

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – The Health Service in England

The health service: overview

Section 9 - The NHS Commissioning Board

96. This section inserts new section 1H into the NHS Act. This section establishes a new body to be known as the National Health Service Commissioning Board. The NHS Commissioning Board will be an independent body, which will hold CCGs to account for the quality of services they commission, the outcomes they achieve for patients and for their financial performance. The NHS Commissioning Board will have the power to intervene where there is evidence that CCGs are failing or are likely to fail to discharge their functions. The specific functions of the NHS Commissioning Board, such as commissioning specialised services, are conferred by provision made elsewhere in the Act.
97. Like the Secretary of State, the NHS Commissioning Board will be subject to the duty to promote the comprehensive health service (as set out in section 1 of the NHS Act). However, in relation to the NHS Commissioning Board this duty would not apply to those services falling within the public health functions of the Secretary of State or local authorities.
98. Subsection (3) of new section 1H provides that, in order to fulfil this general duty, the NHS Commissioning Board has two specific functions:
- a) Firstly, it must commission services in accordance with the NHS Act. The services which the NHS Commissioning Board may, by regulations, be required to commission are described in new section 3B and include services which can be more effectively commissioned at national level, or which it would be inappropriate or impractical for CCGs to commission. Those services could include some dental services, specialised services, prison health services and health services for the armed forces. The NHS Commissioning Board will also be responsible for commissioning primary care services and high secure psychiatric services.
 - b) Secondly, when exercising functions in relation to CCGs (for example, when issuing commissioning guidance under new section 14Z8), the NHS Commissioning Board must do so in such a way as to secure the provision of services.
99. *Subsection (2)* introduces Schedule 1.