



Health and Social Care Act 2012

2012 CHAPTER 7

PART 4 **E+W**

NHS FOUNDATION TRUSTS & NHS TRUSTS

Governance and management

151 **Governors** **E+W**

- (1) In paragraph 7 of Schedule 7 to the National Health Service Act 2006 (public benefit corporation to have governors)—
 - (a) in sub-paragraph (1), for “a board of governors” substitute “a council of governors”, and
 - (b) in sub-paragraphs (2), (3) and (4), for “the board” substitute “the council”.
- (2) Omit paragraph 9(3) of that Schedule (requirement for at least one member of council of governors to be appointed by PCT).
- (3) For paragraph 9(7) of that Schedule (partnership organisations) substitute—

“(7) Any organisation specified in the constitution for the purposes of this sub-paragraph may appoint one or more members of the council (but no more than the number specified for those purposes in the constitution).”
- (4) After paragraph 10 of that Schedule insert—

“10A The general duties of the council of governors are—

 - (a) to hold the non-executive directors individually and collectively to account for the performance of the board of directors, and
 - (b) to represent the interests of the members of the corporation as a whole and the interests of the public.”
- (5) After paragraph 10A of that Schedule insert—

Changes to legislation: Health and Social Care Act 2012, Section 151 is up to date with all changes known to be in force on or before 04 June 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

“10B A public benefit corporation must take steps to secure that the governors are equipped with the skills and knowledge they require in their capacity as such.”

(6) After paragraph 10B of that Schedule insert—

“10C For the purpose of obtaining information about the corporation's performance of its functions or the directors' performance of their duties (and deciding whether to propose a vote on the corporation's or directors' performance), the council of governors may require one or more of the directors to attend a meeting.”

(7) In paragraph 23(4) of that Schedule (persons eligible for appointment as auditor by governors), in sub-paragraph (c), for “the regulator” substitute “the Secretary of State”.

(8) In paragraph 26(2) of that Schedule (information that must be given in annual reports etc.), after paragraph (a) insert—

“(aa) information on any occasions in the period to which the report relates on which the council of governors exercised its power under paragraph 10C,”.

(9) In consequence of subsection (1)—

- (a) in sections 33(4)(a) (in each place it appears), 35(2)(c) and (5)(c), 39(3)(a), 59(1), (2)(b) and (5) and 60(1) of that Act, for “board of governors” substitute “council of governors”,
- (b) in section 60(2) and (3) and paragraphs 8 to 14, 17, 18, 20, 21, 23, 27 and 28 of Schedule 7 to that Act, for “the board” (in each place it appears) substitute “the council”,
- (c) for the cross-heading preceding paragraph 7 of that Schedule substitute “Council of Governors”,
- (d) in the cross-heading preceding paragraph 28 of that Schedule, for “board” substitute “council”, and
- (e) in paragraphs 4(2) and 5(1) of Schedule 10 to that Act, for “board of governors” substitute “council of governors”.

Commencement Information

- I1** S. 151(1)(9) in force at 1.10.2012 by [S.I. 2012/1831](#), **art. 2(2)**
- I2** S. 151(2)-(6)(8) in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

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):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)