



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.

Changes to legislation: Health and Social Care Act 2012, Section 162 is up to date with all changes known to be in force on or before 29 April 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

- (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.”

Commencement Information

- I1** S. 162 partly in force; s. 162 in force for specified purposes at Royal Assent, see s. 306(1)(d)
- I2** S. 162 in force at 1.4.2013 in so far as not already in force by [S.I. 2013/160](#), [art. 2\(2\)](#) (with arts. 7-9)

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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. 251 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\(5\)](#)