

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

The Health Research Authority

The Government's Plan for Growth, published in March 2011, recognised that it has become far too difficult to navigate the complex national and local processes for approving health research. It announced measures to ensure governance and regulation are proportionate and to speed up decisions about research proposals to make research projects in the UK more cost-effective, benefitting NHS patients.

The purpose of the HRA will be to **protect and promote the interests of patients and the public in health research**. It will protect patients from unethical research while enabling patients to benefit from participating in research by simplifying processes for ethical research.

At national level, a **Health Research Authority** initially started work as a Special Health Authority on 1st December 2011, fulfilling the commitment made in the *Plan for Growth*. The HRA will have substantive functions from the outset. Future legislation will put the HRA on a permanent footing as a Non Departmental Public Body, and consolidate its functions. We intend to legislate for this as soon as Parliamentary time allows. It is our intention to publish draft clauses on the Health Research Authority for pre-legislative scrutiny in the second session.

Janet Wisely, was the Director of the National Research Ethics Service, has been appointed as the Interim Chief Executive. The appointment of the Chair and permanent Chief Executive is planned for the summer of 2012.

Further Information

Liberating the NHS: Report of the Arm's-length body review (July 2010)

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117691

National Institute for Health and Clinical Excellence- www.nice.org.uk

NHS Information Centre – www.ic.nhs.uk

Medicines and Healthcare products Regulatory Agency – www.MHRA.gov.uk

British Pharmacopoeia Commission - www.pharmacopoeia.gov.uk/

Health Research Authority- <http://www.nres.nhs.uk/hra/>