



Health and Social Care Act 2012

2012 CHAPTER 7

PART 4

NHS FOUNDATION TRUSTS & NHS TRUSTS

Governance and management

152 Directors

(1) After paragraph 18 of Schedule 7 to the National Health Service Act 2006 insert—

“18A The general duty of the board of directors, and of each director individually, is to act with a view to promoting the success of the corporation so as to maximise the benefits for the members of the corporation as a whole and for the public.”

(2) After paragraph 18A of that Schedule insert—

“18B (1) The duties that a director of a public benefit corporation has by virtue of being a director include in particular—

- (a) a duty to avoid a situation in which the director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the corporation;
- (b) a duty not to accept a benefit from a third party by reason of being a director or doing (or not doing) anything in that capacity.

(2) The duty referred to in sub-paragraph (1)(a) is not infringed if—

- (a) the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or
- (b) the matter has been authorised in accordance with the constitution.

Changes to legislation: Health and Social Care Act 2012, Section 152 is up to date with all changes known to be in force on or before 17 September 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) View outstanding changes

- (3) The duty referred to in sub-paragraph (1)(b) is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
 - (4) In sub-paragraph (1)(b), “third party” means a person other than—
 - (a) the corporation, or
 - (b) a person acting on its behalf.”
- (3) After paragraph 18B of that Schedule insert—

- “18C (1) If a director of a public benefit corporation has in any way a direct or indirect interest in a proposed transaction or arrangement with the corporation, the director must declare the nature and extent of that interest to the other directors.
- (2) If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- (3) Any declaration required by this paragraph must be made before the corporation enters into the transaction or arrangement.
- (4) This paragraph does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.
- (5) A director need not declare an interest—
- (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - (b) if, or to the extent that, the directors are already aware of it;
 - (c) if, or to the extent that, it concerns terms of the director's appointment that have been or are to be considered—
 - (i) by a meeting of the board of directors, or
 - (ii) by a committee of the directors appointed for the purpose under the constitution.”

- (4) After paragraph 18C of that Schedule insert—

- “18D (1) Before holding a meeting, the board of directors must send a copy of the agenda of the meeting to the council of governors.
- (2) As soon as practicable after holding a meeting, the board of directors must send a copy of the minutes of the meeting to the council of governors.”

- (5) After paragraph 18D of that Schedule insert—

- “18E (1) The constitution must provide for meetings of the board of directors to be open to members of the public.
- (2) But the constitution may provide for members of the public to be excluded from a meeting for special reasons.”

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Commencement Information

II S. 152 in force at 1.4.2013 by [S.I. 2013/160](#), **art. 2(2)** (with [arts. 7-9](#))

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)