

## NEWS

## Health bill changes may restrict public access to information, campaign group warns

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The public's access to information about the NHS may be restricted by the government's radical changes because of the involvement of independent providers, the Campaign for Freedom of Information has warned.

The changes will enable NHS services to be provided by NHS bodies or independent providers under contract. The NHS organisations that commission services are subject to the Freedom of Information (FOI) Act but the independent providers will not be, points out the campaign group, which is a non-profit organisation working to improve public access to official information.

Under the current standard NHS contract, independent service providers will have to provide information requested by commissioning groups to help them answer any requests for information under the FOI Act. But this only applies to specific information that the contract requires a provider to hold or report on, such as the quality of the service, treatment times, complaints and MRSA infections. It does not cover the full range of information that would be available under the FOI Act from an NHS body itself.

Maurice Frankel, the director of the Campaign for Freedom of Information, explained the consequences this could have in a letter to the health secretary, Andrew Lansley.

"Suppose there is concern about the use of potentially contaminated medical supplies by hospitals. For an NHS hospital, the FOI Act could be used to obtain details of stocks of the product, the number of doses administered, the numbers of affected patients, the quality control measures in place, correspondence with suppliers, minutes of meetings at which the problem was discussed and information showing what measures were considered, what action was taken, how promptly and with what results," it said.

"This level of information would clearly not be available in relation to independent providers treating NHS patients. This would represent a major loss of existing information rights," it continued.

The campaign says that many of the requests made under the FOI Act to one NHS trust since 2009, including the annual infection control budgets, policy on the use of restraint to prevent patients harming themselves, and arrangements for managing a pandemic flu outbreak, would not be required from an independent provider under the current standard contract.

To prevent this loss of access to information the campaign is asking the government to extend the disclosure provision so that independent providers of services to the NHS would have the same requirement to provide a wide range of information as NHS bodies.

The campaign also wants any provider whose work consists mainly, or solely, of treating NHS patients to be made directly subject to the FOI Act in their own right. Otherwise, someone wanting to know about a provider's performance may have to make separate FOI requests to each of the commissioning bodies with which it has a contract. Each commissioning body would then have to ask the provider for the requested information.

The campaign pointed out that if the unequal disclosure requirement is not resolved, this could distort competition between NHS bodies and independent providers. Once services have been commissioned, independent providers will be required to provide similar data on the quality of care provided as NHS organisations. But at the start of the new arrangements, no information would be available on independent service providers, whereas there would be full information on NHS bodies.

"NHS bodies would be forced to disclose any poor performance, while equally poorly performing independent providers may simply appear to have a blank sheet. The principle of patient choice would also be undermined by such unequal disclosure requirements," the campaign says.

A Department of Health spokesperson said, "It is wrong to say that the bill will curtail access to data. The Health and Social Care Bill does exactly the opposite.

"The Health and Social Care Bill amends the Freedom of Information Act to ensure it applies to the NHS Commissioning Board and Clinical Commissioning Groups. This ensures that, as now, all NHS organisations will be subject to its provisions. Furthermore, for the first time, the Bill exposes private sector providers of NHS-funded services to the scrutiny of local councils. Wherever the NHS pound goes, public scrutiny will follow."

The letter to Andrew Lansley is at [www.cfoi.org.uk/](http://www.cfoi.org.uk/).

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