

# **HEALTH SERVICE COMMISSIONER FOR ENGLAND (COMPLAINT HANDLING) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Health Service Commissioner for England (Complaint Handling) Bill as brought from the House of Commons on 2nd March 2015. They have been provided by the Department of Health, with the consent of Baroness Finlay of Llandaff, the peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The Notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So, where a clause or part of a clause does not seem to require any explanation or comment, none is given.

### **SUMMARY**

3. The Health Service Commissioner for England (Complaint Handling) Bill seeks to increase the effectiveness of the Commissioner (known as the Health Service Ombudsman), who is the final tier of the NHS complaints system. It does so primarily by requiring the Health Service Ombudsman to take action with a view to concluding investigations of complaints within 12 months, and by requiring her to inform the complainant, in any case where this timescale is not met, of the reason why not.

### **BACKGROUND**

4. The policy rationale for the Bill is that the recent inadequate standards of care at Mid Staffordshire NHS Trust demonstrated the need to make it easier for patients to have their complaints resolved.

## **TERRITORIAL EXTENT AND APPLICATION**

5. The Bill as introduced extends to England and Wales only. The changes introduced by the Bill will, however, apply only to the Health Service Commissioner for England and complaints within her remit.

## **COMMENTARY ON CLAUSES**

### **Clause 1: Statements and Reports: investigations not concluded within 12 months**

6. The effect of this clause is to place a duty on the Health Service Ombudsman, if a complaint has not been resolved within 12 months of receiving the complaint, to send the complainant a statement to explain the reason for the delay. The clause also places a duty on the Ombudsman to include in the annual report she lays before Parliament details of how long investigations of NHS complaints have taken to be concluded, how many of those investigations have not been resolved within a 12 month period following receipt of the complaint by the Ombudsman, and the action being taken with a view to concluding all investigations within a 12 month period.

## **FINANCIAL EFFECTS**

7. The Bill will not have any significant financial effects. At 31st March 2013, the Ombudsman had a maximum of 30 NHS complaints that had not concluded within 12 months (no figure was given in the Ombudsman's annual report for 2013-14). Writing to this number of complainants, and including these cases in an annual report, will not create a significant financial burden.

## **PUBLIC SECTOR MANPOWER IMPLICATIONS**

8. The Bill will not require a change to public sector manpower.

## **IMPACT ASSESSMENT**

9. An impact assessment is not required, since the Bill is not a regulatory (or deregulatory) measure for business.

*These notes refer to the Health Service Commissioner for England (Complaint Handling) Bill as brought from the House of Commons on 2nd March 2015 [HL Bill 99]*

## **COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS ('ECHR')**

10. This is a Private Member's Bill and the Minister is not required to give a statement of compatibility with the Human Rights Act 1998 in accordance with section 19(1)(a) of that Act.

11. The Department of Health has, nevertheless, considered the question of compatibility and has concluded that the Bill is compatible with the European Convention on Human Rights.

## **COMMENCEMENT**

12. Clause 2 provides that the provisions of the Bill will come into force two months after the date of Royal Assent.

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*Ordered to be Printed,  
9th March 2015*

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LONDON – THE STATIONERY OFFICE LIMITED

Printed in the United Kingdom by The Stationery Office Limited

£x.00