

In practice, sending a copy of every data sharing agreement across the health and adult social care system to the National Data Guardian would likely overwhelm their small office. Were there instead to be a published Register of data sharing agreements to which all NHS and relevant bodies must submit a copy, this would provide the NDG with a single point of reference from which to note new agreements that are outwith the norm.

A Register of data sharing agreements would also increase patient reassurance, as such registers have done elsewhere, since patients would be able to identify the places to which their data may have been copied, and those by whom it may have been accessed.

While NHS Digital's Register of data releases is a necessary step, it does not cover data sharing agreements for secondary uses of data that are not released by NHS Digital, such as those by Public Health England.²³

Similar calls for a published register of data sharing agreements were also made in the Public Bill Committee by the Shadow Health Minister, Justin Madders.

²² [PBC Deb 6 June 2018, c10](#)

²³ medConfidential, [National Data Guardian Bill: probing amendments for Committee Stage](#), February 2017, p2

In a similar vein to the response to calls to make organisations publish responses to NDG advice, Peter Bone argued that such a requirement would extend the NDG's role to that of a regulator:

It has been suggested that subsection (5) should add an obligation that organisations and individuals that process health and social care data should provide the Data Guardian with appropriate information. I argue that that would create a duplication of the remit of regulators that already exist in those sectors. The Data Guardian's role is as an advocate for the patient and the public, to build and maintain public trust. The role is as much about supporting individuals and organisations to get it right first time as it is about commenting, advising and providing guidance. It is not the intention of this Bill to create another regulator, but that the National Data Guardian should work with the Information Commissioner's Office and the Care Quality Commission.²⁴

NDG advice to MPs

Chris Bryant MP noted that in MPs' role acting as advocates for constituents, they were often required to handle and store sensitive, personal health and care data, and that constituents expected this to be kept for many years. As a result, he asked whether the NDG would be able to produce advice specifically for MPs in relation to their processing of this information.

The Health and Social Care Minister, Jackie Doyle-Price, also raised the possibility of advice being provided to health and social care organisations in relation to their contact with MPs:

The hon. Member for Rhondda (Chris Bryant) raised some good points to which we could ask the National Data Guardian to have regard. He is right to say that we as Members of Parliament often take up health and social care issues on behalf of our constituents, and nothing is intended to get in the way of that. Indeed, it could be helpful to us if the National Data Guardian gave instructions to those bodies about their obligation to be open and transparent. I am sure that the hon. Gentleman, and other hon. Members, have often found that the spirit of openness that we expect when we challenge something is not always respected.²⁵

Role of the NDG in the devolved nations

Both Chris Bryant and the Shadow Health Minister, Justin Madders, raised issues about how the advice of the NDG would be interpreted by health and care services in the devolved nations, particularly in regard to English patients receiving cross-border care.

The Health and Social Care Minister, Jackie Doyle-Price, made clear that the Bill would only apply to England, although there would be no reason that guidance from the NDG could not be considered more widely:

The National Data Guardian is an advisory role—it is not a reserved power under devolution arrangements—and as is common in the operation of the health systems in all four nations, I would expect that the advice and guidance given by the National Data Guardian

²⁴ [PBC Deb 6 June 2018, c4](#)

²⁵ [PBC Deb 6 June 2018, c9](#)

would be heard and, when appropriate, acted on by the health services in the other nations.²⁶

Commencement of the legislation

Sir Christopher Chope MP raised concerns that as no date for commencement of the legislation was given on the face of the Bill, the Government could potentially delay it coming into force for a significant period of time, giving examples of other examples in which he perceived the Government to have done so. He challenged the Health and Social Care Minister, Jackie Doyle-Price to commit to implementing the Bill by the end of the calendar year. The Minister stated that she would like to see this commencement target met:

I completely agree with everything my hon. Friend says. It is Ministers' responsibility to ensure that the decisions made by Parliament are actioned as promptly and effectively as possible. I know him well enough to be sure that he will hold me to account on exactly that basis if he does not feel the Bill comes forward quickly enough. I would like to see it commenced by the end of the year, and I will work with my officials to ensure that that is the case. If we cannot achieve that, I will give him an explanation.²⁷

3.4 Report Stage and Third Reading

The Bill is scheduled to have its Report Stage and Third Reading on Friday 6 July 2018, following consideration of the remaining stages of the *Prisons (Interference with Wireless Telegraphy) Bill 2017-19*.

²⁶ [PBC Deb 6 June 2018, c13](#)

²⁷ [PBC Deb 6 June 2018, cc14-15](#)

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