



National Health Service Act 2006

2006 CHAPTER 41

PART 12

PUBLIC INVOLVEMENT AND SCRUTINY

CHAPTER 3

[^{F1}REVIEW AND SCRUTINY BY LOCAL AUTHORITIES]

Textual Amendments

- F1** Pt. 12 Ch. 3 title 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. **190(8)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

244 [^{F2}Review and scrutiny by local authorities]

- (1) This section applies to any local authority, except that it applies to the council of a district only where the district is comprised in an area for which there is no county council.
- (2) Regulations may, in relation to ^{F3}... an authority to which this section applies, make provision—
 - (a) as to matters relating to the health service in the authority's area which [^{F4}the authority] may review and scrutinise,
 - (b) as to matters relating to the health service in the authority's area on which [^{F4}the authority] may make reports and recommendations to [^{F5}relevant NHS bodies or relevant health service providers], the Secretary of State or the regulator,
 - (c) as to matters on which [^{F5}relevant NHS bodies or relevant health service providers] must consult [^{F4}the authority] in accordance with the regulations ^{F6}...

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- (d) as to information which [^{F5}relevant NHS bodies or relevant health service providers] must provide to [^{F4}the authority],
 - (e) as to information which may not be disclosed by a [^{F7}relevant NHS body or relevant health service provider] to [^{F4}the authority],
 - (f) requiring [^{F8}any member or employee of a relevant NHS body, or a relevant health service provider or member or employee of a relevant health service provider,] to attend before [^{F4}the authority] to answer questions.
- [^{F9}(2ZA) If (by virtue of subsection (2)(c)) regulations make provision as to matters on which relevant NHS bodies or relevant health service providers must consult the authority, the regulations may also make provision—
- (a) as to circumstances in which the authority may refer any of those matters to the Secretary of State, the regulator or the Board;
 - (b) conferring powers on the Secretary of State to give directions to the Board in relation to a matter referred to the Secretary of State by virtue of regulations under paragraph (a);
 - (c) conferring powers on the Board to give directions to a clinical commissioning group in relation to a matter so referred;
 - (d) conferring powers on the Board to give directions to a clinical commissioning group in relation to a matter referred to the Board by virtue of regulations under paragraph (a);
 - (e) conferring powers on the Secretary of State to give directions to the Board as to the exercise of its powers by virtue of regulations under paragraph (c) or (d).
- (2ZB) The powers that may be conferred under any of paragraphs (b) to (d) of subsection (2ZA) include powers to require the person to whom the direction is given—
- (a) to consult (or consult further) with the authority on the matter in question;
 - (b) to determine the matter in a particular way;
 - (c) to take, or not to take, any other steps in relation to the matter.
- (2ZC) If (by virtue of subsection (2ZA)(a)) regulations make provision for an authority to refer a matter to the Secretary of State, the regulator or the Board, the regulations may also provide for any provision of section 101 of the Local Government Act 1972—
- (a) not to apply in relation to the discharge by the authority of that function, or
 - (b) to apply in relation to its discharge with such modifications as may be prescribed.
- (2ZD) Any functions conferred on a local authority by regulations under this section are not to be the responsibility of an executive of the authority under executive arrangements (within the meaning of Part 1A of the Local Government Act 2000).
- (2ZE) Regulations under this section may authorise a local authority to arrange for its functions under the regulations to be discharged by an overview and scrutiny committee of the authority.]
- [^{F10}(2A) In subsection (2)(d) and (e), references to information are to information relating to matters relating to the health service in the authority's area.]
- [^{F11}(3) For the purposes of subsections (2) and (2ZA)—
- “relevant NHS body”, in relation to an authority to which this section applies, means an NHS body, other than a Special Health Authority, which is prescribed for those purposes in relation to the authority;

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“relevant health service provider”, in relation to an authority to which this section applies, means a body or person which—

- (a) provides services in pursuance of arrangements made—
 - (i) by the Board or a clinical commissioning group under section 3, 3A, 3B or 4 or Schedule 1,
 - (ii) by a local authority for the purpose of the exercise of its functions under or by virtue of section 2B or 6C(1) or Schedule 1, or
 - (iii) by the Board, a clinical commissioning group or a local authority by virtue of section 7A, and
- (b) is prescribed, or is of a description prescribed, for those purposes in relation to the authority.]

[^{F12}(3A) In subsection (2)(f) “member”—

- (a) in relation to a clinical commissioning group, includes a person who is not a member of the group but is a member of a committee or sub-committee of it;
- (b) in relation to a relevant health service provider which is a body corporate, includes a person who is not a member of the body but is a director of it;
- (c) in relation to an NHS trust, means a director of the trust;
- (d) in relation to an NHS foundation trust, means a director or governor of the trust.

(3B) For the purposes of subsection (2)(f)—

- (a) a member of a body which is a member of a clinical commissioning group or relevant health service provider is to be treated as a member of the group or (as the case may be) relevant health service provider, and
- (b) an employee of a body which is a member of a clinical commissioning group or relevant health service provider is to be treated as an employee of the group or (as the case may be) relevant health service provider.]

(4) “The health service” includes services provided in pursuance of arrangements under regulations under section 75 in relation to the exercise of health-related functions of a local authority.

[^{F13}(5) In [^{F14}this section and section 245] references to an overview and scrutiny committee include references to—

- (a) an overview and scrutiny committee of a local authority operating executive arrangements under Part 1A of the Local Government Act 2000 (executive arrangements in England), and
- (b) an overview and scrutiny committee appointed by a local authority under section 9JA of that Act (appointment of overview and scrutiny committees by committee system local authorities).]

Textual Amendments

- F2** S. 244 heading 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. 190(7)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F3** Words in s. 244(2) 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. 190(2)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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- F4** Words in s. 244(2) 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. 190(2)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Words in s. 244(2) 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. 190(2)(c)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** Words in s. 244(2)(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. 190(2)(e)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** Words in s. 244(2) 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. 190(2)(d)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F8** Words in s. 244(2)(f) 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. 190(2)(f)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F9** S. 244(2ZA)-(2ZE) 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. 190(3)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F10** S. 244(2A) inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 121(4)**, 245(5); S.I. 2008/3110, art. 4(c)
- F11** S. 244(3) 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. 190(4)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F12** S. 244(3A)(3B) 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. 190(5)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F13** S. 244(5) inserted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 74**; S.I. 2012/1008, art. 4(b)
- F14** Words in s. 244(5) 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. 190(6)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

- C1** S. 244 modified (temp.) (11.7.2012) by [The Health and Social Care Act 2012 \(Commencement No.2 and Transitional, Savings and Transitory Provisions\) Order 2012 \(S.I. 2012/1831\)](#), **art. 13(3)-(5)**

245 Joint overview and scrutiny committees etc

- (1) In this section, [^{F15}“relevant functions” means functions under regulations under section 244(2) to (2ZC).]
- (2) Regulations may make provision under which—
 - (a) two or more local authorities may appoint a joint committee of those authorities (a “joint overview and scrutiny committee”) and arrange for relevant functions in relation to any (or all) of those authorities to be exercisable by the committee,
 - (b) a local authority may arrange for relevant functions in relation to that authority to be exercisable by an overview and scrutiny committee of another local authority,
 - (c) a county council for any area may arrange for one or more of the members of an overview and scrutiny committee of the council for a district comprised in that area to be appointed as—

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- (i) a member of an overview and scrutiny committee of the county council or another local authority, for the purposes of [F16relevant functions exercisable by the committee] in relation to the county council, or
 - (ii) a member of an overview and scrutiny committee of the county council, for the purposes of [F16relevant functions exercisable by the committee] in relation to another local authority.
- (3) The regulations may in particular—
- (a) provide for arrangements to be made only in specified circumstances, or subject to specified conditions or limitations,
 - (b) in relation to joint overview and scrutiny committees, make provision applying, or corresponding to, any provision of—
 - (i) [F17sections 9F(5), 9FA, 9FC to 9FG and 9FI] of the 2000 Act, or
 - F18(ia)
 - F18(ib)
 - (ii) section 246 of, and Schedule 17 to, this Act, and Schedule 11 to the National Health Service (Wales) Act 2006 (c. 42),with or without modifications.
- (4) The regulations may require, or enable the Secretary of State to direct, a local authority—
- (a) to make arrangements of any description within subsection (2), and
 - (b) to comply with such requirements in connection with the arrangements as may be specified in the regulations or as the Secretary of State may direct.
- [F19(4A) The regulations may provide that, where a relevant function in relation to a local authority is exercisable by a joint overview and scrutiny committee by virtue of arrangements under regulations under subsection (2)(a), the local authority may not discharge the function.]
- F20(5)
- (6) In subsection (2)(c), references to an overview and scrutiny committee of a county council include references to a joint overview and scrutiny committee of the council and another local authority.
- (7) [F21Section 9F(5)] of the 2000 Act does not apply to the discharge of functions by virtue of arrangements under regulations under subsection (2).
- (8) [F22Section 9FA(5)] of the 2000 Act does not apply to persons who are members of an overview and scrutiny committee by virtue of arrangements under regulations under subsection (2)(c).
- F23(9)

Textual Amendments

- F15** Words in s. 245(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 191\(2\), 306\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F16** Words in s. 245(2)(c)(i)(ii) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 191\(3\), 306\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

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- F17** Words in s. 245(3)(b)(i) substituted (4.5.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 75(3)(a)**; S.I. 2012/1008, art. 4(b)
- F18** S. 245(3)(b)(ia)(ib) repealed (4.5.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 75(3)(b), **Sch. 25 Pt. 4**; S.I. 2012/1008, art. 4(b)(c)
- F19** S. 245(4A) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 191(4)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F20** S. 245(5) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 191(5)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F21** Words in s. 245(7) substituted (4.5.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 75(4)**; S.I. 2012/1008, art. 4(b)
- F22** Words in s. 245(8) substituted (4.5.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 75(5)**; S.I. 2012/1008, art. 4(b)
- F23** S. 245(9) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 191(5)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

246 [F24 **Business relating to functions of local authorities by virtue of section 244]: exempt information**

- (1) This section applies in relation to any item of business at [F25 a meeting of a local authority or a committee of a local authority which is an item relating to functions of the authority under regulations under section 244(2) to (2ZC).]
- (2) In relation to any such item, information is exempt information for the purposes of section 100A(4) of the Local Government Act 1972 (c. 70) (exclusion of public from meetings to prevent disclosure of exempt information) if it falls within any of the descriptions of information specified in Schedule 17, or in Schedule 11 to the National Health Service (Wales) Act 2006.
- (3) The Secretary of State may by order vary Schedule 17—
 - (a) by adding any description or other provision in connection with a relevant body or services provided by, or under arrangements made by, a relevant body, [F26 or services in respect of which direct payments under section 12A(1), or under regulations under section 12A(4), are made by a relevant body,] or
 - (b) by deleting or varying any description or other provision specified or contained in that Schedule.
- (4) The Secretary of State may exercise the power conferred by subsection (3) by amending any Part of Schedule 17, with or without amendment of any other Part.
- (5) In this section and Schedule 17 “relevant body” means a body in respect of which [F27 local authorities] exercise functions under regulations under section 244.

Textual Amendments

- F24** Words in s. 246 heading substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 191(9)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F25** Words in s. 246(1) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 191(7)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F26** Words in s. 246(3)(a) inserted (19.1.2010) by Health Act 2009 (c. 21), s. 40(1), **Sch. 1 para. 9**; S.I. 2010/30, art. 2(b)
- F27** Words in s. 246(5) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 191(8)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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Modifications etc. (not altering text)

- C2** S. 246: power to apply conferred by 2007 c. 28, s. 123(5)(b)(iii) (as substituted (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), **ss. 32(1)**, 148(2)(a)(ii))
- C3** S. 246 applied (1.4.2013) by [The Local Authority \(Public Health, Health and Wellbeing Boards and Health Scrutiny\) Regulations 2013 \(S.I. 2013/218\)](#), regs. 1(2), **30(3)**

247 Application to the City of London

[^{F28}(1) This section applies to a committee of the Common Council appointed to exercise functions that the Council has under regulations under section 244(2) to (2ZC).]

(2) [^{F29}Section 245(2)(b) and (c) applies] as if such a committee were an overview and scrutiny committee ^{F30}... .

(3) [^{F31}Section 9F] of the Local Government Act 2000 applies as if such a committee were an overview and scrutiny committee and as if the Common Council were a local authority, but with the omission—

- (a) of subsections (1) to [^{F32}(4)],
- ^{F33}(b)
- ^{F33}(c)
- ^{F33}(d)

[^{F34}(3A) Section 9FA of the Local Government Act 2000 applies as if such a committee were an overview and scrutiny committee and as if the Common Council were a local authority, but with the omission—

- (a) of subsection (3),
- (b) in subsection (6), of paragraph (b), and
- (c) in subsection (8)(a), of the reference to members of the executive.]

(4) In the provisions applied by [^{F35}subsections (3) and (3A)], references to functions under any provision of [^{F36}section 9F(2)] of the 2000 Act are, [^{F37}in the case of a committee to which this section applies, references to functions under regulations under section 244(2) to (2ZC) which are exercisable by the committee.]

(5) “The Common Council” means the Common Council of the City of London.

Textual Amendments

- F28** S. 247(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 191(11)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F29** Words in s. 247(2) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 191(12)(a)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F30** Words in s. 247(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 191(12)(b)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F31** Words in s. 247(3) substituted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 77(3)(a)**; S.I. 2012/1008, art. 4(b)
- F32** Word in s. 247(3)(a) substituted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 77(3)(b)**; S.I. 2012/1008, art. 4(b)
- F33** S. 247(3)(b)-(d) repealed (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 77(3)(c)**, **Sch. 25 Pt. 4**; S.I. 2012/1008, art. 4(b)(c)
- F34** S. 247(3A) inserted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 77(4)**; S.I. 2012/1008, art. 4(b)

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- F35** Words in s. 247(4) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 191\(13\)\(a\), 306\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F36** Words in s. 247(4) substituted (4.5.2012) by [Localism Act 2011 \(c. 20\), s. 240\(2\), Sch. 3 para. 77\(5\)\(b\); S.I. 2012/1008, art. 4\(b\)](#)
- F37** Words in s. 247(4) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 191\(13\)\(b\), 306\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)

F38 247A Application to certain other local authorities without overview and scrutiny committees

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Textual Amendments

- F38** S. 247A omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 191\(14\), 306\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)

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