



# National Health Service Act 2006

## 2006 CHAPTER 41

### PART 3 **E+W**

#### LOCAL AUTHORITIES AND THE NHS

#### **[<sup>F1</sup>73A Appointment of directors of public health **E+W****

- (1) Each local authority must, acting jointly with the Secretary of State, appoint an individual to have responsibility for —
  - (a) the exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1,
  - (b) the exercise by the authority of its functions by virtue of section 6C(1) or (3),
  - (c) anything done by the authority in pursuance of arrangements under section 7A,
  - (d) the exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health,
  - (e) the functions of the authority under section 325 of the Criminal Justice Act 2003, and
  - (f) such other functions relating to public health as may be prescribed.
- (2) The individual so appointed is to be an officer of the local authority and is to be known as its director of public health.
- (3) Subsection (4) applies if the Secretary of State—
  - (a) considers that the director has failed or might have failed to discharge (or to discharge properly) the responsibilities of the director under—
    - (i) subsection (1)(b), or
    - (ii) subsection (1)(c) where the arrangements relate to the Secretary of State's functions under section 2A, and
  - (b) has consulted the local authority.
- (4) The Secretary of State may direct the local authority to—

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- (a) review how the director has discharged the responsibilities mentioned in subsection (3)(a);
  - (b) investigate whether the director has failed to discharge (or to discharge properly) those responsibilities;
  - (c) consider taking any steps specified in the direction;
  - (d) report to the Secretary of State on the action it has taken in pursuance of a direction given under any of the preceding paragraphs.
- (5) A local authority may terminate the appointment of its director of public health.
- (6) Before terminating the appointment of its director of public health, a local authority must consult the Secretary of State.
- (7) A local authority must have regard to any guidance given by the Secretary of State in relation to its director of public health, including guidance as to appointment and termination of appointment, terms and conditions and management.
- (8) In this section, “local authority” has the same meaning as in section 2B.]

#### Textual Amendments

- F1** S. 73A inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. 30, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### [<sup>F2</sup>73B Exercise of public health functions of local authorities: further provision **E+W**

- (1) A local authority must, in the exercise of any functions mentioned in subsection (2), have regard to any document published by the Secretary of State for the purposes of this section.
- (2) The functions mentioned in this subsection are—
  - (a) the exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1,
  - (b) the exercise by the authority of its functions by virtue of section 6C(1) or (3),
  - (c) anything done by the authority in pursuance of arrangements under section 7A,
  - (d) the functions of the authority under section 325 of the Criminal Justice Act 2003, and
  - (e) such other functions relating to public health as may be prescribed.
- (3) The Secretary of State may give guidance to local authorities as to the exercise of any functions mentioned in subsection (2).
- (4) A document published under subsection (1), and guidance given under subsection (3), may include guidance as to the appointment of officers of the local authority to discharge any functions mentioned in subsection (2), and as to their terms and conditions, management and dismissal.
- (5) The director of public health for a local authority must prepare an annual report on the health of the people in the area of the local authority.
- (6) The local authority must publish the report.
- (7) In this section, “local authority” has the same meaning as in section 2B.]

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#### Textual Amendments

- F2** S. 73B inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 31**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### [<sup>F3</sup>73C **Complaints about exercise of public health functions by local authorities** **E+W**]

- (1) Regulations may make provision about the handling and consideration of complaints made under the regulations about —
- (a) the exercise by a local authority of any of its public health functions;
  - (b) the exercise by a local authority of its functions by virtue of section 6C(1) or (3);
  - (c) anything done by a local authority in pursuance of arrangements made under section 7A;
  - (d) the exercise by a local authority of any of its other functions—
    - (i) which relate to public health, and
    - (ii) for which its director of public health has responsibility;
  - (e) the provision of services by another person in pursuance of arrangements made by a local authority in the exercise of any function mentioned in paragraphs (a) to (d).
- (2) The regulations may provide for a complaint to be considered by one or more of the following—
- (a) the local authority in respect of whose functions the complaint is made;
  - (b) an independent panel established under the regulations;
  - (c) any other person or body.
- (3) The regulations may provide for a complaint or any matter raised by a complaint—
- (a) to be referred to a Local Commissioner under Part 3 of the Local Government Act 1974 for the Commissioner to consider whether to investigate the complaint or matter under that Part;
  - (b) to be referred to any other person or body for that person or body to consider whether to take any action otherwise than under the regulations.
- (4) Where the regulations make provision under subsection (3)(a) they may also provide for the complaint to be treated as satisfying sections 26A and 26B of the Act of 1974.
- (5) Section 115 of the Health and Social Care (Community Health and Standards) Act 2003 (health care and social services complaints regulations: supplementary) applies in relation to regulations under this section as it applies in relation to regulations under subsection (1) of section 113 of that Act.
- (6) In this section, “local authority” has the same meaning as in section 2B.]

#### Textual Amendments

- F3** S. 73C inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 32**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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## 74 Supply of goods and services by local authorities **E+W**

- (1) In the Local Authorities (Goods and Services) Act 1970 (c. 39) the expression “public body” includes—
  - (a) [<sup>F4</sup>the Board and] any [<sup>F5</sup>clinical commissioning group or]<sup>F6</sup> ... Special Health Authority <sup>F7</sup>..., and
  - (b) so far as relates to his functions under this Act, the Secretary of State.
- (2) Subsection (1) has effect as if made by an order under section 1(5) of the Local Authorities (Goods and Services) Act 1970 and may be varied or revoked by such an order.
- (3) Each local authority must make services available to each NHS body acting in its area, so far as is reasonably necessary and practicable to enable the NHS body to discharge its functions under this Act.
- (4) “Services” means the services of persons employed by the local authority for the purposes of its functions under the Local Authority Social Services Act 1970 (c. 42).

### Textual Amendments

- F4** Words in s. 74(1)(a) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 24\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Words in s. 74(1)(a) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 24\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** Words in s. 74(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 24\(c\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** Words in s. 74(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 24\(d\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

## 75 Arrangements between NHS bodies and local authorities **E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with enabling prescribed NHS bodies (on the one hand) and prescribed local authorities (on the other) to enter into prescribed arrangements in relation to the exercise of—
  - (a) prescribed functions of the NHS bodies, and
  - (b) prescribed health-related functions of the local authorities,
 if the arrangements are likely to lead to an improvement in the way in which those functions are exercised.
- (2) The arrangements which may be prescribed include arrangements—
  - (a) for or in connection with the establishment and maintenance of a fund—
    - (i) which is made up of contributions by one or more NHS bodies and one or more local authorities, and
    - (ii) out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body or bodies and prescribed health-related functions of the authority or authorities,
  - (b) for or in connection with the exercise by an NHS body on behalf of a local authority of prescribed health-related functions of the authority in conjunction with the exercise by the NHS body of prescribed functions of the NHS body,
  - (c) for or in connection with the exercise by a local authority on behalf of an NHS body of prescribed functions of the NHS body in conjunction with the

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- exercise by the local authority of prescribed health-related functions of the local authority,
- (d) as to the provision of staff, goods or services in connection with any arrangements mentioned in paragraph (a), (b) or (c),
  - (e) as to the making of payments by a local authority to an NHS body in connection with any arrangements mentioned in paragraph (b),
  - (f) as to the making of payments by an NHS body to a local authority in connection with any arrangements mentioned in paragraph (c).
- (3) Regulations under this section may make provision—
- (a) as to the cases in which NHS bodies and local authorities may enter into prescribed arrangements,
  - (b) as to the conditions which must be satisfied in relation to prescribed arrangements (including conditions in relation to consultation),
  - (c) for or in connection with requiring the consent of the Secretary of State to the operation of prescribed arrangements (including provision in relation to applications for consent, the approval or refusal of such applications and the variation or withdrawal of approval),
  - (d) in relation to the duration of prescribed arrangements,
  - (e) for or in connection with the variation or termination of prescribed arrangements,
  - (f) as to the responsibility for, and the operation and management of, prescribed arrangements,
  - (g) as to the sharing of information between NHS bodies and local authorities.
- (4) The provision which may be made by virtue of subsection (3)(f) includes provision in relation to—
- (a) the formation and operation of joint committees of NHS bodies and local authorities,
  - (b) the exercise of functions which are the subject of prescribed arrangements (including provision in relation to the exercise of such functions by joint committees or employees of NHS bodies and local authorities),
  - (c) the drawing up and implementation of plans in respect of prescribed arrangements,
  - (d) the monitoring of prescribed arrangements,
  - (e) the provision of reports on, and information about, prescribed arrangements,
  - (f) complaints and disputes about prescribed arrangements,
  - (g) accounts and audit in respect of prescribed arrangements.
- (5) Arrangements made by virtue of this section do not affect—
- (a) the liability of NHS bodies for the exercise of any of their functions,
  - (b) the liability of local authorities for the exercise of any of their functions, or
  - (c) any power or duty to recover charges in respect of services provided in the exercise of any local authority functions.
- (6) The Secretary of State may issue guidance to NHS bodies and local authorities in relation to consultation or applications for consent in respect of prescribed arrangements.

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(7) The reference in subsection (1) to an improvement in the way in which functions are exercised includes an improvement in the provision to any individuals of any services to which those functions relate.

[<sup>F8</sup>(7A) For the purposes of this section, a combined authority that exercises a prescribed function within subsection (1)(a) of an NHS body under voluntary arrangements is to be treated as an NHS body.

(7B) “Voluntary arrangements” means arrangements made with the combined authority under—

- (a) section 7A (exercise of Secretary of State's public health functions),
- (b) section 13Z (exercise of the Board's functions), or
- (c) section 14Z3A (joint exercise of functions with clinical commissioning groups).

(7C) Regulations under this section, so far as made before or in the same Session as that in which the Cities and Local Government Devolution Act 2016 is passed, apply to a combined authority that is treated as an NHS body by virtue of subsection (7A) as if it were a prescribed NHS body for the purposes of those regulations.

(7D) But a combined authority to which regulations under this section apply by virtue of subsection (7C) may enter into prescribed arrangements in relation to the exercise only of functions within subsection (1)(a) that are exercisable by the authority under voluntary arrangements.

(7E) Regulations under this section may provide for the regulations to apply in relation to a combined authority subject to any prescribed limitations or conditions.

(7F) Nothing in subsection (7D) prevents a combined authority from being a party to arrangements made by virtue of this section in relation to any prescribed functions of an NHS body that are exercisable by the authority as a result of an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009 (public authority functions exercisable by combined authorities).]

(8) In this section—

“health-related functions”, in relation to a local authority, means functions of the authority which, in the opinion of the Secretary of State—

- (a) have an effect on the health of any individuals,
- (b) have an effect on, or are affected by, any functions of NHS bodies, or
- (c) are connected with any functions of NHS bodies,

“NHS body” does not include a Special Health Authority.

(9) Schedule 18 makes provision with respect to the transfer of staff in connection with arrangements made by virtue of this section.

#### Textual Amendments

**F8** S. 75(7A)-(7F) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), [Sch. 4 para. 6](#)

#### Modifications etc. (not altering text)

**C1** S. 75(8) modified by [2004 c. 17](#), s. 4(5)(c) (as substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 258\(c\)](#) (with [Sch. 3 Pt. 1](#)))

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## 76 Power of local authorities to make payments **E+W**

- (1) A local authority may make payments to [<sup>F9</sup>the Board, a clinical commissioning group]<sup>F10</sup> ... <sup>F11</sup> ... or a Local Health Board towards expenditure incurred or to be incurred by the body in connection with the performance by it of prescribed functions.
- (2) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (3) The Secretary of State may by directions prescribe conditions relating to payments under this section.
- (4) The power under subsection (3) may in particular be exercised so as to require, in such circumstances as may be specified—
  - (a) repayment of the whole or part of a payment under this section, or
  - (b) in respect of property acquired with payments under this section, payment of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.
- (5) No payment may be made under this section in respect of any expenditure unless the conditions relating to it conform with the conditions prescribed for payments of that description under subsection (3).

### Textual Amendments

- F9** Words in s. 76(1) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 25\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F10** Words in s. 76(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 25\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F11** Words in s. 76(1) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 25\(c\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### Modifications etc. (not altering text)

- C2** S. 76(1) modified by 2004 c. 17, s. 4(5)(b) (as substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 258\(b\)](#) (with Sch. 3 Pt. 1))

## 77 Care Trusts **E+W**

- (1) Where—
  - (a) <sup>F12</sup> ... an NHS trust [<sup>F13</sup>or a clinical commissioning group or an NHS foundation trust] is, or will be, a party to any existing or proposed LA delegation arrangements, <sup>F14</sup> ...
  - (b) [<sup>F15</sup>the body and the local authority concerned consider] that designation of the body as a Care Trust would be likely to promote the effective exercise by the body of prescribed health-related functions of [<sup>F16</sup>the local authority] (in accordance with the arrangements) in conjunction with prescribed NHS functions of the body [<sup>F17</sup>, and
  - (c) the requirements in subsection (1A) are satisfied,]

[<sup>F18</sup>the body and the local authority may jointly] designate the body as a Care Trust.
- [<sup>F19</sup>(1A) The body and the local authority must, before designating the body as a Care Trust under this section—



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- (a) publish in the prescribed form and manner—
  - (i) the reasons why they consider that the proposed designation would be likely to have the result mentioned in subsection (1)(b), and
  - (ii) information about the proposed governance arrangements of the Care Trust, and
- (b) consult on the proposed designation in accordance with regulations.

(1B) Where a body has been designated as a Care Trust under this section, the body and the local authority must notify prescribed persons of the designation.]

<sup>F20</sup>(2) .....

<sup>F20</sup>(3) .....

(4) [<sup>F21</sup>A body designated as a Care Trust under this section] may (in addition to exercising health-related functions of the local authority as mentioned in subsection (1)(b)) exercise such prescribed health-related functions of the local authority as are [<sup>F22</sup>agreed] in relation to persons in any area [<sup>F23</sup>so agreed], even though it does not exercise any NHS functions in relation to persons in that area<sup>F24</sup>; and “agreed” means agreed by the body and the local authority].

[<sup>F25</sup>(5) Where a body is designated as a Care Trust under this section, the body and the local authority may jointly revoke that designation.

(5A) Before revoking a designation as a Care Trust under this section, the body and the local authority must consult on the proposed revocation of the designation in accordance with regulations.

(5B) Where the designation of a body as a Care Trust under this section has been revoked, the body and the local authority must notify prescribed persons of the revocation.]

[<sup>F26</sup>(5C) Regulations under subsection (1A)(b) or (5A) may include provision requiring a body and a local authority to publish prescribed information following a consultation.]

[<sup>F27</sup>(5D) Where a duty is imposed by or by virtue of this section on a body and a local authority, they may make arrangements for the function to be discharged—

- (a) by both of them acting jointly,
- (b) by each of them acting separately, or
- (c) by one of them acting on behalf of both of them.]

<sup>F28</sup>(6) .....

<sup>F29</sup>(7) .....

(8) Regulations may make such incidental, supplementary or consequential provision (including provision amending, repealing or revoking enactments) as the Secretary of State considers expedient in connection with the preceding provisions of this section.

(9) Regulations under subsection (8) may, in particular, make provision—

- <sup>F30</sup>(a) .....
- <sup>F31</sup>(b) .....
- <sup>F32</sup>(c) .....

(d) for supplementing or modifying, in connection with the operation of [<sup>F33</sup>subsection (4)], any provision made by regulations under section 75.



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- (10) The designation of a body as a Care Trust under this section does not affect any of the functions, rights or liabilities of that body in its capacity as <sup>F34</sup>... NHS trust [<sup>F35</sup>or clinical commissioning group or NHS foundation trust].
- (11) In connection with the exercise by a body so designated of any relevant social services functions under LA delegation arrangements—
- (a) section 7 of the Local Authority Social Services Act 1970 (c. 42) (authorities to exercise social services functions under guidance), and
  - (b) section 7A of that Act (directions as to exercise of such functions),
- apply to the body as if it were a local authority within the meaning of that Act.
- (12) In this section—
- “health-related functions” has the meaning given by section 75(8),
  - “LA delegation arrangements” means arrangements falling within section 75(2)(b), whether or not made in conjunction with any pooled fund arrangements,
  - “NHS functions” means functions exercisable by <sup>F36</sup>... NHS trust [<sup>F37</sup>or clinical commissioning group or NHS foundation trust] in its capacity as such,
  - “pooled fund arrangements” means arrangements falling within section 75(2)(a),
  - “relevant social services functions” means health-related functions which are social services functions within the meaning of the Local Authority Social Services Act 1970.

#### Textual Amendments

- F12** Words in s. 77(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 26; S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F13** Words in s. 77(1)(a) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 200\(1\)\(a\), 306\(1\)\(d\)\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F14** Word in s. 77(1) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 200\(1\)\(b\), 306\(1\)\(d\)\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F15** Words in s. 77(1)(b) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 200\(1\)\(c\), 306\(1\)\(d\)\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F16** Words in s. 77(1)(b) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 200\(1\)\(d\), 306\(1\)\(d\)\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F17** S. 77(1)(c) and word inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 200\(1\)\(e\), 306\(1\)\(d\)\(4\)](#) (with s. 200(13)); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F18** Words in s. 77(1) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 200\(1\)\(f\), 306\(1\)\(d\)\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F19** S. 77(1A)(1B) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 200\(2\), 306\(1\)\(d\)\(4\)](#) (with s. 200(13)); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

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- F20** S. 77(2)(3) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 200(3)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F21** Words in s. 77(4) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(4)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F22** Word in s. 77(4) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(4)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F23** Words in s. 77(4) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(4)(c)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F24** Words in s. 77(4) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(4)(d)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F25** S. 77(5)-(5B) substituted for s. 77(5) (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(5)**, 306(1)(d)(4) (with s. 200(14)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F26** S. 77(5C) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(6)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F27** S. 77(5D) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(7)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F28** S. 77(6) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 200(8)**, 306(1)(d)(4) (with s. 200(15)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F29** S. 77(7) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 200(9)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F30** S. 77(9)(a) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 200(10)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F31** S. 77(9)(b) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 200(10)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F32** S. 77(9)(c) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 200(10)(c)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F33** Words in s. 77(9)(d) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(10)(d)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F34** Words in s. 77(10) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 26**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F35** Words in s. 77(10) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(11)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F36** Words in s. 77(12) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 26**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F37** Words in s. 77(12) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 200(12)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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## 78 Directed partnership arrangements **E+W**

- (1) If the Secretary of State is of the opinion—
- (a) that a body to which this section applies (“the failing body”) is not exercising any of its functions adequately, and
  - (b) that it would be likely to lead to an improvement in the way in which that function is exercised if it were to be exercised—
    - (i) by another body to which this section applies under delegation arrangements, or
    - (ii) in accordance with pooled fund arrangements made with another such body,

the Secretary of State may direct those bodies to enter into such delegation arrangements or pooled fund arrangements in relation to the exercise of the appropriate function or functions as are specified in the direction.

- (2) In subsection (1) “the appropriate function or functions” means—
- (a) the function of the failing body mentioned in that subsection, and
  - (b) such other function of that body (if any) as the Secretary of State considers would, if exercised under or in accordance with the arrangements in question, be likely to contribute to an improvement in the exercise of the function referred to in paragraph (a).

- (3) The bodies to which this section applies are—

- <sup>F38</sup>(a) .....
- <sup>F39</sup>(b) .....
- (c) NHS trusts [<sup>F40</sup>established under section 25],
- <sup>F41</sup>(d) .....
- (e) local authorities,

but in subsections (1) and (2) any reference to functions is, in relation to a local authority, a reference only to relevant social services functions of the authority.

- (4) In this section any reference to an improvement in the way in which any function is exercised includes an improvement in the provision to any individuals of any services to which that function relates.

- (5) In this section—

“delegation arrangements” means arrangements falling within section 75(2)(b) or (c), whether or not made in conjunction with any pooled fund arrangements,

“health-related functions” has the meaning given by section 75(8),

“pooled fund arrangements” means arrangements falling within section 75(2)(a),

“relevant social services functions” means health-related functions which are social services functions within the meaning of the Local Authority Social Services Act 1970 (c. 42).

### Textual Amendments

**F38** S. 78(3)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 27(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

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- F39** S. 78(3)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 27\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F40** Words in s. 78(3)(c) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 21 para. 11\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F41** S. 78(3)(d) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 21 para. 11\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

## 79 Further provision about directions and directed partnership arrangements **E**

**+W**

- (1) A direction under section 78(1) (a “principal direction”) may make provision with respect to—
  - (a) any of the matters with respect to which provision is required to be made by the specified arrangements by virtue of regulations under section 75, and
  - (b) such other matters as the Secretary of State considers appropriate.
- (2) The Secretary of State may in particular (either in a principal direction or in any subsequent direction) make provision—
  - (a) for the determination, whether—
    - (i) by agreement, or
    - (ii) (in default of agreement) by the Secretary of State or an arbitrator appointed by him,

of the amount of any payments which need to be made by one body to another for the purposes of the effective operation of the specified arrangements, and for the variation of any such determination,
  - (b) specifying the manner in which the amount of any such payments must be so determined (or varied),
  - (c) requiring a body specified in the direction to supply to the Secretary of State or an arbitrator, for the purpose of enabling any such amount to be so determined (or varied), such information or documents as may be so specified,
  - (d) requiring any amount so determined (or varied) to be paid by and to such bodies as are specified in the direction,
  - (e) requiring capital assets specified in the direction to be made available by and to such bodies as are so specified.
- (3) The Secretary of State may, when giving a principal direction to any bodies to which section 78 applies, give such directions to any other such body as he considers appropriate for or in connection with securing that full effect is given to the principal direction.
- (4) Before giving a principal direction to any bodies to which section 78 applies, the Secretary of State may—
  - (a) direct either or both of the bodies in question to take such steps specified in the direction, or
  - (b) give such other directions,

as he considers appropriate with a view to enabling him to determine whether the principal direction should be given.
- (5) The revocation of a principal direction does not affect the continued operation of the specified arrangements.

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- (6) “The specified arrangements”, in relation to a principal direction, means the arrangements specified in the direction in pursuance of section 78(1).

**80 Supply of goods and services by the Secretary of State [<sup>F42</sup>, the Board and clinical commissioning groups] **E+W****

- (1) The Secretary of State [<sup>F43</sup>, the Board or a clinical commissioning group] may supply to—
- local authorities, and
  - such public bodies or classes of public bodies as [<sup>F44</sup>the Secretary of State] may determine,
- any goods or materials of a kind used in the health service.
- (2) In subsection (1) “public bodies” includes public bodies in Northern Ireland.
- (3) The Secretary of State may make available to persons falling within subsection (1)—
- any facilities provided by him <sup>F45</sup>... for any service under this Act, and
  - the services of persons employed by the Secretary of State or by <sup>F46</sup>... <sup>F47</sup>... a Special Health Authority or a Local Health Board.

[<sup>F48</sup>(3A) The Board or a clinical commissioning group may make available to persons falling within subsection (1)—

- any facilities the provision of which is arranged by the Board or (as the case may be) the clinical commissioning group under this Act (including by virtue of section 7A),
  - any facilities of the Board or (as the case may be) the group, and
  - the services of persons employed by the Board or (as the case may be) the group.]
- (4) The Secretary of State may carry out [<sup>F49</sup>, and the Board or a clinical commissioning group may arrange for the carrying out of,] maintenance work (including minor renewals, minor improvements and minor extensions) in connection with any land or building for the maintenance of which a local authority is responsible.
- (5) [<sup>F50</sup>The Board] may supply or make available to persons—
- providing pharmaceutical services,
  - providing services under a general medical services contract, a general dental services contract or a general ophthalmic services contract,
  - providing services in accordance with section 92 arrangements or section 107 arrangements, or
  - providing services under a pilot scheme [<sup>F51</sup>established under section 134(1) of this Act] or an LPS scheme,
- such goods, materials or other facilities as may be prescribed.

- (6) The Secretary of State must make available to local authorities—
- any services (other than the services of any person) or other facilities provided [<sup>F52</sup>by the Secretary of State] under this Act,
  - the services provided as part of the health service by any person employed by the Secretary of State, <sup>F53</sup>... <sup>F54</sup>... a Special Health Authority or a Local Health Board, and

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- (c) the services of any medical practitioner, dental practitioner or nurse employed by the Secretary of State,<sup>F55</sup> ...<sup>F56</sup> ... a Special Health Authority or a Local Health Board otherwise than to provide services which are part of the health service,

so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.

[<sup>F57</sup>(6A) The Board and each clinical commissioning group must make available to local authorities—

- (a) any services (other than the services of any person) or other facilities the provision of which is arranged by the Board or (as the case may be) the clinical commissioning group under this Act,  
(b) the services of persons employed by the Board or (as the case may be) the group, and  
(c) any facilities of the Board or (as the case may be) the group,

so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.]

(7) [<sup>F58</sup>The Board] may arrange to make available to local authorities the services of persons—

- (a) providing pharmaceutical services,  
(b) performing services under a general medical services contract, a general dental services contract or a general ophthalmic services contract,  
(c) providing services in accordance with section 92 arrangements or section 107 arrangements, [<sup>F59</sup>or]  
(d) performing services under a pilot scheme [<sup>F60</sup>established under section 134(1) of this Act] or an LPS scheme,<sup>F61</sup> ...

<sup>F61</sup>(e) .....

so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.

[<sup>F62</sup>(8) The Secretary of State may arrange to make available to local authorities the services of persons providing Special Health Authorities or Local Health Boards with services of a kind provided as part of the health service, so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.

(9) The Board or a clinical commissioning group may arrange to make available to local authorities the services of persons providing services pursuant to arrangements made under this Act by the Board or (as the case may be) the clinical commissioning group, so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.

(10) The reference in subsection (9) to arrangements made by the Board or (as the case may be) a clinical commissioning group includes a reference to arrangements so made by virtue of section 7A.]

#### Textual Amendments

**F42** Words in s. 80 title inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 28\(11\)](#); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)



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- F43** Words in s. 80(1) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(2)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F44** Words in s. 80(1)(b) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(2)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F45** Words in s. 80(3)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(3)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F46** Words in s. 80(3)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(3)(b)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F47** Words in s. 80(3)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(3)(b)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F48** S. 80(3A) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(4)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F49** Words in s. 80(4) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(5)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F50** Words in s. 80(5) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(6)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F51** Words in s. 80(5)(d) inserted (19.1.2010) by Health Act 2009 (c. 21), s. 40(1), **Sch. 1 para. 7(a)**; S.I. 2010/30, art. 2(b)
- F52** Words in s. 80(6)(a) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(7)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F53** Words in s. 80(6)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(7)(b)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F54** Words in s. 80(6)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(7)(b)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F55** Words in s. 80(6)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(7)(c)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F56** Words in s. 80(6)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(7)(c)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F57** S. 80(6A) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(8)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F58** Words in s. 80(7) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(9)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F59** Word in s. 80(7)(c) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(9)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F60** Words in s. 80(7)(d) inserted (19.1.2010) by Health Act 2009 (c. 21), s. 40(1), **Sch. 1 para. 7(b)**; S.I. 2010/30, art. 2(b)
- F61** S. 80(7)(e) and word omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(9)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F62** S. 80(8)-(10) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 28(10)** (with Sch. 4 para. 28(12)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**Modifications etc. (not altering text)**

- C3** S. 80 modified (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 2 para. 10** (with Sch. 3 Pt. 1)

**81 Conditions of supply under section 80** **E+W**

- (1) [<sup>F63</sup>Before a person makes the services of any officer available under section 80(3)(b), (3A)(c), (6)(b) or (c) or (6A)(b), the person must] —
- (a) consult the officer or a body recognised by [<sup>F64</sup>the person] as representing the officer, or



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- (b) [<sup>F65</sup>where the person is the Secretary of State and is not the officer's employer,] satisfy himself that the body who employs the officer has consulted the officer about the matter.
- (2) [<sup>F66</sup>The person concerned] may disregard the provisions of subsection (1) in a case where [<sup>F67</sup>it] —
- (a) considers it necessary to make the services of an officer available for the purpose of dealing temporarily with an emergency, and
- (b) has previously consulted a body such as is mentioned in subsection (1)(b) about making services available in an emergency.
- (3) The Secretary of State may, for the purposes of subsection (3)(b) of section 80, or subsection (6)(b) or (c) of that section, give such directions to <sup>F68</sup>... <sup>F69</sup>... Special Health Authorities and Local Health Boards to make the services of their officers available as he considers appropriate.
- (4) Powers under this section and section 80 may be exercised on such terms as may be agreed, including terms as to the making of payments to [<sup>F70</sup>the person who makes the services available].
- (5) [<sup>F71</sup>A person who makes services or facilities available under section 80(6) or (6A) may make such charges in respect of them] as may be agreed between [<sup>F72</sup>the person] and the local authority or, in default of agreement, as may be determined by arbitration.
- (6) Any power to supply goods or materials under section 80 includes—
- (a) a power to purchase and store them, and
- (b) a power to arrange with third parties for the supply of goods or materials by those third parties.

#### Textual Amendments

- F63** Words in s. 81(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(2\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F64** Words in s. 81(1)(a) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(2\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F65** Words in s. 81(1)(b) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(2\)\(c\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F66** Words in s. 81(2) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(3\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F67** Word in s. 81(2) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(3\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F68** Words in s. 81(3) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(4\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F69** Words in s. 81(3) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(4\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F70** Words in s. 81(4) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(5\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F71** Words in s. 81(5) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(6\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F72** Words in s. 81(5) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 29\(6\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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## **82 Co-operation between NHS bodies and local authorities** **E+W**

In exercising their respective functions NHS bodies (on the one hand) and local authorities (on the other) must co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.

**Status:**

Point in time view as at 28/03/2016.

**Changes to legislation:**

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