
DRAFT STATUTORY INSTRUMENTS

2015 No. 0000

NATIONAL HEALTH SERVICE, ENGLAND

SOCIAL CARE, ENGLAND

PUBLIC HEALTH, ENGLAND

The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) and Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment) Regulations 2015

Made - - - - - ***

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 6C(2), 272(7) and (8) and 275(a) of the National Health Service Act 2006(b).

A draft of these Regulations was laid before Parliament in accordance with section 272(6)(zzb)(c) of the National Health Service Act 2006 and was approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) and Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment) Regulations 2015.

(2) Subject to paragraph (3), these Regulations come into force on 1st October 2015.

(3) Paragraphs (1) and (3) and regulation 4 come into force on 31st March 2015.

(4) In these Regulations, “the principal Regulations” means the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013(d).

(a) See the definitions of “prescribed” and “regulations” in section 275, to which there are amendments not relevant to these Regulations.

(b) 2006 c. 41. Section 6C was inserted by section 18(1) of the Health and Social Care Act 2012 (c. 7).

(c) Section 272(6)(zzb) was inserted by section 18(2) of the Health and Social Care Act 2012.

(d) S.I. 2013/351, to which there are no amendments relevant to these Regulations.

Universal health visitor reviews

2. After regulation 5 of the principal Regulations (conduct of health checks), insert—

“Universal health visitor reviews

5A.—(1) In the exercise of its functions under section 2B of the Act (functions of local authorities and Secretary of State as to improvement of public health)(a), each local authority must, so far as reasonably practicable, provide or make arrangements to secure the provision of a universal health visitor review to be offered to or in respect of an eligible person in accordance with paragraphs (2) and (3).

(2) A universal health visitor review which is offered pursuant to paragraph (1) must, so far as reasonably practicable, be provided to the eligible person when the eligible person is—

- (a) a woman who is more than 28 weeks pregnant;
- (b) a child who is aged between one day and two weeks;
- (c) a child who is aged between six and eight weeks;
- (d) a child who is aged between nine and 15 months; or
- (e) a child who is aged between 24 months (two years) and 30 months (two years and six months).

(3) The review must be provided once in each of the periods described in paragraph (2)(a) to (e).

(4) In this regulation and regulation 5B—

- (a) an eligible person is a pregnant woman or child aged under five years in a local authority’s area; and
- (b) “universal health visitor review” means—
 - (i) an assessment of the health and development of an eligible person; and
 - (ii) a review of the eligible person’s health and development;as set out in the Healthy Child Programme.

(5) In this regulation, “the Healthy Child Programme” means the programme of that name, described in a policy guidance paper published by the Department of Health on 27th October 2009(b), that—

- (a) is intended for the benefit of pregnant women, children aged under five years and the families of such pregnant women and children;
- (b) provides for health and development assessments and reviews, screening tests, immunisations and health promotion guidance and support tailored to the needs of the pregnant woman, child, or their family at specified stages of development of the pregnant woman or child; and
- (c) assists the identification of families in need of additional health or well-being support and children who are at risk of suffering poor health or well-being.

(6) In discharging the requirements under paragraph (1), a local authority must act with a view to securing continuous improvement in the percentage of eligible persons participating in universal health visitor reviews.

(a) Section 2B was inserted by section 12 of the Health and Social Care Act 2012.

(b) The Healthy Child Programme policy guidance paper can be found at <https://www.gov.uk/government/publications/healthy-child-programme-pregnancy-and-the-first-5-years-of-life>. A copy of the policy guidance paper can be obtained from or inspected at Local Government and Care Partnership Directorate, the Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS.

Persons who are to carry out universal health visitor reviews

- 5B.**—(1) A universal health visitor review must be carried out by a health visitor, or—
- (a) in the circumstances described in paragraph (2), a suitably qualified health professional or nursery nurse; or
 - (b) in the circumstances described in paragraph (3)(a), (b) or (c), the family nurse referred to respectively in paragraph (3)(a), (b) or (c).
- (2) The circumstances mentioned in paragraph (1)(a) are that—
- (a) a health visitor has decided that a suitably qualified health professional or nursery nurse may carry out a universal health visitor review with guidance from, and supervised by, the health visitor; and
 - (b) the suitably qualified health professional or nursery nurse has agreed to carry out the review with delegated accountability to the health visitor.
- (3) The circumstances mentioned in paragraph (1)(b) are that—
- (a) the eligible person is an FNP beneficiary who is regularly visited by a family nurse under the terms of the FNP;
 - (b) the eligible person is a child who is—
 - (i) aged between 24 months (two years) and 30 months (two years and six months); and
 - (ii) a former FNP beneficiary who was regularly visited by a family nurse under the terms of the FNP; or
 - (c) the eligible person is a—
 - (i) pregnant woman who is a former FNP beneficiary who was regularly visited by a family nurse under the terms of the FNP; or
 - (ii) child whose mother is a former FNP beneficiary who was regularly visited by a family nurse under the terms of the FNP.
- (4) In this regulation—
- “family nurse” means a registered nurse or midwife(a) who is employed or contracted to provide services set out in the FNP;
- “the FNP” means the Family Nurse Partnership, being a programme—
- (a) described in a licence dated 1st April 2009 between the Regents of the University of Colorado, Denver, of 1800 Grant Street, 8th Floor, Denver CO, 80203 United States, and the Secretary of State for Health of 79 Whitehall, London SW1A 2NS together with—
 - (i) a variation to that licence entitled “Variation No. 1 To Agreement” dated 28th May 2012 agreed between the parties; and
 - (ii) a further variation entitled “Variation No. 2 To Agreement” dated 30th April 2013(b);
 - (b) for the benefit of pregnant women aged 19 and under at the time of conception who will be first time mothers, children aged under two years, the father or prospective father or the mother of such a child and, in certain circumstances, the families of such a pregnant woman or child, living in certain areas of England(c);
- “FNP beneficiary” means a pregnant woman or child aged under two years in a local authority’s area who is receiving services under the FNP;

(a) By article 5(5) of the Nursing and Midwifery Order 2001, S.I. 2001/253, “registered” in relation to a nurse or midwife means registered in the register maintained under that article by virtue of qualifications in nursing or midwifery as the case may be.

(b) A copy of the Family Nurse Partnership licence and two variations can be obtained from or inspected at the Health and Well-being Directorate, Public Health England, Skipton House, 80 London Road, London SE1 6LH.

(c) Further information about the FNP can be found at <http://fnp.nhs.uk/>.

- “former FNP beneficiary” means a person who was formerly an FNP beneficiary;
- “health professional” has the same meaning as in regulation 5;
- “health visitor” means a registered nurse or midwife who is also registered as a Specialist Community Public Health Nurse or Health Visitor;
- “nursery nurse” means a person who is trained in child health and development who is not a health professional; and
- “suitably qualified health professional” means a health professional who is—
- (a) trained in child health and development; and
 - (b) not a family nurse.

Review

5C.—(1) The Secretary of State may carry out a review of the operation of regulations 5A and 5B.

(2) Where the Secretary of State carries out the review described in paragraph (1) during the review period, the Secretary of State must arrange for—

- (a) the conclusions of the review to be set out in a report; and
- (b) the report to be published.

(3) The report must be published before the end of the review period and must in particular—

- (a) set out the objectives intended to be achieved by regulations 5A and 5B;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate, and if so, the extent to which they could be achieved with less regulation.

(4) “Review period” in this regulation means the period that begins on 1st October 2015 and ends on 30th March 2017.”

Expiry

3. After regulation 8 of the principal Regulations (protecting the health of the local population), insert—

“Expiry of Regulations 5A to 5C

8A. Regulations 5A to 5C cease to have effect on 31st March 2017.”

Amendment of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

4. In the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013(a)—

- (a) in regulation 1(4), for “on 1st April 2015”, substitute, “on 1st October 2015”; and
- (b) in regulation 19(3), in the paragraph to be inserted as paragraph (3) of regulation 4 of the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012(b) for “on 1st April 2016” substitute “on 30th September 2016”.

(a) S.I. 2013/218, to which there are no amendments relevant to these Regulations.

(b) S.I. 2012/1313, to which there are no amendments relevant to these Regulations.

Signed by authority of the Secretary of State for Health

Date

Name
Parliamentary Under Secretary of State
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 (S.I. 2013/351) (“the principal Regulations”) and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (S.I. 2013/218) (“the 2013 Regulations”).

Regulation 2 inserts new regulations 5A to 5C into the principal Regulations. New regulation 5A prescribes steps that a local authority must take to secure that certain health and development reviews (referred to as “universal health visitor reviews”) are offered to or for the benefit of pregnant women or children aged under five years in the local authority’s area at specified stages in the development of the pregnant woman or child. The details of the reviews are set out in the Healthy Child Programme, which is defined in paragraph (5) of new regulation 5A. Copies of the Healthy Child Programme guidance policy paper referred to in that paragraph can be obtained from or inspected at Social Care and Care Partnership Directorate, the Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS.

Regulation 5B sets out who must carry out the review. It must generally be done by a health visitor except it may be delegated to a suitably qualified health professional or nursery nurse, or be done by a family nurse where the recipient of the review is receiving or has received services under a programme known as the Family Nurse Partnership. Copies of the Family Nurse Partnership licence and two variations referred to in new regulation 5B(4) can be obtained from or inspected at Health and Well-being Directorate, Public Health England, Skipton House, 80 London Road, London SE1 6LH.

New regulation 5C enables the Secretary of State to carry out a review of new regulations 5A and 5B. Where the Secretary of State carries out such a review before 31st March 2017, the Secretary of State must also publish a report before 31st March 2017. Following such a review, it will fall to the Secretary of State to consider in particular whether new regulations 5A and 5B should be allowed to expire as new regulation 8A inserted by regulation 3 provides, or continue in force with or without amendment. A further instrument would be needed to continue new regulations 5A and 5B in force.

Regulation 4 amends the 2013 Regulations. The effect of the amendments is to delay until 1st October 2015 the start of, and extend until 30th September 2016 the end of an exemption period provided for by the 2013 Regulations. This is the period within which the services specified in paragraph 7 of Schedule 2 to the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 (S.I. 2012/1313) (“the 2012 Regulations”) are excluded from a right whereby certain bodies may submit an expression of interest in providing or assisting in providing services on behalf of specified authorities in the exercise of any of those authorities’ functions in relation to England. The services specified in paragraph 7 of Schedule 2 to the 2012 Regulations are certain health visiting and related services for children aged under five years.

An assessment of the impact of this instrument on the private sector and civil society organisations has been made. A copy of this impact assessment is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk. Copies may be obtained from the Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS.

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