



Health and Care Act 2022

2022 CHAPTER 31

PART 1

HEALTH SERVICE IN ENGLAND: INTEGRATION, COLLABORATION AND OTHER CHANGES

Integrated care system: financial controls

27 NHS England's financial responsibilities

For sections 223C to 223E of the National Health Service Act 2006 substitute—

“223C Financial duties of NHS England: expenditure

- (1) NHS England must exercise its functions with a view to ensuring that expenditure incurred by the following bodies in a financial year (taken together) does not exceed the aggregate of any sums received by them in the year—
 - (a) NHS England;
 - (b) integrated care boards.
- (2) The Secretary of State may by direction—
 - (a) specify descriptions of expenditure that are, or are not, to be treated for the purposes of this section as expenditure incurred by a body, or expenditure incurred by it in a particular financial year;
 - (b) specify descriptions of sums that are, or are not, to be treated for the purposes of this section as having been received by a body, or as having been received by it in a particular financial year;
 - (c) provide for sums received by NHS England under section 223B in a year but not spent to be treated for the purposes of this section as expenditure incurred by it in a particular financial year;
 - (d) provide for sums received by an integrated care board under section 223G in a year but not spent to be treated for the purposes of this section as expenditure incurred by it in a particular financial year.

- (3) For the purposes of this section any sum allotted to NHS England for a year under section 223B is to be treated as received by it in that year (subject to any direction under subsection (2)(b)).

223CA NHS England: banking facilities

The Secretary of State may by direction require NHS England to use banking facilities specified in the direction for any purposes so specified.

223D Financial duties of NHS England: controls on total resource use

- (1) NHS England must exercise its functions with a view to ensuring that, in respect of each financial year—
- (a) total capital resource use does not exceed the limit specified in a direction by the Secretary of State;
 - (b) total revenue resource use does not exceed the limit specified in a direction by the Secretary of State.
- (2) In subsection (1) “total capital resource use” and “total revenue resource use” means the use of capital resources or (as the case may be) revenue resources by relevant NHS bodies, other than use that consists of the transfer of resources between relevant NHS bodies.
- (3) In subsection (2) “relevant NHS bodies” means—
- (a) NHS England,
 - (b) integrated care boards,
 - (c) NHS trusts established under section 25, and
 - (d) NHS foundation trusts.
- (4) A direction under subsection (1)(a) or (b) specifying a limit in relation to a financial year may be varied by a subsequent direction only if—
- (a) NHS England agrees to the change,
 - (b) a parliamentary general election takes place, or
 - (c) the Secretary of State considers that there are exceptional circumstances which make the variation necessary.
- (5) The Secretary of State must publish and lay before Parliament any directions under this section.
- (6) Any reference in this Chapter to the use of capital resources or revenue resources is a reference to their expenditure, consumption or reduction in value.

223E Financial duties of NHS England: additional controls on resource use

- (1) The Secretary of State may direct NHS England to ensure—
- (a) that relevant capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified;

(b) that relevant revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.

(2) In subsection (1) “relevant capital resource use” and “relevant revenue resource use” means the use of capital resources or (as the case may be) revenue resources by NHS England and integrated care boards.

(3) The Secretary of State may direct NHS England to ensure that NHS England’s use of revenue resources in a financial year which is attributable to such matters relating to administration as are specified in the direction does not exceed an amount so specified.”

28 Expansion of NHS England’s duties in respect of expenditure

In section 223C of the National Health Service Act 2006 (as substituted by section 27 of this Act), in subsection (1), after paragraph (b) insert—

“(c) NHS trusts established under section 25;

(d) NHS foundation trusts.”

29 Financial responsibilities of integrated care boards and their partners

(1) The National Health Service Act 2006 is amended as follows.

(2) For the italic heading before section 223G substitute—

“Integrated care boards”.

(3) After section 223GA insert—

“223GB Power to impose financial requirements on integrated care boards

(1) NHS England may give integrated care boards directions about their management or use of financial or other resources.

(2) The directions that may be given include a direction imposing limits on expenditure or resource use by integrated care boards.

(3) NHS England must publish any directions under this section.

223GC Financial duties of integrated care boards: expenditure limits

(1) An integrated care board must exercise its functions with a view to ensuring that expenditure incurred by the board in a financial year does not exceed the sums received by it in that year.

(2) NHS England may by direction—

(a) specify descriptions of expenditure that are, or are not, to be treated for the purposes of this section as expenditure incurred by an integrated care board, or expenditure incurred by it in a particular financial year;

Status: This is the original version (as it was originally enacted).

- (b) specify descriptions of sums that are, or are not, to be treated for the purposes of this section as having been received by an integrated care board, or as having been received by it in a particular financial year;
 - (c) provide for sums received by an integrated care board under section 223G in a year but not spent to be treated for the purposes of this section as expenditure incurred by it in a particular financial year.
- (3) For the purposes of this section any sum allotted to an integrated care board for a year under section 223G is to be treated as received by it in that year (subject to any direction under subsection (2)(b)).

223GD Integrated care boards: banking facilities

The Secretary of State may give integrated care boards directions requiring them to use specified banking facilities for any specified purposes.”

- (4) Omit sections 223H to 223J (financial duties of clinical commissioning groups).
- (5) After section 223K insert—

“Joint duties of an integrated care board and its partner NHS trusts and NHS foundation trusts

223L Joint financial objectives for integrated care boards etc

- (1) NHS England may set joint financial objectives for integrated care boards and their partner NHS trusts and NHS foundation trusts.
- (2) An integrated care board and its partner NHS trusts and NHS foundation trusts must seek to achieve any financial objectives set under this section.
- (3) Financial objectives under this section may apply to—
 - (a) integrated care boards and their partner NHS trusts and NHS foundation trusts generally,
 - (b) a particular integrated care board and its partner NHS trusts and NHS foundation trusts, or
 - (c) an integrated care board of a particular description and its partner NHS trusts and NHS foundation trusts.

223M Financial duties of integrated care boards etc: use of resources

- (1) Each integrated care board and its partner NHS trusts and NHS foundation trusts must exercise their functions with a view to ensuring that, in respect of each financial year—
 - (a) local capital resource use does not exceed the limit specified in a direction by NHS England;
 - (b) local revenue resource use does not exceed the limit specified in a direction by NHS England.
- (2) In this section “local capital resource use” and “local revenue resource use” means the use of capital resources or (as the case may be) revenue resources by the integrated care board and its partner NHS trusts and NHS foundation

trusts, other than use that consists of the transfer of resources between those bodies.

- (3) Where an NHS trust or NHS foundation trust is the partner of more than one integrated care board, its use of capital resources or revenue resources is to be apportioned for the purposes of this section to one or more of the integrated care boards in such manner as may be provided for in a direction by NHS England.
- (4) NHS England may by direction make provision for determining to which integrated care board, NHS trust or NHS foundation trust a use of capital resources or revenue resources is to be attributed for the purposes of this section.

223N Financial duties of integrated care boards etc: additional controls on resource use

- (1) NHS England may direct an integrated care board and its partner NHS trusts and NHS foundation trusts to exercise their functions with a view to—
 - (a) ensuring that local capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified;
 - (b) ensuring that local revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (2) A direction under subsection (1) may—
 - (a) specify descriptions of resources which must, or must not, be treated as local capital resources or local revenue resources for the purposes of the direction;
 - (b) specify uses of local capital resources or local revenue resources which must, or must not, be taken into account for the purposes of the direction.
- (3) Any directions given under section 223M(3) or (4) apply for the purposes of this section as they apply for the purposes of section 223M.
- (4) In this section “local capital resource use” and “local revenue resource use” have the meaning given by section 223M(2).

Directions about resources etc to be taken into account

223O Resources etc relevant to section 223D, 223E or 223M

- The Secretary of State may give directions, in relation to a financial year—
- (a) specifying descriptions of resources which must, or must not, be treated as capital resources or revenue resources for the purposes of section 223D, 223E or 223M;
 - (b) specifying uses of capital resources or revenue resources which must, or must not, be taken into account for the purposes of section 223D, 223E or 223M.”

30 Expansion of financial duties of integrated care boards and their partners

- (1) The National Health Service Act 2006 is amended as follows.
- (2) Omit section [223GC](#) (inserted by section 29 of this Act).
- (3) After section [223L](#) (inserted by section 29 of this Act) insert—

“223LA Financial duties of integrated care boards etc: expenditure limits

- (1) An integrated care board and its partner NHS trusts and NHS foundation trusts must exercise their functions with a view to ensuring that their expenditure in a financial year (taken together) does not exceed the aggregate of any sums received by them in the year.
- (2) Where an NHS trust or NHS foundation trust is the partner of more than one integrated care board its receipts and expenditure are to be apportioned for the purposes of this section to one or more of the integrated care boards in such manner as may be provided for in a direction by NHS England.
- (3) NHS England may by direction—
 - (a) specify descriptions of expenditure that are, or are not, to be treated for the purposes of this section as expenditure incurred by a body, or expenditure incurred by it in a particular financial year;
 - (b) specify descriptions of sums that are, or are not, to be treated for the purposes of this section as having been received by a body, or as having been received by it in a particular financial year;
 - (c) provide for sums received by an integrated care board under section 223G in a year but not spent to be treated for the purposes of this section as expenditure by it in a particular financial year.
- (4) For the purposes of this section any sum allotted to an integrated care board for a year under section 223G is to be treated as received by it in that year (subject to any direction under subsection [\(3\)\(b\)](#)).