



# Health and Care Act 2022

## 2022 CHAPTER 31

### PART 1

#### HEALTH SERVICE IN ENGLAND: INTEGRATION, COLLABORATION AND OTHER CHANGES

##### *Integrated care boards*

#### **18 Role of integrated care boards**

For section 11 of the National Health Service Act 2006 and the italic heading before it substitute—

*“Role of integrated care boards in the health service in England*

##### **11 General functions of integrated care boards**

An integrated care board established under Chapter A3 of Part 2 has the function of arranging for the provision of services for the purposes of the health service in England in accordance with this Act.”

#### **19 Establishment of integrated care boards**

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In Part 2, after Chapter A2 insert—

## “CHAPTER A3

### INTEGRATED CARE BOARDS

#### *“Establishment of integrated care boards (including by re-purposing clinical commissioning groups)*

#### **14Z25 Duty to establish integrated care boards**

- (1) NHS England must establish bodies called integrated care boards in accordance with this Chapter.
- (2) Each integrated care board is to be established by order made by NHS England for an area within England.
- (3) The area for which an integrated care board is established must not coincide or overlap with the area of any other integrated care board.
- (4) NHS England must ensure that, at all times on and after the appointed day, the areas of integrated care boards together cover the whole of England.
- (5) An order establishing an integrated care board must provide for the constitution of the board, either by setting out the constitution or by making provision by reference to a published document where it is set out.
- (6) In Schedule 1B—
  - (a) Part 1 is about the constitution of an integrated care board (including its area);
  - (b) Part 2 is about the status and powers of an integrated care board and its accounts.
- (7) Before varying or revoking an order under this section NHS England must consult any integrated care board that it considers likely to be affected.
- (8) NHS England must publish orders under this section.
- (9) In this section “the appointed day” means a day appointed under this subsection by regulations made by the Secretary of State.

#### **14Z26 Process for establishing initial integrated care boards**

- (1) NHS England must publish a list of the initial areas for which integrated care boards are to be established (each of which is referred to in this section as an “initial area”).
- (2) The relevant clinical commissioning group or groups for an initial area must propose the constitution of the first integrated care board to be established for that area.
- (3) Before making a proposal under subsection (2), the relevant clinical commissioning group or groups must consult any persons they consider it appropriate to consult (and it is immaterial for this purpose whether the consultation is carried out before or after this section comes into force).

- (4) When establishing the first integrated care board under section 14Z25 for an initial area, NHS England must give effect to any proposal under subsection (2) unless it considers that—
- (a) the proposal is inappropriate, or
  - (b) the relevant clinical commissioning group or groups have not carried out an appropriate consultation under subsection (3),
- and in that case NHS England must determine the terms of the constitution itself.
- (5) Nothing in this section—
- (a) prevents NHS England from establishing the first integrated care board for an initial area in a case where the relevant clinical commissioning group or groups have failed within a reasonable period to make a proposal under subsection (2), or
  - (b) limits the re-exercise of the power in section 14Z25.
- (6) NHS England may publish guidance for clinical commissioning groups about the exercise of their functions under this section.
- (7) A clinical commissioning group must have regard to guidance published under this section.
- (8) In this section “the relevant clinical commissioning group or groups” means—
- (a) in relation to an area that coincides with the area of a clinical commissioning group, that group;
  - (b) in relation to an area that includes the whole or part of the area of more than one clinical commissioning group, those groups acting jointly.

#### **14Z27 Abolition of clinical commissioning groups**

- (1) Any clinical commissioning group in existence immediately before the appointed day is abolished at the beginning of that day.
- (2) In this section “the appointed day” has the same meaning as in section 14Z25.

#### **14Z28 Transfer schemes in connection with integrated care boards**

- (1) NHS England may, in connection with the abolition of a clinical commissioning group under section 14Z27, make a scheme for the transfer of the group’s property, rights or liabilities to NHS England or an integrated care board.
- (2) NHS England may, in connection with the establishment of an integrated care board, make a scheme for the transfer of property, rights or liabilities to the board from—
- (a) NHS England,
  - (b) an NHS trust established under section 25,
  - (c) an NHS foundation trust, or
  - (d) a Special Health Authority established under section 28.
- (3) NHS England may, in connection with the variation of the constitution of an integrated care board or the abolition of an integrated care board, make a

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scheme for the transfer of the board's property, rights or liabilities to NHS England or an integrated care board.

- (4) The reference in subsection (3) to the variation of the constitution of an integrated care board is to its variation by order under section 14Z25 or under provision included in its constitution by virtue of paragraph 14 of Schedule 1B.
- (5) NHS England must exercise its powers under subsection (1) or (3) so as to ensure that—
- (a) on the abolition of a clinical commissioning group whose area coincides with that of an integrated care board, all of the group's property, rights and liabilities (other than criminal liabilities) are transferred to that board;
  - (b) on the abolition of a clinical commissioning group whose area does not coincide with that of an integrated care board, all of the group's property, rights and liabilities (other than criminal liabilities) are transferred to one or more integrated care boards;
  - (c) on the abolition of an integrated care board, all of the board's liabilities (other than criminal liabilities) are transferred.
- (6) The things that may be transferred under a transfer scheme include—
- (a) property, rights and liabilities that could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (c) criminal liabilities.
- (7) A transfer scheme may—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
  - (b) make provision about the continuing effect of things done by, on behalf of or in relation to the transferor in respect of anything transferred;
  - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
  - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
  - (e) make provision for the shared ownership or use of property;
  - (f) make provision which is the same as or similar to the TUPE regulations;
  - (g) make other consequential, supplementary, incidental or transitional provision.
- (8) A transfer scheme may provide—
- (a) for modifications by agreement;
  - (b) for modifications to have effect from the date when the original scheme came into effect.
- (9) In subsection (7)(f), “the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).

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- (10) In this section—
- (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
  - (b) references to the transfer of property include the grant of a lease.

*Constitution: publication*

**14Z29 Duty for integrated care board to publish constitution**

Each integrated care board must publish its constitution (as varied from time to time by order under section 14Z25 or under provision included in its constitution by virtue of paragraph 15 of Schedule 1B).

*Conflicts of interest*

**14Z30 Register of interests and management of conflicts of interests**

- (1) Each integrated care board must maintain one or more registers of the interests of—
- (a) members of the board,
  - (b) members of its committees or sub-committees, and
  - (c) its employees.
- (2) Each integrated care board must publish the registers maintained under subsection (1) or make arrangements to ensure that members of the public have access to the registers on request.
- (3) Each integrated care board must make arrangements to ensure—
- (a) that a person mentioned in subsection (1) declares any conflict or potential conflict of interest that the person has in relation to a decision to be made in the exercise of the commissioning functions of the integrated care board,
  - (b) that any such declaration is made as soon as practicable after the person becomes aware of the conflict or potential conflict and, in any event, within 28 days of the person becoming aware, and
  - (c) that any such declaration is included in the registers maintained under subsection (1).
- (4) Each integrated care board must make arrangements for managing conflicts and potential conflicts of interest in such a way as to ensure that they do not, and do not appear to, affect the integrity of the board’s decision-making processes.
- (5) For the purposes of this section, the commissioning functions of an integrated care board are the functions of the board in arranging for the provision of services as part of the health service.”
- (3) In section 272 (orders, regulations, rules and directions), in subsection (1), before paragraph (a) insert—
- “(za) section 14Z25(2).”.

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- (4) Schedule 2 inserts into the National Health Service Act 2006 a new Schedule 1B (integrated care boards: constitution etc) and contains a consequential amendment.

## **20 People for whom integrated care boards have responsibility**

- (1) The National Health Service Act 2006 is amended as follows.  
 (2) After section 14Z30 (inserted by section 19 of this Act) insert—

*“People for whom integrated care board has responsibility*

### **14Z31 People for whom integrated care board has responsibility**

- (1) NHS England must from time to time publish rules for determining the group of people for whom each integrated care board has core responsibility.
- (2) The rules must ensure that the following are allocated to at least one group—
- (a) everyone who is provided with NHS primary medical services, and
  - (b) everyone who is usually resident in England and is not provided with NHS primary medical services.
- (3) Regulations may create exceptions to subsection (2) in relation to people of a prescribed description (which may include a description framed by reference to the primary medical services with which the people are provided).
- (4) References in this Act to the group of people for whom an integrated care board has core responsibility are to be read in accordance with this section.
- (5) In this section, “NHS primary medical services” means services provided by a person, other than NHS England or an integrated care board, in pursuance of—
- (a) a general medical services contract to provide primary medical services of a prescribed description,
  - (b) arrangements under section 83(2) for the provision of primary medical services of a prescribed description, or
  - (c) section 92 arrangements for the provision of primary medical services of a prescribed description.”
- (3) In section 272 (orders, regulations, rules and directions)—
- (a) in subsection (1), after paragraph (za) (inserted by section 19 of this Act) insert—  
     “(zb) section 14Z31(1),”;
  - (b) in subsection (6), after paragraph (zb) insert—  
     “(zba) regulations under section 14Z31(3),”.
- (4) The Secretary of State may by regulations—
- (a) substitute the following section for section 14Z31 of the National Health Service Act 2006 (as inserted by subsection (2) of this section)—

**“14Z31 People for whom integrated care board has responsibility**

- (1) References in this Act to the group of people for whom an integrated care board has core responsibility are to the people who usually reside in its area.
- (2) Regulations may create exceptions to subsection (1) in relation to people of a prescribed description.”
- (b) repeal section 272(1)(zb) of that Act (as inserted by subsection (3) of this section), and
- (c) amend section 272(6)(zba) of that Act (as inserted by subsection (3) of this section), so as to substitute “14Z31(2)” for “14Z31(3)”.