
DRAFT STATUTORY INSTRUMENTS

2012 No.

**The Local Authorities (Public Health
Functions and Entry to Premises by Local
Healthwatch Representatives) Regulations 2012**

PART 2

PUBLIC HEALTH FUNCTIONS

Public health functions of the Secretary of State

2. Where a local authority is required to exercise a public health function of the Secretary of State pursuant to regulation 6(1)(a) or regulation 7(3)(a), the authority may exercise the functions of the Secretary of State under section 2 (general power) and section 12 (arrangements with other bodies) of the Act(1) in connection with those functions.

Weighing and measuring of children

3.—(1) In the exercise of its functions under paragraph 7A(1) and (2) of Schedule 1 to the Act(2) (weighing and measuring of children), each local authority must so far as reasonably practicable and in accordance with paragraph (4), provide for the weighing and measuring of the children to whom this regulation applies.

(2) This regulation applies to any child who—

(a) is a relevant child within the meaning of paragraph (3); and

(b) is a registered pupil at—

(i) a maintained school which is in the local authority's area,

(ii) an Academy school which is in the local authority's area, or

(iii) a school known as a city technology college or as a city college for the technology of the arts(3) which is in the local authority's area.

(3) A relevant child is a child who at the beginning of the school year is—

(a) in the school year in which the majority of children are aged either 4 or 5 years; or

(b) in the school year in which the majority of children are aged either 10 or 11 years.

(4) Each local authority must ensure that a child to which this regulation applies is weighed and measured at least once during the school year in which that child is a relevant child.

(5) In this regulation—

(1) Section 2 was substituted by paragraph 1(1) of Part 1 of Schedule 4 to the 2012 Act; and section 12 was amended by paragraph 8 of Part 1 of Schedule 4 to the 2012 Act.

(2) Paragraph 7A of Schedule 1 to the 2006 Act was inserted by section 143(1) of the Health and Social Care Act 2008 (c.14) and is amended by section 17(2) and (7) of the 2012 Act.

(3) Schools known as city technology colleges and as city colleges for the technology of the arts were originally established under agreements under section 482 of the Education Act 1996 (c.56), which has since been repealed.

“Academy school” has the meaning given by section 1A of the Academies Act 2010⁽⁴⁾ (Academy schools), except that it does not include a school which is specially organised to make special educational provision for pupils with special educational needs⁽⁵⁾;

“maintained school” has the meaning given by section 20(7) of the School Standards and Framework Act 1998⁽⁶⁾ (new categories of maintained schools), except that it does not include a community special school or a foundation special school⁽⁷⁾;

“registered pupil” has the meaning given by section 434 of the Education Act 1996⁽⁸⁾ (registration of pupils) and “pupil” has the meaning given by section 3 of that Act (definition of pupil etc); and

“school year” has the meaning given by section 579(1) of the Education Act 1996 (general interpretation).

(6) The duty in paragraph (1) does not apply in relation to any relevant child who has been weighed and measured during the school year in which the child is a relevant child, where the weighing and measuring was done between 1st September 2012 and the date that this Part comes into force, pursuant to arrangements made by a Primary Care Trust.

Health check assessment

4.—(1) In the exercise of its functions under section 2B of the Act⁽⁹⁾ (functions of local authorities and Secretary of State as to improvement of public health), each local authority shall provide, or shall make arrangements to secure the provision of, health checks to be offered to eligible persons in its area.

(2) Subject to paragraph (5), in this regulation, an eligible person is a person in the local authority’s area who is aged from 40 to 74 years.

(3) Each eligible person shall be offered a health check once in every relevant period.

(4) For the purposes of this regulation, the relevant period is—

- (a) in the case of a person who is an eligible person on the date that this Part comes into force,
 - (i) the period of five years starting with that date, and
 - (ii) each subsequent period of five years starting on the date on which the previous health check was offered;
- (b) in the case of a person who becomes an eligible person (whether or not that person has ever previously been an eligible person) on a date after the date that this Part comes into force,
 - (i) the period of five years starting with the date on which the person becomes an eligible person, and
 - (ii) each subsequent period of five years starting on the date on which the previous health check was offered.

(5) Any person of a description specified in this paragraph shall not be an eligible person for the purposes of this regulation—

- (a) a person who has been diagnosed with any of the following—
 - (i) coronary heart disease,

(4) [2010 c.32](#). Section 1A was inserted by section 53(7) of the Education Act [2011 \(c.21\)](#) (“the Education Act”).

(5) See section 1A(2) of the Academies Act 2010 as inserted by section 53(7) of the Education Act.

(6) [1998 c.31](#).

(7) See section 20(7) of the School Standards and Framework Act 1998.

(8) [1996 c.56](#). Section 3 was amended (so far as is relevant for these Regulations) by paragraph 9 of Schedule 7 to the Education Act [1997 \(c.44\)](#) and by paragraph 34 of Schedule 21 to the Education Act [2002 \(c.32\)](#).

(9) Section 2B of the 2006 Act is inserted by section 12 of the 2012 Act.

- (ii) chronic kidney disease (CKD), being CKD which has been classified as stage 3, 4 or 5 CKD within the meaning of the National Institute for Health and Clinical Excellence clinical guideline 73 on Chronic Kidney Disease, published September 2008⁽¹⁰⁾,
 - (iii) diabetes,
 - (iv) hypertension,
 - (v) atrial fibrillation,
 - (vi) transient ischaemic attack,
 - (vii) hypercholesterolaemia,
 - (viii) heart failure,
 - (ix) peripheral arterial disease,
 - (x) stroke;
- (b) a person who is being prescribed statins for the purpose of lowering cholesterol;
 - (c) a person who has been assessed, either through a previous NHS health check or through any other check undertaken through the health service in England, as having a twenty per cent or higher risk of having a cardiovascular event during the ten years following the check.

(6) In discharging the requirement under paragraph (1), the local authority shall act with a view to securing continuous improvement in the percentage of eligible persons in its area participating in the health checks.

Conduct of health checks

5.—(1) Each local authority shall make arrangements to secure that the health checks offered to eligible persons in its area pursuant to regulation 4 are conducted, and that information related to each check is recorded and processed, in accordance with this regulation.

(2) Every person aged from 65 to 74 years who is undergoing a health check shall be given information at the time of the health check designed to raise their awareness of dementia and of the availability of memory services which offer further advice and assistance to people who may be experiencing memory difficulties, including making a diagnosis of dementia.

(3) Subject to paragraph (4), the following information relating to the person undergoing a health check shall be recorded at the time of the health check in relation to that person—

- (a) age of the person;
- (b) gender (being the person's reported or phenotypical gender);
- (c) smoking status;
- (d) family history of coronary heart disease in any parent or sibling when the parent or sibling was aged under sixty years;
- (e) ethnicity;
- (f) body mass index;
- (g) cholesterol level;
- (h) blood pressure;
- (i) physical activity levels, being categorised as inactive, moderately inactive, moderately active or active;

⁽¹⁰⁾ Published by the National Institute for Health and Clinical Excellence, a Special Health Authority established under section 28 of the 2006 Act, at London, England. Copies are available from <http://www.nice.org.uk>.

- (j) cardiovascular risk score;
 - (k) AUDIT score.
- (4) The duty in paragraph (3) does not apply in respect of any information which cannot be obtained because the person undergoing the check—
- (a) is unable, or refuses, to provide the information, or
 - (b) does not consent to any test or procedure necessary to obtain that information.
- (5) In this regulation—
- “AUDIT score” means a score categorising the level of risk associated with the person’s alcohol consumption;
- “cardiovascular risk score” means a score relating to the person’s risk of having a cardiovascular event during the ten years following the health check;
- “health professional” means a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(11).
- (6) The cardiovascular risk score shall be calculated—
- (a) using the information recorded under sub-paragraphs (a) to (h) of paragraph (3); and
 - (b) using an appropriate risk engine, being a software programme which will predict cardiovascular risk based on the population mix within the local authority’s area.
- (7) The AUDIT score shall be derived from the administration of the World Health Organisation Alcohol Use Disorders Identification Test, Guidelines for Use in Primary Care, Second Edition(12).
- (8) The following information relating to the person undergoing the health check shall be communicated to that person as soon as reasonably practicable after the test has taken place—
- (a) body mass index;
 - (b) cholesterol level;
 - (c) blood pressure;
 - (d) cardiovascular risk score;
 - (e) AUDIT score.
- (9) In any case where the health check has not been conducted by a health professional who is providing the person undergoing the health check with primary medical services(13), a record of the health check containing the information which is required to be recorded under paragraph (3) shall be forwarded to such a health professional.

Sexual health services

- 6.—(1) Subject to paragraphs (4) and (5), each local authority shall provide, or shall make arrangements to secure the provision of, open access sexual health services in its area—
- (a) by exercising the public health functions of the Secretary of State to make arrangements for contraceptive services under paragraph 8 of Schedule 1 to the Act (further provision about the Secretary of State and services); and
 - (b) by exercising its functions under section 2B of the Act—
 - (i) for preventing the spread of sexually transmitted infections;

(11) 2002 c.17; section 25(3) was amended by paragraph 17 of Schedule 10 to the Health and Social Care Act 2008 (c.14), by paragraph 56(b) of Schedule 17 to the 2012 Act, and by S.I. 2010/231.

(12) Thomas F. Babor, John C. Higgins-Biddle, John B. Saunders, Maristela G. Monteiro, “The Alcohol Use Disorders Identification Test”, Guidelines for Use in Primary Care, Second Edition, WHO/MSD//MSB/01.6a; World Health Organization, 2001. Copies are available from <http://www.who.int/>.

(13) See section 83 of the 2006 Act for the meaning of primary medical services.

- (ii) for treating, testing and caring for people with such infections; and
- (iii) for notifying sexual partners of people with such infections.

(2) In paragraph (1), references to the provision of open access services shall be construed to mean services that are available for the benefit of all people present in the local authority's area.

(3) In exercising the functions in relation to the provision of contraceptive services under paragraph (1)(a), each local authority shall ensure that the following is made available—

- (a) advice on, and reasonable access to, a broad range of contraceptive substances and appliances; and
- (b) advice on preventing unintended pregnancy.

(4) The duty of the local authority under paragraph (1)(a) does not include a requirement to offer to any person services relating to a procedure for sterilisation or vasectomy, other than the giving of preliminary advice on the availability of those procedures as an appropriate method of contraception for the person concerned.

(5) The duty of the local authority under paragraph (1)(b) does not include a requirement to offer services for treating or caring for people infected with Human Immunodeficiency Virus.

Public health advice service

7.—(1) Each local authority shall provide, or shall make arrangements to secure the provision of, a public health advice service to any clinical commissioning group whose area falls wholly or partly within the authority's area.

(2) A public health advice service is a service which consists of the provision of such information and advice to a clinical commissioning group as the local authority considers necessary or appropriate, with a view to protecting and improving the health of the people in the authority's area.

(3) In discharging the requirement under paragraph (1), the local authority shall exercise—

- (a) the public health functions of the Secretary of State pursuant to section 2A of the Act, to the extent that the public health advice service relates to the protection of the health of the people in its area; and
- (b) its public health functions pursuant to section 2B of the Act where the public health advice service relates to the improvement of the health of the people in the authority's area.

(4) The purpose of the public health advice service shall be to assist clinical commissioning groups in relation to—

- (a) their duties to arrange for the provision of health services under section 3 of the Act⁽¹⁴⁾ (duties of clinical commissioning groups as to commissioning certain health services); and
- (b) their power to arrange for the provision of services or facilities for the purposes of the health service under section 3A of the Act⁽¹⁵⁾ (power of clinical commissioning groups to commission certain health services).

(5) The range of matters which is to be covered by the public health advice service shall be kept under review by the local authority and shall be determined—

- (a) having regard to the needs of the people in the local authority's area; and
- (b) by agreement between the local authority and any clinical commissioning group (whether acting alone or jointly with another clinical commissioning group) to which the advice service is required to be provided, or in default of such agreement, by the local authority.

⁽¹⁴⁾ Section 3 of the 2006 Act is amended by section 13 of the 2012 Act.

⁽¹⁵⁾ Section 3A of the 2006 Act is inserted by section 14 of the 2012 Act.

(6) The range of matters which is to be covered by the public health advice service may in particular include the following—

- (a) the creation of a summary of the overall health of the people in the local authority's area which is designed to guide clinical commissioning groups in the commissioning of appropriate health services for persons for whom a clinical commissioning group has responsibility under section 3 of the 2006 Act⁽¹⁶⁾;
- (b) the provision of assessments of the health needs of groups of individuals within the local authority's area with particular conditions or diseases;
- (c) advice on the development of plans for the anticipated care needs of persons for whom a clinical commissioning group is responsible under section 3 of the 2006 Act, to improve the outcomes achieved for those persons by the provision of health services;
- (d) advice on how to meet the duty on each clinical commissioning group under section 14T of the Act⁽¹⁷⁾ (duties as to reducing inequalities).

Protecting the health of the local population

8.—(1) Each local authority shall provide information and advice to every responsible person and relevant body within, or which exercises functions in relation to, the authority's area, with a view to promoting the preparation of appropriate local health protection arrangements ("health protection arrangements"), or the participation in such arrangements, by that person or body.

(2) In discharging the requirement under paragraph (1), the local authority shall exercise the public health functions of the Secretary of State pursuant to section 2A of the Act⁽¹⁸⁾ (Secretary of State's duty as to protection of public health).

(3) In this regulation—

"responsible person" means—

- (a) an NHS body⁽¹⁹⁾,
- (b) a Chief Constable of a police force⁽²⁰⁾,
- (c) a fire and rescue authority⁽²¹⁾,
- (d) in relation to a county council which is discharging the requirement under paragraph (1), a council for a district in that county, and
- (e) Public Health England, an executive agency of the Department of Health;

"relevant body" means a body whose activities, in the opinion of the local authority, have a significant effect upon, or whose activities may be significantly affected by a threat to, the health of individuals in the local authority's area and may include—

- (a) the governing body of a school which is a maintained school within the meaning of the School Standards and Framework Act 1998⁽²²⁾,
- (b) a body which is the proprietor of a school which is not maintained by the local authority,
- (c) providers of social care services, being services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970)⁽²³⁾,

⁽¹⁶⁾ Section 3 is amended by section 13 of the 2012 Act.

⁽¹⁷⁾ Section 14T of the 2006 Act is inserted by section 26 of the 2012 Act.

⁽¹⁸⁾ Section 2A of the 2006 Act is inserted by section 11 of the 2012 Act.

⁽¹⁹⁾ See section 275(1) of the 2006 Act for the definition of "NHS body". The definition was inserted by paragraph 138 of Schedule 4 to the 2012 Act.

⁽²⁰⁾ See section 2 of the Police Reform and Social Responsibility Act 2011 (c.13).

⁽²¹⁾ See section 1 of the Fire and Rescue Authorities Act 2004 (c.21).

⁽²²⁾ See section 20(7) of the School Standards and Framework Act 1998 for the meaning of "maintained school".

⁽²³⁾ 1970 c.42. See section 1A of the Local Authority Social Services Act 1970 for the meaning of social services functions.

- (d) voluntary organisations,
- (e) charities registered under the Charities Act 2011⁽²⁴⁾, and
- (f) businesses.

(4) Local health protection arrangements are arrangements made for the purpose of protecting individuals in the area of the authority from events or occurrences which threaten, or are liable to threaten, their health, and may in particular include—

- (a) arrangements to deal with the matters mentioned in paragraph (6); and
- (b) arrangements of the kind referred to in sub-paragraphs (d) to (g) of paragraph (7).

(5) In discharging the requirement in paragraph (1), each local authority shall—

- (a) consider in relation to each of the responsible persons and relevant bodies concerned what information and advice is necessary effectively to promote the preparation of the health protection arrangements by that person or body and the authority may accordingly provide different information and advice in each case; and
- (b) take such steps as it considers necessary to bring to the attention of the person or body concerned the information and advice which is relevant to that person or body.

(6) The information and advice which a local authority shall provide in relation to health protection arrangements may address any threat to the health of individuals in the authority's area and, in particular, may concern arrangements to deal with the following—

- (a) infectious disease;
- (b) environmental hazards and contamination; and
- (c) extreme weather events.

(7) The information and advice which is to be provided by the local authority in relation to health protection arrangements shall be determined by the authority having regard to the needs of individuals in the authority's area and may include information and advice relating to the following—

- (a) the appropriate co-ordination of roles and responsibilities between any responsible or relevant bodies;
- (b) effective testing by the responsible and relevant bodies of the health protection arrangements;
- (c) appropriate emergency provision to deal with incidents which occur outside the normal working hours of the responsible or relevant bodies;
- (d) arrangements for epidemiological surveillance;
- (e) arrangements for environmental hazard monitoring;
- (f) arrangements with other local authorities for managing incidents which affect the area of more than one authority in an integrated and co-ordinated manner;
- (g) arrangements for stockpiling of medicines and medical supplies.

(24) See Part 4 of the Charities Act 2011 (c.25).