

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Health

Chapter 1 - Health Education England

Establishment

Schedule 5 – Health Education England

Part 3 – Finance and Reports

568. *Paragraphs 19 to 23* set out how the Secretary of State will fund HEE. It also sets out the general financial duties of HEE, including restrictions on the use of resources.

Funding

569. *Paragraph 19* provides that the Secretary of State must pay HEE the amount allotted for meeting HEE's expenditure. Sub-paragraph (2) provides that an amount will be regarded as allotted once HEE is notified of the amount. The payment is subject to such conditions relating to records, certificates or otherwise as the Secretary of State requires.
570. Sub-paragraph (3) states that the Secretary of State is able to increase or decrease the allotted amount if HEE agrees to the change, there is a parliamentary general election, or the Secretary of State considers that there are exceptional circumstances which make an increase or a decrease necessary. Such exceptional circumstances might include a severe disease outbreak or unpredictable and substantial damage to infrastructure.
571. Sub-paragraph (4) provides that the Secretary of State may direct HEE in respect of HEE's payments to it in respect of charges or other amounts relating to the valuation and disposal of assets.

Financial duties: expenditure

572. Under *paragraph 20*, HEE will have an obligation to ensure that its total expenditure does not exceed the aggregate of the amount allotted to HEE by the Secretary of State for that year and any income derived from other sources. This is in effect an annual "cash limit" on the total amount of cash expenditure which may be incurred.
573. The income which counts for the purposes of this limit would include, for instance, funds received as a result of the power in paragraph 21 for HEE to generate its own income.
574. The Secretary of State has the power to determine by directions what will and what will not count as total expenditure for the purposes of sub-paragraph (1). Sub-paragraph (3) gives the Secretary of State a power to determine in directions the extent to which, and the circumstances in which, sums received by HEE under *paragraph 19* but not yet

spent must be treated for the purposes of this section as part of total expenditure, and to which financial year's expenditure they must be attributed.

575. The Secretary of State also has a power to direct HEE to use banking facilities that he specifies in the Directions.

Financial duties: use of generated income

576. *Paragraph 21* provides that any income that HEE generates must be re-invested for education and training purposes.

Financial duties: controls on total resource use

577. *Paragraph 22* is concerned with HEE's annual resource allocation. Under this paragraph, the total use of capital resources and the total use of revenue resources by HEE in a financial year must not exceed amounts specified by the Secretary of State. HEE is placed under a duty to ensure that these total limits are not exceeded.

578. The resource allocations include not only HEE's expenditure in the form of cash spending (that is, the cash spending that should be accounted for in that financial year, in line with resource accounting standards), but also consumption of other resources and the reduction in value of assets belonging to HEE (paragraph 22(4)). For example, the reduction in value of a photocopier across the year, or the distribution of leaflets previously kept in storage would be counted as part of the resource allocation. This system of setting not only a cash limit on HEE's expenditure but also a limit on use of resources reflects the system for controlling government resources under the Government Resources and Accounts Act 2000.

579. Sub-paragraph (2) gives the Secretary of State a power to give directions that specify what descriptions of resources must be treated as capital or revenue resources, and the uses of resources that must, or must not, be taken into account, when determining whether HEE has remained within the resource allocations for a financial year.

580. As with the allotment, the Secretary of State may only vary the resource allocations within a financial year if certain conditions are met. These conditions are set out in sub paragraph (3) and are that if HEE agrees that the change is necessary, if there is a parliamentary general election, or if the Secretary of State considers that exceptional circumstances require a variation of the allocation.

Financial duties: additional controls on resource use

581. *Paragraph 23* enables the Secretary of State to specify additional limits within the total revenue resource limit on the maximum use of resources attributable to administrative matters by HEE (sub-paragraph (1)(c)). Sub-paragraph (2) provides that the matters relating to administration which count for the purposes of these limits may be set out in directions.

582. Under sub-paragraphs (1)(a) and (1)(b), the Secretary of State will also be able to set additional limits on total revenue or total capital resource use attributable to particular matters specified in directions. Sub-paragraph (3) requires that the Secretary of State may only impose such limits for the purpose of complying with limits imposed by HM Treasury. These limits relate to specific budgetary limits applied across all Government Departments on certain elements of spending. For example within the revenue Departmental Expenditure Limit, HM Treasury applies a ring-fence to spending on depreciation. HM Treasury applies controls on Annually Managed Expenditure under which there are limits on the creation of new provisions (charges for spending that is likely to happen in future years e.g. the economic cost of providing student loans over the full repayment period. The Department of Health would also apply a limit on the balance of spending not covered by the specific limits, again to

provide consistency with the controls applied by HM Treasury. These types of spending will fall within the total resource limits but need to be separately controlled within them.

Losses and liabilities etc

583. *Paragraph 24* provides that HEE is included in the list of authorities covered by section 265 of the Public Health Act 1875. The effect of this is to protect members and officers of HEE from personal liability in certain circumstances.
584. Sub-paragraph (3) includes HEE in the list of bodies eligible to enter into schemes for meeting losses and liabilities as set out in section 71 of the National Health Service Act 2006.

Accounts

585. *Paragraph 25* requires HEE to keep proper accounts and proper records in relation to the accounts (with such content and in such form, and using such methods and principles to prepare the accounts, as the Secretary of State may direct with the approval of HM Treasury). The chief executive of HEE is to be the chief accounting officer.

Annual accounts

586. *Paragraph 26* requires HEE to prepare consolidated accounts annually in respect of each financial year. HEE's consolidated accounts must include the accounts of each LETB, any other committees of HEE, and HEE's activities.
587. Sub-paragraph (3) provides that HEE must submit the accounts to the Secretary of State and to the Comptroller and Auditor General within such period as is directed by the Secretary of State. The Comptroller and Auditor General must examine, certify and report on the accounts of HEE and lay copies of the accounts, along with a report of them, before Parliament.

Interim accounts

588. Additional provision is made in *paragraph 27* for the Secretary of State, with the approval of HM Treasury, to direct HEE to prepare interim accounts. The interim accounts must include the accounts of any committees, including the LETBs.
589. HEE must submit the interim accounts to the Secretary of State and, if the Secretary of State directs, to the Comptroller and Auditor General within such period as is directed by the Secretary of State. The Comptroller and Auditor General must examine the interim accounts of HEE and if the Secretary of State directs, send a copy of the report to the Secretary of State, and lay copies of the accounts, along with a report of them, before Parliament.

Annual report

590. *Paragraph 28* requires HEE to prepare an annual report for each financial year about how it has exercised its functions. This assessment must include an assessment of HEE's achievement of the objectives and reflection of the priorities set by the Secretary of State under subsection (1) of section 100 and an assessment of its achievement of the outcomes set by the Secretary of State for the purposes of subsection (2) of section 100. HEE must provide this report as soon as possible after the end of the financial year.
591. HEE must send a copy of the report to the Secretary of State and lay a copy of the report before Parliament. HEE must also provide such other reports and information relating to the exercise of its functions as the Secretary of State requests.