

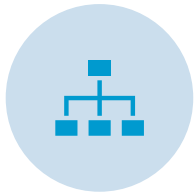
The Lampard Inquiry: an overview of NHS structures, policy, legislation, regulation and accountability

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About The King's Fund

- We are an independent charity (founded in 1897) working to improve health and care in England
- Our work includes:
 - Research and analysis to support policy and practice
 - Supporting and developing leadership through individual and organisational support
 - Convening people to discuss, share and learn
 - Helping people make sense of the health and care system

What this covers



STRUCTURE OF
THE NHS



KEY MENTAL
HEALTH POLICIES
AND PLANS



LEGISLATION



REGULATION AND
ACCOUNTABILITY



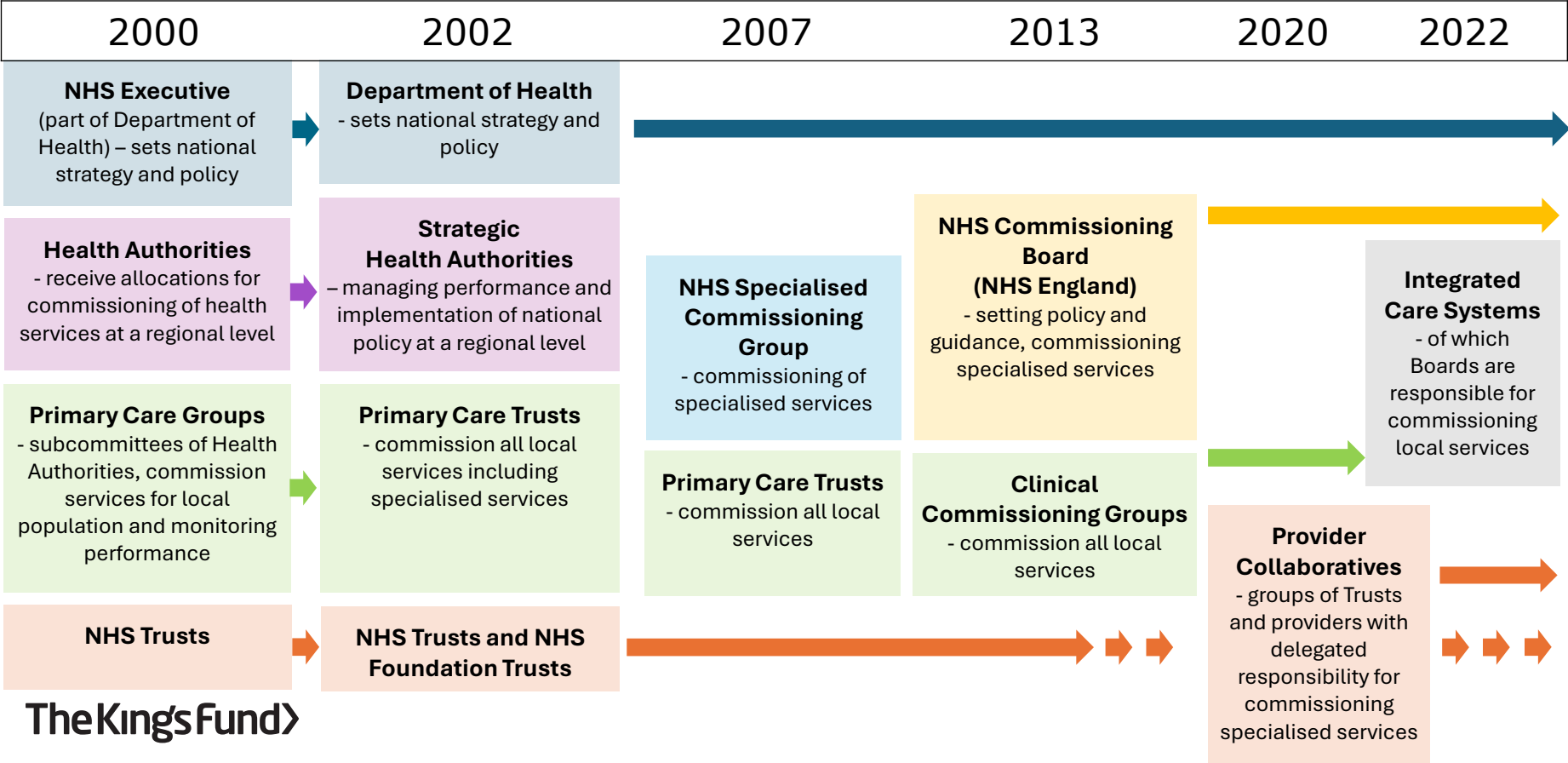
DATA AND
FUNDING

The structure of the NHS

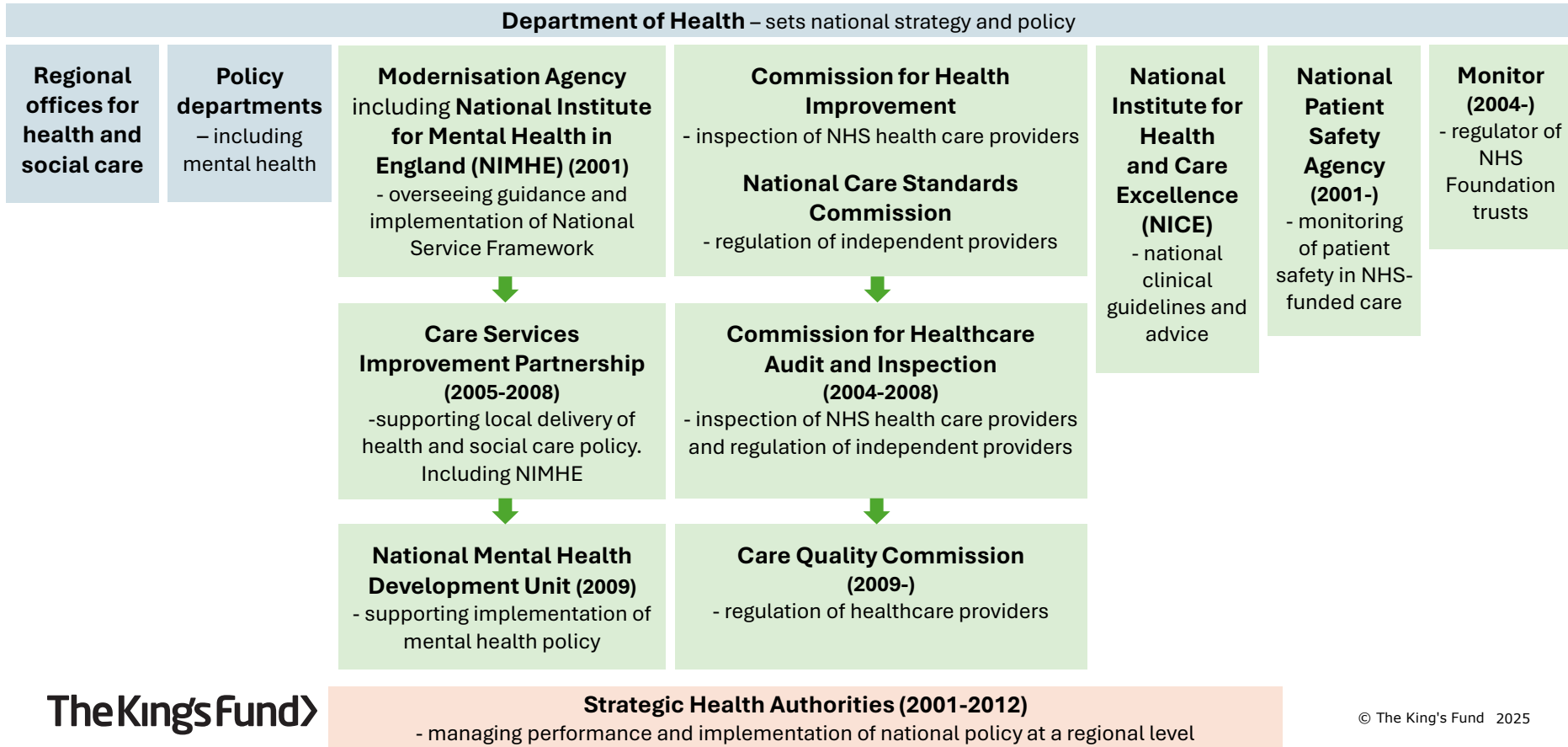
Key legislation



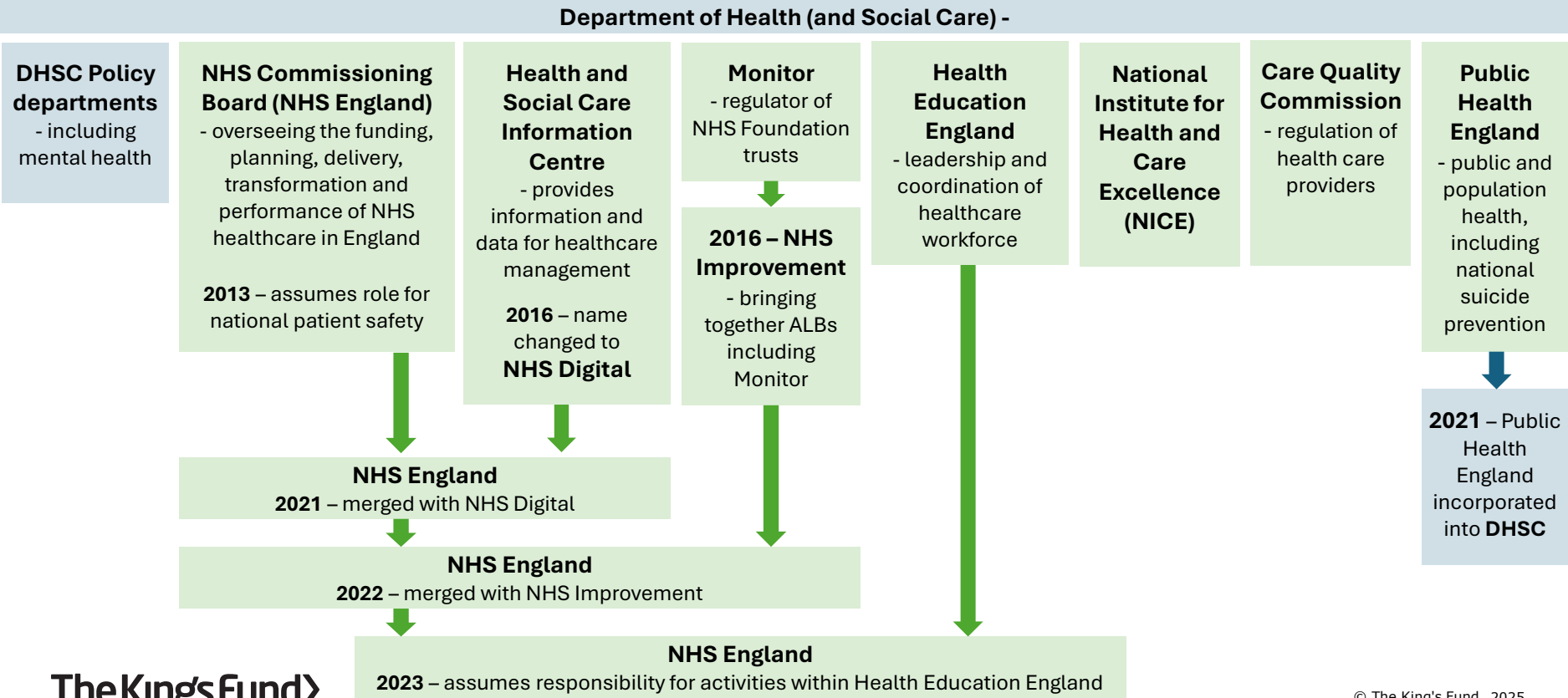
NHS commissioners and providers



NHS policy and oversight bodies (pre-2012)



NHS policy and oversight bodies (post-2012)



Key mental health policies and guidance

National strategies and plans

2000

NHS Plan

Mental health
national priority

National Service Framework for Mental Health

10-year plan for
development and
delivery of services
for working age
adults

2011

No Health Without Mental Health

Cross
government, all-
age strategy to
achieve parity of
esteem focused
on outcomes

2014

Achieving Better Access to Mental Health Services by 2020

Introduction of
access and
waiting time
standards

2015

Future in Mind

Vision for
improving
children and
young people's
mental health
across health,
education and
other services

2016

Five Year Forward View for Mental Health

10-year plan for
transforming
mental health
services

2019

NHS Long Term Plan

10-year plan
which sets out
priorities for the
health and care
system.
Transformation of
community
mental health
services

Implementation plan
(2016/17-2020/21)

Implementation plan
(2019/20-2023/24)

**2017 - Stepping forward to 2020/21 – the
mental health workforce plan for England**

Wider mental health system policies

2003

Personality disorder – no longer a diagnosis of exclusion

Expectation that trusts consider needs of this population

Mainstreaming gender and women's mental health: implementation guidance

Expectations for creating single sex environments, and meeting the needs of women

2004

National Service Framework for Children and Young People and Maternity Services

Expectation that young people have access to age-appropriate services

2005

Delivering Race Equality in Mental Health Care

Sets out training requirements for staff cultural awareness and sensitivity

2007

Best Practice in Managing Risk

Principles that should underpin management of risk to self and others in mental health services

2012

Transforming Care: a national response to Winterbourne View Hospital

A programme of action to review care of people with learning disabilities and autism in hospital care in line with best practice

2020

Advancing Mental Health Equalities Strategy

Outlines core actions to address health inequalities including the Patient and Carers Race Equality Framework

Policies and guidance related to quality of care

- National Institute of Clinical Excellence (NICE)
- Guidance related to the implementation of legislative changes
e.g. Mental Health Units (Use of Force) Act 2018 – statutory guidance (2021)
- Buildings guidance
e.g. Health Building Note 03:01: Adults acute mental health units (2013)
- National specifications for inpatient care
e.g. NHS Single Sex Standards. Delivering Same Sex Accommodation Programme Policy and Guidance (2009)
- Accreditation of inpatient mental health care (2006-)
- Acute Care Declaration (2009)

Key themes in inpatient policy and guidance

Elimination of mixed-sex accommodation

- 2000 – **Safety, Privacy and Dignity in mental health units** – national target on elimination of mixed-sex accommodation by all residential settings in 95% of trusts by December 2002.
- 2002 – **Enhancing privacy and dignity** – NHS Estates guidance on design solutions
- 2003 – **Mainstreaming gender and women’s mental health** – ensure women on mixed-sex wards are protected from intimidation, coercion, violence and abuse
- 2009 – **NHS Single Sex Standards – delivering same sex accommodation** – eliminating mixed sex accommodation from hospitals by 2010.
- 2019 – **Delivering same-sex accommodation** – guidance updated to include accommodation for trans people and gender variant children; financial sanctions for breaches in policy
- 2019 – **NHS Patient Safety Strategy** – plans to develop a collaborative to improve sexual safety

Key themes in inpatient policy and guidance

Removal of ligature points

- 2000 – **National Suicide Prevention Strategy** – local mental health services supported to implement 12 Points to a Safer Service
- 2012 – **Preventing Suicide in England** – action on regular assessment of ward areas to identify and remove potential risks including ligature points and high-risk areas
- 2018 – **Estates and Facilities Alert** – actions required to review and revise current ligature assessment policies and risk assessment forms. Ensure staff adequately trained.
- 2019 – **Suicide prevention in England: 5th progress report** – Mental Health Safety Improvement programme to support assessment of ligature risks and adherence to national guidance
- 2021 – **NHS Patient Safety Strategy** – local systems supported to assess ligature anchor points and other environmental self-harm risks for inpatient services

Key themes in inpatient policy and guidance

Reducing the need for restrictive interventions

- 2011 – **NICE Guidance: Service user experience in adult mental health** – control and restraint should be used as a last resort
- 2014 – **Positive and Proactive Care: reducing the need for restrictive interventions guidance**
- 2015 – **NICE Guidance: Violence and aggression: short term management in mental health** – guidelines on use and reduction of restrictive practice in psychiatric settings
- 2016 – **Commissioning for Quality and Innovation** – additional payments for reducing restrictive practice in adult secure services
- 2022 – **NHS Standard Contract 2022/23** – requirement for providers to comply with obligations under the Mental Health Units (Use of Force) Act 2018
- 2023 – **Commissioning for Quality and Innovation** – reducing restrictive practice in children and young people, adult and older adult mental health inpatient services.

Policy and guidance during COVID-19 (2020)

Supporting patients of all ages who are unwell with coronavirus (COVID-19) in mental health, learning disability, autism, dementia and specialist inpatient facilities (April) – organisation of wards, and staffing to provide care for cohorts of patient with and without COVID-19; transfer to acute medical settings

Second phase of NHS response to COVID-19 (April) – actions for the next 6 weeks include: proactively contacting and supporting patients, especially those recently discharged from inpatient services.

Implementing phase 3 (August) – community and inpatient services should continue working to improve pathways of care across their services for children and young people.

COVID-19: visiting people in a mental health, learning disability and autism inpatient setting (October) - providers MUST take all steps possible to enable safe regular visits

Managing demand and capacity across Mental Health and Learning Disability (November) – guidance including discharge planning to free inpatient capacity

Patient, carer and family engagement and communication during the coronavirus (COVID-19) pandemic (Dec) – individuals most at risk of admission to a mental health inpatient setting and their families must be given a named contact and know where to find information locally

Suicide prevention policy

2000

Saving Lives: Our Healthier Nation

Target to reduce suicide by at least one fifth by 2010

National Service Framework for Mental Health

Standard 7:
preventing
suicide

2002

National Suicide Prevention Strategy

Improving clinical risk management in inpatient settings

2012

Preventing Suicide in England: a cross- government outcomes strategy

Local areas develop suicide prevention plans; reducing risk of suicide in inpatient settings as a result of ligatures

2016

Five Year Forward View for Mental Health

The number of people taking their own lives will be reduced by 10% nationally compared with 2016/17 levels

2018

Zero suicide ambition for mental health inpatients

Funding to improve suicide awareness and training for staff; working with NCISH to improve quality and safety

2023

Suicide prevention in England: 5 year cross- sector strategy

Launch of real time suicide surveillance; continued focus on inpatient settings and follow up within 72 hrs

Legislation

Legislation – delivery of care

Mental Health Act 1983

Assessment treatment and rights of people with a mental disorder

Delayed Discharges (Mental Health Care) (England) Order 2003

NHS bodies required to notify the relevant local authorities of patients likely to need community care services on discharge

Mental Capacity Act 2005

Provides a framework for decision-making on behalf of adults who may not be able to make particular decisions

Mental Health Act 2007

Changes to categories of mental disorder, reasons under which someone can be detained and rights while detained

Care Act 2014

Amends section 117 of the Mental Health Act 1983 to define what comprises aftercare services and extending the offer beyond the disorder which accounted for admission

Mental Health Act 1983 (Places of Safety) Regulations 2017

Maximum detention period under section 136 of the Mental Health Act 1983 reduced from 72 to 24 hours

Mental Health Units (Use of Force) Act 2018

Aims to reduce the use of force and ensure accountability and transparency about its use. Places new requirements around use of restraint and isolation of patients

Legislation – regulation and accountability

Coroners Act 1988

Provides a legal framework for when the coroner should be involved and their role

Coroners Act 2009

Legal duty to investigate deaths of people within state detention including those detained under the Mental Health Act

Rathbone v Pennine Care NHS Trust (2012)

NHS trusts have a duty to protect voluntary mental health patients from risk of suicide

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

New set of fundamental standards relating to quality and safety that all providers must meet. Introduces statutory duty of candour and fit and proper persons requirements

Health and Social Care (Safety and Quality) Act 2015

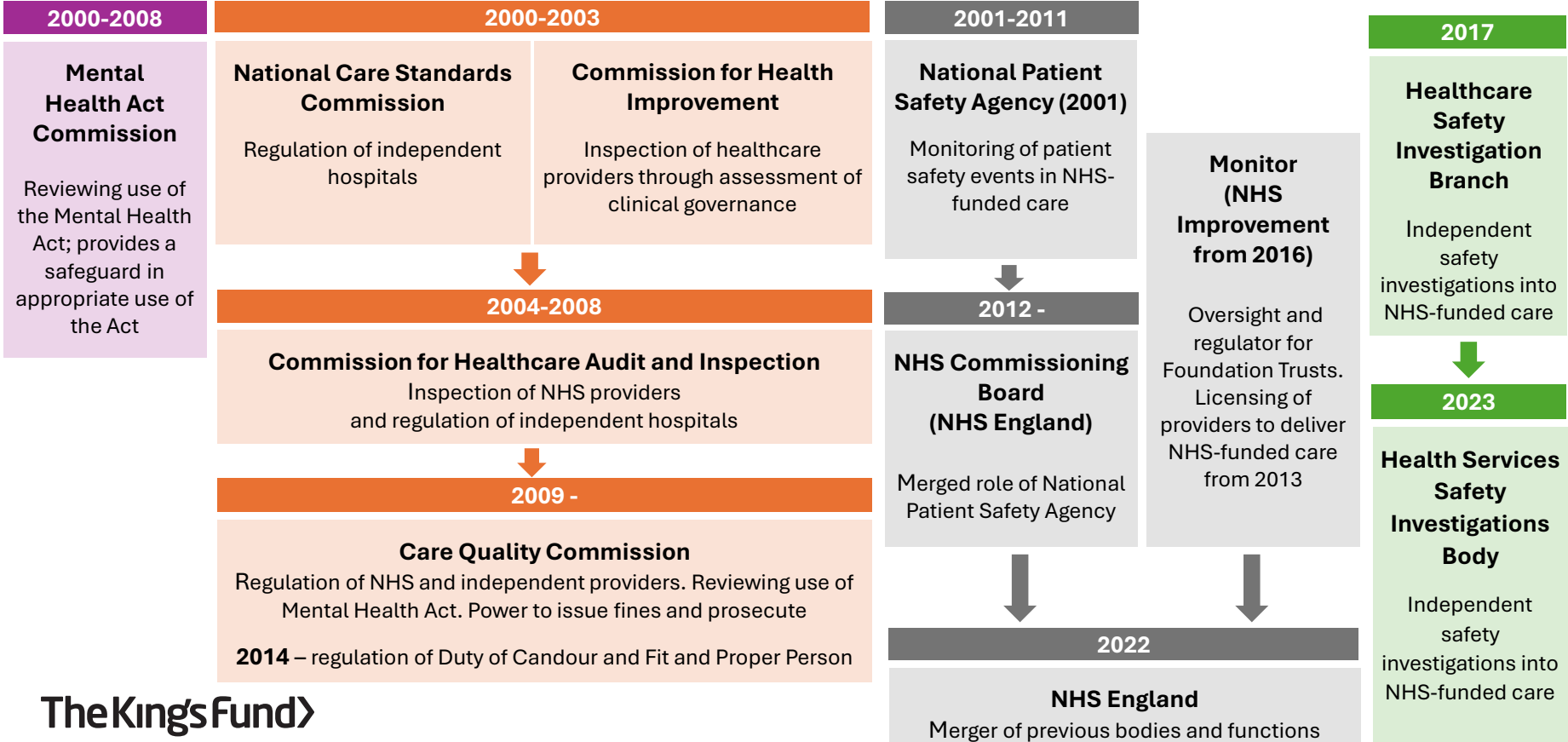
Registration of providers includes ensuring care is provided in a safe way that avoids reasonable harm

Notification of Deaths Regulations 2019

Medical practitioners have a statutory duty to notify the coroner of a death, including if they suspect the cause of death to be unnatural, unknown or they died in custody or during state detention

Regulation and accountability

NHS regulatory and investigatory bodies



Non-NHS regulatory and investigatory bodies

2000 -	2000 -	2000 -	2000 -
General Medical Council Regulation of doctors and fitness to practice	Health and Safety Executive Regulation of health and safety at work	Parliamentary and Health Service Ombudsman Investigating complaints against NHS authorities or trusts	Coroners Service Investigation of deaths from violence, unnatural deaths and deaths in custody
Nursing and Midwifery Council Regulation of nurses and fitness to practice; regulation of nursing associates from 2019			
Health and Care Professions Council Regulation of 16 professions including therapists and psychologists			

Policies and guidance for accountability (1)

2000

Code of Practice: Mental Health Act 1983 (1999)

Provides guidance to professionals in use of the MHA, accounting for updates to legislation, policy, case law and professional practice

2007

2007/08 NHS Operating Framework for England

Mental health trusts need to comply with the guidance published in 1999 – Safety, privacy and dignity in mental health: guidance on mixed-sex accommodation

Mental Capacity Act 2005: Code of Practice

2009

National Patient Safety Agency, The Never Events Framework 2009/10

Suicide using non-collapsible ligature points became an NHS 'never event', requiring trusts to monitor their incidence and reduce risk

2010

National Framework for Reporting and Learning from Serious Incidents Requiring Investigation

To ensure consistency in definitions, roles and responsibilities and to clarify legal and regulatory requirements

Care Quality Commission

Registered providers are required to notify CQC about events that indicate risks to compliance with registration requirements. Includes reports about serious incidents and deaths

Operating Framework for 2010/11

NHS organisations are expected to eliminate mixed-sex accommodation

Policies and guidance for accountability (2)

2012

Revised guidance on reporting suicide and severe self-harm to the National Reporting and Learning System

NHS trusts providing specialist mental health services must report all apparent suicides of people with an open episode of care at the time of death

2015

Article 2 of the European Convention on Human Rights and the investigation of serious incidents in mental health services

DH advice that an investigation should be considered where it may be necessary to examine the causation of a serious incident that could indicate systemic failures to protect life

Openness and honesty when things go wrong: The professional duty of candour

GMC and NMC issue joint guidance

HCPs revise standards to implement professional duty of candour

2016

Shared Commitment to Quality

Provides a nationally agreed definition of quality. Agreed across all national organisations overseeing quality

CCG Improvement and Assessment Framework 2016/17

Indicator on out of area placements for acute mental health care

Policies and guidance for accountability (3)

2017

Written statement to the House from Parliamentary Under-Secretary of State for Health

All deaths of patients under the care of Tier 4 inpatient Child and Adolescent Mental Health Services would be routinely reported to Ministers

National Guidance on Learning from Deaths – a framework for NHS trusts and NHS FTs on identifying, reporting, investigating and learning from deaths in care

Each trust should publish an updated policy by Sept 2017 on how it responds to, and learns from, deaths of patients under its management and care

2019

NHS Oversight Framework 2019/20

For regional NHS England teams to review performance and identify support needs. Metrics include mental health out of area placements and quality of data submitted to NHS Digital

2022

Patient Safety Incident Response Framework

Providers of NHS-funded care required to create a policy that describes systems in place to learn and improve following a patient safety incident.

NHS Standard Contract 2022/23

80% of service users under adult mental illness specialities are followed up within 72 hours of discharge from inpatient care

Policy on leadership

2002

Leadership Qualities Framework

Provides a consistent approach to leadership development for staff in health and care. Framework focuses on values and behaviours

2014

CQC Well-led Framework

Covers five key lines of inquiry which guide inspection of providers

Monitor's 10 Questions

A tool to assist NHS trusts preparing for the FT assessment process. Aligns with CQC well-led domain

2017

Well-led framework

Revised to cover 8 key lines of inquiry. The framework underpins CQC's regulatory assessments of well-led, and used by boards to review their own effectiveness and to commission independent development reviews

2019

A Model Employer: increasing black and minority ethnic representation at senior levels across the NHS

Strategy to ensure leadership is representative of overall BME workforce by 2028

Freedom to Speak Up

Enabling staff to raise concerns about patient care

2021

Building Strong Integrated Care Systems Everywhere

ICS implementation guidance on effective clinical and care professional leadership

2022

NHS England Code of governance for NHS provider trusts

Trusts must comply with each of the provisions of the code or explain in each case why they have departed

Data and funding

National mental health data

2000

Mental Health and Learning Disability Data Set

KP90: information patients detained under the MHA 1983

2003

Mental Health Minimum Data Set

Mandatory requirement to submit data for all providers of adult secondary MH services

2004

Count me in census

Annual census of all patients receiving inpatient psychiatric care

2009

NHS Workforce Statistics

Data collected on NHS hospital and community health services staff

2012

Health and Social Care Information Centre

Statutory powers to require data from providers of health and care services

2013

Mental Health Dashboard

Measures to monitor progress against policy objectives

2014

Mental Health and Learning Disabilities Statistics

Scope of minimum data set expanded to include people with LD

2015

Mental Health Services Data Set

Replaces previous datasets; enables more detailed analysis

2018

Specialised Services Quality Dashboards

Captures data on specialised services commissioning

2019

NHS Long Term Plan

All mental health providers to achieve Data Quality Maturity Index of above 95%

Funding mechanisms

- National funding – service development funds
- Block contracts – payment for a broadly defined service, or set of services
- Cost Improvement Programme – expectation of delivering cost efficiencies
- 2009 - Commissioning for Quality and Innovation (CQUIN) – incentives for quality and efficiency
- 2012 – Introduction of ‘care clusters’ to support payment by results
- 2013 – New payment approaches
- 2016 – Mental Health Investment Standard
- 2021 – Provider Collaboratives – delegation of specialised commissioning budgets

Funding for inpatient care

2000

NHS Plan – investment to fast-track National Service Framework

Including 24hr staffed beds, new low and medium secure provision

Investment to remove dormitories from mental health facilities

2014

Achieving Better Access to Mental Health Services by 2020

Investment in new inpatient beds for children and young people

2016

Five Year Forward View for Mental Health

Investment in perinatal mental health beds

2019

NHS Long Term Plan

Investment for improving therapeutic offer through interventions and activities on inpatient wards; workforce expansion in mother and baby units

2020

COVID funding arrangements

Investment to develop localised suicide prevention plans

Investment to replace mental health dormitories

2021

COVID-19 mental health and wellbeing recovery plan

Providing enhanced discharge from inpatient care

Investment to enhance safety in mental health units

CQUINs – focusing on improving quality of care and safety in inpatient services

Thank you

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