

2005 No. 499

NATIONAL HEALTH SERVICE, ENGLAND

**The Health and Social Care Information Centre (Establishment
and Constitution) Order 2005**

<i>Made</i> - - - -	<i>7th March 2005</i>
<i>Laid before Parliament</i>	<i>11th March 2005</i>
<i>Coming into force</i> - -	<i>1st April 2005</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 11(1), (2) and (4) of, and paragraph 9(7)(b) of Schedule 5 to, the National Health Service Act 1977(a), and of all other powers enabling him in that behalf, and after consultation with such bodies as he recognises represent officers who in his opinion are likely to be transferred or affected by transfers in pursuance of the Order(b), hereby makes the following Order:

Citation, commencement, application and interpretation

1.—(1) This Order may be cited as the Health and Social Care Information Centre (Establishment and Constitution) Order 2005 and shall come into force on 1st April 2005.

(2) This Order applies in relation to England.

(3) In this Order—

“the Act” means the National Health Service Act 1977; and

“the Authority” means the Health and Social Care Information Centre established by this Order;

“the WYSHA” means the West Yorkshire Strategic Health Authority(c);

“the WYSHA functions” means the responsibilities and liabilities of the WYSHA specified in an Agreement between the WYSHA and the Department of Health dated 18th October 2002 (d).

(a) 1977 c.49; section 11 was amended by section 2(1) of, and paragraph 2 of Schedule 1 to, the Health Authorities Act 1995 (c.17) (“the 1995 Act”) and section 65 of, and paragraphs 4 and 6 of Schedule 4 to, the Health Act 1999 (c.8) (“the 1999 Act”); sub-paragraph (7) was inserted in paragraph 9 of Schedule 5 by section 1 of, and paragraph 7(2) of Schedule 1 to, the National Health Service and Community Care Act 1990 (c.19) and amended by section 2(1) of, and paragraph 60(b) of Schedule 1 to, the 1995 Act and section 1(3) of, and paragraphs 1, 34(1) and (3)(b) of Schedule 1 to, the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the 2002 Act”). The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

(b) See section 11(5) of the Act.

(c) See Health Authorities (Establishment and Abolition) Order 2002 S.I.2002/553.

(d) Copies of the Agreement may be obtained from the Department of Health, Quarry House, Leeds.

Establishment of the Authority

2. There is hereby established a Special Health Authority which shall be known as the Health and Social Care Information Centre.

Functions of the Authority

3. Subject to and in accordance with such directions as the Secretary of State may give to the Authority(a), the Authority shall so as to promote or secure the effective provision of services under the Act perform—

- (a) such functions in connection with the collection, analysis, use and dissemination of information;
- (b) such functions in connection with the issuing of administrative identification numbers; and
- (c) such other functions,

as the Secretary of State may direct.

Constitution of the Authority

4. The Authority shall consist of—

- (a) a chairman;
- (b) for the period 1st April 2005 to 31st December 2005 not less than 3 and not more than 7 members who are not officers of the Authority in addition to the Chairman;
- (c) from 1st January 2006 not less than 5 and not more than 7 members who are not officers of the Authority in addition to the Chairman;
- (d) not more than 7 members who are officers of the Authority including the persons who for the time being hold the office of Chief Executive and Director of Finance.

Remuneration of members

5. The Authority is hereby specified for the purposes of paragraph 9(7)(b) of Schedule 5 to the Act (definition of “relevant authority” for the purposes of paying remuneration to members of certain Special Health Authorities).

Public meetings

6. The Public Bodies (Admission to Meetings) Act 1960(b) shall apply to the Authority.

Enforceability of rights and liabilities of the West Yorkshire Strategic Health Authority

7.—(1) Any right that was, immediately before 1st April 2005, enforceable by or against the WYSHA in respect of the WYSHA functions is transferred to the Authority and therefore shall, on or after that date, be enforceable by or against the Authority.

(2) All liabilities of the WYSHA relating to the exercise of the WYSHA functions shall on 1st April 2005 be transferred to the Authority and are therefore enforceable against it.

(a) See, in particular, sections 16D, 17 and 18 of the National Health Service Act 1977 (c.49); section 16D was inserted by section 12(1) of the 1999 Act and amended by sections 1(3), 3(1) and (2) of, and paragraphs 1 and 6(a) of Schedule 1 to, the 2002 Act; section 17 was inserted by section 12(1) of the 1999 Act and amended by section 67(1) of, and paragraph 5(1) and (3) of Schedule 5 to, the Health and Social Care Act 2001 (c.15) and section 1(3) of, and paragraphs 1 and 7 of Schedule 1 to, the 2002 Act; section 18 was amended by sections 2(1), 5(1) and 3(8) of, and paragraph 9(b) and (c)(ii) of Schedule 1 and Schedule 3 to, the 1995 Act, section 12(3) and (4) of the 1999 Act and sections 1(3), 3(1), (5)(a) and (b) and 37(2) of, and paragraphs 1 and 9 of Schedule 1 and Part 1 of Schedule 9 to, the 2002 Act.

(b) 1960 c.67; see paragraph 1(g) of the Schedule to the Act, which was inserted by paragraph 91 of Schedule 1 to the 1995 Act.

Transfer of officers

8.—(1) This paragraph applies in relation to any officer of the West Yorkshire Strategic Health Authority who on 31st March 2005 is wholly or mainly engaged in the performance of the WYSHA functions and who was notified in writing on 14th February 2005 that he or she was to be transferred to the Authority.

(2) Any officer to whom paragraph (1) applies shall, on 1st April 2005, be transferred to the employment of the Authority.

(3) The contract of employment of an officer transferred under paragraph (2)—

- (a) is not terminated by the transfer; and
- (b) has effect from the time of the transfer as if originally made between the officer and the Authority.

(4) Without prejudice to paragraph (3)—

- (a) all the rights, powers, duties and liabilities of the body from which an officer is transferred, under or in connection with its contract of employment with an officer transferred under paragraph (2), shall by virtue of this paragraph be transferred to the Authority; and
- (b) anything done before the date of the transfer by or in relation to the body from which that officer is so transferred, in respect of the officer or his contract of employment, shall be deemed to have been done by or in relation to the Authority.

(5) Paragraphs (2) to (4) do not transfer an officer's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if that officer has objected to the transfer to the Authority and has informed the body from which he would be transferred of that objection by 31st March 2005.

(6) Where an officer has objected as mentioned in paragraph (5), his contract of employment with the body from which he would be transferred shall be terminated immediately before the date on which the transfer would occur, but he shall not be treated, for any purpose, as having been dismissed from that body.

(7) This article is without prejudice to any right of an officer to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right shall arise by reason only that, under this article, the identity of his employer changes unless the officer shows that, in all the circumstances, the change is a significant change and is to his detriment.

Signed by authority of the Secretary of State for Health

7th March 2005

Warner
Parliamentary Under Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the establishment and constitution of a Special Health Authority, to be known as The Health and Social Care Information Centre (“the Authority”), to exercise functions, in England, in connection with the collection, analysis, use and dissemination of information and such other functions as the Secretary of State may direct it to perform.

Article 2 of the Order establishes the Authority, the functions of which are described in article 3 and are to be specified more particularly in directions given by the Secretary of State. Provision is also made for the constitution of the Authority (article 4), for the remuneration of its members (article 5), for the admission of the public to meetings (article 6), for the transfer and enforceability of rights and liabilities (article 7) and officers (article 8).

£3.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s
Stationery Office and Queen’s Printer of Acts of Parliament.
E0428 3/2005 150428T 19585

ISBN 0-11-072429-1



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