



# Health Act 2009

## 2009 CHAPTER 21

### PART 1

#### QUALITY AND DELIVERY OF <sup>F1</sup>HEALTH SERVICES] IN ENGLAND

### CHAPTER 1

#### NHS CONSTITUTION

## 2 Duty to have regard to NHS Constitution

(1) Each of the bodies listed in subsection (2) must, in performing its <sup>F1</sup>health service functions], have regard to the NHS Constitution.

<sup>F2</sup>(2) The bodies are—

- <sup>F3</sup>(a) .....
- <sup>F4</sup>(b) .....
- <sup>F2</sup>(ca) <sup>F5</sup>NHS England];
- <sup>F6</sup>(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;
- <sup>F7</sup>(da) the National Institute for Health and Care Excellence;]
- <sup>F8</sup>(db) .....
- (e) NHS foundation trusts;
- <sup>F9</sup>(f) .....
- (g) the Care Quality Commission.
- <sup>F10</sup>(h) .....
- <sup>F11</sup>(i) the Health Services Safety Investigations Body.]

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(3) In subsection (1) [<sup>F12</sup>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 [<sup>F13</sup>health services].

(4) Each person who—

[<sup>F14</sup>(za) provides health services under arrangements made by [<sup>F5</sup>NHS England] or [<sup>F15</sup>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 [<sup>F16</sup>health services] under a contract, agreement or arrangements made under or by virtue of an enactment listed in subsection (6), <sup>F17</sup>...
- (b) provides or assists in providing [<sup>F16</sup>health services] under arrangements under section 12(1) of the National Health Service Act 2006 (c. 41), [<sup>F18</sup>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 [<sup>F19</sup>subsection (4)(za), (a), (b) or (c)], makes arrangements (“sub-contracting arrangements”) for another person to provide or assist in providing [<sup>F20</sup>health services], or
- (b) provides or assists in providing [<sup>F20</sup>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);
- (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 “[<sup>F21</sup>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)

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- 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)
- 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)

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**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)**

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**Commencement Information**

- I1** S. 2 in force at 19.1.2010 by S.I. 2010/30, **art. 2(a)**

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 2(2)(c) omitted by [2012 c. 7 Sch. 14 para. 113](#)
- s. 2(6)(a) substituted by [2022 c. 31 Sch. 3 para. 57\(a\)](#)

**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