



# National Health Service Act 2006

## 2006 CHAPTER 41

### PART 2

#### HEALTH SERVICE BODIES

#### [<sup>F1</sup>CHAPTER A1

#### [<sup>F2</sup>NHS ENGLAND]

#### Textual Amendments

- F1** Pt. 2 Ch. A1 inserted (27.3.2012 for specified purposes, 1.10.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012](#) (c. 7), ss. **23(1)**, 306(1)(d)(4); S.I. 2012/1831, art. 2(2) (with art. 4); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F2** Words in Act 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)

#### *Secretary of State's mandate to [<sup>F2</sup>NHS England]*

#### **13A Mandate to [<sup>F3</sup>NHS England]**

- (1) <sup>F4</sup>... The Secretary of State must publish and lay before Parliament a document to be known as “the mandate”.
- (2) The Secretary of State must specify in the mandate—
  - (a) the objectives that the Secretary of State considers [<sup>F2</sup>NHS England] should seek to achieve in the exercise of its functions <sup>F5</sup>..., and
  - (b) any requirements that the Secretary of State considers it necessary to impose on [<sup>F2</sup>NHS England] for the purpose of ensuring that it achieves those objectives.

*Status: Point in time view as at 01/04/2023.*

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<sup>F6</sup>(3) .....

<sup>F7</sup>(4) .....

(5) The Secretary of State may also specify in the mandate the matters by reference to which the Secretary of State proposes to assess [<sup>F2</sup>NHS England's] performance<sup>F8</sup> ....

(6) The Secretary of State may not specify in the mandate an objective or requirement about the exercise of [<sup>F2</sup>NHS England's] functions in relation to only one [<sup>F9</sup>integrated care board].

<sup>F10</sup>(6A) [ The Secretary of State may revise the mandate.

(6B) If the Secretary of State revises the mandate, the Secretary of State must publish and lay before Parliament the mandate as revised.]

(7) [<sup>F2</sup>NHS England] must—

- (a) seek to achieve the objectives specified in the mandate, and
- (b) comply with any requirements so specified.

(8) Before specifying any objectives or requirements in the mandate, the Secretary of State must consult—

- (a) [<sup>F2</sup>NHS England],
- (b) the Healthwatch England committee of the Care Quality Commission, and
- (c) such other persons as the Secretary of State considers appropriate.

(9) Requirements included in the mandate have effect only if regulations so provide.

#### Textual Amendments

**F3** Words in s. 13A heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 8**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F4** Words in s. 13A(1) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 4(2)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F5** Words in s. 13A(2)(a) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 4(2)(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F6** S. 13A(3) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 4(2)(c)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F7** S. 13A(4) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 4(2)(c)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F8** Words in s. 13A(5) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 4(2)(d)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F9** Words in s. 13A(6) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 96**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F10** S. 13A(6A)(6B) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 4(2)(e)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### **13B** [<sup>F11</sup>Review of NHS England's performance in implementing the mandate]

(1) The Secretary of State must keep [<sup>F2</sup>NHS England's] performance in achieving any objectives or requirements specified in the mandate under review.

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- F12(2) .....
- F12(3) .....
- F12(4) .....
- F12(5) .....

#### Textual Amendments

- F11 S. 13B heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 4(3)(a), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F12 S. 13B(2)-(5) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. 4(3)(b), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### *General duties of [F<sup>2</sup>NHS England]*

#### **13C Duty to promote NHS Constitution**

- (1) [F<sup>2</sup>NHS England] must, in the exercise of its functions—
  - (a) act with a view to securing that health services are provided in a way which promotes the NHS Constitution, and
  - (b) promote awareness of the NHS Constitution among patients, staff and members of the public.
- (2) In this section, “patients” and “staff” have the same meaning as in Chapter 1 of Part 1 of the Health Act 2009 (see section 3(7) of that Act).

#### **13D Duty as to effectiveness, efficiency etc.**

[F<sup>2</sup>NHS England] must exercise its functions effectively, efficiently and economically.

#### **13E Duty as to improvement in quality of services**

- (1) [F<sup>2</sup>NHS England] must exercise its functions with a view to securing continuous improvement in the quality of services provided to individuals for or in connection with—
  - (a) the prevention, diagnosis or treatment of illness, or
  - (b) the protection or improvement of public health.
- (2) In discharging its duty under subsection (1), [F<sup>2</sup>NHS England] must, in particular, act with a view to securing continuous improvement in the outcomes that are achieved from the provision of the services.
- (3) The outcomes relevant for the purposes of subsection (2) include, in particular, outcomes which show—
  - (a) the effectiveness of the services,
  - (b) the safety of the services, and
  - (c) the quality of the experience undergone by patients.
- (4) In discharging its duty under subsection (1), [F<sup>2</sup>NHS England] must have regard to—

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- (a) any document published by the Secretary of State for the purposes of this section, and
- (b) the quality standards prepared by NICE under section 234 of the Health and Social Care Act 2012.

### **<sup>F13</sup>13F Duty as to promoting autonomy**

.....

#### **Textual Amendments**

- F13** S. 13F omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 73(1)(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### **13G Duty as to reducing inequalities**

- [<sup>F2</sup>NHS England] must, in the exercise of its functions, have regard to the need to—
- (a) reduce inequalities between [<sup>F14</sup>persons] with respect to their ability to access health services, and
  - (b) reduce inequalities between patients with respect to the outcomes achieved for them by the provision of health services [<sup>F15</sup>(including the outcomes described in section 13E(3))].

#### **Textual Amendments**

- F14** Word in s. 13G(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 6(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F15** Words in s. 13G(b) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 6(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### **13H Duty to promote involvement of each patient**

- [<sup>F2</sup>NHS England] must, in the exercise of its functions, promote the involvement of patients, and their carers and representatives (if any), in decisions which relate to—
- (a) the prevention or diagnosis of illness in the patients, or
  - (b) their care or treatment.

### **13I Duty as to patient choice**

[<sup>F2</sup>NHS England] must, in the exercise of its functions, act with a view to enabling patients to make choices with respect to aspects of health services provided to them.

### **13J Duty to obtain appropriate advice**

- [<sup>F2</sup>NHS England] must obtain advice appropriate for enabling it effectively to <sup>F16</sup>(1) discharge its functions from persons who (taken together) have a broad range of professional expertise in—
- (a) the prevention, diagnosis or treatment of illness, and
  - (b) the protection or improvement of public health.

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[<sup>F17</sup>(2) Subsection (1) does not apply in relation to NHS England’s education and training functions (see section 102 of the Care Act 2014 for the obtaining of advice in relation to those functions).]

#### Textual Amendments

- F16** S. 13J renumbered as s. 13J(1) (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023](#) (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(5)(a)** (with reg. 7)
- F17** S. 13J(2) inserted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023](#) (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(5)(b)** (with reg. 7)

### 13K Duty to promote innovation

- (1) [<sup>F2</sup>NHS England] must, in the exercise of its functions, promote innovation in the provision of health services (including innovation in the arrangements made for their provision).
- (2) [<sup>F2</sup>NHS England] may make payments as prizes to promote innovation in the provision of health services.
- (3) A prize may relate to—
- work at any stage of innovation (including research);
  - work done at any time (including work before the commencement of section 23 of the Health and Social Care Act 2012).

### 13L Duty in respect of research

- [<sup>F2</sup>NHS England] must, in the exercise of its functions, [<sup>F18</sup>facilitate or otherwise] promote—
- research on matters relevant to the health service, and
  - the use in the health service of evidence obtained from research.

#### Textual Amendments

- F18** Words in s. 13L inserted (1.7.2022) by [Health and Care Act 2022](#) (c. 31), **ss. 7(2)**, 186(6); S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)

### 13M Duty as to promoting education and training

[<sup>F2</sup>NHS England] must, in exercising its functions [<sup>F19</sup>other than its education and training functions], have regard to the need to promote education and training for the persons mentioned in section 1F(1) so as to assist <sup>F20</sup>... in the discharge of the duty under that section.

#### Textual Amendments

- F19** Words in s. 13M inserted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023](#) (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(6)(a)** (with reg. 7)

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**F20** Words in s. 13M 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. 9\(6\)\(b\)](#) (with reg. 7)

### 13N Duty as to promoting integration

- (1) [<sup>F2</sup>NHS England] must exercise its functions with a view to securing that health services are provided in an integrated way where it considers that this would—
  - (a) improve the quality of those services (including the outcomes that are achieved from their provision),
  - (b) reduce inequalities between persons with respect to their ability to access those services, or
  - (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.
- (2) [<sup>F2</sup>NHS England] must exercise its functions with a view to securing that the provision of health services is integrated with the provision of health-related services or social care services where it considers that this would—
  - (a) improve the quality of the health services (including the outcomes that are achieved from the provision of those services),
  - (b) reduce inequalities between persons with respect to their ability to access those services, or
  - (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.

[ Subsections (1) and (2) do not apply in relation to the exercise of NHS England’s <sup>F21</sup>(2A) education and training functions.]

- (3) [<sup>F2</sup>NHS England] must encourage [<sup>F22</sup>integrated care boards] to enter into arrangements with local authorities in pursuance of regulations under section 75 where it considers that this would secure—
  - (a) that health services are provided in an integrated way and that this would have any of the effects mentioned in subsection (1)(a) to (c), or
  - (b) that the provision of health services is integrated with the provision of health-related services or social care services and that this would have any of the effects mentioned in subsection (2)(a) to (c).
- (4) In this section—

“health-related services” means services that may have an effect on the health of individuals but are not health services or social care services;

“social care services” means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970 [<sup>F23</sup>or for the purposes of the Social Services and Well-being (Wales) Act 2014]).

[ For the purposes of this section, the provision of housing accommodation is a health-<sup>F24</sup>(5) related service.]

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### Textual Amendments

- F21** S. 13N(2A) inserted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(7)** (with reg. 7)
- F22** Words in s. 13N(3) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 97**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F23** Words in s. 13N(4) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **238**
- F24** S. 13N(5) inserted (1.4.2015) by Care Act 2014 (c. 23), **ss. 3(6)**, 127(1); S.I. 2015/993, art. 2(a) (with transitional provisions in S.I. 2015/995)

### <sup>F25</sup> **Duty to have regard to wider effect of decisions**

**13NA**

- (1) In making a decision about the exercise of its functions, NHS England must have regard to all likely effects of the decision in relation to—
- the health and well-being of the people of England;
  - the quality of services provided to individuals—
    - by relevant bodies, or
    - in pursuance of arrangements made by relevant bodies,for or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England;
  - efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.
- (2) In subsection (1)—
- the reference to a decision does not include a reference to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness;
  - the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
  - the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.
- (3) In discharging the duty under this section, NHS England must have regard to guidance published by it under section **13NB**.
- (4) In this section “relevant bodies” means—
- NHS England,
  - integrated care boards,
  - NHS trusts established under section 25, and
  - NHS foundation trusts.

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#### Textual Amendments

**F25** Ss. 13NA, 13NB inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 8, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### 13NB Guidance about discharge of duty

- (1) NHS England may publish guidance about the discharge of—
- (a) the duty imposed on it by section 13NA;
  - (b) the duty imposed on integrated care boards by section 14Z43;
  - (c) the duty imposed on NHS trusts by section 26A;
  - (d) the duty imposed on NHS foundation trusts by section 63A.
- (2) NHS England must consult any persons NHS England considers it appropriate to consult—
- (a) before first publishing guidance under this section, and
  - (b) before publishing any revised guidance containing changes that are, in the opinion of NHS England, significant.]

#### Textual Amendments

**F25** Ss. 13NA, 13NB inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 8, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### <sup>I</sup><sub>F26</sub> 13NC Duties as to climate change etc

- (1) NHS England must, in the exercise of its functions, have regard to the need to—
- (a) contribute towards compliance with—
    - (i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
    - (ii) section 5 of the Environment Act 2021 (environmental targets), and
  - (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, NHS England must have regard to guidance published by it under section 13ND.

#### Textual Amendments

**F26** Ss. 13NC, 13ND inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 9, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### 13ND Guidance about discharge of duty under section 13NC etc

- NHS England may publish guidance about the discharge of—
- (a) the duty imposed on it by section 13NC;
  - (b) the duty imposed on integrated care boards by section 14Z44;
  - (c) the duty imposed on NHS trusts by section 26B;



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- (d) the duty imposed on NHS foundation trusts by section 63B.]

#### Textual Amendments

**F26** Ss. 13NC, 13ND inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 9, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### 13O Duty to have regard to impact on services in certain areas

- (1) In making commissioning decisions, [F<sup>2</sup>NHS England] must have regard to the likely impact of those decisions on the provision of health services to persons who reside in an area of Wales or Scotland that is close to the border with England.
- (2) In this section, “commissioning decisions”, in relation to [F<sup>2</sup>NHS England], means decisions about the carrying out of its functions in arranging for the provision of health services.

### 13P Duty as respects variation in provision of health services

[F<sup>2</sup>NHS England] must not exercise its functions for the purpose of causing a variation in the proportion of services provided as part of the health service that is provided by persons of a particular description if that description is by reference to—

- (a) whether the persons in question are in the public or (as the case may be) private sector, or
- (b) some other aspect of their status.

### [F<sup>27</sup> 13PA] Duty to cooperate for education and training functions and specified functions

- (1) NHS England must, in exercising its education and training functions, co-operate with the Secretary of State in the exercise of the public health functions of the Secretary of State.
- (2) Regulations may require NHS England and a person specified in those regulations to co-operate with each other in the exercise of—
- (a) NHS England’s education and training functions;
- (b) the functions of the specified person;
- (c) such of the functions in paragraphs (a) or (b) as may be specified.]

#### Textual Amendments

**F27** S. 13PA inserted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), Sch. 1 para. 9(8) (with reg. 7)

### *Public involvement*

### 13Q Public involvement and consultation by [F<sup>2</sup>NHS England]

- (1) This section applies in relation to any health services which are, or are to be, provided pursuant to arrangements made by [F<sup>2</sup>NHS England] in the exercise of its functions (“commissioning arrangements”).

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- (2) [F<sup>2</sup>NHS England] must make arrangements to secure that individuals to whom the services are being or may be provided [F<sup>28</sup>, and their carers and representatives (if any),] are involved (whether by being consulted or provided with information or in other ways)—
- (a) in the planning of the commissioning arrangements by [F<sup>2</sup>NHS England],
  - (b) in the development and consideration of proposals by [F<sup>2</sup>NHS England] for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals or the range of health services available to them, and
  - (c) in decisions of [F<sup>2</sup>NHS England] affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.
- (3) The reference in subsection (2)(b) to the delivery of services is a reference to their delivery at the point when they are received by users.
- [F<sup>29</sup>(4) This section does not require NHS England to make arrangements in relation to matters to which a trust special administrator’s draft or final report under section 65F or 65I relates before—
- (a) in a case where the administrator’s report relates to an NHS trust, NHS England and the Secretary of State have made their decisions under section 65K(1) and (2), or
  - (b) in a case where the administrator’s report relates to an NHS foundation trust, the Secretary of State is satisfied as mentioned in section 65KB(1) or 65KD(1) or makes a decision under section 65KD(9).]

#### Textual Amendments

**F28** Words in s. 13Q(2) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 10**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F29** S. 13Q(4) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 8 para. 23**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### *Functions in relation to information*

#### **13R Information on safety of services provided by the health service**

- (1) [F<sup>2</sup>NHS England] must establish and operate systems for collecting and analysing information relating to the safety of the services provided by the health service.
- (2) [F<sup>2</sup>NHS England] must make information collected by virtue of subsection (1), and any other information obtained by analysing it, available to such persons as [F<sup>2</sup>NHS England] considers appropriate.
- (3) [F<sup>2</sup>NHS England] may impose charges, calculated on such basis as it considers appropriate, in respect of information made available by it under subsection (2).
- (4) [F<sup>2</sup>NHS England] must give advice and guidance, to such persons as it considers appropriate, for the purpose of maintaining and improving the safety of the services provided by the health service.

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- (5) [F<sup>2</sup>NHS England] must monitor the effectiveness of the advice and guidance given by it under subsection (4).
- (6) [F<sup>30</sup> An integrated care board] must have regard to any advice or guidance given to it under subsection (4).
- (7) [F<sup>2</sup>NHS England] may arrange for any other person (including another NHS body) to exercise any of [F<sup>2</sup>NHS England's] functions under this section.
- (8) Arrangements made under subsection (7) do not affect the liability of [F<sup>2</sup>NHS England] for the exercise of any of its functions.

#### Textual Amendments

**F30** Words in s. 13R(6) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 98](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with [regs. 13, 29, 30](#))

### 13S Guidance in relation to processing of information

- (1) [F<sup>2</sup>NHS England] must publish guidance for registered persons on the practice to be followed by them in relation to the processing of—
  - (a) patient information, and
  - (b) any other information obtained or generated in the course of the provision of the health service.
- (2) Registered persons who carry on an activity which involves, or is connected with, the provision of health care must have regard to any guidance published under this section.
- (3) In this section, “patient information”, “processing” and “registered person” have the same meaning as in section 20A of the Health and Social Care Act 2008.

### [F<sup>31</sup> 13SA] Information about inequalities

- (1) NHS England must publish a statement setting out—
  - (a) a description of the powers available to relevant NHS bodies to collect, analyse and publish information relating to—
    - (i) inequalities between persons with respect to their ability to access health services;
    - (ii) inequalities between persons with respect to the outcomes achieved for them by the provision of health services (including the outcomes described in section 13E(3)); and
  - (b) the views of NHS England about how those powers should be exercised in connection with such information.
- (2) NHS England may from time to time publish a revised statement under subsection (1).
- (3) In this section “relevant NHS bodies” means—
  - (a) integrated care boards,
  - (b) NHS trusts established under section 25, and
  - (c) NHS foundation trusts.]

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#### Textual Amendments

**F31** S. 13SA inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 11(2), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### *[<sup>F32</sup>Regulatory functions*

#### Textual Amendments

**F32** S. 13SB and cross-heading inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 34(2), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 19(1)(2), 29, 30)

### **13SB Minimising conflicts between regulatory and other functions**

- (1) NHS England must make arrangements for—
  - (a) minimising the risk of conflicts between the exercise of its regulatory functions and its other functions;
  - (b) managing any conflicts that arise.
- (2) In this Act “regulatory functions”, in relation to NHS England, means—
  - (a) its functions under the provisions listed in subsection (3),
  - (b) its functions under Chapter 5A of Part 2 (trust special administrators) in relation to NHS foundation trusts, except for any functions that are conferred on it under section 65DA, 65F or 65G as a commissioner, and
  - (c) any other functions of NHS England so far as exercisable in connection with functions within paragraph (a) or (b).
- (3) Those provisions are—
  - (a) in Part 2 of this Act, Chapter 5 (NHS foundation trusts);
  - (b) in Part 3 of the Health and Social Care Act 2012—
    - (i) Chapter 3 (licensing);
    - (ii) Chapter 4 (NHS payment scheme);
    - (iii) Chapter 5 (health special administration);
    - (iv) Chapter 6 (financial assistance in special administration cases).]

### **[<sup>F33</sup>13SC Provision of regulatory information or assistance to the CMA**

- (1) NHS England must give the Competition and Markets Authority (“the CMA”)—
  - (a) any regulatory information that the CMA may require to enable the CMA to exercise its relevant functions,
  - (b) any other regulatory information it considers would assist the CMA in exercising its relevant functions, and
  - (c) any other assistance the CMA may require to assist the CMA in exercising its relevant functions.
- (2) In this section—
 

“regulatory information” means information held by NHS England in connection with—

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- (a) its regulatory functions falling within section 13SB(2)(a) or (b), or
  - (b) its functions under—
    - (i) sections 6F and Schedule 1ZA (patient choice: enforcement);
    - (ii) sections 27A and 27C (NHS trusts: oversight and support and recommendations about restructuring);
- “relevant functions”, in relation to the CMA, means its functions under the Competition Act 1998 and the Enterprise Act 2002 so far as those functions are exercisable on behalf of the CMA by the CMA Board or a CMA group (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013).]

#### Textual Amendments

**F33** S. 13SC inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 82(1), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 20, 29, 30)

### *Business plan and report*

#### **13T Business plan**

- (1) Before the start of each financial year, [F<sup>2</sup>NHS England] must publish a business plan setting out how it proposes to exercise its functions in that year and each of the next two financial years.
- (2) The business plan must, in particular, explain how [F<sup>2</sup>NHS England] proposes to discharge its duties under—
  - (a) sections 13E, 13G [F<sup>34</sup>, 13L] and 13Q, and
  - (b) sections 223C to 223E.
- (3) The business plan must, in particular, explain how [F<sup>2</sup>NHS England] proposes to achieve the objectives, and comply with the requirements, specified in the mandate  
F<sup>35</sup>  
....

[ The fact that the mandate is revised during the period to which a business plan relates  
F<sup>36</sup>(3A) does not require NHS England to revise the plan.]

- (4) [F<sup>2</sup>NHS England] may revise the plan.
- (5) [F<sup>2</sup>NHS England] must publish any revised plan.

#### Textual Amendments

**F34** Word in s. 13T(2)(a) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 7(3), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F35** Words in s. 13T(3) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. 4(4)(a), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F36** S. 13T(3A) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 4(4)(b), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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### 13U Annual report

- (1) As soon as practicable after the end of each financial year, [F<sup>2</sup>NHS England] must publish an annual report on how it has exercised its functions during the year.
- (2) The annual report must, in particular, contain an assessment of—
- [F<sup>37</sup>(a) the extent to which, in that year, it met any objectives or requirements specified in the mandate,]
  - (b) the extent to which it gave effect to the proposals for that year in its business plan, F<sup>38</sup> ...
  - (c) how effectively it discharged its duties under sections 13E, 13G and 13Q [F<sup>39</sup>, F<sup>40</sup> ...
  - (d) how effectively it discharged its relevant data functions (as defined by section 253(3) of the Health and Social Care Act 2012)[F<sup>41</sup>, and
  - (e) how effectively it has discharged its education and training functions including, in particular, the extent to which it has during the year achieved the outcomes set by the Secretary of State for the purpose of section 100(2) of the Care Act 2014.]
- [ The annual report must include a statement explaining what NHS England has done, F<sup>42</sup>(2A) during the financial year, to comply with its duties under section 13SB.]
- [ The annual report must include—
- F<sup>43</sup>(2B) (a) a statement of the amount of expenditure incurred by NHS England and integrated care boards during the year (taken together) in relation to mental health,
- (b) a calculation of the proportion of the expenditure incurred by NHS England and integrated care boards during the year (taken together) that relates to mental health, and
- (c) an explanation of the statement and calculation.]
- (3) [F<sup>2</sup>NHS England] must—
- (a) lay the annual report before Parliament, and
  - (b) once it has done so, send a copy of it to the Secretary of State.
- (4) The Secretary of State must, having considered the annual report, set out in a letter to [F<sup>2</sup>NHS England] the Secretary of State's assessment of [F<sup>2</sup>NHS England's] performance of its functions in the financial year in question.
- (5) The letter must, in particular, contain the Secretary of State's assessment of the matters mentioned in subsection (2)(a) to (c).
- (6) The Secretary of State must—
- (a) publish the letter to [F<sup>2</sup>NHS England], and
  - (b) lay it before Parliament.

#### Textual Amendments

**F37** S. 13U(2)(a) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 4(5), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F38** Word in s. 13U(2)(b) 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. 10(3)(a) (with reg. 3)

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- F39** S. 13U(2)(d) and word inserted (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. 10(3)(b)** (with reg. 3)
- F40** Word in s. 13U(2) 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. 9(9)(a)** (with reg. 7)
- F41** S. 13U(2)(e) and word inserted (1.4.2023) by [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), **Sch. 1 para. 9(9)(b)** (with reg. 7)
- F42** S. 13U(2A) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 34(3)**, 186(6); S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 19(1)(2), 29, 30)
- F43** S. 13U(2B) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 3(3)**, 186(6); S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)

### *F<sup>44</sup> Joint appointments*

#### **Textual Amendments**

- F44** S. 13UA and cross-heading inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 74**, 186(6); S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)

#### **13UA Guidance about joint appointments**

- (1) NHS England may publish guidance for a relevant NHS body about the making of a joint appointment to which this section applies.
- (2) A joint appointment to which this section applies is an appointment of a person to a position in—
  - (a) one or more relevant NHS commissioner and one or more relevant NHS provider,
  - (b) one or more relevant NHS body and one or more local authority, or
  - (c) one or more relevant NHS body and one or more combined authority.
- (3) A relevant NHS body must have regard to guidance published under this section.
- (4) NHS England must consult such persons as NHS England considers appropriate—
  - (a) before it first publishes guidance under this section, and
  - (b) before it publishes any revised guidance containing changes that are, in the opinion of NHS England, significant.
- (5) In this section—
  - “local authority” has the same meaning as in section 2B;
  - “relevant NHS body” means—
    - (a) a relevant NHS commissioner;
    - (b) a relevant NHS provider;
  - “relevant NHS commissioner” means—
    - (a) NHS England;
    - (b) an integrated care board;
  - “relevant NHS provider” means—
    - (a) an NHS trust established under section 25;

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(b) an NHS foundation trust.]

### *Additional powers*

#### **13V Establishment of pooled funds**

- (1) [F<sup>2</sup>NHS England] and one or more [F<sup>45</sup>integrated care boards] may establish and maintain a pooled fund.
- (2) A pooled fund is a fund—
  - (a) which is made up of contributions by the bodies which established it, and
  - (b) out of which payments may be made, with the agreement of those bodies, towards expenditure incurred in the discharge of any of their commissioning functions.
- (3) In this section, “commissioning functions” means functions in arranging for the provision of services as part of the health service.

#### **Textual Amendments**

**F45** Words in s. 13V(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 4 para. 99](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### **13W [F<sup>46</sup>NHS England’s] power to generate income, etc.**

- (1) [F<sup>2</sup>NHS England] has power to do anything specified in section 7(2) of the Health and Medicines Act 1988 (provision of goods, services, etc.) for the purpose of making additional income available for improving the health service.
- (2) [F<sup>2</sup>NHS England] may exercise a power conferred by subsection (1) only to the extent that its exercise does not to any significant extent interfere with the performance by [F<sup>2</sup>NHS England] of its functions.

#### **Textual Amendments**

**F46** Words in s. 13W heading substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 9](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### **13X Power to make grants etc.**

- (1) [F<sup>2</sup>NHS England] may make payments by way of grant or loan to a voluntary organisation which provides or arranges for the provision of services which are similar to the services in respect of which [F<sup>2</sup>NHS England] has functions.
- (2) The payments may be made subject to such terms and conditions as [F<sup>2</sup>NHS England] considers appropriate.

#### **13Y [F<sup>47</sup>NHS England’s] incidental powers: further provision**

The power conferred on [F<sup>2</sup>NHS England] by section 2 includes, in particular, power to—



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- (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 [<sup>F2</sup>NHS England]).

#### Textual Amendments

**F47** Words in s. 13Y heading substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 10; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### <sup>F48</sup> Assistance and support

#### Textual Amendments

**F48** S. 13YA and cross-heading inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 12, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### 13YA Power of NHS England to provide assistance and support

- (1) NHS England may provide assistance or support to—
- (a) any person providing or proposing to provide services as part of the health service;
  - (b) any person, not within paragraph (a), exercising functions in relation to the health service.
  - <sup>F49</sup>(c) [ any public authority, where the assistance or support is in relation to the education or training of health care workers.]

[ In subsection (1), “health care workers” means persons in relation to whom the <sup>F50</sup>(1A) Secretary of State’s duty under section 1F(1) is to be performed.]

- (2) The assistance that may be provided under [<sup>F51</sup>subsection (1)] includes making available the services of NHS England’s employees or any other resources of NHS England.

[<sup>F52</sup>(3) The assistance that may be provided under subsection (1)(a) or (c), or that may be provided under subsection (1)(b) to integrated care boards, also includes financial assistance.]

- (4) Assistance or support provided under this section may be provided on such terms, including terms as to payment, as NHS England considers appropriate.]

[<sup>F53</sup>(5) In this section, a reference to a public authority—

- (a) includes a public authority in the Channel Islands or the Isle of Man, but
- (b) subject to that, does not include a reference to a public authority outside the United Kingdom.]

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### Textual Amendments

- F49** S. 13YA(1)(c) inserted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(10)(a)** (with reg. 7)
- F50** S. 13YA(1A) inserted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(10)(b)** (with reg. 7)
- F51** Words in s. 13YA(2) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(10)(c)** (with reg. 7)
- F52** S. 13YA(3) substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(10)(d)** (with reg. 7)
- F53** S. 13YA(5) inserted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(10)(e)** (with reg. 7)

### *[<sup>F54</sup>Discharge of functions*

### Textual Amendments

- F54** S. 13YB and cross-heading inserted (1.4.2023) by Health and Care Act 2022 (c. 31), **ss. 13(2)**, 186(6); S.I. 2023/371, reg. 2(a)

## 13YB Directions in respect of functions relating to provision of services

- (1) NHS England may by direction provide for any of its relevant functions to be exercised by one or more integrated care boards.
- (2) In this section “relevant function” means—
- (a) any function of NHS England under section 3B(1) (commissioning functions);
  - (b) any function of NHS England, not within paragraph (a), that relates to the provision of—
    - (i) primary medical services,
    - (ii) primary dental services,
    - (iii) primary ophthalmic services, or
    - (iv) services that may be provided as pharmaceutical services, or as local pharmaceutical services, under Part 7;
  - (c) any function of NHS England by virtue of section 7A or 7B (exercise of Secretary of State’s public health functions);
  - (d) any other functions of NHS England so far as exercisable in connection with any functions within paragraphs (a) to (c).
- (3) Regulations may—
- (a) provide that the power in subsection (1) does not apply, or applies only to a prescribed extent, in relation to a prescribed function;
  - (b) impose conditions on the exercise of the power.

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- (4) A direction under subsection (1) may include provision prohibiting or restricting the integrated care board from making delegation arrangements in relation to a function that is exercisable by it by virtue of the direction.
- (5) In subsection (4) “delegation arrangements” means arrangements made by a person for the exercise of a function by someone else.
- (6) NHS England may make payments to an integrated care board in respect of the exercise by it of a function by virtue of a direction under subsection (1).
- (7) NHS England may give directions to an integrated care board as to the exercise by it of any functions in pursuance of a direction under subsection (1).
- (8) As soon as reasonably practicable after giving a direction under subsection (1), NHS England must publish it.
- (9) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by an integrated care board of any function by virtue of this section are enforceable by or against it (and no other person).]

F55  
...

**Textual Amendments**

F55 S. 13Z-13ZB and cross-heading omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 71\(4\)](#), [186\(6\)](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13](#), [29](#), [30](#))

<sup>F55</sup>**13Z Exercise of functions**

.....

<sup>F55</sup>**13ZA Section 13Z: further provision in relation to devolved arrangements**

.....

<sup>F55</sup>**13ZB Section 13Z: arrangements in relation to the function under section 3B(1)(d)**

.....

*[<sup>F56</sup>Powers of direction*

**Textual Amendments**

F56 Ss. 13ZC-13ZF and cross-heading inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 45\(2\)](#), [186\(6\)](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13](#), [29](#), [30](#))

**13ZC Secretary of State directions as to exercise of NHS England functions**

- (1) The Secretary of State may give NHS England directions as to the exercise of any of its functions.

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- (2) The directions that may be given include a direction as to whether a power is to be exercised or not.
- (3) The directions that may be given include a direction as to—
  - (a) when or how a function is, or is not, to be exercised;
  - (b) conditions that must be met before a function is exercised (for example, conditions relating to the provision of information, consultation or approval);
  - (c) matters to be taken into account in exercising a function.
- (4) For exceptions to the power to give directions under subsection (1), see section 13ZD.
- (5) A direction under subsection (1) must include a statement that the Secretary of State considers the direction to be in the public interest.
- (6) As soon as reasonably practicable after giving a direction under subsection (1), the Secretary of State must publish it.
- (7) The fact that the Secretary of State has a function under any other enactment in relation to NHS England’s exercise of functions is not to be read as limiting the power conferred by subsection (1).
- (8) The reference in subsection (7) to a function of the Secretary of State does not include a function of making subordinate legislation.

### **13ZD Power to give directions: exceptions**

- (1) A direction under section 13ZC may not be given in relation to a function relating to the appointment or employment of a person.
- (2) A direction under section 13ZC may not be given in relation to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness.
- (3) A direction under section 13ZC may not be given in relation to the provision of any drug, medicine or other treatment, or the use of any diagnostic technique, unless NICE has made a recommendation or issued guidance as to its clinical and cost effectiveness and the direction is not inconsistent with that recommendation or guidance.

### **13ZE Compliance with directions: significant failure**

- (1) This section applies where—
  - (a) NHS England is given a direction under section 13ZC,
  - (b) the direction —
    - (i) states that the Secretary of State considers that NHS England is failing or has failed to discharge any of its functions, and
    - (ii) states that the Secretary of State considers that the failure is significant and explains why,
  - (c) the direction states that it is given for the purposes of addressing that failure, and
  - (d) NHS England fails to comply with the direction.
- (2) The Secretary of State may—
  - (a) discharge the functions to which the direction relates, or

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- (b) make arrangements for any other person to discharge them on the Secretary of State's behalf.
- (3) Where the Secretary of State exercises the power under subsection (2), the Secretary of State must publish the reasons for doing so.
- (4) For the purpose of this section—
  - (a) a failure to discharge a function includes a failure to discharge it properly, and
  - (b) a failure to discharge a function properly includes a failure to discharge it consistently with what the Secretary of State considers to be the interests of the health service.

### **13ZF Secretary of State directions to provide information**

- (1) The Secretary of State may direct NHS England to provide the Secretary of State with any documents or other information that may be specified in the direction.
- (2) The directions that may be given include a direction to provide documents or other information that NHS England would need to obtain from others in the exercise of some other power.
- (3) The directions may include provision as to—
  - (a) the form or manner in which the documents or information must be provided;
  - (b) the time at which or period within which the documents or information must be provided.]

#### *Power to confer additional functions*

### **13Z1 Power to confer additional functions on [<sup>F2</sup>NHS England]**

- (1) Regulations may provide that [<sup>F2</sup>NHS England] is to have such additional functions in relation to the health service as may be specified in the regulations.
- (2) A function may be specified in regulations under subsection (1) only if the function is connected to another function of [<sup>F2</sup>NHS England].

<sup>F57</sup> ...

#### **Textual Amendments**

**F57** S. 13Z2 and cross-heading omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. 45(3), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

### <sup>F57</sup>**13Z2 Failure by the Board to discharge any of its functions**

.....

*Status: Point in time view as at 01/04/2023.*

*Changes to legislation: National Health Service Act 2006, CHAPTER A1 is up to date with all changes known to be in force on or before 25 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)*

*Disclosure of information*

**13Z3 Permitted disclosures of information**

- (1) [<sup>F2</sup>NHS England] may disclose information obtained by it in the exercise of its functions if—
  - (a) the information has previously been lawfully disclosed to the public,
  - (b) the disclosure is made under or pursuant to regulations under section 113 or 114 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about health care or social services),
  - (c) the disclosure is made in accordance with any enactment or court order,
  - (d) the disclosure is necessary or expedient for the purposes of protecting the welfare of any individual,
  - (e) the disclosure is made to any person in circumstances where it is necessary or expedient for the person to have the information for the purpose of exercising functions of that person under any enactment,
  - (f) the disclosure is made for the purpose of facilitating the exercise of any of [<sup>F2</sup>NHS England’s] functions,
  - (g) the disclosure is made in connection with the investigation of a criminal offence (whether or not in the United Kingdom), or
  - (h) the disclosure is made for the purpose of criminal proceedings (whether or not in the United Kingdom).
- (2) Paragraphs (a) to (c) and (h) of subsection (1) have effect notwithstanding any rule of common law which would otherwise prohibit or restrict the disclosure.

*Interpretation*

**13Z4 Interpretation**

- (1) In this Chapter—
  - “the health service” means the health service in England;
  - “health services” means services provided as part of the health service and, in sections 13O and 13Q, also includes services that are to be provided as part of the health service.

- <sup>F58</sup>(2) .....
- <sup>F58</sup>(3) .....
- <sup>F58</sup>(4) .....]

**Textual Amendments**

**F58** Ss. 13Z4(2)-(4) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 9 para. 7](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

**Status:**

Point in time view as at 01/04/2023.

**Changes to legislation:**

National Health Service Act 2006, CHAPTER A1 is up to date with all changes known to be in force on or before 25 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.