



# 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)**
- C2** S. 2(1) applied (28.2.2024) by The East Midlands Combined County Authority Regulations 2024 (S.I. 2024/232), regs. 1(2), **25**

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**Commencement Information**

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

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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