

HEALTH AND SOCIAL CARE ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Care Trusts and Partnership Arrangements

Section 45: Care Trusts where voluntary arrangements

219. *Section 45* provides for the designation of a PCT or NHS trust as a Care Trust following an application to the Secretary of State or the National Assembly for Wales by the partners in the proposed Care Trust.
220. *Subsection (1)* provides that the Secretary of State or the National Assembly for Wales may designate a PCT or NHS trust that is, or is to be, party to local authority delegation arrangements as a Care Trust. *Subsection (1)(b)* requires the Secretary of State or the National Assembly for Wales to be of the opinion that Care Trust status is likely to promote the effective exercise by the trust of any delegated health-related functions of the local authority alongside the trust's existing NHS functions. This reflects the main aim of a Care Trust which is to improve services through effective integration of NHS and local authority services.
221. *Subsection (2)* sets out the voluntary nature of this approach to forming a Care Trust. The Secretary of State or the National Assembly for Wales will only be able to designate a Care Trust following a joint application by the local partners. The NHS partner could be a PCT, NHS trust or Health Authority, where a Care Trust is to be based on an existing Primary Care Group (see paragraph 225 below). Regulations will define the detailed arrangements for the applications. This will enable the arrangements for the different NHS partners to be specified, and allow regulations to be made governing the formation of a Care Trust where more than one local authority or health body has an interest.
222. *Subsection (3)* enables the Secretary of State or the National Assembly for Wales to direct that where a Care Trust is exercising health-related functions of a local authority alongside its NHS functions, it may exercise health-related functions of that local authority in relation to people for whom it does not exercise NHS functions. The intention is that the NHS and local authority health-related functions of the Care Trust should be exercised together as far as possible in order to provide integrated services. This flexibility will be required to cope with the different populations covered by local authorities and health bodies. A Care Trust may have responsibility for only NHS or only local authority health-related functions for some sections of the population.
223. *Subsection (4)* enables the designation of a Care Trust to be revoked by the Secretary of State or the National Assembly for Wales. This may be of the Secretary of State's or National Assembly for Wales's own motion (after consultation) or following an application by one or more of the parties. In the latter case, the Secretary of State or the National Assembly for Wales must revoke the designation at the earliest time considered appropriate having regard to the steps that need to be taken in connection with the revocation.

*These notes refer to the Health and Social Care Act 2001
(c.15) which received Royal Assent on 11 May 2001*

224. *Subsection (5)* provides for the Secretary of State or the National Assembly for Wales to designate a body as a Care Trust by order, either amending the establishment order of an existing PCT or NHS trust, or by creating a new PCT or NHS trust. A new body will be created where a Care Trust is to be formed from a partnership between a local authority and a Primary Care Group.
225. *Subsection (6)* contains provisions which enable the Secretary of State or the National Assembly for Wales to dissolve existing PCTs or NHS trusts where they think it is appropriate to do so in connection with the designation of another body as a Care Trust. *Subsection (7)* enables the Secretary of State or the National Assembly for Wales to make regulations dealing with matters which are consequential or supplementary to the formation of Care Trusts and the revocation of the designation of such trusts. *Subsection (8)* sets out particular circumstances for which such regulations may make provision. These include:
- (a) the process for applying for Care Trust status, the information to be supplied and the criteria to be met; and
 - (b) the governance arrangements for a Care Trust. The intention is to include local authority members on the boards of Care Trusts and to increase the representation of social services professionals within the governance arrangements for a Care Trust.
226. *Subsection (9)* explains that the designation of a PCT or a NHS trust as a Care Trust will not affect its functions, rights or liabilities as a PCT or NHS trust.
227. *Subsection (10)* provides that where an NHS body is to exercise social services functions as a Care Trust, it must act in accordance with directions and guidance from the Secretary of State or the National Assembly for Wales under certain powers relating to social services functions.