

SCHEDULES

SCHEDULE 2

Section 25(2)

CLINICAL COMMISSIONING GROUPS

“SCHEDULE 1A

Sections 14B(6), 14D(2) and 14I(4)

CLINICAL COMMISSIONING GROUPS

PART 1

CONSTITUTION OF CLINICAL COMMISSIONING GROUPS

General

- 1 A clinical commissioning group must have a constitution.
- 2 (1) The constitution must specify—
 - (a) the name of the clinical commissioning group,
 - (b) the members of the group, and
 - (c) the area of the group.(2) The name of the group must comply with such requirements as may be prescribed.
- 3 (1) The constitution must specify the arrangements made by the clinical commissioning group for the discharge of its functions (including its functions in determining the terms and conditions of its employees).
 - (2) The arrangements may include provision—
 - (a) for the appointment of committees or sub-committees of the clinical commissioning group, and
 - (b) for any such committees to consist of or include persons other than members or employees of the clinical commissioning group.
 - (3) The arrangements may include provision for any functions of the clinical commissioning group to be exercised on its behalf by—
 - (a) any of its members or employees,
 - (b) its governing body, or
 - (c) a committee or sub-committee of the group.
- 4 (1) The constitution must specify the procedure to be followed by the clinical commissioning group in making decisions.
 - (2) The constitution must also specify the arrangements made by the clinical commissioning group for securing that there is transparency about the decisions of the group and the manner in which they are made.

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- 5 The constitution must specify the arrangements made by the clinical commissioning group for discharging its duties under section 14O(1) to (4).
- 6 The provision made by virtue of paragraphs 3 and 4 must secure that there is effective participation by each member of the clinical commissioning group in the exercise of the group's functions.

Governing bodies of clinical commissioning groups

- 7 (1) The constitution must specify the arrangements made by the clinical commissioning group for the discharge of the functions of its governing body.
- (2) The arrangements—
- (a) must include provision for the appointment of the audit committee and remuneration committee of the governing body, and
 - (b) may include provision for the appointment of other committees or sub-committees of the governing body.
- (3) Arrangements under sub-paragraph (2)(a) may include provision for the audit committee to include individuals who are not members of the governing body.
- (4) Arrangements under sub-paragraph (2)(b) may include provision for a committee or sub-committee to include individuals who are not members of the governing body but are—
- (a) members of the clinical commissioning group, or
 - (b) individuals of a description specified in the constitution.
- (5) The arrangements may include provision for any functions of the governing body to be exercised on its behalf by—
- (a) any committee or sub-committee of the governing body,
 - (b) a member of the governing body,
 - (c) a member of the clinical commissioning group who is an individual (but is not a member of the governing body), or
 - (d) an individual of a description specified in the constitution.
- (6) In this paragraph, references to the functions of the governing body of a clinical commissioning group include references to the functions of the clinical commissioning group which are exercisable by the governing body under arrangements specified in the constitution by virtue of paragraph 3(3).
- 8 (1) The constitution must specify the procedure to be followed by the governing body in making decisions.
- (2) The constitution must also specify the arrangements made by the clinical commissioning group for securing that there is transparency about the decisions of the governing body and the manner in which they are made.
- (3) The provision made under sub-paragraph (2) must include provision for meetings of governing bodies to be open to the public, except where the clinical commissioning group considers that it would not be in the public interest to permit members of the public to attend a meeting or part of a meeting.

Supplemental

- 9 In addition to the provision authorised or required to be included under this Part of this Schedule, the constitution may make further provision.

PART 2

FURTHER PROVISION ABOUT CLINICAL COMMISSIONING GROUPS

Status

- 10 (1) A clinical commissioning group is a body corporate.
- (2) A clinical commissioning group is not to be regarded as a servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown.
- (3) The property of a clinical commissioning group is not to be regarded as property of, or property held on behalf of, the Crown.

Staff

- 11 (1) A clinical commissioning group may appoint such persons to be employees of the group as it considers appropriate.
- (2) A clinical commissioning group must—
- (a) pay its employees remuneration and travelling or other allowances in accordance with determinations made by its governing body under section 14L(3)(a), and
 - (b) employ them on such other terms and conditions as it may determine.
- (3) A clinical commissioning group may, for or in respect of such of its employees as it may determine, make arrangements for providing pensions, allowances or gratuities.
- (4) Such arrangements may include the establishment and administration, by the clinical commissioning group or otherwise, of one or more pension schemes.
- (5) The arrangements that may be made under sub-paragraph (3) include arrangements for the provision of pensions, allowances or gratuities by way of compensation to or in respect of any of the clinical commissioning group's employees who suffer loss of office or employment or loss or diminution of emoluments.

Accountable officer

- 12 (1) A clinical commissioning group must have an accountable officer.
- (2) The accountable officer is to be appointed by the Board.
- (3) The Board may appoint a person to be the accountable officer for more than one clinical commissioning group (and in the following provisions of this paragraph such an appointment is referred to as a “joint appointment”).
- (4) The accountable officer may be—
- (a) an individual who is a member of the clinical commissioning group or of any body that is a member of the group or, in the case of a joint appointment,

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- an individual who is a member of any of the groups in question or of any body that is a member of any of those groups, or
- (b) an employee of the group or of any member of the group or, in the case of a joint appointment, an employee of any of the groups in question or of any member of those groups.
- (5) If the accountable officer is not an employee of the clinical commissioning group or, in the case of a joint appointment, of any of the groups in question, the group or any of the groups may pay remuneration and travelling or other allowances to the accountable officer in accordance with determinations made by its governing body under section 14L(3)(a).
- (6) A clinical commissioning group may, for or in respect of its accountable officer, make arrangements for providing pensions, allowances or gratuities.
- (7) The arrangements that may be made under sub-paragraph (6) include arrangements for the provision of pensions, allowances or gratuities by way of compensation to or in respect of the accountable officer where the officer suffers loss of office or loss or diminution of emoluments.
- (8) Where a clinical commissioning group has, by virtue of paragraph 11(4), established a pension scheme, the arrangements that may be made under sub-paragraph (6) include arrangements for the accountable officer to be a member of the scheme.
- (9) The accountable officer is responsible for ensuring that the clinical commissioning group or, in the case of a joint appointment, each of the groups in question—
- (a) complies with its obligations under—
- (i) sections 14Q and 14R,
- (ii) sections 223H to 223J,
- (iii) paragraphs 17 to 19 of this Schedule, and
- (iv) any other provision of this Act specified in a document published by the Board for the purposes of this sub-paragraph, and
- (b) exercises its functions in a way which provides good value for money.

Remuneration etc for members of governing bodies

- 13 (1) A clinical commissioning group may pay members of its governing body such remuneration and travelling or other allowances as it considers appropriate.
- (2) A clinical commissioning group may, for or in respect of such members of its governing body as it may determine, make arrangements for providing pensions, allowances or gratuities.
- (3) Such arrangements may include the establishment and administration, by the clinical commissioning group or otherwise, of one or more pension schemes.
- (4) The arrangements that may be made under sub-paragraph (2) include arrangements for the provision of pensions, allowances or gratuities by way of compensation to or in respect of any members of the governing body who suffer loss or diminution of emoluments.
- (5) Where a clinical commissioning group has, by virtue of paragraph 11(4), established a pension scheme, the arrangements that may be made under sub-

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paragraph (2) include arrangements for members of the governing body to be members of the scheme.

- (6) Sub-paragraph (2) does not apply to members of the governing body who are—
- (a) members or employees of the clinical commissioning group, or
 - (b) members or employees of a body that is a member of the clinical commissioning group.

Additional powers in respect of payment of allowances

- 14 A clinical commissioning group may pay such travelling or other allowances as it considers appropriate to any of the following—
- (a) members of the clinical commissioning group who are individuals;
 - (b) individuals authorised to act on behalf of a member of the clinical commissioning group in dealings between the member and the group;
 - (c) members of any committee or sub-committee of the clinical commissioning group or its governing body.

Trust funds and trustees

- 15 (1) The Secretary of State may by order provide for the appointment of trustees for a clinical commissioning group to hold property on trust—
- (a) for the general or any specific purposes of the group, or
 - (b) for any purposes relating to the health service in England.
- (2) An order under sub-paragraph (1) may—
- (a) make provision as to the persons by whom trustees must be appointed and generally as to the method of their appointment,
 - (b) make any appointment subject to such conditions as may be specified in the order (including conditions requiring the consent of the Secretary of State),
 - (c) make provision as to the number of trustees to be appointed, including provision under which that number may from time to time be determined by the Secretary of State after consultation with such persons as the Secretary of State considers appropriate, and
 - (d) make provision with respect to the term of office of any trustee and his or her removal from office.
- (3) Where trustees have been appointed by virtue of sub-paragraph (1), the Secretary of State may by order provide for the transfer of any trust property from the clinical commissioning group to the trustees.

Externally financed development agreements

- 16 (1) The powers of a clinical commissioning group include power to enter into externally financed development agreements.
- (2) For the purposes of this paragraph, an agreement is an externally financed development agreement if it is certified as such in writing by the Secretary of State.
- (3) The Secretary of State may give a certificate under this paragraph if—

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- (a) in the Secretary of State’s opinion the purpose or main purpose of the agreement is the provision of services or facilities in connection with the discharge by a clinical commissioning group of any of its functions, and
 - (b) a person proposes to make a loan to, or provide any other form of finance for, another party in connection with the agreement.
- (4) If a clinical commissioning group enters into an externally financed development agreement it may also, in connection with that agreement, enter into an agreement with a person who falls within sub-paragraph (3)(b) in relation to the externally financed development agreement.
- (5) In sub-paragraph (3)(b) “another party” means any party to the agreement other than the clinical commissioning group.
- (6) The fact that an agreement made by a clinical commissioning group has not been certified under this paragraph does not affect its validity.

Accounts and audits

- 17 (1) A clinical commissioning group must keep proper accounts and proper records in relation to the accounts.
- (2) A clinical commissioning group must prepare annual accounts in respect of each financial year.
- (3) The Board may, with the approval of the Secretary of State, direct a clinical commissioning group to prepare accounts in respect of such period or periods as may be specified in the direction.
- (4) The Board may, with the approval of the Secretary of State, give directions to a clinical commissioning group as to—
- (a) the methods and principles according to which its annual or other accounts must be prepared, and
 - (b) the form and content of such accounts.
- (5) The annual accounts and, if the Board so directs, accounts prepared by virtue of sub-paragraph (3) must be audited in accordance with the Audit Commission Act 1998 by an auditor or auditors appointed in accordance with arrangements made by the Board for the purposes of this paragraph.
- (6) The Comptroller and Auditor General may examine—
- (a) the annual accounts and any records relating to them, and
 - (b) any report on them by the auditor or auditors.
- (7) A clinical commissioning group must send its audited annual accounts, and any audited accounts prepared by it by virtue of sub-paragraph (3), to the Board by no later than the date specified in a direction by the Board.
- (8) The Board may direct a clinical commissioning group to send its unaudited annual accounts, and any unaudited accounts prepared by it by virtue of sub-paragraph (3), to the Board by no later than the date specified in a direction by the Board.
- (9) For the purposes of this paragraph “financial year” includes the period which begins on the day the clinical commissioning group is established and ends on the following 31 March.

Provision of financial information to Board

- 18
- (1) The Board may direct a clinical commissioning group to supply it with such information relating to its accounts or to its income or expenditure, or its use of resources, as may be specified in the direction.
 - (2) The power conferred by sub-paragraph (1) includes power to direct a clinical commissioning group to supply the Board with—
 - (a) estimates of its future income or expenditure or its future use of resources;
 - (b) any information which the Board considers is necessary to enable it to verify any other information supplied to it under sub-paragraph (1).
 - (3) A clinical commissioning group must supply the Board with any information specified in a direction under sub-paragraph (1) within such period as may be specified in the direction.
 - (4) In this paragraph, a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

Provision of information required by the Secretary of State

- 19
- (1) The Secretary of State may require each clinical commissioning group to provide the Board with such information as the Secretary of State considers it necessary to have for the purposes of the functions of the Secretary of State in relation to the health service.
 - (2) The information must be provided in such form, and at such time or within such period, as the Secretary of State may require.
 - (3) The powers conferred by this paragraph must be exercised in the same way in relation to each clinical commissioning group.
 - (4) The Board must give any information obtained by it under sub-paragraph (1) to the Secretary of State, in such form, and at such time or within such period, as the Secretary of State may require.

Incidental powers

- 20
- The power conferred on a clinical commissioning group by section 2 includes, in particular, power to—
- (a) enter into agreements,
 - (b) acquire and dispose of property, and
 - (c) accept gifts (including property to be held on trust for the purposes of the clinical commissioning group).

Seal and evidence

- 21
- (1) The application of a clinical commissioning group's seal must be authenticated by the signature of any person who has been authorised (generally or specially) for that purpose.
 - (2) Any instrument which, if executed by an individual, would not need to be under seal may be executed on behalf of a clinical commissioning group by any person who has been authorised (generally or specially) for that purpose.

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- (3) A document purporting to be duly executed under a clinical commissioning group's seal or to be signed on its behalf must be received in evidence and, unless the contrary is proven, taken to be so executed or signed.

PART 3

TRANSFER SCHEMES

- 22 The things that may be transferred under a property transfer scheme or a staff transfer scheme under section 14I include—
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- 23 A property transfer scheme or a staff transfer scheme may make supplementary, incidental, transitional and consequential provision and may in particular—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee.
- 24 A property transfer scheme may make provision for the shared ownership or use of property.
- 25 A staff transfer scheme may make provision which is the same or similar to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ([SI 2006/246](#)).
- 26 A property transfer scheme or a staff transfer scheme may provide—
- (a) for the scheme to be modified by agreement after it comes into effect, and
 - (b) for any such modifications to have effect from the date when the original scheme comes into effect.”