

Establishing new national bodies – *The Health and Social Care Act 2012*

The Health and Social Care Act 2012 contains provisions to restructure the health and care public bodies sector, carrying forward policy set out in *Liberating the NHS: Report of the arms length body review* (July 2010)

Overview

1. The Government's modernisation of the NHS requires changes to existing national statutory organisations, as well as the creation and abolition of a number of bodies. There are a number of different forms national bodies can take, each with particular features.

Different organisational models

2. **Executive non-departmental public body (NDPB).** These bodies are normally established in primary legislation. They carry out a wide range of administrative, commercial, executive and regulatory or technical functions which are considered to be better delivered at arm's length from ministers. Existing examples include the Care Quality Commission and the Independent Regulator of NHS Foundation Trusts ("Monitor").
3. **Special Health Authority (SpHA).** A body created by secondary legislation for the purposes of the health service. SpHAs may be established by order of the Secretary of State. Existing examples include NHS Blood and Transplant. The Act reforms the SpHA model for new SpHAs by limiting the establishment of a SpHA to three years. However such an order may be varied to enable the new SpHA to be abolished on a later day, but within the period of three years of the original date of abolition.
4. **Executive agency.** A national body created administratively, not legally distinct from its 'home' Department. Examples include the Medicines Healthcare Products Regulatory Agency (MHRA).
5. **Statutory Committee within another statutory body.** A committee formed within an existing body with its own statutory basis. Powers are conferred by Parliament. Examples include the British Pharmacopoeia Commission, a statutory committee of the MHRA.

Choices made for particular health bodies

6. **The Government** is committed to ensuring national bodies have an appropriate organisational form.
7. This includes viewing establishment as a SpHA as only appropriate as a temporary measure – either because the *body is only temporary or it will become an NDPB*.
8. As such, the Act establishes the existing SpHAs, the National Institute for Health and Clinical Excellence and the Health and Social Care Information Centre, as NDPBs, and creates the NHS Commissioning Board as an NDPB. To help manage the transition, the Board has been established as a SpHA (the NHS Commissioning Board Authority) until the NDPB comes into being.
9. The intention is that **Health Research Authority**, and **Health Education England** will be established as NDPBs. Clauses relating to these bodies will be published for pre-legislative scrutiny in 2012. As preparatory measures, they will be established as SpHAs.
10. **Healthwatch England** will be established as a statutory committee within the Care Quality Commission, allowing it to benefit from the CQC's extensive analytical capabilities and high profile.
11. **Public Health England** will be established as an executive agency. This will allow it operational independence (to give the public and public health professionals confidence in the rigour and impartiality of its advice), while maintaining clear lines of accountability to Ministers.

Factsheet C7 provides details about establishing new national bodies in the health system. It is part of a wide range of factsheets on the Health and Social Care Act 2012, all available at:

www.dh.gov.uk/healthandsocialcarebill