

The overarching role (NHS) of the Secretary of State – *The Health and Social Care Act 2012*

“The NHS should be freed from day - to - day political interference but the Secretary of State must remain ultimately accountable for the National Health Service.” *NHS Future Forum Report* (June 2011).

Context

1. This Government intends to reduce political micromanagement of the NHS so that frontline staff are free to focus on improving outcomes for patients. The Act ensures that the Secretary of State remains ultimately accountable for the NHS and will reduce micromanagement of the health service by Ministers.

Key legislative changes

2. ***We are committed to the founding principles of the NHS*** - that it should be a comprehensive service free at the point of use, regardless of ability to pay, and funded from general taxation. The Secretary of State’s duty to promote the comprehensive health service will remain unchanged in legislation, as it has since the founding NHS Act 1946.
3. ***The Secretary of State will retain ultimate accountability*** for the health service. He will continue to have a responsibility for securing the provision of services. This is set out in section 1(2) which requires the Secretary of State to exercise his functions so as to secure that services are provided in accordance with the Act.
4. In response to concerns from Peers, the Act now also makes clear that the Secretary of State will retain ministerial accountability to Parliament for the provision of the health service (section 1(3)).
5. In addition, the Secretary of State will have a duty to keep the performance of the health service under review and to report annually to Parliament on his findings. His annual report must include details of what has been done to improve the quality of services and to reduce health inequalities.
6. ***To ensure clear and transparent expectations of the National Health Service***, the Secretary of State will set priorities for the National Health Service through a mandate for the NHS Commissioning Board (“the Board”).

Alongside the mandate the Secretary of State can make regulations - “standing rules”, which will set out core, ongoing requirements for NHS commissioners.

7. ***To give further teeth to the commitment to reduce political micromanagement***, the Secretary of State (and the Board, in relation to clinical commissioning groups (“CCGs”)), will be required to have regard to the desirability of Arm’s Length Bodies, commissioners and providers having autonomy when exercising their functions or providing services. The Act makes clear that the duties of the Secretary of State and the Board to promote a comprehensive health service and to exercise their functions so as to secure the provision of services must always take priority over the duty of autonomy.
8. ***Intervention powers*** - where the Secretary of State (or in the case of CCGs, the Board) finds an organisation to be significantly failing he will have extensive powers to intervene.
9. ***Duties on Secretary of State and the Board*** – The Act requires the Secretary of State and the Board to:
 - act to secure improvement in the quality of services;
 - have regard to the need to reduce health inequalities;
 - promote research on areas relevant to the health service and the use of evidence within the health service; and
 - ensure that there is an effective system for the planning and delivery of education and training.

Factsheet C5 provides details regarding the changes to the role of the Secretary of State within 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

