

**Statement issued by The Rt Hon Lord David Owen on the Health and Social Care Bill
on Tuesday, 4 October 2011**

The House of Lords is a revising chamber for legislation and the massive Health and Social Care Bill presents a major challenge to the Lords on how to fulfil that role. The adversarial government/opposition voting on amendments on the floor of the House is the traditional method of revision. But as the House of Commons has already shown that method is not sufficient for a Bill as controversial, as large and as complex as this one. Fortunately the House of Lords has a precedent whereby a Bill, or part of a Bill, can be referred to a Select Committee and therefore I have tabled today an amendment as follows:

The reason for referring parts of the Bill to a Select Committee are well illustrated if we examine the changes relating to the duties of the Secretary of State for Health. In this Bill they are changed and many lawyers believe substantially reduced. Yet at the same time the Bill establishes a massive new Quango – the NHS Commissioning Board. Sensible people can accept that in any decentralisation of power there has to be a measure of managerial freedom but equally, sensible people will feel that the Secretary of State and Parliament has to have special powers, some of them probably new powers, to deal with this situation. This complex area of democratic control and decentralisation must lie at the core of House of Lords scrutiny and few would deny that a Select Committee, able to hear evidence with their own Parliamentary draughtsmen and empowered to return that section of the Bill to the floor of the House of Lords in an amended form for their consideration, is the most powerful way of proceeding. To ensure that this is not seen as a blocking mechanism the motion instructs the Select Committee to report back on these Clauses referred on part 1 of the Bill by the time the House resumes after Christmas on 10 January 2012 and we have also instructed that all the clauses referred to the Select Committee should be reported back to the House before the end of February. It is perfectly possible if agreed to commence discussion in parallel on the floor of the House on the selection of amendments of those parts of the Bill that are not referred to the Select Committee.

Another example of matters referred to a Select Committee is Monitor. This is an existing organisation that is about to be transformed. Is it really acceptable that the bulk of the powers of this Quango should be introduced by Regulation and not put into the substance of the Bill? Again, the complexity of its new definition of its powers, only conceded a few weeks ago, need to be reappraised and judged as a whole – something far better done initially by a Select Committee and then returned to the floor of the House.

The House of Lords is a pragmatic grouping of men and women, many of whom in various ways have considerable knowledge about the NHS. The commissioning proposals have already controversially been largely introduced following Second Reading in the House of Commons. Many people feel now that this is *fait accompli* and since they have been revised by the Forum process, there is a need within the NHS for the Lords to establish clarity after due consideration.

For that reason we have not sought to delay debate on these matters on the floor of the House, nor on Trusts hospitals. Indeed over 64% of the Health and Social Care Bill will under this amendment proceed in the traditional way on the floor of the House. It is also clear that what we are proposing is not a blocking mechanism in that we specifically instruct the Select Committee to report as early as 10 January 2012, when the House resumes after the Christmas Recess, on those Clauses in Part 1 which relate to the duties of the Secretary of State and before the end of February on all the remaining Clauses.

We will be discussing the wording of the amendment between now and 10 October when it has to be in its final form to see if the Select Committee deliberations can be brought forward in any way. The terms of the amendment leaves it open to the Select Committee to report earlier if this is feasible.