



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Further provision about local authorities' role in the health service

29 Other health service functions of local authorities under the 2006 Act

- (1) The [National Health Service Act 2006 \(c. 41\)](#) is amended as follows.
- (2) In section 111 (dental public health)—
 - (a) in subsection (1) for “A Primary Care Trust” substitute “A local authority”,
 - (b) in subsection (2)—
 - (i) for “Primary Care Trust” (in each place where it occurs) substitute “local authority”, and
 - (ii) in paragraph (b) for “other Primary Care Trusts” substitute “other local authorities”, and
 - (c) after subsection (2) insert—

“(3) In this section, “local authority” has the same meaning as in section 2B.”
- (3) In section 249 (joint working with the prison service) after subsection (4) insert—

“(4A) For the purposes of this section, each local authority (within the meaning of section 2B) is to be treated as an NHS body.”

30 Appointment of directors of public health

In Part 3 of the National Health Service Act 2006 (local authorities and the NHS) before section 74 insert—

Status: This is the original version (as it was originally enacted).

“73A Appointment of directors of public health

- (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—
 - (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.”

31 Exercise of public health functions of local authorities

In Part 3 of the National Health Service Act 2006 after section 73A insert—

“73B Exercise of public health functions of local authorities: further provision

- (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.”

32 Complaints about exercise of public health functions by local authorities

In Part 3 of the National Health Service Act 2006 (local authorities and the NHS) after section 73B insert—

“73C Complaints about exercise of public health functions by local authorities

- (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—

Status: This is the original version (as it was originally enacted).

- (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.”