

## Greater accountability locally and nationally – *The Health and Social Care Act 2012*

The Health and Social Care Act 2012:

- Strengthens and clarifies accountability for and within the NHS nationally
- Improves and introduces new mechanisms for local accountability within the health system

### *Context*

1. The Secretary of State will remain ultimately accountable for the NHS. The Act does not change the Secretary of State's duty to promote a comprehensive health service, which is set out in section 1 (1) of the NHS Act 2006, and which dates back to the founding Act of 1946.
2. Currently many important health service functions (such as commissioning services, and ensuring that competition works in the interests of patients) are carried out under the functions of the Minister of the day, who can delegate responsibility to Strategic Health Authorities, Primary Care Trusts, Special Health Authorities and NHS Trusts. The Secretary of State has wide ranging powers to direct those organisations.
3. Under the Act, functions will be conferred directly by Parliament on specific organisations. This will strengthen accountability, by making it clearer who is responsible for what. The Secretary of State's powers to micromanage will be limited.
4. Ministers will continue to set, and will remain accountable for, the design and strategic direction of the system.
5. Greater autonomy for NHS bodies will be matched by increased accountability to patients, democratic legitimacy and a transparent system for achieving value for money and quality inspection.
6. **The NHS Commissioning Board (NHSCB)** will be accountable to the Secretary of State for meeting the objectives and outcomes set out in the mandate, which will be consulted on, published and laid before Parliament. The NHSCB will report publicly on how it has performed.
7. **Clinical commissioning groups (CCGs)** will be held to account for their decisions by the NHSCB against a Commissioning Outcomes Framework, which will ensure transparency and accountability for achieving quality and value for money.
8. **Health and wellbeing boards** will introduce real local **democratic** legitimacy by bringing together locally elected and accountable councillors, directors of adult social services, children's services and public health, CCGs and patients' views through local Healthwatch.
9. Providers of health and care services will be more accountable to patients, who will have the ability to choose their provider based on quality of services and their experiences.
10. **Local Healthwatch** organisations will provide advice and information about access to local care services and choices available to patients and a stronger voice for patients, with a seat on the local health and wellbeing board.
11. **Healthwatch England** will receive local Healthwatch organisations' views on standards of providers' services and will be consulted by the Secretary of State on the mandate to the NHS Commissioning Board.
12. **Foundation trust Governors'** roles will be clarified and they will have a strengthened role in holding the directors of FTs to account. To strengthen local accountability further, foundation trusts will be required to hold public board meetings.

**Factsheet B5** provides details regarding accountability and the Health and Social Care Act 2012. It is part of a wide range of factsheets on the Act, all available at:  
[www.dh.gov.uk/healthandsocialcarebill](http://www.dh.gov.uk/healthandsocialcarebill)

## **IMPROVING LOCAL ACCOUNTABILITY**

Health and Wellbeing Boards will strengthen joint working between local government and the NHS.

The Act establishes Health and wellbeing boards in all upper tier local authorities, to promote integrated health and care services and increase accountability. The boards will significantly increase local democratic legitimacy in the commissioning of health and care services, bringing together locally elected councillors, clinical commissioning groups, Local Healthwatch and Directors of Adult Social Services, Children's Services and Public Health to jointly assess local needs and develop an integrated strategy to address them.

Elected councillors will be involved in this process and will be held to account by the local electorate if they are ineffective. Local Healthwatch will ensure patients and the public have a direct say in their health and wellbeing board and so in the strategic planning for meeting the health and care needs of their area.

Early implementers have identified benefits such as an increased "profile of the patient and user voice in redesigning care pathways" (Herefordshire) and welcomed "the role of the elected member and Healthwatch to ensure that services commissioned and delivered reflect the needs, voice and aspirations of local communities" (Doncaster).

## **IMPROVING NATIONAL ACCOUNTABILITY**

The reforms will increase Parliament's power and limit Ministers' power to interfere in day-to-day operations.

Power will be transferred from Ministers to Parliament. In the current system Ministers are able to set up new organisations, create permanent quangos and change the responsibilities of existing bodies through directions which are not subject to the control or scrutiny of Parliament.

The Act enshrines a new approach. It sets out the responsibilities of the different bodies clearly and on its face. For the first time Parliament and not the Secretary of State will have the power to define the role of organisations within the NHS. Roles and responsibilities will be clearer and more democratically determined.

In future it will be harder for Ministers to make significant changes to the health system without the support of Parliament. New permanent quangos will only be able to be created by primary legislation passed by Parliament. Political expediency for the Minister of the day will no longer be able to affect the NHS to the same extent. There are many instances under the Act where regulations in relation to the NHS must be made through the affirmative procedure, for example any regulations pursuant to Section 65 to extend the functions of Monitor to adult social services will have to be actively approved by Parliament in future.

## **FURTHER INFORMATION**

- [Briefing notes on Government amendments](#) tabled ahead of Report stage in the House of Lords (Feb 2012)
- [Reports from the House of Lords Constitution Committee](#)
- [Further information for legal professionals on clause 1 of the Health and Social Care Bill.](#) (Aug 2011)