



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 4

#### NHS FOUNDATION TRUSTS & NHS TRUSTS

##### *Foundation trust status*

#### 162 Panel for advising governors

After section 39 of the National Health Service Act 2006 insert—

##### **“39A Panel for advising governors**

- (1) The regulator may appoint a panel of persons to which a governor of an NHS foundation trust may refer a question as to whether the trust has failed or is failing—
  - (a) to act in accordance with its constitution, or
  - (b) to act in accordance with provision made by or under this Chapter.
- (2) A governor may refer a question to the panel only if more than half of the members of the council of governors voting approve the referral.
- (3) The panel—
  - (a) may regulate its own procedure, and
  - (b) may establish such procedures, and make such other arrangements, as it considers appropriate for the purpose of determining questions referred to it under this section.
- (4) The panel may decide whether, or to what extent, to carry out an investigation on a question referred to it under this section.
- (5) The panel may for that purpose, or for the purpose of carrying out such an investigation, request information or advice.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Where the panel has carried out such an investigation, it must publish a report of its determination of the question referred to it.
- (7) If a person refuses to comply with a request made under subsection (5), the report under subsection (6) may refer to the refusal.
- (8) On any proceedings before a court or tribunal relating to a question referred to the panel under this section, the court may take the panel's report of its determination of the question into account.
- (9) The regulator—
  - (a) must pay expenses properly incurred by the panel, and
  - (b) must make administrative support available to the panel.
- (10) Regulations may make provision as to—
  - (a) eligibility for membership of the panel;
  - (b) the number of persons that may be appointed as members;
  - (c) the terms of appointment of members;
  - (d) circumstances in which a person ceases to be a member or may be suspended.”