

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Health

Chapter 1 - Health Education England

Establishment

Schedule 5 – Health Education England

Part 1 – Constitution

Membership

539. *Paragraph 1* set outs the requirements for the membership of the Board of HEE. It provides that the Board must consist of a chair and six other non-executive members appointed by the Secretary of State, and a chief executive and no more than four executive members appointed by the chair and other non-executive members. Non-executive members are not employees of HEE. The chief executive and executive appointments will be employees of HEE.
540. *Paragraph 2* specifies that the Board of HEE must include persons with clinical expertise of a type set out in regulations. Regulations may specify the number of executive and non-executive members which must have that clinical expertise. The regulations will set out the types of expertise that must be represented, for example a doctor, a nurse or a member of one of the other healthcare professions.
541. *Paragraph 2* also makes provision that the non-executive members of HEE must include a person who will represent the interests of patients.

Non-executive members: terms of office

542. *Paragraph 3* makes provision about the terms of appointment and tenure of office of non-executive members of the Board of HEE. Sub-paragraph (2) provides that non-executive appointments will be for a maximum period of four years. Sub-paragraph (3) confirms that non-executive members can be reappointed after they have ceased to be a member or at the end of the four year term of office. Sub-paragraph (4) provides that persons appointed to non-executive roles may resign from office by giving notice to the Secretary of State. Sub-paragraph (5) gives the Secretary of State a power to remove any person from a non-executive appointment on the grounds of incapacity, misbehaviour, or failure to carry out their duties properly. Sub-paragraph (6) permits the Secretary of State to suspend a person from a non-executive role for any of the reasons set out in sub-paragraph (5).

Non-executive members: suspension from office

543. *Paragraphs 4 and 5* set out the procedural requirements to be complied with when the Secretary of State suspends a non-executive member of the Board of HEE, make

provision for the Secretary of State to review the suspension and gives the Secretary of State power to appoint an interim chair. HEE will have no power to appoint an interim chair, but could choose to appoint a deputy chair (regardless of any suspension of the chair).

Non-executive members: pay

544. *Paragraph 6* requires HEE to pay to the non-executive members such remuneration as the Secretary of State may decide. Sub-paragraph (2) provides that the Secretary of State may also determine the allowances and gratuities that HEE must pay a person who is or has been a non-executive member.

Employees: terms of office

545. *Paragraph 7* gives HEE the power to appoint the chief executive, executive members and other employees on such terms as it decides. The appointment of the chief executive requires the consent of the Secretary of State.

Employees: pay

546. *Paragraph 8* provides that HEE must pay its employees such remuneration as it decides. HEE must also pay such pensions, allowances or gratuities as it may determine. In common with other arms-length bodies, HEE is required to obtain the approval of the Secretary of State to its policy on pay before making a decision on these matters.

Committees and sub-committees

547. *Paragraph 9* provides that HEE may appoint committees and sub-committees and pay remuneration and allowances to those members of a committee or sub-committee who are not employees of HEE. Any committees or sub-committees of the Special Health Authority called HEE will become part of HEE when it is established as a non-departmental public body and will be treated as appointed for the purposes of this paragraph.

Procedure

548. *Paragraph 10(1)* provides that HEE regulates its own procedure. *Paragraph 10(2)* confirms that the validity of any act of HEE, will not be affected by vacancies or any defects in appointments.

Seal and evidence

549. *Paragraph 11* makes provision in relation to HEE's seal.

Status of HEE

550. *Paragraph 12* states that HEE is not to be regarded as a servant or agent of the Crown and will not enjoy any status, privilege or immunity of the Crown. HEE's property will not be regarded as property of, or property held on behalf of, the Crown.