

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – The National Institute for Health and Care Excellence

Functions: quality standards

Section 234 - Quality standards

1378. This section sets out the process for how the NHS Commissioning Board or the Secretary of State may commission NICE to develop quality standards for the provision of NHS, public health or social care services and the status accorded to the finished product.
1379. The Secretary of State and the NHS Commissioning Board are required to have regard to the quality standards in discharging their ‘improvement duties’ in relation to the health service (see new section 1A and new section 13E inserted in to the NHS Act by Part 1 of the Act). The Secretary of State or the NHS Commissioning Board is responsible for framing the remit of each quality standard, but cannot determine the content. A quality standard has statutory effect once it has been endorsed by the person who commissioned it (the Secretary of State or the Board). NICE has a duty to establish a process for the preparation of quality standards through consultation with interested parties. Responsibility for adult social care rests with the Department of Health and responsibility for children's social care rests with Department for Education. The Secretary of State in this context will be able to commission social care quality standards across all age groups.

Section 235 - Supply of quality standards to other persons

1380. This section describes how, under regulations made by the Secretary of State, NICE would be able to supply quality standards to the devolved administrations (Scotland, Wales and Northern Ireland), and other bodies. NICE would be able to amend the quality standards to suit the needs of such customers (for example by translating a quality standard into Welsh) and could charge for this. The Department anticipates that work carried out by NICE on behalf of the devolved administrations would be on a cost-recovery basis only.

Section 236 Advice or guidance to the Secretary of State or the Board

1381. This section enables the provision by NICE of any advice or guidance on quality matters to the Secretary of State or the NHS Commissioning Board should they require it. A quality matter is defined as a matter in respect of which NICE could be asked to prepare a quality standard.