

NATIONAL HEALTH SERVICE ACT 1977

The Continuing Care (National Health Service Responsibilities) Modification Directions 2006

The Secretary of State for Health makes the following Directions in exercise of the powers conferred by sections 17 and 126(4) of the National Health Service Act 1977(a).

Commencement, application and interpretation

1.—(1) These Directions come into force on 16 October 2006 and apply to every Strategic Health Authority and Primary Care Trust in England.

(2) In these Directions—

“the 2004 Directions” means the Continuing Care (National Health Service Responsibilities) Directions 2004(b);

“the 2006 PCT Order” means the Primary Care Trusts (Establishment and Dissolution) (England) Order 2006(c);

“the 2006 SHA Order” means the Strategic Health Authorities (Establishment and Abolition) (England) Order 2006(d);

“appropriate Strategic Health Authority” has the same meaning as in the 2004 Directions;

“former appropriate Strategic Health Authority” means:

- (a) the Strategic Health Authority in whose area any of the old PCTs, all or part of whose area is covered by the new PCT, were situated on 30th June 2006; or
- (b) in a case where, on 30th June 2006, any of the old PCTs was situated in the area of more than one Strategic Health Authority, the Strategic Health Authority which was exercising the functions in the 2004 Directions in respect of that old PCT in accordance with arrangements made pursuant to article 9 of those Directions;

“new PCT” means a Primary Care Trust established by article 3 of the 2006 PCT Order;

“old authorities” means the Strategic Health Authorities abolished by article 3 of the 2006 SHA Order;

“old PCT” has the same meaning as in the 2006 PCT Order.

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- (a) 1977 c.49. Section 17 was substituted by the Health Act 1999 (c.8) (“the 1999 Act”), section 12(1) and amended by the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), Schedule 5, paragraph 5(3) and by the National Health Service Reform and Health Care Professions Act 2002 (c.17), Schedule 1, paragraph 7; section 126(4) was amended by the National Health Service and Community Care Act 1990 (c.19), section 65(2), the 1999 Act, Schedule 4, paragraph 37(6), the 2001 Act, Schedule 5, paragraph 5(13)(b) and the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 11, paragraph 38 and Schedule 14, Part 4.
 - (b) These Directions are available on the Department of Health website at:
http://www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsLegislation/PublicationsLegislationArticle/fs/en?CONTENT_ID=4077239&chk=OcAIYw.
 - (c) S.I. 2006/2072.
 - (d) S.I. 2006/1408.

Modification of the application of direction 3 of the 2004 Directions

2.—(1) This direction applies where, as a result of the operation of article 8 (provision for continuity in the exercise of functions) of the 2006 SHA Order, the appropriate Strategic Health Authority for a new PCT has more than one set of eligibility criteria for the provision of continuing care in force in its area under article 2 of the 2004 Directions.

(2) For as long as the situation referred to in paragraph (1) continues, article 3(1)(a) of the 2004 Directions shall apply as set out in paragraph (3).

(3) Each new PCT must act in accordance with the criteria established under direction 2(2)(a) of the 2004 Directions by—

- (a) its former appropriate Strategic Health Authority; or
- (b) where there is more than one former appropriate Strategic Health Authority for that PCT, the one of those former appropriate Strategic Health Authorities agreed between the new PCT and its appropriate Strategic Health Authority.

Modification of the application of direction 4 of the 2004 Directions in relation to standing and reserve chairmen

3.—(1) Where, as a result of the operation of article 8 of the 2006 SHA Order, a Strategic Health Authority has more than one set of eligibility criteria for the provision of continuing care in force in its area under article 2 of the 2004 Directions, article 4 of the 2004 Directions shall, for as long as that situation continues, apply as set out in paragraph (2).

(2) The Strategic Health Authority must—

- (a) appoint a standing chairman and a reserve standing chairman in accordance with direction 4(1) to deal with each of the sets of eligibility criteria applicable in its area; and
- (b) give notification in accordance with direction 4(4) to the standing chairman appointed to deal with the set of criteria to which the application relates.

(3) Where a Strategic Health Authority has, following review, replaced the sets of eligibility criteria for the provision of continuing care in force in its area pursuant to article 8 of the 2006 SHA Order with a single set of eligibility criteria, article 4 of the 2004 Directions shall apply with the modifications set out in paragraphs (4) and (5).

(4) For paragraph (1)(a) and (b), substitute—

- “(a) appoint such number of persons as seem to it to be appropriate, not exceeding the number of old authorities in its area, to act as chairman (“the standing chairman”) of any panel to which a matter is referred under paragraph (4);
- (b) appoint a person (“a reserve standing chairman”) for each standing chairman to act as chairman of such panel in the event referred to in paragraph (4)(a); and”.

(5) In paragraph (4)—

- (a) after “notify the standing chairman” insert “or one of them”; and
- (b) for sub-paragraph (a), substitute—

“(a) the standing chairman who was notified of receipt of the application or, in the event of his being unavailable to deal with the matter within the relevant timescale, his reserve standing chairman;”.

Modification of the application of direction 4 of the 2004 Directions in relation to panel lists

4.—(1) Where, as a result of the operation of article 7 (provision for continuity in the exercise of functions) of the 2006 PCT Order, more than one person from a new PCT is included in the list established by a Strategic Health Authority pursuant to direction 4(1)(c)(i) of the 2004 Directions, each such person may continue to be included in that list in respect of that new PCT, notwithstanding that direction, until such time as his appointment terminates in accordance with the 2004 Directions.

(2) A person falling within paragraph (1) will only be eligible for reappointment in accordance with article 5(3) of the 2004 Directions if there is no other member for that new PCT on the list referred to in paragraph (1) at that time.

(3) Where, as a result of the operation of article 8 of the 2006 SHA Order, more than one person from the same local authority is included in the list established by a Strategic Health Authority pursuant to direction 4(1)(c)(ii) of the 2004 Directions, each such person may continue to be included in that list in respect of that local authority, notwithstanding that direction, until such time as his appointment terminates in accordance with the 2004 Directions.

(4) A person falling within paragraph (3) will only be eligible for reappointment in accordance with article 5(3) of the 2004 Directions if there is no other member for that local authority on the list referred to in paragraph (3) at that time.

Signed by authority of the Secretary of State

A handwritten signature in cursive script that reads "Anne McDonald".

13 October 2006

Member of the Senior Civil Service
Department of Health