

Health and Social Care Bill 2011

House of Lords amendment process

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17 October 2011

This note sets out an agenda for coordinating the House of Lords amending process with respect to the Health and Social Care Bill 2011.

Critics of the Bill share a common concern that the proposed reform abandons or dilutes the national and comprehensive character of the National Health Service.

The threat is contained in measures that replace a mandatory national system with a discretionary or selective local one. Under the Bill commissioners and providers will be able to select patients and services on financial grounds. Commissioners will have an additional power to define the scope of and eligibility for publicly funded health care.

By subjecting health services to competition and trade law, the Bill will also undermine the national system of provision and viability of local services.

The reform marks a fundamental shift in responsibility. At present primary care trusts act *on behalf of* the Secretary of State. By contrast, the new commissioning groups will exercise functions *in place of* the Secretary of State but in the absence of a duty to provide or commission comprehensive health care for all resident in an area.

If the Bill is enacted, the Government will cease to have responsibility for the financial risk of ill-health. Instead the risk will be passed to commissioners, providers and patients.

Henceforth it will be almost impossible for parliament to hold health bodies accountable for the various elements of their expenditure and parliamentary scrutiny of a budget in excess of £100 billion will be undermined.

Accordingly, the means whereby the Secretary of State can promote a comprehensive health service throughout England will be radically weakened. The new structure is incompatible with a universal, comprehensive service.

Amendments to preserve the NHS as an equitable service should focus in the first place on the following measures:

- The Secretary of State's duty to provide or secure provision of specific health must be restored;
- Clinical commissioning groups must be under a duty to provide or secure provision of comprehensive services on behalf of all residents in prescribed geographical areas;
- The NHS must be protected from competition and trade laws that substitute

- competition for resource allocation according to health care needs;
- NHS assets must be protected from sell-off.

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