

The Health and Social Care Act 2012

The Health and Social Care Act received Royal Assent on 27 March 2012.

This detailed briefing includes:

- an overview of the main components of the Health and Social Care Act
- the estimated timescales for measures to be introduced and regulations to be published - please see the 'Status' section for each measure
- the potential implications of the Health and Social Care Act for Wiltshire
- next steps for Wiltshire Council and contact details

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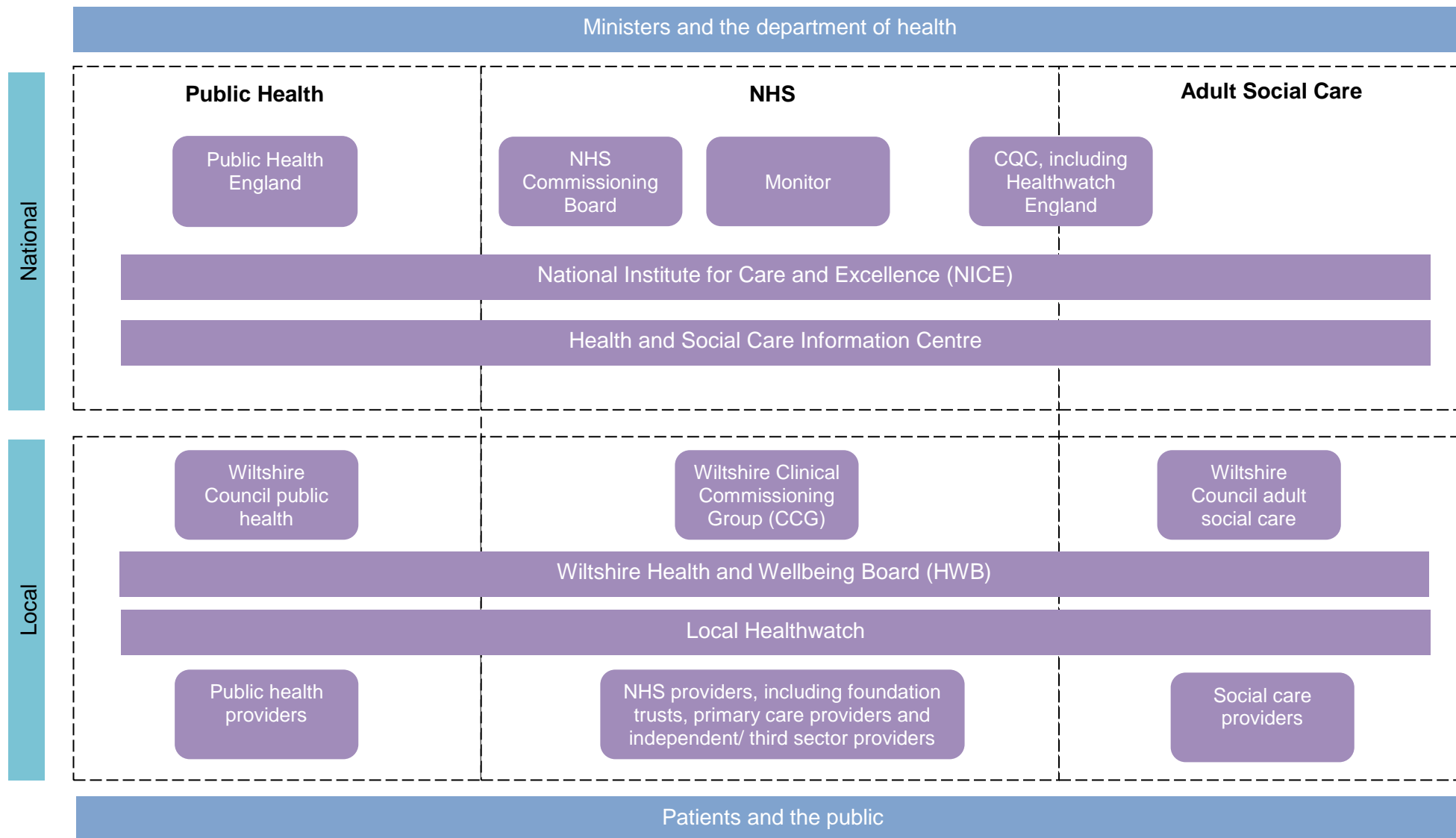
Summary – the Health and Social Care Act

Status: received Royal Assent 27 March. Most of the new system comes into force on 1 April 2013

The Health and Social Care Act makes a number of changes to the architecture of the NHS, public health and social care by:

- introducing GP commissioning – Primary Care Trusts will be replaced with Clinical Commissioning Groups (CCGs). CCGs will hold substantial commissioning budgets (around 80 percent of the total NHS budget) procure medical services from NHS trusts, independent providers or charities
- introducing a national NHS Commissioning Board to set CCGs' budgets and hold them to account for obtaining value for money and improving results for patients
- transferring responsibility for local public health services to local authorities and creating Public Health England (a new national body for public health which will carry out the Secretary of State's public health functions as an executive agency of the Department of Health)
- creating local Health and Wellbeing Boards (HWBs) with representatives from CCGs, Local Healthwatch, councillors, local authority directors of public health, children's services and adult social services. HWBs will lead the preparation of the Joint Strategic Assessment, Pharmaceutical Needs Assessment and Joint Health and Wellbeing Strategy for their local area.
- replacing Local Involvement Networks with Local Healthwatch organisations. Local Healthwatch organisations will involve local people in the commissioning, scrutiny and provision of health and social care services.
- creating Health Watch England - a committee of the Care Quality Commission which will represent the views of health and social care service users, members of the public and Local Healthwatch organisations and provide information and advice to CCGs and other organisations
- abolishing NHS trusts and requiring all NHS trusts to become foundation trusts (either by applying to Monitor or merging with an existing NHS foundation trust) by 2016 at the latest
- extending the remit of NICE (and renaming NICE as the National Institute of Health and Care Excellence) to cover social care as well as NHS services
- introducing a new role for Monitor as the economic regulator of all healthcare services and giving the Secretary of State power to issue regulations which may require Monitor to regulate adult social care services
- giving local authorities scope to change their health scrutiny arrangements
- transferring the duty to arrange independent mental health advocacy services from Primary Care Trusts to local authorities

Summary – the new architecture of the NHS, public health and social care



Source: Adapted from *Overview of Health and Social Care Structures*, Department of Health (February 2012).
<http://www.dh.gov.uk/health/2012/02/bill-factsheets/>

Duty of the Secretary of State to promote a national health service and promote autonomy (s1-8, s20, s52-53, s147)	Status: duty to report on the performance of providers in force from 1 June 2012
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The Act introduces two key duties for the Secretary of State – to promote:

- *a comprehensive national health service in England (including mental and physical health)* by making sure organisations responsible for commissioning services (such as Clinical Commissioning Groups and the NHS Commissioning Board) carry out their functions effectively. The Secretary of State will continue to have ministerial responsibility and will still be accountable to parliament for the provision of the health service.
- *autonomy where this is consistent with the interests of the health service* - the Secretary of State must have regard to the 'desirability' of:
 - making sure bodies/people in the health service (such as local authorities, Clinical Commissioning Groups or Monitor) are free to exercise their health functions or provide health services in the manner they consider most appropriate
 - not imposing any unnecessary burdens on bodies/ people in the health service

Where there is a conflict between these two duties, the Secretary of State must prioritise the duty to promote a comprehensive national health service.

The Act also requires the Secretary of State to:

- *secure continuous improvement in the quality of outcomes achieved from health services* - this includes the effectiveness and safety of services and experience of patients
- *have regard to the need to reduce health inequalities* - this includes access to health services and the outcomes achieved from health services
- *keep health service functions under review and publish an annual report on the performance of the whole health service*. The annual report must cover health services commissioned by CCGs, the NHS Commissioning Board and public health services commissioned by the Secretary of State and local authorities. It must also assess the effectiveness of the Secretary of State in carrying out his duty to secure continuous improvement in health services and reduce health inequalities.
- *promote research on areas that are relevant for the health service and the use of evidence obtained from research*
- *make sure there is an effective system for planning and delivering education and training to health service professionals and trainee healthcare professionals* – health service commissioners will need to place a duty on providers to cooperate with the Secretary of State on matters relating to education and training.
- *review and report on the treatment of current and potential NHS healthcare providers*. The Secretary of State must provide a report on any differences in the treatment of NHS healthcare providers and issues that might affect their ability to

deliver NHS healthcare services (e.g. taxation or remuneration) before March 2013

- *carry out his functions in a way that does **not** deliberately favour any particular sector or increase or decrease the proportion of NHS healthcare services delivered by a particular sector*

These duties also apply to the NHS Commissioning Board.

The Act gives the Secretary of State power to issue regulations requiring the NHS Commissioning Board and Clinical Commissioning Groups to:

- arrange for specified treatments or services to be provided or provided in a specific way within a specific time period
- follow prescribed steps when making decisions on treatments or services which will be provided, when and how specified treatments or services will be provided and who will receive specified treatments or services
- make specified arrangements to allow people to make choices about certain aspects of specified treatments or services

The Secretary of State can also issue regulations which require the NHS Commissioning Board and Clinical Commissioning Groups to follow procurement rules intended to:

- promote and protect the right of patients to make choices
- prevent anti-competitive behaviour which is against the interests of patients – the regulations could cover competitive tendering for the provision of services and managing conflict between the interests involved in commissioning services and providing services

These regulations will only apply to contracts where the value of parts of the contract that relate to services is greater than the value of goods.

<p>Implications for Wiltshire</p>	<p>Next steps: Alissa Davies, Principal Policy Officer at alissa.davies@wiltshire.gov.uk</p>
<p>The Secretary of State will discharge many of these functions locally through the new Local Area teams of the NHS Commissioning Board. There will be 27 local area teams: we are still waiting for the names, make-up and geography of the local area teams to be confirmed by the NHS Commissioning Board.</p>	<p>The council will produce further briefings when local NHS organisational structure and functions are known.</p>

The NHS Commissioning Board (s9, s15, s23-24, s26, Schedule 1 and s46-47)	Status: NHS Commissioning Board to be established on 1 October 2012, full powers in force from 1 April 2013
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The Act establishes the NHS Commissioning Board – an arms-length, national body which will be responsible for:

- authorising Clinical Commissioning Groups (CCGs). From a date specified in an order from the Secretary of State (expected to be 1 April 2013) the NHS Commissioning Board will need to make sure every GP practice or provider of primary medical services is a member of a CCG and that CCGs cover the whole of England without overlapping.
- holding CCGs to account for their performance through an annual assessment which considers:
 - financial performance
 - the quality of services CCGs commission
 - the outcomes CCGs achieve for patients
 - the opinion of the relevant Health and Wellbeing Board on whether the CCG has taken proper account of the joint health and wellbeing strategy.
- financially rewarding CCGs for good or improved performance
- intervening in the work of CCGs or dissolving CCGs where there is evidence that they are failing (or are likely to fail) to carry out their functions properly – this includes a CCG failing to carry out its functions consistently with what the NHS Commissioning Board considers to be in the interests of the health service.
- providing advice and guidance to CCGs, regulating the commissioning activities of CCGs and approving CCG commissioning plans
- making sure CCGs and NHS providers are prepared for emergencies and civil contingencies
- directly commissioning primary medical, dental, ophthalmic and community pharmaceutical services and any other services specified in regulations by the Secretary of State – this could include secondary dental services, health services for the armed forces and their families and prison health services. When making regulations the Secretary of State must consider the number of individuals that require the service, the cost of providing the service and the financial implications for CCGs if they were required to provide the service.
- involving and consulting members of the public when planning commissioning arrangements and developing or considering proposals to change commissioning arrangements – this applies in cases where the proposed changes would have an impact on range of services provided or the way services are provided.

The Act gives the Secretary of State power to:

- set the annual mandate of the NHS Commissioning Board – this will set the objectives and requirements for the NHS Commissioning Board, including limits on

capital and revenue resources for that financial year and subsequent financial years. It will also outline how the Secretary of State will assess the performance of the NHS Commissioning Board. The Health Secretary has [published](#) the government's strategic objectives for the NHS Commissioning Board.

- intervene if the NHS Commissioning Board significantly fails to carry out any of its functions properly. This power applies to particular cases, such as a failure to allocate funds to a CCG, as well as general cases of widespread failure.

The NHS Commissioning Board will be able to set up a pooled fund with one or more CCGs and make payments through loans and grants to voluntary organisations that provide or arrange the provision of services similar to those which can be commissioned by the NHS Commissioning Board.

The NHS Commissioning Board will share the Secretary of State's duties (see above), but will also have a duty to:

- make sure its expenditure and expenditure by CCGs does not exceed the total amount of money allocated to the NHS Commissioning Board (including money paid to CCGs) by the Secretary of State
- secure a continuous improvement in the quality of services and have regard to documents published by the Secretary of State, such as the [NHS Outcomes Framework](#) and Quality Standards produced by the National Institute for Health and Social Care Excellence (NICE)
- promote patient choice by commissioning, promoting and extending information which helps patients choose who provides their care and where they receive care. The Board will work with the Secretary of State to develop a set of guarantees for patients about the choices they can make.
- promote innovation in the way health services are commissioned and provided – this will include offering financial rewards for innovative service provision
- promote integration where this will improve the quality of health services and reduce inequalities in access to and outcomes from health services - this includes integration between different types of services (such as health, social care and other health related services, e.g. housing) and different types of health services (such as hospitals and community care). The NHS Commissioning Board is also required to encourage CCGs to make joint agreements with local authorities when following regulations from the Secretary of State on requirements for procurement, patient choice and competition where this will lead to greater integration
- make sure it does **not** pursue a deliberate policy of increasing or decreasing the market share of a public or private sector providers.

Implications for Wiltshire

Next steps:

For more information please contact: Sue Geary, Head of Performance, Health and Workforce at sue.geary@wiltshire.gov.uk

The NHS Commissioning Board will be split into regions. The new Regional Director for the South of England NHS Commissioning Board is Andrea Young (currently Deputy

Further briefing when more local information is available.

<p>Chief Exec of NHS South of England).</p> <p>The NHS Commissioning Board will have 27 local area teams. All local area teams will have responsibility for commissioning GP services, pharmaceutical and dental services. Around a third of local area teams will lead on specialised commissioning at a regional or national level. A small number of local area teams will be responsibility for ophthalmic, military health and offender services.</p> <p>It is likely that a representative from the local area team will sit on the Health and Wellbeing Board.</p> <p>The final detailed model for local area teams is still being agreed by the NHS Commissioning Board Authority.</p>	
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<p>Clinical Commissioning Groups (s10,s13, s14, s25-28, Schedules 2 and 6)</p>	<p>Status: CCGs expected to be authorised and take on full statutory commissioning responsibilities from 1 April 2013, first wave of authorisations to be submitted in July 2012</p>
<p>The Act abolishes Primary Care Trusts (PCTs) and establishes Clinical Commissioning Groups (CCGs) – new statutory GP commissioning bodies which will be responsible for arranging the provision of :</p> <ul style="list-style-type: none"> • hospital accommodation and any other accommodation • medical, dental, ophthalmic, nursing and ambulance services • any other services or facilities for the care of pregnant women, women who are breastfeeding and young children • any other services or facilities for the prevention of illness, care for people suffering from illness or the ‘aftercare’ of people who have suffered from illness • any other services or facilities that are required to diagnose and treat illness <p>CCGs will also be able to commission any services or facilities they consider appropriate for improving the physical and mental health of local people and the prevention, diagnosis and treatment of illness. However, CCGs cannot commission a service or facility if the NHS Commissioning Board is required to commission it.</p> <p>When commissioning services CCGs must act consistently with the mandate of the NHS Commissioning Board and the duty of the Secretary of State and NHS Commissioning Board to promote a comprehensive national health service.</p> <p>The Act requires CCGs to commission services and facilities for:</p>	

- people who receive primary medical services from a member of the CCG
- people who usually live in the CCGs area and do not receive primary medical services from a member of any other CCG
- anyone in the CCGs area in an emergency
- anyone prescribed in regulations from the Secretary of State – this could include people who have previously received a service from a member or former member of a CCG, such as people receiving NHS continuing healthcare for a long term condition

Commissioning plans and arrangements

The Act requires each CCG to prepare and publish a commissioning plan which explains how it will carry out its duties to:

- secure continuous improvement in the quality of services
- reduce health inequalities
- involve and consult the public
- keep within the budget and resources set by the NHS Commissioning Board

When preparing or significantly changing a commissioning plan a CCG must:

- consult individuals for whom it is responsible for commissioning services and facilities (see above)
- send a copy of the draft/revised plan to the relevant Health and Wellbeing Board (HWB) and consult the HWB on whether the draft or revised plan takes the latest joint health and wellbeing strategy into account.
- send a copy of the draft/revised plan to the NHS Commissioning Board – this must include a summary of the views of the individuals consulted, an explanation of how these views were taken into account and a statement on whether the HWB agrees that the plan takes the latest joint health and wellbeing strategy into account
- have regard to any guidance issued by the NHS Commissioning Board

The Act requires each CCG to prepare an annual report on how it has discharged its commissioning functions during the previous financial year. Each CCG will need to consult the relevant HWB. This will not apply in the financial year 2013/14.

Duties of CCGs

The Act places a number of duties on CCGs, including a duty to:

- support the NHS Commissioning Board to secure continuous improvement in the quality of medical services
- promote the involvement of patients, carers and their representatives in the prevention or diagnosis of the illness of patients and their care or treatment – the Act requires the NHS Commissioning Board to publish guidance for CCGs
- enable patient choice, for example by commissioning services which allow patients a choice of treatments or providers for a particular treatment
- obtain appropriate advice from people who have a broad range of professional expertise in preventing, diagnosing and treating illness and protecting and improving public health – this could include clinical senates and clinical networks
- promote integration where this will benefit patients by improving the quality of services and reducing inequalities in access to and outcomes from health services
- make arrangements to involve and consult the public on proposed commissioning

arrangements or changes to commissioning arrangements that would have an impact on how services are provided or the range of services provided

- keep within the budget and resources set by the NHS Commissioning Board
- have regard to any commissioning guidance published by the NHS Commissioning Board and any relevant joint health and wellbeing strategy prepared by the local Health and Wellbeing Board (see below)

Setting up CCGs

To be formally established a CCG will need to submit an application to the NHS Commissioning Board. This must include:

- a copy of the proposed constitution – this should specify the name, members and geographical area of the CCG, and provide details of decision making procedures and arrangements for discharging the CCGs functions in a way that allows each member of the CCG to participate effectively
- the name of the person the CCG would like the NHS Commissioning Board to appoint as the accountable officer (the accountable officer will be responsible for making sure the CCG exercises its functions in a way that provides value for money)
- any other information prescribed by the NHS Commissioning Board in guidance on applications for establishment as a CCG – the NHS Commissioning Board has [published](#) draft guidance on CCG authorisation.

The Act requires the NHS Commissioning Board to grant an application for a CCG if:

- the constitution complies with the requirements of the Act (see above)
- every member of the proposed CCG will be a provider of primary medical services (i.e. a GP practice) on the date the CCG is established
- the geographical area of the CCG is appropriate
- the person proposed as the accountable officer is appropriate
- the proposed arrangements to discharge the CCG’s functions are adequate
- the proposed governing body meets the requirements of the Act

CCGs can apply to the NHS Commissioning Board to be merged or dissolved at any time.

The Act gives PCTs power to make arrangements with CCGs which allow CCGs to carry out PCT commissioning functions before April 2013. PCTs can provide assistance and support to CCGs during the ‘initial period’ (expected to be from 1 October 2012 to 31 March 2013) subject to any conditions the PCT considers appropriate – this could include:

- financial assistance
- PCT employees
- using any of the PCT’s other resources

<p>Implications for Wiltshire</p>	<p>Next steps: For more information please contact: Sue Geary, Head of Performance, Health and Workforce at sue.geary@wiltshire.gov.uk</p>
<p>The current proposal is to introduce one CCG for Wiltshire. This would cover 66 GP practices and a population of 468,200 people. The CCG will be divided into three groups (Sarum, North East Wiltshire and West Wiltshire). Each group will have its own chair and director.</p>	<p>Further discussion of the CCG authorisation process will take place at the September meeting of the Health and Wellbeing Board.</p> <p>The authorisation process will focus on 6 domains:</p> <ul style="list-style-type: none"> • clinical and multi-professional focus

<p>The interim Chair of the shadow CCG is Dr Steve Rowlands and the Interim Accountable Officer is Debbie Fielding.</p> <p>The CCG will need to obtain authorisation from the NHS Commissioning Board. The shadow Wiltshire CCG is planning to apply for authorisation during the fourth wave of the authorisation process (between October and November 2012). The board of the Wiltshire CCG is likely to include 9 members, including a GP chair, 6 GPs, a nurse and a secondary care doctor.</p> <p>The Wiltshire CCG has started to carry out Primary Care Trust (PCT) commissioning functions through a Clinical Commissioning Committee of the PCT which meets monthly.</p>	<ul style="list-style-type: none"> • engagement with patients • carers and communities • quality innovation productivity prevention plans – constitutional and governance arrangements • collaborative commissioning arrangements • leadership <p>The authorisation process is separated into three stages:</p> <ul style="list-style-type: none"> • pre-application – this will include self assessment • the application itself • an assessment by the NHS Commissioning Board-this will include a site visit. <p>Following the NHS Commissioning Board's assessment, a CCG will either be:</p> <ul style="list-style-type: none"> • fully authorised • authorised with conditions • merely established but without authorisation <p>There is no appeal process.</p>
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<p>Changes to the public health system, including transferring responsibility for public health from PCTs to upper-tier local authorities and creation of Public Health England (s11- 12, s17-18, s29-32, s50, s56, schedule 5)</p>	<p>Status: new public health system expected to be in place from 1 April 2013. PCTs to agree plans for transferring public health by 1 April 2012.</p>
<p>The Act will change the public health system by abolishing Primary Care Trusts, the Health Protection Agency and Strategic Health Authorities and transferring responsibility for public health to:</p> <ul style="list-style-type: none"> • upper tier local authorities (unitary councils, county councils and London borough councils), and • the Secretary of State and Public Health England – a new executive agency of the Department of Health which will oversee the public health system and carry out the Secretary of State's public health functions <p>The Department of Health has published a series of factsheets on the new public health system. The factsheets were published in December 2011 and it is not clear whether they will be updated.</p> <p><u>Local authority public health functions</u></p> <p>The Act introduces a duty for all upper tier local authorities to take appropriate steps to</p>	

improve the health of people in their areas. This may include providing:

- information and advice on population health to partners, including clinical commissioning groups
- services or facilities for the prevention, diagnosis and treatment of illness
- financial incentives to encourage people to have healthier lifestyles, e.g. rewarding people for stopping smoking during pregnancy
- assistance (including financial assistance) to individuals to reduce health risks that arise from their environment or accommodation
- training for people working in or seeking work in health improvement
- grants or loans to individuals or organisations where this is likely to improve public health

Upper tier local authorities will also be responsible for:

- the medical inspection and treatment of school children (e.g. school nursing services) and weighing and measuring of school children
- dental public health
- working with the prison service

Local authorities must have regard to any guidance published by the Secretary of State, for example the [Public Health Outcomes Framework](#).

The Act gives the Secretary of State power to issue regulations which:

- require local authorities, CCGs or the NHS Commissioning Board to carry out any of the Secretary of State's public health functions. This could include providing vaccination, immunisation or screening services, technical equipment for research or information, advice and training and providing contraceptive services. Bodies which carry out the Secretary of State's public health functions will be responsible for any liabilities incurred.
- require local authorities to carry out their duty to improve public health in a specific way
- set out action local authorities should take to promote good dental public health and require local authorities to make payments to cover fluoridation costs
- allow local authorities to exercise their public health functions through the prison service, or the prison service to exercise its public health functions through a local authority
- outline procedures for dealing with complaints about the exercise of public health functions by local authorities – the regulations could outline the body that will consider complaints and may allow complainants to be referred to the local government ombudsman

Local authority directors of public health

The Act requires every upper tier local authority to appoint and employ a Director of Public Health as a statutory chief officer with equivalent status to the Director of Adult Services and Children's Services. The Department of Health recommends that the Director of Public Health reports to the local authority chief executive. A local authority must consult the Secretary of State before dismissing its Director of Public Health, but the Secretary of State will not be able to veto the local authority's decision.

Directors of Public Health will be responsible for:

- carrying out local authority public health functions
- exercising any of the Secretary of State's public health functions which are transferred to the local authority – the Secretary of State can require a local authority

to review and investigate the performance of its Director of Public Health if s/he fail to carry out these functions

- planning for and responding to emergencies that present a risk to public health
- preparing and publishing an annual report on the health of their local population
- co-operating with the police, probation and prison services in assessing the risk posed by violent or sexual offenders
- making representations to the licensing authority about the grant of premises licenses or introduction of early morning alcohol restriction orders
- any other public health functions specified in regulations from the Secretary of State

The Secretary of State’s public health functions and Public Health England

The Act places a duty on the Secretary of State to take appropriate steps to protect the public in England from disease or other dangers to health. This could include providing:

- research to increase knowledge and understanding
- microbiological or other technical services
- vaccination, immunisation or screening services
- other services or facilities for the prevention, diagnosis and treatment of illness
- training
- information and advice

Although it is not mentioned by the Act, Public Health England will be the national body which carries out the Secretary of State’s public health functions.

Charging for action taken to carry out public health functions

The Act gives the Secretary of State power to:

- charge an ‘appropriate’ amount for health protection steps taken under the Secretary of State’s duty to protect public health. This can include charges for services or facilities but does **not** apply to services or facilities that are provided to an individual to protect their health, e.g. vaccination or screening
- issue regulations on when local authorities can charge for steps taken to improve or protect public health – the regulations can specify the particular services local authorities can charge for, when services can be charged for, the maximum charge and how the charge should be calculated. The explanatory notes suggest some existing services local authorities charge for under current legislation will now fall within the new duty to improve public health. The Act will mean the Secretary of State can allow local authorities to continue to charge for these services while making sure most NHS services are free of charge.

<p>Implications for Wiltshire</p>	<p>Next steps For more information please contact: Maggie Rae, Director of Public Health at maggie.rae@wiltshire.nhs.uk or Nicola Cretney, Deputy Director of Public Health at nicola.cretney@wiltshire.nhs.uk</p>
<p>NHS Wiltshire Public Health staff will relocate to Wiltshire Council premises in December 2012 and transfer employment to Wiltshire Council on 1 April 2013.</p>	<p>In March 2012 NHS Wiltshire and Wiltshire Council published a Public Health Transition Plan. This outlines the key actions and milestones for transferring public health staff</p>

<p>NHS Wiltshire and Wiltshire Council will support staff through the period of change and transition – this will include period of formal consultation.</p> <p>We will make sure there is:</p> <ul style="list-style-type: none"> • continuity of public health services throughout the transition • no discernable difference in delivery when the final transfer takes place • greater integration with council functions before the formal transition takes place <p>The Public Health team:</p> <ul style="list-style-type: none"> • already works closely with many parts of the local authority, particularly with the Public Protection team and the Knowledge Management team which is led by the Director of Public Health within the local authority • will provide Clinical Commissioning Groups with expert public health support to improve outcomes and secure optimum health services for individuals and local populations in Wiltshire as a whole <p>The Public Health team is operating a business as usual model and has developed the Public Health Business Plan 2012-13.</p>	<p>and activities to Wiltshire Council by 1 April 2013, including:</p> <ul style="list-style-type: none"> • staff consultation for the TUPE process – this will start in August 2012 • the physical move of public health staff to Wiltshire council premises – expected to take place in December 2012 <p>The Public Health Transition Board meets once a month and holds regular sub group meetings. The Transition Board provides assurance to the council's Corporate Assurance Group and Cabinet, the NHS Wiltshire Board and the Strategic Health Authority.</p>
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<p>Changes to the Mental Health Act 1983 (s40- 43), including duty for local authorities to commission independent mental health advocate services (s185)</p>	<p>Status: unclear</p>
<p>The Act makes a number of changes to the Mental Health Act 1983, including:</p> <ul style="list-style-type: none"> • transferring the duty to arrange independent mental health advocacy (IMHA) services for individuals subject to (or likely to be subject to) the Mental Health Act from the Secretary of State and Primary Care Trusts to local authority social services. The Secretary of State will have power to issue directions and statutory guidance to local authority social services. • giving CCGs a duty to provide after-care for patients who have been detained in hospital for treatment for a mental disorder under the Mental Health Act – this includes co-operating with relevant voluntary agencies, such as Mind. • new powers for the Secretary of State to transfer the duty to provide after-care from PCTs to the NHS Commissioning Board or another CCG. Currently the duty to 	

<p>provide after-care applies to the PCT in the area where the patient lived before they were admitted, or if no area of residence before admission can be established the duty falls to the local authority area where the patient is discharged. The Secretary of State will now be able to transfer the duty to provide aftercare to the CCG that is responsible for commissioning services for that patient (as opposed to the PCT).</p> <ul style="list-style-type: none"> changing the rules for treating patients on supervised community treatment by removing the requirement for treatments to be approved by a second opinion appointed doctor in cases where a patient gives their consent (and is judged capable of giving consent) 	
<p>Implications for Wiltshire</p>	<p>Next steps For more information please contact: George O'Neill, Head of Commissioning for Mental Health and Substance Misuse at george.o'neill@wiltshire.gov.uk</p>
<ul style="list-style-type: none"> The independent mental health advocacy (IMHA) service is jointly commissioned by the council and the Primary Care Trust. Demand for IMHA services is rising – this could lead to funding issues in the future Changes to the rules for treating patients on supervised community treatment will have no impact on Wiltshire Council because the Avon and Wiltshire Mental Health Partnership deals with this directly with NHS Wiltshire. The powers of the Secretary of State to transfer the duty to provide after-care to the NHS Commissioning Board or a Clinical Commissioning Group may have implications for 'out of county' placements and service users placed in Wiltshire by other local authorities. The Act has the potential to cause further confusion about responsibility for aftercare, although the Act makes it clear that local authorities will be able to carry out their aftercare functions without necessarily involving Clinical Commissioning Groups 	<ul style="list-style-type: none"> The council will closely monitor demand and funding for the independent mental health advocacy service No action needed It would be beneficial to ask our solicitors to look into this and clarify the situation.

Transfer of responsibility for death certification from Primary Care Trusts to local authorities (s54)		Status: new medical examiners service in force from April 2014
<p>The Act amends the Coroners and Social Justice Act 2009 by transferring responsibility for the new medical examiners service from PCTs to local authorities.</p> <p>The Coroners and Social Justice Act 2009 will change the process of death certification by introducing a new unified scrutiny system in which all deaths that do not need to be investigated by a coroner are scrutinised by independent medical examiners.</p> <p>The Coroners and Social Justice Act places a duty on PCTs to:</p> <ul style="list-style-type: none"> • appoint local medical examiners for their area • establish a local medical examiners service • make arrangements to collect a statutory fee that can be charged for all deaths that are not investigated by a coroner • monitor the performance of medical examiners <p>The Health and Social Care Act 2012 transfers this duty to local authorities. The Secretary of State has announced that the new medical examiner service will be delayed until April 2014.</p>		
Implications for Wiltshire	<p>Next steps</p> <p>For more information please contact: Maggie Rae, Director of Public Health at maggie.rae@wiltshire.nhs.uk or Alison Bell at alison.bell@wiltshire.nhs.uk</p>	
Recruitment of medical examiners will need to take place – date to be confirmed. The plan for recruiting medical examiners is currently on hold, pending a review of pilot sites.		

Changes to the National Health Service Act 2006 to reflect the new architecture of the NHS (Schedule 4)		Status: unclear
<p>The Act amends the National Health Service Act 2006 by:</p> <ul style="list-style-type: none"> • introducing a general power for the Secretary of State, NHS Commissioning Board and CCGs to do anything which helps them carry out their functions • allowing the NHS Commissioning Board and CCGs to make their facilities and employees available to service providers • allowing the NHS Commissioning Board, CCGs and local authorities to give patients direct payments and personal health budgets • giving the NHS Commissioning Board and CCGs powers to supply goods and services to local authorities • requiring the Secretary of State, NHS Commissioning Board and CCGs to make 		

<p>services or facilities available to local authorities as far as is reasonable, necessary and practical to help local authorities discharge their social services, education and public health functions</p> <ul style="list-style-type: none"> • allowing the Secretary of State to issue regulations which allow CCGs and local authorities to charge for services or facilities provided to pregnant women, women who are breastfeeding and young children and other services/ facilities for the prevention of illness, care of people suffering from illness and the after-care of people who have suffered from illness • giving the NHS Commissioning Board power to stop CCGs undertaking specific types of activity to raise money • giving the NHS Commissioning Board and CCGs power to form companies and invest in companies • introducing new powers for the Secretary of State to issue directions which specify minimum sums the NHS Commissioning Board should pay to local authorities for expenditure on social care or other community services 	
Implications for Wiltshire	Next steps:
None known at this stage.	

The new role of Monitor as the independent regulator of all healthcare services (s61-71)	Status: power for the Secretary of State to issue regulations in force from 1 July 2012. Duty for Monitor to co-operate with the CQC in force from 1 October 2012
<p>Monitor is currently the independent regulator for NHS foundation trusts. The Act changes the role of Monitor by:</p> <ul style="list-style-type: none"> • making it the independent regulator for all healthcare services - this includes physical and mental health services and services which are also adult social care services, for example community mental health teams providing an integrated health and social care service • giving the Secretary of State power to issue regulations which allow or require Monitor to regulate adult social care services. Adult social care services include all forms of personal care and practical assistance for individuals who are in need of care and assistance because of age, illness, disability, pregnancy, childbirth, drug or alcohol dependence and other similar circumstances, but do not include children's services. There is currently no indication of when or whether the Secretary of State will issue regulations. 	

Monitor will be responsible for:

- *protecting and promoting the interests of people who use healthcare services by:*
 - making sure healthcare services are economic, efficient and effective
 - maintaining and improving the quality of services
 - considering future demand for healthcare services
- *licensing all NHS healthcare providers and publishing a register of licensed providers.* The Act gives Monitor powers to determine and enforce criteria and conditions for provider licences – the conditions must force providers to act transparently when they set and apply patient eligibility criteria. The aim of this is to stop providers ‘cherry-picking’ services. The Act also requires Monitor to co-operate with the Care Quality Commission (CQC) to establish a joint licensing and registration process (the CQC will continue to register providers of health and social care services).
- *addressing anti-competitive behaviour in the provision of health care services where this is against the interests of patients* – Monitor will have parallel powers to the Office of Fair Trading and will be able to:
 - conduct investigations, order remedial action and issue fines for breaches of the Competition Act 1998
 - refer suspected breaches of the Enterprise Act 2002 to the Competition Commission for market investigation
- *working with the NHS Commissioning Board to set and regulate the prices of NHS services through a national tariff* - the Act gives Monitor power to change the prices payable under the national tariff for a particular service provider in cases where an efficient provider cannot recover their costs, e.g. where commissioners ask for services to be delivered to a small number of people across a large area.
- *supporting commissioners to ensure the continuity of services by providing financial assistance to insolvent providers through health special administration* – the Act gives the Secretary of State power to issue regulations which allow Monitor to charge commissioners for action taken to ensure the continuity of services

The Act also places a duty on Monitor to:

- carry out its functions in a way that helps integrate healthcare services or healthcare services with social care services or other health-related services – this only applies if integration would:
 - improve the quality of services and the outcomes achieved
 - mean services are provided more efficiently
 - reduce inequalities in access to and outcomes from services
- involve patients and members of the public in decisions on the way it carries out its functions
- take advice from clinical and public health experts
- carry out its functions in a way that is consistent with the Secretary of State’s duty to promote a comprehensive health service and have regard to guidance from the Secretary of State
- make sure it does **not** act in a way that changes the market share of public or private sector providers

- make sure it does not impose unnecessary regulatory burdens
- co-operate with the Care Quality Commission (CQC). The Act introduces a requirement for all NHS healthcare service providers to hold a licence from Monitor in addition to their licence from the CQC. The government intends to introduce a single joint application process for providers to obtain both licences. Providers that provide services without a licence from the CQC will also be regarded having breached the requirement to hold a licence from Monitor.

These duties **do not** apply when Monitor is carrying out its function of preventing anti-competitive behaviour unless they are also duties of the Office of Fair Trading. The duties also **only** apply to the supply of services, not goods supplied to service providers **unless** the goods are an integral part of the healthcare services provided.

The Act gives the Secretary of State powers to intervene when he considers that Monitor is failing, or has failed, to perform its functions properly.

Implications for Wiltshire	Next steps:
<p>Monitor will become the economic regulator for healthcare and will operate a joint licensing regime with the CQC. The Secretary of State can issue regulations which extend this role to adult social care. The detailed implications for social care are not yet known.</p>	

Abolition of NHS trusts and requirement for all NHS trusts to become foundation trusts (s88,151- 180)	Status: most NHS trusts expected to become foundation trusts by 2014
<p>The Act will remove the legal framework for NHS trusts in England on a date determined by the Secretary of State (expected to be April 2014). The government's intention is that all NHS trusts will become foundation trusts as soon as this is clinically feasible. Organisations that do not wish to become foundation trusts will be able to keep NHS trust status by making 'franchise agreements' where they acquire the risks and rewards of ownership. NHS trusts operating under franchise agreements will be able to apply for foundation trust status after the legal framework for NHS trusts has been abolished.</p> <p>From 1 July 2012 only existing NHS trusts will be able to apply for foundation trust status – previously public benefit corporations could also apply for foundation trust status.</p> <p><u>Financial arrangements for foundation trusts and income from private healthcare</u></p> <p>The Act removes the 'private patient income cap' - a limit on the amount of income a foundation trust can obtain from private patient charges. Previously a foundation trust was unable to earn a higher proportion of its total income from private charges than it did in the financial year 2002-3 (when the first foundation trusts were introduced).</p>	

However, the Act makes it clear that the main purpose of a foundation trust is to provide goods and services (including public health services) for the NHS in England by:

- specifying that the total income of a foundation trust from providing NHS goods and services in each financial year **must** be greater than the total income from charges for private goods and services
- requiring every foundation trust to explain the impact of earning private income on NHS services in its annual report
- introducing a duty for foundation trusts to include proposals to earn private income and the amount of income they expect to generate in their forward plans
- requiring the governors of a foundation trust to consider the forward plan and satisfy themselves that proposals to increase private income would not significantly interfere with the trust's performance when providing NHS goods and services
- introducing a requirement for a majority of council of governors to vote on and agree any proposal to increase the proportion of a trust's total income from private goods and services by more than five percent

Foundation trusts will still be able to charge NHS patients for providing accommodation (e.g. a private room) or additional services (e.g. a television), but this will not count as private patient income.

Approval process for foundation trust status

The Act changes the approval process for NHS trusts that apply to become foundation trusts by removing Monitor's power to:

- authorise foundation trusts – approval will be based on a one off-test and under the new licensing regime Monitor will automatically grant provider licences to foundation trusts
- require NHS trusts to provide information on the goods and services the trust will provide
- impose conditions when approving applications for foundation trust status
- enter and inspect the premises of a foundation trust

Governance and management arrangements for foundation trusts

The Act changes the governance and management arrangements of NHS foundation trusts by:

- renaming the board of governors the 'council of governors' – the aim of this is to avoid confusion with the board of directors
- allowing foundation trusts to change their constitutions and tailor their governance arrangements to fit local circumstances without seeking permission from Monitor – the Act allows a foundation trust to specify other organisations that can sit on the council of governors in its constitution
- transferring a number of regulatory powers from Monitor to the Secretary of State to reflect the new role of Monitor as the regulator of all NHS healthcare service providers – this includes power to decide who is eligible for appointment as an auditor for a foundation trust, set accounting standards for foundation trusts and to determine the form and content of the annual reports of foundation trusts
- introducing a new duty for directors of foundation trusts to promote the success of the trust, avoid conflicts of interest and not accept benefits from third parties

- requiring foundation trusts to hold meetings of the board of directors in public (with closed parts of the meeting to discuss confidential and sensitive items) and send copies of agendas and minutes of meetings to the council of governors
- introducing a duty for foundation trusts to have regard to the population they serve when deciding the geographical areas eligible for its public constituency and patient constituency – the Act also requires foundation trusts to make sure the membership of any public or patients constituency is representative of those eligible to be members
- requiring foundation trusts to hold an annual public meeting of all of their members to consider the trust’s annual report, accounts and audit report – all members must be able to vote on constitutional changes which affect the role of governors
- giving Monitor power to set up a panel to advise governors in situations where their trust has failed or is failing to act in accordance with the law or its constitution – governors will only be able to refer questions to the panel if this is supported by more than half of the voting members of the council of governors

The Act gives the Secretary of State power to issue regulations which alter the voting arrangements for directors, governors and members of foundation trusts. It also gives Monitor powers to intervene by appointing a special trust administrator to carry out the functions of the chairman, directors, governors when a foundation trust is financially or clinically unsustainable.

Mergers and acquisitions

The Act makes a number of changes to the process of merging, acquiring and separating NHS foundation trusts (in force from 1 July 2012). These include:

- a requirement for a majority of members of the council of governors of each foundation trust to approve an application to merge with another NHS trust or foundation trust – the Secretary of State will still need to support an application to merge if one of the trusts is an NHS trust rather than a foundation trust
- allowing a foundation trust to acquire another foundation trust if the majority of the governors of both trusts agree and they make a joint application to Monitor
- allowing a foundation trust to separate into two (or more) foundation trusts if this is approved by the majority of the council of governors

Implications for Wiltshire	Next steps:
<p>There are no immediate implications.</p> <p>Great Western Hospital and Salisbury District Hospital are already Foundation Trusts. The Royal United Hospital (RUH), Bath is currently in the process of applying for foundation status.</p>	

Healthwatch England and Local Healthwatch (s181-189)

Status: Healthwatch England will start operating on 1 October 2012, Local Healthwatch must be in place by 1 April 2013

The Act establishes Healthwatch England as a statutory committee of the Care Quality Commission (CQC). Healthwatch England will:

- represent the views of users of health and social care services, members of the public and Local Healthwatch organisations
- provide advice, information and assistance to the CQC and other organisations

It also requires local authorities to commission Local Healthwatch organisations, which will involve local patients and other members of the public in health and social care.

Local Healthwatch

Local Healthwatch organisations will replace local involvement networks. The Act gives the Secretary of State power to make a scheme to transfer property, rights and liabilities from local involvement networks to Local Healthwatch organisations.

Local Healthwatch organisations will:

- promote and support the involvement of local people in the commissioning, provision and scrutiny of local health and social care services
- help local people monitor and review the commissioning and provision of local care services
- find out the views of local people on their care needs and their experience of local care services and make these views known to the local commissioners, providers and scrutinisers of these services
- report to Healthwatch England on health and social care services and recommend improvements – this could include recommending that Healthwatch England asks the CQC to conduct a special review or inspection
- provide advice and information about access to local care services and the choices patients can make about these services
- provide support to individuals to access information and independent advocacy if they need help to complain about NHS services
- publicly publish an annual report at the end of the financial year – local authorities must make arrangements for copies of the report to be sent to the NHS Commissioning Board, local CCGs and Healthwatch England

The Act requires anyone who is informed of the views of patients or the public or receives a report or recommendations from a Local Healthwatch organisation to have regard to the views, report or recommendations when carrying out functions related to health and social care services.

A local authority can **only**:

- commission one Local Healthwatch organisation for its area
- enter into a contract for Local Healthwatch with a body corporate that is a 'social enterprise' – the Act defines a 'social enterprise' as a body that could reasonably be considered to act for the benefit of the community.

Local authorities can authorise Local Healthwatch organisations to arrange for other individuals or bodies (known as 'Local Healthwatch Contractors') to carry out activities on their behalf.

Local authorities will have a duty to:

- make sure Local Healthwatch organisations operate effectively and provide value for money and publish a report which sets out their conclusions on the effectiveness of Local Healthwatch
- have regard to any guidance from the Secretary of State on how to manage conflicts of interest between commissioning a Local Healthwatch organisation and the functions of Local Healthwatch

The Act gives the Secretary of State power to issue regulations which require:

- local authorities to commission Local Healthwatch arrangements which include specific services or activities
- Local Healthwatch organisations to impose conditions on Local Healthwatch Contractors
- providers of health and social care services to allow Local Healthwatch representatives to enter their premises and carry out observations

Healthwatch England

The Act requires Healthwatch England to carry out a number of functions on behalf of the CQC. These functions include:

- providing general advice, assistance and recommendations for local authorities on:
 - local arrangements to involve patients and the public in health and social care -Local Healthwatch
 - making arrangements with 'Local Healthwatch contractors' – individuals or bodies that help a Local Healthwatch organisations carry out their functions
- giving written notice to local authorities in cases where the functions of Local Healthwatch are not being carried out properly
- advising and providing information to the Secretary of State, NHS Commissioning Board, Monitor and local authorities on the views of:
 - health and social care service users and the public on their needs and experiences
 - Local Healthwatch organisations on the standard of health and social care services and how this could or should be improved

These bodies must inform Healthwatch England of their response (or proposed response) in writing.

Healthwatch England will also provide information and advice on the views of health and social care service users to the CQC. The CQC must inform Healthwatch England of its response (or proposed response) in writing.

The CQC must publish details of the arrangements it makes for Healthwatch England to carry out these functions. When carrying out its functions Healthwatch England must have regard to:

- any aspect of government policy where this is directed by the Secretary of State
- guidance from the Secretary of State on conflicts of interest between the functions of the CQC carried out by Healthwatch England and any other functions of the CQC

The Act requires Healthwatch England to provide an annual report for the CQC on:

- the views of health and social care service users, the public and Local Healthwatch organisations on the standard of services and how this could be improved

<ul style="list-style-type: none"> • how it has carried out its functions throughout the financial year <p>A copy of this report must be sent to parliament, the Secretary of State and Local Healthwatch organisations.</p> <p>The Act gives the Secretary of State power to intervene where Healthwatch England is 'significantly' failing (or has 'significantly failed') to carry out its functions.</p>	
<p>Implications for Wiltshire</p>	<p>Next steps</p> <p>For more information please contact: Julie Martin, Head of Service for Communities and Social Inclusion at julie.martin@wiltshire.gov.uk or Dot Kronda, Programme Lead for Inclusion at dot.kronda@wiltshire.gov.uk</p>
<p>Wiltshire's Local Healthwatch organisation will be represented on the board of the Wiltshire CCG. Local Healthwatch will also be a statutory member of the Health and Wellbeing Board. Local Healthwatch will play an active part in shaping the content of the Joint Strategic Needs Assessment to make sure it reflects local views and has a clear interface with the council's Health Overview and Scrutiny Select Committee.</p> <p>It is hoped that Local Healthwatch arrangements will provide a creative, responsive and representative approach.</p> <p>The government has allocated funding to local authorities to cover some of the costs of setting up Local Healthwatch arrangements. Wiltshire Council has been allocated £23,000.</p>	<p>The council is working with the voluntary and community sector, including user led organisations, to develop Local Healthwatch in Wiltshire. The council's approach will build on existing knowledge and expertise to form a local response to legislation.</p>

<p>Changes to local authority health scrutiny (s190 – 191)</p>	<p>Status: unclear</p>
<p>The Act changes the Secretary of State's power to issue regulations on local authority arrangements for health scrutiny by:</p> <ul style="list-style-type: none"> • <i>removing the requirement for local authorities to review and scrutinise the health service through an overview and scrutiny committee(s).</i> The Act turns health scrutiny into a function of a local authority, rather than a function of a local authority overview and scrutiny committee. This means local authorities are free to make alternative arrangements for health scrutiny, such as an appointed committee which includes members of the public. However, a local authority can continue to carry out its healthy scrutiny functions through an overview and scrutiny committee if it chooses to do so. • <i>extending the Secretary of State's powers to issue regulations requiring 'relevant</i> 	

<p><i>NHS bodies' to attend local authority meetings, provide information to or consult local authorities to 'relevant health service providers', such as public, voluntary or independent sector service providers commissioned by the NHS Commissioning Board, CCGs and local authorities.</i></p> <ul style="list-style-type: none"> • <i>allowing the Secretary of State to issue regulations which determine when: <ul style="list-style-type: none"> - 'relevant NHS bodies' or 'relevant health service providers' must consult a local authority - a local authority can refer a matter to the Secretary of State, Monitor or the NHS Commissioning Board – the regulations could stipulate that the decision to refer must be made by full council rather than the executive or an overview and scrutiny committee. </i> • <i>allowing local authorities to exclude members of the public from meetings where confidential health scrutiny information is discussed – this would be done through a closed part of the meeting</i> 	
<p>Implications for Wiltshire</p>	<p>Next steps: For more information please contact: Paul Kelly, Overview and Scrutiny Manager at paul.kelly@wiltshire.gov.uk</p>
<p>In the recent review of the council's scrutiny arrangements, a decision was taken to retain the Health Select Committee. The scrutiny review took the specific changes to health scrutiny and wider changes to the health system under the Health and Social Care Act into account.</p>	<p>The Overview and Scrutiny Management Committee will review the overall scrutiny work programme and make sure the work of the Health Select Committee:</p> <ul style="list-style-type: none"> • reflects the council's priorities • takes the implications of changes to the health system into account • does not duplicate the work of the Health and Wellbeing Board or Local Healthwatch <p>The first meeting of the new Health Select Committee will take place on 12 July 2012.</p> <p>The Health Select Committee will hold a workshop on its future role in September 2012.</p>

Introduction of Health and Wellbeing Boards (s192-199, s206)

Status: HWBs take on full statutory role from 1 April 2013. Wiltshire's Shadow HWB in place since October 2011.

The Act requires every upper tier local authority to establish a Health and Wellbeing Board (HWB) in its area.

HWBs must be set up as local authority committees under the Local Government Act 1972. The Act gives the Secretary of State power to issue regulations which change the procedure and membership requirements of local authority committees under various acts for HWBs.

Membership requirements

The membership of the HWB must include:

- at least one elected councillor from the local authority – this councillor should be nominated by the leader of the council and can be the leader of the council
- local authority directors of adult social services, children's services and public health
- a representative of each relevant Clinical Commissioning Group (CCG)
- a representative of Local Healthwatch

The membership can also include any other representatives the local authority or HWB considers appropriate. After the HWB has been established, the local authority must consult the HWB before appointing any additional representatives.

Duties and functions of HWBs

The Act gives HWBs a duty to:

- *encourage integrated working between commissioners of NHS, public health and social care services in the local area.* This includes:
 - providing advice, assistance and support for existing partnership arrangements between NHS bodies and local authorities, such as pooled budgets or for NHS bodies and local authorities to exercise each others' functions
 - encouraging commissioners and providers of health related services, such as housing, to work closely with the HWB and commissioners of health and social care services
- *lead the preparation of a Joint Strategic Needs Assessment, Pharmaceutical Needs Assessment and Joint Health and Wellbeing Strategy for their local area*

A local authority can arrange to delegate any of its functions to the HWB. This could include health-related functions which affect the health and wellbeing of the population, such as housing. However, a local authority **cannot** delegate its overview and scrutiny functions to the HWB.

The Act allows two or more HWBs to carry out their duties and functions jointly.

A HWB can request information that will help it carry out its duties and functions from any organisation that is a member of or is represented on the HWB.

Joint Strategic Assessments, Pharmaceutical Needs Assessments and Joint Health and Wellbeing Strategies

The Act transfers the duty to work with the local authority to prepare a Joint Strategic Needs Assessment (JSNA) from PCTs to CCGs and requires local authorities and CCGs to prepare the JSNA through the HWB. It also widens the scope of 'relevant' needs to cover the current and future health and social care needs of the local population. The Act transfers the duty to prepare a Pharmaceutical Needs Assessment from Primary Care Trusts to HWBs.

The Act introduces a requirement for HWBs to produce a Joint Health and Wellbeing Strategy – a strategy for meeting the needs identified in the JSNA. Local authorities and CCGs must have regard to the JSNA and Joint Health and Wellbeing Strategy when carrying out their functions.

The NHS Commissioning Board must also have regard to the Joint Health and Wellbeing Strategy when it commissions services locally. The Act requires the NHS Commissioning Board to appoint a representative to:

- participate in the preparation of the JSNA and Joint Health and Wellbeing Strategy
- help the HWB consider a matter related to the NHS Commissioning Board's exercise or proposed exercise of its commissioning functions in the local area – this is only at the request of the HWB

When preparing the Joint Health and Wellbeing Strategy the HWB must:

- consider how the needs identified in the JSNA can be addressed through partnership arrangements between local authorities and NHS bodies, such as pooled budgets
- have regard to the mandate the NHS Commissioning Board has received from the Secretary of State (see above)
- involve local HealthWatch and people who live or work in the local authority area
- have regard to any guidance from the Secretary of State

The HWB can also include its views on how arrangements for the provision of health related services (such as housing) can be more closely integrated with arrangements from the provision of health and social care services.

Implications for Wiltshire

Next steps

For more information please contact: Sue Geary, Head of Performance, Health and Workforce at sue.geary@wiltshire.gov.uk or John Quinton, Head of Democratic Services at john.quinton@wiltshire.gov.uk

Wiltshire has registered as an early implementer for Health and Wellbeing Boards (HWBs). This means full arrangements need to be in place by April 2013.

The Wiltshire HWB was established in shadow form in October 2011 with a draft terms of reference and membership. The shadow HWB has met every six weeks since October. It has also hosted three development sessions with a wider group of

The shadow HWB will develop a list of priorities for a draft Joint Health and Wellbeing Strategy by September 2012. This will set the overarching work plan for the HWB. As far as possible the Joint Health and Wellbeing Strategy will be based on the overlapping aspects of the existing business plans of each organisation that focus on transformation. The draft Joint Health and Wellbeing Strategy will be co-ordinated by Chris Graves (Wiltshire Council's service director for adult care strategy and

<p>interested parties, such as scrutiny members, democratic services officers and representatives from the PCT and shadow CCG.</p> <p>Wiltshire's shadow HWB has agreed that it does not have direct responsibility for commissioning services. Commissioning decisions will rest with each organisation or with the relevant joint commissioning forum, for example the Children's Trust Board. The council will need to re-establish a joint commissioning board for adult services which will report to the HWB.</p> <p>The voting arrangements for HWBs as committees of the local authority are currently unclear. Shadow HWBs in other areas have established a range of voting arrangements, with some giving voting rights to all HWB members, including council officers and provider representatives. The situation may become clearer once the Secretary of State issues regulations or publishes guidance on voting arrangements.</p> <p>The creation of the HWB will have resource implications for the council:</p> <ul style="list-style-type: none"> • as a committee of the council the HWB needs support from democratic services. This resource could be found by combining the additional work created by HWB meetings with the work created by the new Police and Crime Panel into a single extra democratic services officer post. • future communications and engagement events may require support from the council's communications team • the HWB will need a permanent officer to lead on health and well-being strategy and partnership working with the NHS 	<p>commissioning).</p> <p>A stakeholder event will be held in Autumn 2012 to launch the HWB. This event will include consultation on the priorities set out in the draft Joint Health and Wellbeing Strategy.</p> <p>The shadow Wiltshire HWB needs to finalise its membership in the light of regulations and national guidance, which are expected later in the year. This includes:</p> <ul style="list-style-type: none"> • whether representatives from provider organisations should sit as members of the HWB • how the voluntary and community sector will be represented • voting arrangements. <p>The council is yet to clarify support arrangements for the HWB.</p>
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Allowing Clinical Commissioning Groups and NHS Foundation Trusts to form Care Trusts with local authorities (s200)		Status: unclear
<p>Care Trusts are organisations set up by the NHS and local authorities to deliver integrated health and social care or mental health services where the NHS and local authority agree that this will benefit the local population. Currently only Primary Care Trusts and NHS Trusts can form Care Trusts with local authorities.</p> <p>The Act changes the National Health Service Act 2006 by:</p> <ul style="list-style-type: none"> allowing CCGs and NHS Foundation Trusts to work with local authorities to form Care Trusts transferring the Secretary of State’s powers to approve the creation of a Care Trust or the area covered by a Care Trust to the local authority and CCG or NHS Foundation Trust that decide to set up a Care Trust. The Act requires both parties to publish a document which explains why creating a Care Trust will improve the health or care outcomes of their local populations and consult on the proposed governance structure of the Care Trust. 		
Implications for Wiltshire	Next steps	
None as there currently there are no proposals to establish a care trust in Wiltshire.		

Changes to the regulation of health and social care workers (s209-231, Schedule 15)		Status: General Social Care Council transfers to the Health Professions Council on 1 October 2012
<p>The Act makes a number of changes to the regulation of health and social care workers by:</p> <ul style="list-style-type: none"> abolishing the General Social Care Council and transferring its role in regulating social workers and providing education and training for approved mental health professionals to the Health Professions Council renaming the Health Professions Council the Professional Standards Authority for Health and Social Care to reflect its new role of regulating health and social care workers changing the funding, governance and functions of the Council for Healthcare Regulatory Excellence abolishing the Office of Health Professions Adjudicator from 30 June 2012 – a new, independent body which was due to be set up under the Health and Social Care Act 2008 to make impartial decisions on cases where a professional’s fitness to practice is investigated. 		
Implications for Wiltshire	Next steps For more information please contact: Kim Holmes, Lead for Workforce, Learning and Development at kim.holmes@wiltshire.gov.uk	

<p>The registration fees for social workers will increase significantly from 1 August 2012. The registration fee will increase from £30 a year under the General Social Care Council to £72 a year under the Health Professions Council.</p> <p>There are no implications for Wiltshire Council because social workers are personally responsible for making sure they are registered and are required to pay the registration fee themselves.</p>	<p>The council's HR team has been briefed about the change of registration body and the location of the register. The social work register needs to be checked when social workers are recruited.</p>
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<p>Changes to the name and remit of the National Institute of Health and Clinical Excellence (NICE) (s232- s249, Schedules 16 and 17)</p>	<p>Status: unclear</p>
<p>The Act abolishes the National Institute of Health and Clinical Excellence as a Special Health Authority and re-establishes it as a non-departmental public body corporate known as the National Institute of Health and Care Excellence (NICE). It extends the remit of NICE to cover social care as well as NHS services and public health services.</p> <p><u>Functions and duties of NICE</u></p> <p>When carrying out its functions NICE must:</p> <ul style="list-style-type: none"> • have regard to the broad balance between the costs and benefits of providing health services or social care, the degree of people's needs and the 'desirability' of promoting innovation • act effectively, efficiently and economically <p>The Act introduces a requirement for NICE to:</p> <ul style="list-style-type: none"> • prepare quality standards for NHS services, public health services and social care services at the request of the Secretary of State or NHS Commissioning Board • provide advice or guidance to the Secretary of State and NHS Commissioning Board on matters relating to quality standards • prepare and disseminate commissioning guidance on behalf of the NHS Commissioning Board where this is requested by the NHS Commissioning Board • make recommendations or provide advice, guidance and information on NHS services, public health services or social care services when directed in regulations from the Secretary of State. This could include: <ul style="list-style-type: none"> - guidance on new and existing medicines, treatments and procedures and treating and caring for people with specific diseases and conditions or particular social care needs. - publishing and disseminating advice, guidance, information and recommendations on ways of improving people's health and preventing illness and disease to the NHS, local authorities and other public, private or voluntary sector organisations. <p>The Secretary of State and NHS Commissioning Board cannot issue directions to NICE on the content of quality standards, recommendations, advice, guidance or information.</p>	

The Act also gives the Secretary of State power to issue regulations which:

- transfer additional functions to NICE – NICE can only carry out these functions if it receives directions from the Secretary of State and NHS Commissioning Board
- allow NICE to charge for providing advice and information or making recommendations
- require specific health or social care bodies to have regard to advice and guidance or comply with recommendations from NICE – this will only apply to local authorities when they are carrying out their public health functions
- make arrangements for appeals against NICE’s recommendations
- allow NICE to advise other individuals or bodies that provide health and social care services or carry out activities connected with health and social care, such as pharmaceutical companies

NICE will have power to generate income by carrying out extra functions (for example acquiring land, producing or supplying goods and services and providing accommodation) **as long as:**

- these extra functions are connected with the provision of health and social care
- carrying out the extra functions does not interfere with the performance of NICE’s core functions ‘to any significant extent’

The Act gives the Secretary of State power to intervene when NICE is ‘significantly’ failing (or has ‘significantly failed’) to carry out its functions.

<p>Implications for Wiltshire</p>	<p>Next steps: For more information please contact: Maggie Rae, Director of Public Health at maggie.rae@wiltshire.nhs.uk or Darrell Gale, Public Health Consultant at darrell.gale@wiltshire.nhs.uk</p>
<p>Having one organisation to set quality standards for health and social care may improve joint working and help front-line staff to work together. No detail is available yet to indicate how NICE will operate in respect of social care advice and guidance.</p>	<p>Await further guidance.</p>

Introduction of the Health and Social Care Information Centre (s 250-277, Schedule 18)	Status: expected to be established as an executive non-departmental body by 1 April 2013
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The Act establishes the Health and Social Care Information Centre (the Information Centre). The Information Centre will be the central point for information collected from commissioners and providers of health and social care services.

The Information Centre will:

- introduce systems for collecting and analysing information subject to directions from the Secretary of State and NHS Commissioning Board
- collect and analyse information collect where this is 'necessary' or 'expedient' for the Secretary of State or NHS Commissioning Board to carry out their functions
- comply with requests to collect and analyse information from Monitor, the Care Quality Commission (CQC), NICE or any other bodies specified in regulations from the Secretary of State – the regulations will also outline when the Information Centre can refuse to comply with requests
- publish and disseminate any information it collects or analyses for the Secretary of State, NHS Commissioning Board, Monitor, CQC or NICE
- have powers to require health and social care bodies and private providers of health and social care services to provide information which is 'necessary' or 'expedient' for the Information Centre
- publish a code of practice for health and social care bodies on the handling of confidential information
- advise the Secretary of State, NHS Commissioning Board, health and social care bodies and health and social care providers on the collection, analysis, publication and dissemination of information

The Act also gives the Secretary of State power to issue regulations which require the Information Centre to set up, maintain and publish a database of quality indicators for health and social care services.

The Information Centre must:

- *have regard to information standards or guidance issued by the Secretary of State and NHS Commissioning Board* – the Act gives the Secretary of State and NHS Commissioning Board power to set information standards which apply to anyone commissioning or providing health services and adult social care services
- *carry out its functions efficiently, effectively and economically*
- *minimise the burdens it imposes on others*
- *have regard to the need to promote the effective and efficient use of resources in the provision of health and social care services*

The Information Centre will have power to generate income by carrying out extra functions (for example acquiring land, producing or supplying goods and services and providing accommodation) **as long as** these extra functions:

- are connected with analysing, publishing or disseminating information
- do not 'significantly' interfere with the functions of the Information Centre

The Act gives the Secretary of State power to intervene when the Information Centre is 'significantly' failing (or has 'significantly failed') to carry out its functions.

<p>Implications for Wiltshire</p>	<p>Next steps For more information please contact: Maggie Rae, Director of Public Health at maggie.rae@wiltshire.nhs.uk or Aimee Stimpson, Associate Director of Public Health – Intelligence at aimee.stimpson@wiltshire.nhs.uk</p>
<p>The Health and Social care Information Centre will replace the existing Adult Social Care Intelligence Service. There are no immediate implications for the Council.</p>	

<p>Powers for the Secretary of State to set up transfer schemes for staff, property, rights and liabilities (s300 – 302, Schedules 22 and 23)</p>		<p>Status: in force from 1 July 2012</p>
<p>The Secretary of State has power to set up transfer schemes to transfer staff, property, rights and liabilities for bodies that are abolished or changed by the Act, such as PCTs, Strategic Health Authorities and Special Health Authorities. For example, a scheme to transfer property currently held by a PCT to a CCG or to transfer public health staff from a PCT to a local authority.</p> <p>The Secretary of State can also direct the NHS Commissioning Board or a company owned by the NHS Commissioning Board to make staff or property transfer schemes.</p>		
<p>Implications for Wiltshire</p>	<p>Next steps: For more information please contact: Janet Lee, Principal Solicitor at janet.lee@wiltshire.gov.uk</p>	
<p>These powers are required for transitional arrangements as the PCT disappears and public health is transferred to the council.</p> <p>There is a transition board for public health and a separate transition board for NHS B&NES and Wiltshire, which includes representation from adult social care and public health.</p>	<p>NHS Wiltshire and Wiltshire Council have set up a project board for the public health transition with HR representations from both organisations.</p> <p>The project board has produced an HR plan which covers:</p> <ul style="list-style-type: none"> • the TUPE process • how the public health force will be integrated into the local authority, for example induction, pension choices etc 	