#

# Appendix 2: ICB key statutory duties

This table sets out key statutory duties, which relate to the establishment and core functions of ICBs. It is not exhaustive and is intended to capture the statutory duties that are most relevant to the functional areas in the [insightful ICB board](https://www.england.nhs.uk/long-read/the-insightful-provider-board/).

|  **Key statutory duties under the NHS Act 2006** |
| --- |
| **Relevant ICB functional area** |
| **ICB duty** | **Name of duty** | **Description of duty** | **A** | **B** | **C** | **D** | **E** | **F** |
| Sections 14Z52, 14Z53, 14Z54  | Duty to develop, publish and update annually a Joint Forward Plan (JFP)  | The duty is shared with partner trusts. Before the start of each financial year, the bodies must prepare a plan setting out how they propose to exercise their functions in the next five years. The plan must, in particular:* describe the services for which the ICB proposes to make arrangements (i.e. commission),
* explain how the ICB proposes to discharge its general duties and in its financial duties under the NHS Act 2006,
* set out steps the ICB proposes to take to implement joint local health and wellbeing strategies,
* set out steps the ICB proposes to take to address the particular needs of those under the age of 25, and the particular needs of victims of abuse.

The plan should include all services which the ICB commissions, including primary care and other delegated responsibilities.The bodies are required to publish the plan (and any revised plan during the year) and must have regard to it in the exercise of their functions.The legislation makes provision for the ICB to consult its population, and other appropriate persons, when preparing the plan or revising it in any significant way. Health and Wellbeing Boards must also be involved. | X |  | X |  |  |  |
| Section 14Z56  | Duty to develop a joint capital resource use plan | Before the start of each financial year, an ICB and its partner trusts must prepare a plan setting out their planned capital resource use.The plan must relate to such period as directed by the Secretary of State, and must be prepared with regard to guidance published by NHS England. The plan must be published by the ICB and its partners. | X |  | X |  |  |  |
| Section 223M  | Financial duty as to resource use limits | The duty, shared with partner trusts, to ensure that they operate their functions so that together they do not exceed the local revenue or capital resource limits set in a direction by NHS England. | X | X | X | X |  |  |
| Section 82  | Duty of co-operation between NHS bodies and local authorities | In exercising their respective functions NHS bodies and local authorities must co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.English and Welsh NHS bodies, and local authorities in England, must have regard to guidance publish by the Secretary of State on the discharge of this duty in relation to England. (See for example [this guidance](https://www.gov.uk/government/publications/hospital-discharge-and-community-support-guidance/hospital-discharge-and-community-support-guidance) issued by the Secretary of State in January 2024).  | X | X |  |  |  | X |
| Section 14Z45  | Public involvement duty | In relation to any health services which are, or are to be, commissioned by ICBs, the ICB must make arrangements to secure that individuals to whom the services are being or may be provided, and their carers and representatives (if any), are involved (whether by being consulted or provided with information or in other ways) in: * the planning of the commissioning arrangements;
* the development and consideration of proposals by them for changes in the commissioning arrangements where the implementation of the proposals would have an impact on the manner in which the services are delivered to the individuals (at the point when the service is received by them), or the range of health services available to them; and
* decisions of NHS England affecting the operation of the commissioning arrangements where the implementation of the decisions would (if made) have such an impact.
 | X | X | X |  |  |  |
| Section 3  | Duty of ICBs to commission certain health services | An ICB must arrange for the provision of the matters listed in section 3 (e.g. hospital accommodation, nursing and ambulance services, maternity, palliative care etc) to such extent as it considers necessary to meet the reasonable requirements of the people for whom it has responsibility. The duty specifies that ICBs have a legal responsibility to commission such health services to such extent as it considers necessary to meet the reasonable requirements of its population.In exercising its functions, an ICB must act consistently with: * the discharge by the Secretary of State and NHS England of their duty to promote a comprehensive health service; and
* the objectives and requirements specified in the Secretary of State’s Mandate to NHS England.
 | X |  | X |  |  |  |
| Section 14Z32  | Duty to promote the NHS Constitution | ICBs must, in the exercise of their functions, act with a view to securing that health services are provided in a way which promotes the NHS Constitution; and promotes awareness of the NHS Constitution among patients, staff and members of the public. | X | X | X |  |  |  |
| Section 14Z33  | Duty as to effectiveness, efficiency and economy | ICBs must exercise their functions effectively, efficiently and economically. |  |  | X | X |  |  |
| Section 14Z34  | Duties as to improvement in quality services  | ICBs must exercise their functions with a view to securing continuous improvement in the quality of services provided to individuals for, or in connection with: * the prevention, diagnosis or treatment of illness; or
* the protection or improvement of public health.

In discharging these duties, ICBs must in particular, act with a view to securing continuous improvement in the outcomes that are achieved from the provision of the services. Those outcomes include, in particular, outcomes which show: the effectiveness of the services; the safety of the services; and the quality of the experience undergone by patients.  |  |  | X | X |  |  |
| Section 14Z35  | Duties as to reducing inequalities in access and outcomes | ICBs must, in the exercise of their functions, have regard to the need to: reduce inequalities between persons with respect to their ability to access health services; and reduce inequalities between patients with respect to the outcomes achieved for them by the provision of health services.Those outcomes again include the effectiveness of the services; the safety of the services; and the quality of the experience undergone by patients. | X | X | X |  | X |  |
| Section 14Z37  | Duty as to patient choice | ICBs must, in the exercise of their functions, act with a view to enabling patients to make choices with respect to aspects of health services provided to them. |  |  | X | X |  |  |
| Section 14Z38  | Duty to obtain appropriate advice | ICBs must obtain advice appropriate for enabling them to effectively to discharge their functions from appropriate persons who (taken together) have a broad range of professional expertise in: the prevention, diagnosis or treatment of illness; and the protection or improvement of public health. | X | X |  |  |  |  |
| Section 14Z39  | Duty to promote innovation | ICBs must, in the exercise of their functions, promote innovation in the provision of health services (including innovation in the arrangements made for their provision). |  |  | X |  | X |  |
| Section 14Z40  | Duty in respect of research | ICBs must, in the exercise of their functions, facilitate or otherwise promote research on matters relevant to the health service, and the use in the health service of evidence obtained from research. |  |  |  |  | X |  |
| Section 14Z41  | Duty to promote education and training  | So as to assist with the duty of the Secretary of State and NHS England under section 1F (to secure an effective system for the planning and delivery of education and training), ICBs must, in exercising their functions, have regard to the need to promote education and training for persons who are employed, or who are considering becoming employed, in an activity which involves or is connected with the provision of services as part of the health service in England. |  |  |  |  | X |  |
| Section 14Z42  | Duty as to promoting integration | Where ICBs consider that doing so would: improve the quality of the services (including the outcomes that are achieved from their provision); reduce inequalities between persons with respect to their ability to access those services; or reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services, they must exercise their functions with a view to securing that:* health services are provided in an integrated way.
* the provision of health services is integrated with the provision of health-related services or social care services.
 | X | X | X |  |  |  |
| Section 14Z43  | Duty to have regard to the wider effect of decisions (the Triple Aim) | In making decisions about the exercise of their functions, ICBs must have regard to all likely effects of those decisions in relation to: * the health and wellbeing of the people of England;
* the quality of services provided to individuals by the NHS or in pursuance of arrangements made by the NHS, or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England;
* efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.

In discharging this duty ICBs must have regard to any guidance about the Triple Aim which NHS England may publish under section 13NB. | X | X | X |  |  |  |
| Section 14Z44  | Duties as to climate change | ICBs must, in the exercise of their functions, have regard to the need to: contribute towards compliance with the UK net zero emissions target (under the Climate Change Act 2008) and certain environmental targets (under the Environment Act 2021); and to adapt to any current impacts of climate change identified in reports on the assessment of risks of climate change laid before Parliament by the Secretary of state under section 56 of the 2008 Act. In discharging this duty ICBs must have regard to any guidance about such matters which NHS England may publish under section 13ND. | X |  | X |  |  |  |

| **Other key statutory duties** | **A** | **B** | **C** | **D** | **E** | **F** |
| --- | --- | --- | --- | --- | --- | --- |
| Sections 116ZA, 116ZB, 116B Local Government and Public Involvement in Health Act 2007 | Duty to establish an Integrated Care Partnership (ICP)  | Each ICB and the local authorities in its area must establish an ICP for the ICB’s area. Once established, it is then the duty of the ICP, having regard to statutory guidance issued by the Secretary of State and with the involvement of local Healthwatch and people who live and work in the area, to develop an Integrated Care Strategy that sets out how the health and social care needs of its population (as identified by the partner local authority Health and Wellbeing Boards) should be met by the exercise of the functions of the local authorities, ICB and NHS England: those bodies must have regard to the Integrated Care Strategy, alongside needs assessments and strategies developed by Health and Wellbeing Boards, when exercising their functions. The Strategy may in particular address the extent to which the population’s needs could be better met through the use of section 75 agreements between the NHS and local authorities.  | X | X |  |  |  | X |
| Section 149, Equality Act 2010  | Public Sector Equality Duty (‘PSED’) | The PSED imposes a duty on public bodies, in the exercise of their functions, to ‘have due regard’ to the need to: * eliminate discrimination, harassment victimisation and any other conduct that is prohibited by the Equality Act 2010; and
* advance equality of opportunity, and foster good relations, between people who share a relevant protected characteristic and people who do not share it.

The full text of section 149 is available [here](https://www.legislation.gov.uk/ukpga/2010/15/section/149). Read the Equality and Human Rights Commission’s [technical guidance on the PSED: England.](https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/technical-guidance-public-sector-equality-duty-england-0) | X |  | X |  |  |  |
| Section 2, Health Act 2009 | Duty to have regard to the NHS Constitution | In performing health service functions, NHS bodies (and other specified bodies) must have regard to the NHS Constitution. | X | X | X |  |  |  |
| Section 116B, Local Government and Public Involvement in Health Act 2007 | Duty to have regard to assessments and strategies | In exercising their functions, ICBs must, so far as relevant, have regard to:* any joint strategic needs assessment prepared in relation to the responsible local authority’s area;
* any joint local health and wellbeing strategy prepared by the responsible local authority and ICB;
* any integrated care strategy prepared in relation to the area.
 | X |  |  |  |  |  |