



Health Act 2009

2009 CHAPTER 21

PART 1

QUALITY AND DELIVERY OF ^{F1}HEALTH SERVICES] IN ENGLAND

CHAPTER 1

NHS CONSTITUTION

1 NHS Constitution

- (1) In this Chapter the “NHS Constitution” means—
- (a) the document entitled “The NHS Constitution” published by the Secretary of State on 21 January 2009, or
 - (b) any revised version of that document published under section 3 or 4.
- (2) In this Chapter the “Handbook” means—
- (a) the document entitled “The Handbook to the NHS Constitution” published by the Secretary of State on 21 January 2009, or
 - (b) any revised version of that document published under section 5.

Commencement Information

II S. 1 in force at 19.1.2010 by [S.I. 2010/30](#), [art. 2\(a\)](#)

2 Duty to have regard to NHS Constitution

- (1) Each of the bodies listed in subsection (2) must, in performing its ^{F1}health service functions], have regard to the NHS Constitution.

^{F2}(2) The bodies are—

^{F3}(a)

Changes to legislation: Health Act 2009, Chapter 1 is up to date with all changes known to be in force on or before 13 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- ^{F4}(b)
- ^{F2}(ca) [^{F5}NHS England];
- ^{F6}(cb) integrated care boards;]
- (cc) local authorities (within the meaning of section 2B of the National Health Service Act 2006);]
- (c) National Health Service trusts;
- (d) Special Health Authorities;
- ^{F7}(da) the National Institute for Health and Care Excellence;]
- ^{F8}(db)
- (e) NHS foundation trusts;
- ^{F9}(f)
- (g) the Care Quality Commission.
- ^{F10}(h)
- ^{F11}(i) the Health Services Safety Investigations Body.]
- (3) In subsection (1) [^{F12}a “health service function”] means any function under an enactment which is a function concerned with, or connected to, the provision, commissioning or regulation of [^{F13}health services].
- (4) Each person who—
- ^{F14}(za) provides health services under arrangements made by [^{F5}NHS England] or [^{F15}an integrated care board] under or by virtue of section 3, 3A, 3B or 4 of, or Schedule 1 to, the National Health Service Act 2006,]
- (a) provides [^{F16}health services] under a contract, agreement or arrangements made under or by virtue of an enactment listed in subsection (6), ^{F17}...
- (b) provides or assists in providing [^{F16}health services] under arrangements under section 12(1) of the National Health Service Act 2006 (c. 41), [^{F18}or
- (c) provides health services under arrangements made by a local authority for the purposes of its functions under or by virtue of section 2B or 6C(1) of, or Schedule 1 to, that Act.]
- must, in doing so, have regard to the NHS Constitution.
- (5) Each person who—
- (a) in pursuance of a contract, agreement or arrangements as mentioned in [^{F19}subsection (4)(za), (a), (b) or (c)], makes arrangements (“sub-contracting arrangements”) for another person to provide or assist in providing [^{F20}health services], or
- (b) provides or assists in providing [^{F20}health services] under sub-contracting arrangements,
- must, in doing so, have regard to the NHS Constitution.
- (6) The enactments referred to in subsection (4)(a) are the following provisions of the National Health Service Act 2006—
- (a) section 83(2)(b) (arrangements made by PCTs for provision of primary medical services);
- (b) section 84(1) (general medical services contracts);
- (c) section 92 (other arrangements for the provision of primary medical services);
- (d) section 100(1) (general dental services contracts);
- (e) section 107(1) (other arrangements for the provision of primary dental services);

Changes to legislation: Health Act 2009, Chapter 1 is up to date with all changes known to be in force on or before 13 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (f) section 117(1) (general ophthalmic services contracts);
 - (g) section 126(1) (pharmaceutical services);
 - (h) section 127(1) (additional pharmaceutical services);
 - (i) Schedule 12 (local pharmaceutical services schemes).
- (7) In this Chapter “[^{F21}health services]” means health services provided in England for the purposes of the health service continued under section 1(1) of the National Health Service Act 2006.
- (8) References in this section to the provision of services include references to the provision of services jointly with another person.

Textual Amendments

- F1** Words in s. 2(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(2\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F2** S. 2(2)(ca)-(cc) inserted (1.10.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(3\)\(c\)](#); [S.I. 2012/1831, art. 2\(2\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F3** S. 2(2)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(3\)\(a\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F4** S. 2(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(3\)\(b\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F5** Words in s. 2 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F6** S. 2(2)(cb) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 4 para. 170\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F7** S. 2(2)(da) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 17 para. 13](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F8** S. 2(2)(db) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\), reg. 1\(2\), Sch. para. 14](#) (with reg. 3)
- F9** S. 2(2)(f) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 5 para. 42](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F10** S. 2(2)(h) omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\), reg. 1\(2\), Sch. 1 para. 10](#) (with reg. 7)
- F11** S. 2(2)(i) inserted (1.10.2023) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 15 para. 9](#); [S.I. 2023/1035, reg. 2\(c\)](#)
- F12** Words in s. 2(3) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(4\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F13** Words in s. 2(3) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 174\(b\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F14** S. 2(4)(za) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(5\)\(a\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F15** Words in s. 2(4)(za) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 4 para. 170\(3\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F16** Words in s. 2(4)(a)(b) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 174\(b\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F17** Word in s. 2(4)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(5\)\(b\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F18** S. 2(4)(c) and word inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(5\)\(c\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

Changes to legislation: Health Act 2009, Chapter 1 is up to date with all changes known to be in force on or before 13 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F19** Words in s. 2(5) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 175\(6\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F20** Words in s. 2(5)(a)(b) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 174\(b\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F21** Words in s. 2(7) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 174\(b\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

Modifications etc. (not altering text)

- C1** S. 2(1) applied (30.11.2017) by [The Greater Manchester Combined Authority \(Public Health Functions\) Order 2017 \(S.I. 2017/1180\), arts. 1, 7\(1\)](#)

Commencement Information

- I2** S. 2 in force at 19.1.2010 by [S.I. 2010/30, art. 2\(a\)](#)

3 Availability and review of NHS Constitution

- (1) The Secretary of State must ensure that the NHS Constitution continues to be available to patients, staff and members of the public.
- (2) At least once in any period of 10 years the Secretary of State must carry out a review of the NHS Constitution (referred to in this Chapter as a “10 year review”).
- (3) The following must be consulted about the NHS Constitution on a 10 year review—
 - (a) patients and bodies or other persons representing patients,
 - (b) staff and bodies or other persons representing staff,
 - (c) carers,
 - ^{F22}(d)
 - (e) members of the public,
 - (f) the bodies and persons listed in section 2(2), (4) and (5), and
 - (g) such other persons as the Secretary of State considers appropriate.
- (4) The first 10 year review must be completed not later than 5 July 2018.
- (5) The guiding principles may not be revised as a result of a 10 year review, except in accordance with regulations made by the Secretary of State setting out the revision to be made.
- (6) The Secretary of State must publish the NHS Constitution after any revision made as a result of a 10 year review.
- (7) In this Chapter—

“carers” means persons who, as relatives or friends, care for other persons to whom [^{F23}health services] are being provided;

“the guiding principles” means—

 - (a) the 7 principles described in the NHS Constitution published on 21 January 2009 as “the principles that guide the NHS”, or
 - (b) any revised version of those principles set out in the NHS Constitution published under this section or section 4;

“patients” means persons to whom [^{F23}health services] are being provided;

“staff” means—

 - (a) persons employed by a body listed in section 2(2) or otherwise working for such a body (whether as or on behalf of a contractor, as a volunteer

Changes to legislation: Health Act 2009, Chapter 1 is up to date with all changes known to be in force on or before 13 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

or otherwise) in, or in connection with, the provision, commissioning or regulation of [^{F23}health services];

- (b) persons employed by a person listed in subsection (4) or (5) of section 2 or otherwise working for such a person (whether as or on behalf of a contractor, as a volunteer or otherwise) in, or in connection with, the provision of [^{F23}health services] or assistance or the making of arrangements as mentioned in the subsection in question.

^{F24}(8)

Textual Amendments

- F22** S. 3(3)(d) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 176\(2\)](#); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F23** Words in s. 3(7) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 174\(c\)](#); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F24** S. 3(8) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 176\(3\)](#); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)

Commencement Information

- I3** S. 3 in force at 19.1.2010 by [S.I. 2010/30](#), art. 2(a)

4 Other revisions of NHS Constitution

- (1) This section applies to any revision of the NHS Constitution made other than as a result of a 10 year review (including any such revision which revises the guiding principles).
- (2) Before any revision the Secretary of State must undertake appropriate consultation about the proposed revision.
- (3) The persons consulted must include such patients, staff, members of the public and other persons as appear to the Secretary of State to be affected by the proposed revision.
- (4) The guiding principles may not be revised, except in accordance with regulations made by the Secretary of State setting out the revision to be made.
- (5) The Secretary of State must publish the NHS Constitution after any revision.

Commencement Information

- I4** S. 4 in force at 19.1.2010 by [S.I. 2010/30](#), art. 2(a)

5 Availability, review and revision of Handbook

- (1) The Secretary of State must ensure that the Handbook continues to be available to patients, staff and members of the public.
- (2) At least once in any period of 3 years the Secretary of State must carry out a review of the Handbook.
- (3) The first review must be completed not later than 5 July 2012.

Changes to legislation: Health Act 2009, Chapter 1 is up to date with all changes known to be in force on or before 13 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (4) The Secretary of State must publish the Handbook after any revision (whether made as a result of a review under this section or otherwise).

Commencement Information

I5 S. 5 in force at 19.1.2010 by [S.I. 2010/30](#), [art. 2\(a\)](#)

6 Report on effect of NHS Constitution

- (1) The Secretary of State must publish a report every 3 years on how the NHS Constitution has affected patients, staff, carers and members of the public, since the last report was produced under this subsection.
- (2) The first report must be published not later than 5 July 2012.
- (3) The Secretary of State must lay before Parliament a copy of each report under subsection (1).

Commencement Information

I6 S. 6 in force at 19.1.2010 by [S.I. 2010/30](#), [art. 2\(a\)](#)

7 Regulations under section 3 or 4

- (1) The power to make regulations under section 3 or 4 is exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under either of those sections is subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I7 S. 7 in force at 19.1.2010 by [S.I. 2010/30](#), [art. 2\(a\)](#)

Changes to legislation:

Health Act 2009, Chapter 1 is up to date with all changes known to be in force on or before 13 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(6)(ca) inserted by [2022 c. 31 Sch. 3 para. 57\(b\)](#)
- s. 2(6)(ea) inserted by [2022 c. 31 Sch. 3 para. 57\(c\)](#)

Commencement Orders yet to be applied to the Health Act 2009

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2011/1255 art. 2](#) amendment to earlier commencing SI 2010/1068 art. 2