# SCHEDULES

## SCHEDULE 2

### INTEGRATED CARE BOARDS: CONSTITUTION ETC

1 Before Schedule 4 to the National Health Service Act 2006 insert—

"SCHEDULE
1B

### INTEGRATED CARE BOARDS

## PART 1

### CONSTITUTION OF INTEGRATED CARE BOARDS

**Introduction**

1 An integrated care board must have a constitution.

**Name and area**

2 The constitution must specify—
(a) the name of the integrated care board, and
(b) the area for which it is established.

**Membership: general**

3 (1) The constitution must provide for the integrated care board to consist of—
(a) a chair (see paragraphs 5 and 6),
(b) a chief executive (see paragraph 7), and
(c) at least three other members (see paragraph 8).

(2) In this Part of this Schedule a reference to an "ordinary member" is to a member other than the chair or chief executive.

4 The constitution must prohibit a person from appointing someone as a member ("the candidate") if they consider that the appointment could reasonably be regarded as undermining the independence of the health service because of the candidate's involvement with the private healthcare sector or otherwise.

### Chair

5 The constitution must provide for the chair to be appointed by NHS England, with the approval of the Secretary of State.

6 The constitution may not confer power to remove the chair from office on any person other than NHS England, and any such power must be expressed to be subject to the approval of the Secretary of State.

### Chief executive

7 (1) The constitution must provide for the chief executive to be appointed by the chair, with the approval of NHS England.

(2) The constitution must provide that a person is eligible to become or remain the chief executive only if the person is an employee of the integrated care board.

### Ordinary members

8 (1) The constitution must—

(a) specify who is to appoint the ordinary members, and

(b) provide that the appointment of an ordinary member is subject to the approval of the chair.

(2) The constitution must provide for the ordinary members to include—

(a) at least one member nominated jointly by the NHS trusts and NHS foundation trusts that—

(i) provide services for the purposes of the health service within the integrated care board's area, and

(ii) are of a prescribed description,

(b) at least one member nominated jointly by persons who—

(i) provide primary medical services for the purposes of the health service within the integrated care board's area, and

(ii) are of a prescribed description,

(c) at least one member nominated jointly by the local authorities whose areas coincide with, or include the whole or any part of, the integrated care board's area.

(3) The constitution must set out the process for nominating the ordinary members mentioned in sub-paragraph (2).

(4) A person participating in the process for nominating the ordinary members mentioned in sub-paragraph (2) must have regard to any guidance published by NHS England in relation to the selection of candidates.

(5) The descriptions of trusts or other persons that may be prescribed for the purposes of sub-paragraph (2)(a) or (b) may, in particular, be framed by reference to the nature of the services that they provide or the proportion of their services that are provided within the integrated care board's area.

(6) The chair must exercise the approval function mentioned in sub-paragraph (1)(b) with a view to ensuring that at least one of the ordinary members has knowledge and experience in connection with services relating to the prevention, diagnosis and treatment of mental illness.

(7) In this paragraph "local authority" has the meaning given by section 2B(5).

**Further provision in connection with membership**

9 The constitution may make further provision in connection with the membership of the integrated care board, including provision about—

(a) how members are to be appointed;

(b) qualification and disqualification for membership;

(c) the tenure of members (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);

(d) eligibility for re-appointment;

(e) terms of appointment (including provision about the remuneration or allowances of the chair and ordinary members);

(f) the validation of proceedings in the event of a vacancy or defect in an appointment.

10 (1) The constitution of an integrated care board must comply with any requirements in connection with membership that are imposed by regulations.

(2) The regulations may impose requirements in connection with any provision that may be included in an integrated care board's constitution by virtue of paragraphs 3 to 9.

**Arrangements for discharging functions**

11 (1) The constitution must specify arrangements for the exercise of the integrated care board's 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 integrated care board, and

(b) for any such committees to consist of or include persons other than members or employees of the integrated care board.

(3) The arrangements may include provision for any functions of the integrated care board to be exercised on its behalf by—

(a) any of its members or employees;

(b) a committee or sub-committee of the board.

(4) If the constitution includes provision under this paragraph allowing committees or sub-committees to exercise commissioning functions, the constitution must—

(a) provide for the members of any such committee or sub-committee to be approved or appointed by the chair of the integrated care board, and

(b) prohibit the chair from approving or appointing someone as a member of any such committee or sub-committee ("the candidate") if the chair considers that the appointment could reasonably be regarded as undermining the independence of the health service because of the candidate's involvement with the private healthcare sector or otherwise.

(5) In sub-paragraph (4) "commissioning functions" means the functions of an integrated care board in arranging for the provision of services as part of the health service.

12 (1) The constitution must specify the procedure to be followed by the integrated care board in making decisions.

(2) The constitution must also specify the arrangements to be made by the integrated care board for securing that there is transparency about the decisions of the board and the manner in which they are made.

**Arrangements for conflicts of interests**

13 The constitution must include—

(a) provision about the arrangements to be made by the integrated care board for discharging its functions under section 14Z30(1) to (4), and

(b) a statement of the principles to be followed by the board in implementing those arrangements.

**Arrangements for public involvement**

14 The constitution must include—

(a) provision about the arrangements to be made by the integrated care board for discharging its functions under section 14Z45(2), and

(b) a statement of the principles to be followed by the board in implementing those arrangements.

**Variation of constitution**

15 (1) The constitution must include a power to vary the constitution in accordance with a procedure set out there.

(2) The provision made by the constitution in accordance with sub-paragraph (1) must—

(a) include power for NHS England to vary the constitution on its own initiative, and

(b) require NHS England's approval to be obtained before any other variation is made.

### Further provision

16 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 INTEGRATED CARE BOARDS

### Status

17 (1) An integrated care board is a body corporate.

(2) An integrated care board is not to be regarded—

(a) as a servant or agent of the Crown, or

(b) as enjoying any status, privilege or immunity of the Crown.

(3) An integrated care board's property is not to be regarded as property of, or property held on behalf of, the Crown.

### Staff

18 (1) An integrated care board may appoint employees.

(2) Employees of an integrated care board are to be paid such remuneration and allowances as the board may determine.

(3) Employees of an integrated care board are to be appointed on such other terms and conditions as the board may determine.

(4) An integrated care board may pay or make provision for the payment of such pensions, allowances or gratuities as it may determine to or in respect of any person who is or has been an employee of the board.

19 (1) An integrated care board may make arrangements for a person to be seconded to the board to serve as a member of the board's staff.

(2) A period of secondment to an integrated care board does not affect the continuity of a person's employment with the employer from whose service the person is seconded.

(3) In paragraphs 11 and 18 a reference to an employee of an integrated care board includes a person seconded to the board.

(4) In paragraph 7(2) the reference to an employee of an integrated care board includes any of the following seconded to the board—

(a) a person employed in the civil service of the State, or

(b) a person employed by—

(i) NHS England,

(ii) an NHS trust established under section 25,

(iii) an NHS foundation trust,

(iv) a Special Health Authority performing functions only or mainly in respect of England,

(v) the Care Quality Commission,
(vi) the Health and Social Care Information Centre,
(vii) the Health Services Safety Investigations Body,
(viii) the Human Tissue Authority,
(ix) the Human Fertilisation and Embryology Authority, or
(x) NICE.

(5) The Secretary of State may by regulations amend this paragraph so as to provide that other references in this Act to an employee of an integrated care board include persons, or persons of a prescribed description, seconded to the board.

**Additional powers in respect of payment of allowances**

20 An integrated care board may pay such allowances as it considers appropriate to a member of a committee or sub-committee of the integrated care board who is not a member of the board.

**Externally financed development agreements**

21 (1) The powers of an integrated care board 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—
(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 exercise by an integrated care board 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 an integrated care board 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 integrated care board.

(6) The fact that an agreement made by an integrated care board has not been certified under this paragraph does not affect its validity.

**Accounts and audits**

22 (1) An integrated care board must keep proper accounts and proper records in relation to the accounts.

(2) An integrated care board must prepare annual accounts in respect of each financial year.

(3) NHS England may, with the approval of the Secretary of State, direct an integrated care board to prepare accounts in respect of such period or periods as may be specified in the direction.

(4) NHS England may, with the approval of the Secretary of State, give directions to an integrated care board as to—

(a) the methods and principles according to which any accounts under this paragraph must be prepared, and

(b) the form and content of any accounts prepared under this paragraph.

(5) For the audit of the annual accounts, see the Local Audit and Accountability Act 2014 (and, in particular, section 4 of that Act).

(6) Accounts prepared under sub-paragraph (3) are also to be audited under that Act if NHS England so directs.

(7) 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.

(8) An integrated care board must send any audited accounts prepared under this paragraph to NHS England by the date specified in a direction by NHS England.

(9) NHS England may direct an integrated care board to send it any unaudited accounts prepared under this paragraph by the date specified in a direction by NHS England.

**Incidental powers**

23 The power conferred on an integrated care board 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 integrated care board).

**Seal and evidence**

24 (1) The application of an integrated care board's seal must be authenticated by the signature of any person who has been authorised (generally or specially) for that purpose.

(2) A document purporting to be duly executed under an integrated care board'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."