



The reformed health service, and commissioning arrangements in England

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This note provides an overview of the major reforms to the health service in England under the *Health and Social Care Act 2012*, and introduced on 1 April 2013. It shows the key funding, commissioning and accountability structures under the old and new systems, and focuses on new health service commissioning arrangements and the formal powers and duties of NHS England and Clinical Commissioning Groups (CCGs) under the 2012 Act.

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1 Health and Social Care Act 2012: summary of the reformed health system

The [Health and Social Care Act 2012](#) implements the major reforms to the health service that were outlined in the July 2010 White Paper [Equity and excellence: Liberating the NHS](#). The White Paper set out the Government's aims to reduce central control of the NHS, to engage doctors in the commissioning of health services, and to give patients greater choice.

The Act gives effect to those reforms requiring primary legislation, including measures to give groups of General Practitioners and other health professionals responsibility for commissioning the majority of health services, the creation of an independent NHS Commissioning Board (now known as NHS England), and giving local authorities responsibilities for public health and for coordinating local NHS services, social care and health improvement. The Act establishes Monitor, previously the independent regulator of Foundation Trusts, as the "sector regulator" for NHS-funded services.

Many of the provisions under the Act came into force on 1 April 2013. This is when NHS England and Clinical Commissioning Groups (CCGs) took on statutory responsibility for commissioning health services; when local authorities took on new public health responsibilities and local Healthwatch organisations came into being; and when strategic health authorities and primary care trusts were formally abolished.

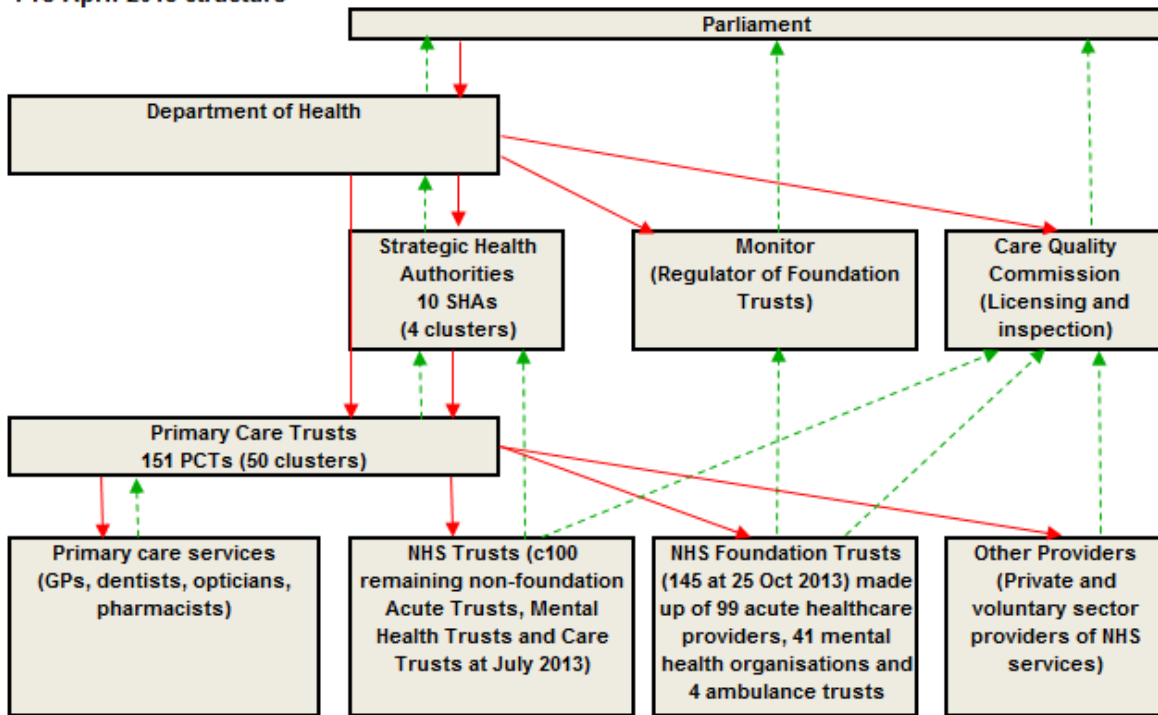
The Department of Health has published a series of [factsheets on the Health and Social Care Act 2012](#) to explain particular topics contained in the Act. They include case studies of the policy in action, or answer frequently asked questions about the topic. A [DoH press notice](#) announcing Royal Assent also provides an overview of what the Health and Social Care Act is intended to do.

Below is a simplified diagram showing the pre and post reform structure of the NHS in England. Several other organisations have produced their own guides and diagrams including the [King's Fund](#), the [BBC](#), and the [Royal Pharmaceutical Society](#). The National Audit Office report, [Managing the transition to the reformed health system](#), also has a more detailed diagram of the new structure (see page six of the report).

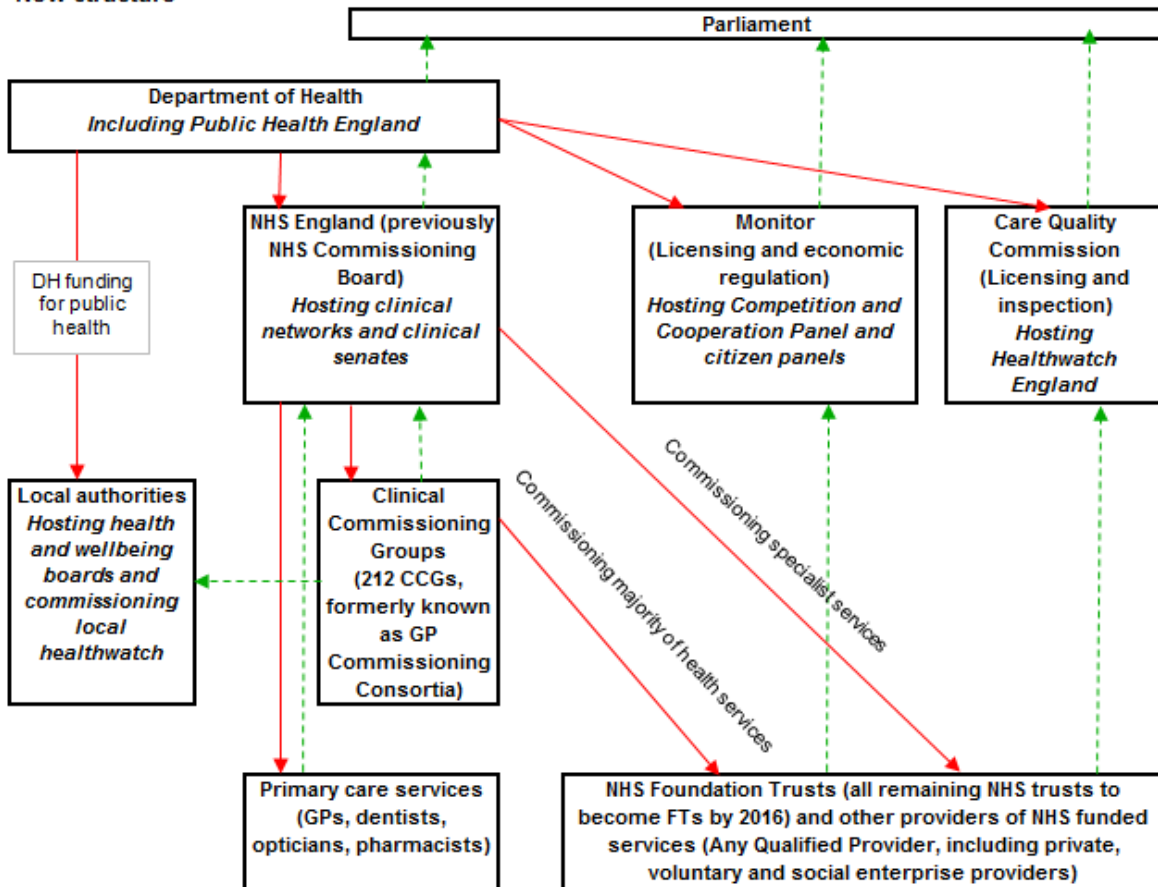
Previous and new structure of the NHS

-----> Accountability
-----> Funding/Commissioning responsibility

Pre April 2013 structure



New structure



1.1 NHS commissioning reform

Background to the reform

The Coalition Government's July 2010 White Paper set out proposals for changing the NHS commissioning system including, giving groups of GPs responsibility for commissioning the majority of health services through what were termed "GP commissioning consortia"; and abolishing Primary Care Trusts (PCTs), the NHS bodies then responsible for commissioning services. Previous attempts to giving GPs control of NHS budgets—GP fundholding in 1991-97 and Practice Based Commissioning from 2005—were voluntary schemes. The White Paper went further, proposing that all GPs should be involved in commissioning consortia.¹

Provisions establishing GP commissioning consortia were included in the Health and Social Care Bill introduced in January 2011. Following recommendations from the Government-established [NHS Future Forum](#) that there should be wider clinical involvement in commissioning the Government introduced amendments to the Bill to specify that commissioning consortia governing bodies must include at least one nurse and one specialist doctor. As a result of these changes it was announced that GP commissioning consortia would be known as Clinical Commissioning Groups (CCGs).² The Library note, [NHS Commissioning](#), contains information on how commissioning within the health service in England had been organised prior to the reforms.

1.2 NHS England and clinical commissioning groups

Clinical Commissioning Groups

On 1 April 2013, 212 [Clinical Commissioning Groups](#) (CCGs) took on statutory responsibilities for commissioning the majority of NHS services. The *Health and Social Care Act 2012* sets out the functions, duties, and governance structures for CCGs. The Act makes CCGs directly responsible for commissioning NHS services they consider appropriate to meet reasonable local needs.³ In assessing local needs and developing commissioning plans to meet them, CCGs must work with the new local authority Health and Wellbeing Boards (see section 1.4). In addition, [Strategic Clinical Networks](#), established in 2012 and hosted by NHS England, will provide advice on single areas of care to CCGs which they must have regard to. New [Clinical Senates](#), based in twelve areas of England⁴, provide multi-professional advice. Some of the back-office administrative functions of CCGs will be provided by [regional Commissioning Support Units](#) which are designed to offer an "efficient, locally-sensitive and customer-focused service to CCGs".⁵

CCGs—previously known as "shadow" or "pathfinder" CCGs—have been subject to an [authorisation process](#) carried out by the NHS Commissioning Board (now known as NHS England) to ensure they were ready to fulfil the duties and governance arrangements

¹ A commitment to devolve the commissioning function to GPs included in the Department of Health White Paper, *The New NHS: Modern, dependable* published in 1997.

² The NHS Future Forum also recommended that GP consortia should be required to obtain "multi-professional advice", supported by clinical networks advising on single areas of care, and new 'clinical senates' providing multi-professional advice."

³ However CCGs can buy in support from external organisations including the NHS commissioning support services and private and voluntary sector bodies, although responsibility for commissioning decisions remains with the CCG. The detailed strategy is set out in [Developing Commissioning Support: Towards Service Excellence](#), February 2012.

⁴ NHS Commissioning Board, *Clinical Senates update*, <http://www.england.nhs.uk/wp-content/uploads/2013/01/cs-update.pdf>. Page 5 of the document contains a map showing the geographical area covered by each Clinical Senate.

⁵ NHS Commissioning Board, *Commissioning support: Key facts*, <http://www.england.nhs.uk/wp-content/uploads/2012/11/csu-fact-oct.pdf>

required under the *Health and Social Care Act 2012*.⁶ By 25 October 2013 all but one of the 212 CCGs had been authorised to commission healthcare services for their communities.⁷ The criteria for authorising CCGs include: having an appropriate accountable officer; a governing body with both lay and wider clinical membership; a constitution which sets out arrangements for making decisions, ensuring transparency and for managing potential conflicts of interest; and that is able to perform its commissioning functions.⁸ However, around half of the authorisations of CCGs were conditional and NHS England keeps authorisation conditions under review. It produces quarterly [reviews](#) on conditions outcomes.

NHS England

While CCGs now commission the majority of NHS service, including most hospital services, NHS England [commissions directly](#) certain services at a national or regional level such as primary care services (including GP services) and specialist services.

NHS England (previously the NHS Commissioning Board) is the body responsible for ensuring that there is an effective and comprehensive system of CCGs. NHS England also provides national leadership on commissioning and allocate funding.⁹ It has a duty to publish commissioning guidance, to which CCGs must have regard, and will use the [Commissioning Outcomes Framework](#) to assess the performance of CCGs. CCGs are ultimately accountable to NHS England for their performance and under the *Health and Social Care Act 2012*, NHS England has powers to direct a CCG to discharge its functions in a particular way (but only when satisfied that a CCG has failed to discharge any of its functions).

CCGs, and NHS England are subject to a number of duties, including duties in relation to promoting the NHS Constitution; securing continuous improvements in the quality of services commissioned; reducing inequalities; enabling choice and promoting patient involvement; securing integration; and promoting innovation and research.¹⁰

1.3 Production and monitoring of standards

The National Institute for Health and Care Excellence (NICE) is in the process of publishing around 180 [Quality Standards](#), covering the main conditions and diseases, to provide a definition of what high-quality health and social care should look like. These standards will play a key role in the development of the Commissioning Outcomes Framework, which will measure the health outcomes and quality of care achieved by CCGs. At 25 October 2013, 48 quality standards had been issued by NICE with the project due to complete by February 2015.¹¹

⁶ <http://www.commissioningboard.nhs.uk/2012/05/31/ccg-configs-agreed/>

⁷ NHS England website, <http://www.england.nhs.uk/ccg-details/>, 25 October 2013

⁸ *The National Health Service (Clinical Commissioning Groups) Regulations 2012 (SI 1631)*, laid before Parliament on 26th June 2012, contains detailed governance requirements for CCGs, including membership requirements for CCG governing bodies. The NHS Commissioning Board Authority has published *Clinical commissioning group authorisation: Draft guide for applicants* which covers the overarching principles and key stages of the assessment process.

⁹ NHS England allocates funding to NHS Trusts and NHS Foundation Trusts and providers of primary care and other services as well as CCGs.

¹⁰ A number of these duties are the result of amendments to the legislation made in response to recommendations of the NHS Future Forum made in June 11.

¹¹ NICE website, <http://www.nice.org.uk/guidance/qualitystandards/qualitystandards.jsp?p=off>, 22 October 2013

Monitor

Monitor is the new sector regulator for health services in England. Monitor has the power to set and enforce a framework of rules for providers and commissioners; implemented in part through licences issued to NHS-funded providers. Monitor will work alongside the quality and safety regulator, the Care Quality Commission (CQC) and take remedial action when CQC reports that a foundation trust is failing to provide good quality care.¹²

Monitor is also responsible for setting prices for NHS-funded services alongside NHS England, tackling anti-competitive practices, help commissioners to ensure that essential local services continue if providers get into financial difficulty, and enable better integration of care making services easier to access. The [Monitor website](#) provides more detailed information on its responsibilities.

Responsibilities of the Secretary of State

The Secretary of State sets the strategic direction for the NHS through the mandate for NHS England and the NHS Outcomes Framework, and these documents inform the Commissioning Outcomes Framework. The Secretary of State sets the overall budget for NHS England, which does the same for CCGs. The Secretary of State also sets an overall limit on the amount that can be spent on administrative costs in the system. NHS England will hold CCGs to account for their financial management. The Chief Executive of NHS England, as Accounting Officer, will be accountable both to the Department of Health and to Parliament. In the last resort, the Secretary of State also has powers to intervene where he considers that NHS England or any other NHS body is failing to discharge its functions.

1.4 Local public health and social care commissioning

Local authorities have not had a specific statutory role in the provision of healthcare since 1973 when the NHS took over the public health functions of local authorities.¹³ The Government said in its 2010 White Paper, *Healthy Lives, Healthy People: Our Strategy for Public Health in England*, that tackling health inequalities and improving health and wellbeing would be driven by local government and local communities.¹⁴ The White Paper was responding to the Marmot Review of health inequalities, commissioned in 2008 by the then Labour Government. The Review concluded that reducing health inequalities would require the enactment of six policy objectives including, creating and developing healthy and sustainable places and communities; and strengthening the role and impact of ill-health prevention.¹⁵ The Government set out its vision for the role of local government in public health in October 2012, saying that:

Local leadership for public health will be at the heart of the new public health system. Upper tier and unitary authorities will take on new responsibilities to improve the health of their populations, backed by a ring-fenced grant and a specialist public health team, led by the director of public health. Upper tier authorities will be supported in this by the existing expertise within district councils – around environmental health, for example.¹⁶

¹² Monitor, *About Monitor: an introduction to our role*, 28 August 2013

¹³ *The National Health Service Reorganisation Act 1973*. The *Local Government Act 2000* gave local authorities a statutory responsibility to improve the economic, social and environmental circumstances in their area; the *Health Act 2001* conferred health scrutiny powers upon them.

¹⁴ HM Government, *Healthy Lives, Healthy People: Our Strategy for Public Health in England*, CM7985, November 2010, p4

¹⁵ The Marmot Review, *Fair Society Healthy Lives: Strategic Review of Health Inequalities in England post 2010*, February 2010

¹⁶ DoH, *The new public health role of local authorities*, October 2012

Local authorities' public health duties are carried out by local Directors of Public Health. A list of current Director of Public Health by area is maintained on the [Government website](#).

Under the reformed system, local authorities commission or provide public health and social care services, including those for children between five and 19 years old, some sexual health services, public mental health services, physical activity, anti-obesity provision, drug and alcohol misuse services and nutrition programmes. This [DoH guide](#) sets out the commissioning responsibilities of local authorities under the new arrangements.

Local authorities are also now responsible for creating and running statutory Health and Wellbeing Boards (HWBs), which will oversee local commissioning, and the integration of health and social care. A [DoH guide](#) sets out the key responsibilities of HWBs as well as the statutory requirements for their core membership – which must include at least one elected representative. There are now more than 130 HWBs. A geographical directory containing details and contact information for each of them is being maintained by the [King's Fund](#).

1.5 Further sources of information

Guidance

NHS England has published a document, *The functions of clinical commissioning groups*, March 2013 which sets out the range of core clinical commissioning group (CCG) functions as set out in legislation.

The Department of Health has published a series of [factsheets](#) on the Health and Social Care Act 2012 explaining particular topics contained in the Act, including clinical commissioning.

More detailed guidance is provided by the [CCG Learning Network](#) including bulletins, directories and maps.

[NHS England](#) provides information on commissioning development including an overview of the changes within the health system in England that came into effect in April 2013.

NHS England (previously the NHS Commissioning Board) has produced a [factsheet](#) explaining the services to be commissioned by CCGs from April 2013.

The CCG Learning Network also provides [links to guidance](#) on CCG authorisation and development, governance procurement commissioning support, working with local authorities, human resources and running cost allowances; and a selection of detailed case studies emerging from CCGs.

Monitoring reports

The National Audit Office (NAO) has produced a report on, *Managing the transition to the health system*, <http://www.nao.org.uk/report/managing-the-transition-to-the-reformed-health-system/>

The NAO has also published a report on *Progress in making efficiency savings*, <http://www.nao.org.uk/report/progress-in-making-nhs-efficiency-savings/>

The King's Fund publishes quarterly performance reviews the most recent being, *How is the health and social care system performing?*,

<http://www.kingsfund.org.uk/publications/how-health-and-social-care-system-performing-september-2013>

The Communities and Local Government Committee has published a report on *the role of local authorities in health issues*, Eighth Report of Session 2012-13,
<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcomloc/694/694.pdf>

Further information about the way in which health commissioning operated prior to the changes enacted by the *Health and Social Care Act 2012* can be found in this Library Standard Note [SN05607](#) on *NHS Commissioning*.

Finding individual CCGs:

A map of CCG names and boundaries can be found here:

<http://www.commissioningboard.nhs.uk/files/2012/07/a3-ccg-proposed-boundaries.pdf>

Contact details for individual CCGs are available here:

<http://www.commissioningboard.nhs.uk/ccg-details/>

The clinical lead, accountable officer and website address for each of the currently authorised CCGs can be found on the [NHS England website](#).