

2008 No. 528

NATIONAL HEALTH SERVICE, ENGLAND

SOCIAL CARE, ENGLAND

The Local Involvement Networks Regulations 2008

Made - - - - *25th February 2008*

Laid before Parliament *5th March 2008*

Coming into force - - *1st April 2008*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 113(1) and 175(1) and (2) of the Health and Social Care (Community Health and Standards) Act 2003(a), sections 13(4), 89(1), 94(1), 104(1), 109(1), 121(1), 126(2), 243(8) to (10), 244(2), and 272(7) and (8) of, and paragraphs 2 and 3 of Schedule 12 to, the National Health Service Act 2006(b) and sections 223, 224(1), 226(6), 228(3), (4) and (5), 229(2) and 240(10) of the Local Government and Public Involvement in Health Act 2007(c).

In accordance with section 224(4) of the Local Government and Public Involvement in Health Act 2007, the Secretary of State has consulted with such persons as he considers appropriate.

PART 1

Introductory Provisions

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Involvement Networks Regulations 2008.

(2) These Regulations shall come into force on 1st April 2008.

(3) In these Regulations—

“the Act” means the Local Government and Public Involvement in Health Act 2007;

“authorised individual” has the meaning given in regulation 13;

“authorised representative” means an authorised representative within the meaning of section 225(5) of the Act;

“care services” has the meaning given in section 221(6) of the Act;

“excluded activities” means any activities provided in pursuance of—

(a) 2003 c.43.

(b) 2006 c.41; see section 275(1) for the meaning given to “prescribed”.

(c) 2007 c.28.

- (a) the social services functions of a local authority so far as relating to persons aged under 18;
- (b) the functions, in so far as not covered by paragraph (a), conferred on or exercised by a local authority under the Children Act 1989(a), the Adoption (Intercountry Aspects) Act 1999(b) or the Adoption and Children Act 2002(c); and
- (c) the functions, in so far as not covered by paragraph (a), continuing to be exercisable by a local authority under the Adoption Act 1976(d);

“excluded premises” means—

- (a) parts of a care home which are not communal areas;
- (b) premises or parts of premises used as residential accommodation for employees of services-providers;
- (c) premises which are occupied by one or more persons as their home and which at least one of those persons occupies under a tenancy or a licence;

“local involvement network” means a person who, in pursuance of arrangements made under section 221(1) of the Act, is to carry on section 221 activities;

“overview and scrutiny committee” has the meaning given in section 226(8) of the Act;

“the relevant local authority” means the local authority who made the arrangements under section 221(1) of the Act pursuant to which a local involvement network is to carry on section 221 activities;

“relevant person” means a person carrying-on section 221 activities in pursuance of temporary arrangements;

“relevant time” has the meaning given in regulation 7;

“section 221 activities” means the activities specified in section 221(2) of the Act;

“services-provider” means, subject to paragraph (4)—

- (a) a National Health Service trust;
- (b) an NHS foundation trust;
- (c) a Primary Care Trust; and
- (d) a local authority;

“social services functions”, in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970(e);

“working day” means any day except for a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday (in England) under the Banking and Financial Dealings Act 1971(f).

(4) In the definition of “excluded premises” in paragraph (3) and in regulations 2(2)(d) and (f), 3(2)(c), 8(6)(d) and (f), 9(2)(c), 12 and 14 “services-provider” also includes a person prescribed by regulations made by the Secretary of State under section 225(7)(e) of the Act.

(a) 1989 c.41.
 (b) 1999 c.18.
 (c) 2002 c.38.
 (d) 1976 c.36.
 (e) 1970 c.42. Section 1A (meaning of “social services functions”) was inserted by section 102(3) of the Local Government Act 1970 (c.22).
 (f) 1971 c. 80.

PART 2

Local involvement networks

Local authority arrangements

2.—(1) The arrangements made by a local authority under section 221(1) of the Act must require that the local involvement network arrangements made pursuant to those local authority arrangements include provision that a local involvement network must—

- (a) before making any relevant decisions, have and publish the required procedures;
- (b) if any amendments are made to a required procedure, as soon as practicable publish the required procedure as amended;
- (c) comply with the required procedures as may be amended from time to time;
- (d) within a reasonable time after a relevant decision has been made, publish a written statement of that decision and the reasons for that decision; and
- (e) comply with the requirements about authorised representatives in regulation 3.

(2) For the purposes of this regulation a “relevant decision” is a decision of a local involvement network as to—

- (a) how the local involvement network is to undertake the relevant section 221 activities;
- (b) which care services in relation to which those activities are to be carried out;
- (c) the spending of amounts in relation to the local involvement network’s section 221 activities;
- (d) whether to request information from a services-provider;
- (e) whether to refer a report or a recommendation to a services-provider;
- (f) which premises owned or controlled by a services-provider an authorised representative is to enter and view and when those premises are to be visited;
- (g) whether to refer a matter to an overview and scrutiny committee of a local authority; or
- (h) whether to report a matter concerning one or more of the section 221 activities to another person.

(3) In this regulation—

- (a) “Host” means the person with whom the local authority has made local authority arrangements pursuant to which the local involvement network is carrying on section 221 activities;
- (b) “relevant section 221 activities”, in relation to a local involvement network, means the section 221 activities that the local involvement network is to carry on pursuant to local authority arrangements;
- (c) “required procedures” means—
 - (i) a procedure for making relevant decisions, including provisions as to who may make such decisions; and
 - (ii) a procedure for dealing with breaches of the procedure referred to in sub-paragraph (i).

(4) The procedure referred to in paragraph (3)(c)(ii) must include provision setting out the circumstances in which the breach must be referred by the local involvement network to the Host or the relevant local authority

Arrangements for authorised representatives for the purposes of entering and viewing

3.—(1) The requirements referred to in regulation 2(1)(e) are that a local involvement network must—

- (a) have and publish a procedure for the making of decisions by the local involvement network about who may be an authorised representative;
- (b) if any amendments are made to the procedure referred to in sub-paragraph (a), as soon as practicable publish the procedure as amended;
- (c) comply with the procedure referred to in sub-paragraph (a) as may be amended from time to time;
- (d) maintain and publish a list of individuals authorised by that local involvement network as authorised representatives;
- (e) provide each authorised representative with written evidence of that individual's authorisation; and
- (f) ensure that only an individual to whom paragraph (2) applies may be an authorised representative.

(2) This paragraph applies to an individual if—

- (a) a criminal records certificate under section 113A of the Police Act 1997^(a) has been obtained in respect of that individual;
- (b) a person nominated by the local involvement network (“nominated person”) has considered that certificate; and
- (c) the nominated person is satisfied that the individual to whom that certificate refers is a suitable person for the purposes of entering and viewing, and observing the carrying-on of activities on, premises owned or controlled by a services-provider.

(3) For the purposes of paragraph (2), the nominated person must not be the individual to whom the certificate refers.

Notification requirements

4.—(1) Subject to paragraph (2), a local involvement network must notify in writing the relevant local authority of the date when that person first carries on one of the section 221 activities pursuant to arrangements made by the relevant local authority.

(2) Paragraph (1) applies only where a local involvement network first carries on one of those activities before 30th September 2008.

(3) A notification under paragraph (1) must be sent as soon as practicable after the duty imposed by paragraph (1) applies.

Duties of services-providers to respond to reports and recommendations by local involvement networks

5.—(1) Subject to regulation 6, this regulation applies where a local involvement network has, in the carrying-on of section 221 activities pursuant to arrangements made under section 221(1) of the Act, made a report or recommendation to a services-provider.

(2) Where a report or recommendation (whether an original or a copy) is received for the first time by a relevant services-provider that services-provider must within 20 working days beginning with the date of receipt of that report or recommendation—

- (a) acknowledge receipt to the referrer; and
- (b) provide an explanation to the referrer of any action it intends to take in respect of the report or recommendation or an explanation of why it does not intend to take any action in respect of that report or recommendation.

(3) Where a report or recommendation (whether an original or a copy) is received by a services-provider, other than a relevant services-provider, for the first time that services-provider must within 20 working days beginning with the date of receipt of that report or recommendation—

(a) 1997 c.50; section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005.

- (a) acknowledge receipt to the referrer;
- (b) provide a copy of the report or recommendation to any other services-provider which appears to it to be a relevant services-provider; and
- (c) inform the referrer if no other services-provider appears to it to be a relevant services-provider.

(4) A relevant services-provider is a services-provider who was responsible for commissioning any of the care services to which the report or recommendation relates.

(5) This paragraph applies where the relevant services-providers in respect of a report or recommendation agree that one of those services-providers may act on their behalf in relation to a report or recommendation made by a local involvement network in accordance with paragraph (1).

(6) Where paragraph (5) applies—

- (a) the duty in paragraph (2)(b) does not apply; and
- (b) the services-provider acting on behalf of the relevant services-providers must, within 20 working days of the latest date on which the report or recommendation was received by one of those services-providers, provide to the referrer—
 - (i) an explanation of any action any of the relevant services-providers intends to take in respect of the report or recommendation; or
 - (ii) an explanation of why none of the relevant services-providers intends to take any action in respect of that report or recommendation.

(7) If a relevant services-provider receives a report or recommendation from a local involvement network it must send a copy of the report or recommendation to any other relevant services-provider which appears to it not to have received that report or recommendation, or a copy of it.

(8) If a relevant services-provider receives a copy of a report or recommendation from a services-provider it must send a copy to any other relevant services-provider which appears to it not to have received a copy of that report or recommendation.

(9) In this regulation “the referrer” means the local involvement network who made the report or recommendation.

(10) Where a services-provider is required to acknowledge receipt, provide an explanation or inform the referrer, that services-provider must do so in writing.

Excluded services

6.—(1) Regulation 5 does not apply where a report or recommendation relates wholly to—

- (a) excluded activities; or
- (b) excluded services.

(2) Where a report or recommendation relates partly to—

- (a) excluded activities; or
- (b) excluded services,

then regulation 5 applies only to that part of the report or recommendation that does not relate to those activities or services.

(3) In this regulation “excluded services” means services which are not care services in respect of which the local involvement network who made the report or recommendation is carrying-on activities in pursuance of arrangements made under section 221(1) of the Act.

PART 3

Transitional arrangements

Relevant time

7. For the purpose of section 228(2) of the Act, the “relevant time”, in relation to a local authority, is the earlier of—

- (a) 30th September 2008; or
- (b) the time when a person first carries on one of the section 221 activities in pursuance of arrangements made under section 221(1) of that Act by that local authority.

Compliance with the temporary duty

8.—(1) A local authority complies with the duty under section 228(2) only if it acts in accordance with the following paragraphs.

(2) The local authority must not make temporary arrangements for any of the following persons to carry on section 221 activities—

- (a) another local authority;
- (b) a National Health Service trust;
- (c) an NHS foundation trust;
- (d) a Primary Care Trust;
- (e) a Strategic Health Authority;
- (f) a person with whom a local authority has made contractual arrangements under section 221(1) of the Act;
- (g) a person who has submitted a tender to the local authority relating to the contractual arrangements to be made by that authority under section 221(1) of the Act.

(3) Paragraph (2)(g) does not apply once the local authority has entered into the contractual arrangements to which the tender relates.

(4) The local authority may not carry on section 221 activities.

(5) The temporary arrangements made by the local authority must include provision requiring that a person who is to carry on section 221 activities in pursuance of the temporary arrangements must—

- (a) before making any relevant decisions, have a procedure for making relevant decisions;
- (b) comply with the procedure referred to in sub-paragraph (a) as may be amended from time to time;
- (c) within a reasonable time after a relevant decision has been made, publish a written statement of that decision and the reasons for that decision; and
- (d) comply with the requirements about authorised individuals in regulation 9.

(6) For the purpose of this regulation a “relevant decision” is a decision of a relevant person as to—

- (a) how the relevant person is to undertake the relevant section 221 activities;
- (b) which care services in relation to which those activities are to be carried out;
- (c) the spending of amounts in relation to the relevant person’s section 221 activities;
- (d) whether to request information from a services-provider;
- (e) whether to refer a report or a recommendation to a services-provider;
- (f) which premises owned or controlled by a services-provider an authorised individual is to enter and view and when those premises are to be visited;
- (g) whether to refer a matter to an overview and scrutiny committee of a local authority; or

- (h) whether to report a matter concerning one or more of the section 221 activities to another person.

(7) In this regulation “relevant section 221 activities”, in relation to a relevant person, means the section 221 activities that the relevant person is to carry on pursuant to temporary arrangements.

Arrangements for authorised individuals for the purposes of entering and viewing

9.—(1) The requirements referred to in regulation 8(5)(d) are that a relevant person must—

- (a) have a procedure for the making of decisions by the relevant person about who may be an authorised individual;
- (b) comply with the procedure referred to in sub-paragraph (a) as may be amended from time to time;
- (c) provide each authorised individual with written evidence of that individual’s authorisation;
- (d) ensure that only an individual to whom paragraph (2) applies may be an authorised individual.

(2) This paragraph applies to an individual if—

- (a) a criminal records certificate under section 113A of the Police Act 1997 has been obtained in respect of that individual;
- (b) a person nominated by the relevant person (“nominated person”) has considered that certificate;
- (c) the nominated person is satisfied that the individual to whom that certificate refers is a suitable person for the purposes of entering and viewing, and observing the carrying-on of activities on, premises owned or controlled by a services-provider.

(3) For the purposes of paragraph (2), the nominated person must not be the individual to whom the certificate refers.

Duties of services-providers to respond to reports and recommendations by relevant persons

10.—(1) Subject to regulation 11, this regulation applies where a relevant person has in the carrying-on of section 221 activities pursuant to temporary arrangements made a report or recommendation to a services-provider.

(2) Where a report or recommendation (whether an original or a copy) is received for the first time by a relevant services-provider that services-provider must within 20 working days beginning with the date of receipt of that report or recommendation—

- (a) acknowledge receipt to the referrer; and
- (b) provide an explanation to the referrer of any action it intends to take in respect of the report or recommendation or an explanation of why it does not intend to take any action in respect of that report or recommendation.

(3) Where a report or recommendation (whether an original or a copy) is received by a services-provider, other than a relevant services-provider, for the first time that services-provider must within 20 working days beginning with the date of receipt of that report or recommendation—

- (a) acknowledge receipt to the referrer;
- (b) provide a copy of the report or recommendation to any other services-provider which appears to it to be a relevant services-provider;
- (c) inform the referrer if no other services-provider appears to it to be a relevant services-provider.

(4) A relevant services-provider is a services-provider who was responsible for commissioning any of the care services to which the report or recommendation relates.

(5) This paragraph applies where the relevant services-providers in respect of a report of recommendation agree that one of those services-providers may act on their behalf in relation to a report or recommendation made by a relevant person in accordance with paragraph (1).

(6) Where paragraph (5) applies—

- (a) the duty in paragraph (2)(b) does not apply; and
- (b) the services-provider acting on behalf of the relevant services-providers must, within 20 working days of the latest date on which the report or recommendation was received by one of those services-providers, provide to the referrer—
 - (i) an explanation to the referrer of any action that any of the relevant services-providers intends to take in respect of the report or recommendation; or
 - (ii) an explanation of why none of the relevant services-providers intends to take any action in respect of that report or recommendation.

(7) If a relevant services-provider receives a report or recommendation from a relevant person it must send a copy of the report or recommendation to any other relevant services-provider which appears to it not to have received that report or recommendation, or a copy of it.

(8) If a relevant services-provider receives a copy of a report or recommendation from a services-provider it must send a copy to any other relevant services-provider which appears to it not to have received a copy of that report or recommendation.

(9) In this regulation—

- (a) “the referrer” means—
 - (i) before the relevant time in relation to the local authority pursuant to whose temporary arrangements the relevant person is carrying-on section 221 activities, the relevant person who made the report or recommendation in accordance with paragraph (1); or
 - (ii) at any other time, a relevant local involvement network;
- (b) “relevant local involvement network” means a person who pursuant to arrangements made under section 221(1) of the Act is to carry on section 221 activities to which the report or recommendation referred to in paragraph (1) relates.

(10) Where a services-provider is required to acknowledge receipt, provide an explanation or inform the referrer, that services-provider must do so in writing.

Excluded services

11.—(1) Regulation 10 does not apply where a report or recommendation relates wholly to—

- (a) excluded activities; or
- (b) excluded services.

(2) Where a report or recommendation relates partly to—

- (a) excluded activities; or
- (b) excluded services,

then regulation 10 applies only to that part of the report or recommendation that does not relate to those activities or services.

(3) In this regulation “excluded services” means services which are not care services in respect of which the relevant person who made the report or recommendation is carrying-on section 221 activities in pursuance of temporary arrangements.

Duty of services-providers to allow entry by local involvement networks

12.—(1) A services-provider must allow an authorised individual to—

- (a) enter and view, and
- (b) observe the carrying-on of activities on,

premises that it owns or controls.

(2) Paragraph (1) does not apply—

- (a) in respect of any premises, or parts of premises, if the presence of an authorised individual on those premises, or those parts of premises, would compromise—
 - (i) the effective provision of care services, or
 - (ii) the privacy or dignity of any person;
- (b) if the authorised individual does not comply with regulation 14;
- (c) in respect of excluded premises;
- (d) to observing the carrying-on of excluded activities;
- (e) to entering and viewing premises, or parts of premises, for the purpose of observing excluded activities;
- (f) in respect of any premises, or parts of premises, at any time when care services are not being provided on those premises or parts of premises;
- (g) if, in the opinion of the services-provider, the authorised individual in seeking to enter and view, and observe the carrying-on of activities on, the premises that the services-provider owns or controls is not acting reasonably and proportionately;
- (h) if an authorised individual does not provide the services-provider with evidence that the individual is authorised in accordance with regulation 13.

(3) Where any premises, or parts of premises, are owned by a services-provider and controlled by another services-provider, then for the purpose of this regulation the services-provider who owns those premises, or parts of premises, is to be treated as not being a services-provider.

Authorised individual

13.—(1) An “authorised individual” means an individual who, until the relevant time in relation to the local authority who made the temporary arrangements pursuant to which the relevant person is carrying-on section 221 activities, is authorised for the purposes of regulation 12—

- (a) by a relevant person; and
- (b) in accordance with the requirements to be included in temporary arrangements specified in regulation 9.

Viewing and observing activities

14. While an authorised individual is on any premises as a result of a services-provider having complied with a duty imposed under regulation 12—

- (a) any viewing, or observation, carried out by the individual must be carried out for the purposes of the carrying-on of activities under temporary arrangements;
- (b) the authorised individual must not act in any way that compromises—
 - (i) the effective provision of care services; or
 - (ii) the privacy or dignity of any person.

Transitional reports

15.—(1) Each relevant person must prepare a report (“a transitional report”) setting out—

- (a) the section 221 activities that that person has carried on in pursuance of temporary arrangements made by the relevant local authority;
- (b) details of the amount spent by the relevant person in respect of the activities referred to in sub-paragraph (a); and
- (c) details of what those amounts referred to in sub-paragraph (b) were spent on.

(2) The transitional report must be prepared within 2 months of the date on which the relevant person ceases to carry on section 221 activities pursuant to temporary arrangements made by the relevant local authority.

(3) A relevant person must provide a copy of the transitional report to—

- (a) a Host,
- (b) the appropriate local authority, and
- (c) the Secretary of State,

within 3 months of the date on which the relevant person ceases to carry on section 221 activities pursuant to temporary arrangements made by the relevant local authority.

(4) In this regulation—

“appropriate local authority” means the local authority who made the temporary arrangements pursuant to which the relevant person was carrying on section 221 activities;

“Host” means a person with whom the appropriate local authority has made arrangements under section 221(1) of the Act.

Relevant persons: referrals of social care matters

16.—(1) Paragraphs (2) to (6) apply where a relevant person refers a matter relating to social care services to an overview and scrutiny committee of a local authority.

(2) The committee must—

- (a) acknowledge receipt of the referral within 20 working days beginning with the date on which the referral to which the duty applies was made; and
- (b) keep the referrer informed of the committee’s actions in relation to the matter.

(3) The committee must decide whether or not any of its powers is exercisable in relation to the matter referred.

(4) If the committee concludes that any of those powers is exercisable in relation to the matter, the committee must decide whether or not to exercise that power in relation to the matter.

(5) The committee, in exercising any of those powers in relation to the matter, must take into account any relevant information provided by a relevant person.

(6) In paragraph (2), from the relevant time in relation to the local authority which made the arrangements pursuant to which the relevant person made the referral, “referrer” means a relevant local involvement network.

(7) In this regulation—

- (a) “a relevant local involvement network” means a person who pursuant to arrangements made under section 221(1) of the Act is to carry on section 221 activities to which the matter referred in paragraph (1) relates to;
- (b) a matter is referred by a “relevant person” if the referral is made by a person in carrying on section 221 activities in pursuance of temporary arrangements.

PART 4

Miscellaneous

Local involvement networks: referrals of social care matters

17. For the purposes of section 226(2)(a) of the Act, the time by which the duty under that section is to be performed is 20 working days beginning with the date on which the referral to which the duty applies was made.

Amendment of regulation 2 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002

18.—(1) Regulation 2 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002(a) is amended as follows.

(2) In paragraph (2)(c) for the words “Patients’ Forum pursuant to a referral under section 15(5)(a) of the 2002 Act” substitute “local involvement network or relevant person when that person refers a matter falling within paragraph (1) to the committee”.

(3) After paragraph (2) insert—

“(2A) Where a matter falling within paragraph (1) is referred to the overview and scrutiny committee by a local involvement network or a relevant person, the overview and scrutiny committee must—

- (a) acknowledge receipt of the referral within 20 working days beginning with the date on which the referral to which the duty applies was made; and
- (b) keep the referrer informed of any action taken in relation to the matter.”.

(4) After paragraph (3) insert—

“(4) For the purposes of this regulation—

- (a) a matter is referred by a local involvement network if it is referred by a local involvement network in the carrying-on of activities specified under section 221(2) of the 2007 Act in pursuance of arrangements made under section 221(1) of that Act;
- (b) a matter is referred by a relevant person if it is referred by a relevant person in the carrying-on of activities specified under section 221(2) of the 2007 Act in pursuance of arrangements made by a local authority to comply with the duty imposed by section 228(2) of that Act.

(5) In relation to a report or recommendation referred to an overview and scrutiny committee by a relevant person, the reference in paragraph (2A) to the “referrer” is, from the relevant time in relation to that committee’s local authority, a reference to the relevant local involvement network.

(6) In this regulation—

“the 2007 Act” means the Local Government and Public Involvement in Health Act 2007;

“local involvement network” means a person who is to carry on activities specified under section 221(2) of the 2007 Act in pursuance of arrangements made under section 221(1) of that Act;

“the relevant local involvement network” means a local involvement network who pursuant to arrangements made under section 221(1) of the 2007 Act is to carry on activities to which the matter referred in paragraph (1) relates;

“relevant person” means a person carrying-on section 221 activities in pursuance of arrangements made by a local authority to comply with the duty imposed by section 228(2) of that Act;

“the relevant time” shall be construed in accordance with regulation 6 of the Local Involvement Networks Regulations 2008;

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday (in England) under the Banking and Financial Dealings Act 1971.”.

(a) S.I. 2002/3048.

Consequential amendments

19. The Schedule (consequential amendments) has effect.

Signed by the authority of the Secretary of State for Health.

25th February 2008

Ann Keen
Parliamentary Under-Secretary of State,
Department of Health

SCHEDULE

Consequential Amendments

The National Health Service (General Ophthalmic Services) Regulations 1986

1. In the National Health Service (General Ophthalmic Services) Regulations 1986(a), in Schedule 1 (terms of service) omit paragraph 2(e)(b).

The Commission for Patient and Public Involvement in Health (Functions) Regulations 2002

2.—(1) The Commission for Patient and Public Involvement in Health (Functions) Regulations 2002(c) are amended as follows.

(2) Omit regulation 2 (annual work programme)(d).

(3) In regulation 7 (charging for advice and services)—

(a) omit paragraph (2)(a); and

(b) in paragraph (3)—

(i) for “20(2)(d),(e)” substitute “20(2)(e)”; and

(ii) omit sub-paragraph (a).

(4) In regulation 8 (obtaining information) in paragraph (2)(e), omit sub-paragraph (e).

The Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002

3.—(1) In the Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002(f) in regulation 5 (disqualification for appointment), omit paragraph (1)(i).

The Strategic Health Authorities (Consultation on Changes) Regulations 2003

4.—(1) The Strategic Health Authorities (Consultation on Changes) Regulations 2003(g) are amended as follows.

(2) In regulation 2 (consultation requirements for Strategic Health Authority Orders)—

(a) S.I. 1986/975.

(b) Paragraph 2(e) was inserted by S.I. 2003/2863.

(c) S.I. 2002/3007.

(d) Regulation 2 was amended by S.I. 2003/2044.

(e) Regulation 8(2) was amended by S.I. 2004/696.

(f) S.I. 2002/3038.

(g) S.I. 2003/1617.

- (a) in paragraph (2)—
 - (i) omit sub-paragraph (e);
 - (ii) for sub-paragraph (f)(a) substitute—
 - “(f) any relevant local involvement network;”; and
 - (iii) omit sub-paragraph (g) and
- (b) at the end insert—
 - “(3) In this regulation—
 - (a) “relevant local authority” means a local authority whose area falls, wholly or partly, within the area of the Strategic Health Authority;
 - (b) “relevant local involvement network” means a person who in pursuance of arrangements made by a relevant local authority under section 221(1) of the Local Government and Public Involvement in Health Act 2007 is to carry on activities specified in section 221(2) of that Act.”.

The National Health Service (General Medical Services Contracts) Regulations 2004

5.—(1) The National Health Service (General Medical Services Contracts) Regulations 2004(b) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1) omit the definition of “PCT Patients’ Forum”.

(3) In Schedule 6 (other contractual terms)—

- (a) in paragraph 48(4)(e), in the substituted regulation 33(3) of the National Health Service (Pharmaceutical Services) Regulations 2005(c)—
 - (i) in sub-paragraph (f) omit “Patients’ Forum or” and “and”;
 - (ii) after sub-paragraph (f) insert—
 - “(ff) any relevant local involvement network; and”;
 - (iii) after sub-paragraph (i) insert the following paragraph—
 - “(3A) In this regulation—
 - (a) “relevant local authority” means a local authority whose area falls, wholly or partly, with the area of the Primary Care Trust;
 - (b) “relevant local involvement network” means a person who in pursuance of arrangements made by a relevant local authority under section 221(1) of the Local Government and Public Involvement in Health Act 2007 is to carry on activities specified in section 221(2) of that Act.”;
- (b) omit paragraphs 78 (requests for information from Patients’ Forums) and 90 (entry and inspection by members of Patients’ Forums).

The National Health Service (Complaints) Regulations 2004

6.—(1) The National Health Service (Complaints) Regulations 2004(d) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1) omit the definitions of “patients’ forum” and “relevant patients’ forum”.

(3) In regulation 20 (publicity)—

- (a) in paragraph (2), for “Each” substitute “Subject to paragraph (4), each”; and
- (b) for paragraph (3)(f) substitute—

(a) Sub-paragraph (f) was amended by S.I. 2004/696.
 (b) S.I. 2004/291.
 (c) S.I. 2005/641.
 (d) S.I. 2004/1768.

- “(f) any relevant local involvement network.
- (4) Paragraph (2) does not apply to a Special Health Authority.
- (5) In this regulation—
 - (a) “relevant local authority” means—
 - (i) where the NHS body is a Strategic Health Authority, a local authority whose area falls, wholly or partly, within the area of the Strategic Health Authority;
 - (ii) where the NHS body is a Primary Care Trust, a local authority whose area falls, wholly or partly, within the area of the Primary Care Trust;
 - (iii) where the NHS body is an NHS trust, a local authority in whose area any hospital or other establishment or facility of that NHS trust is situated;
 - (b) “relevant local involvement network” means a person who in pursuance of arrangements made by a relevant local authority under section 221(1) of the Local Government and Public Involvement in Health Act 2007 is to carry on activities specified in section 221(2) of that Act.”.

The National Health Service (Personal Medical Services Agreements) Regulations 2004

7.—(1) The National Health Service (Personal Medical Services Agreements) Regulations 2004(a) are amended as follows.

- (2) In regulation 2 (interpretation), omit the definition of “Patients’ Forum”.
- (3) In Schedule 5 (other contractual terms)—
 - (a) in paragraph 47(4)(e)(b), in the substituted regulation 33(3) of the National Health Service (Pharmaceutical Services) Regulations 2005—
 - (i) in sub-paragraph (f) omit “Patients’ Forum or” and “and”;
 - (ii) after sub-paragraph (f) insert—
 - “(ff) any relevant local involvement network; and”;
 - (iii) after sub-paragraph (i) insert the following paragraph—
 - “(3A) In this regulation—
 - (a) “relevant local authority” means a local authority whose area falls, wholly or partly, with the area of the Primary Care Trust;
 - (b) “relevant local involvement network” means a person who in pursuance of arrangements made by a relevant local authority under section 221(1) of the Local Government and Public Involvement in Health Act 2007 is to carry on activities specified in section 221(2) of that Act.”;
 - (b) omit paragraphs 74 (requests for information from Patients’ Forums) and 84 (entry and inspection by members of Patients’ Forum).

The National Health Service (Pharmaceutical Services) Regulations 2005

8.—(1) The National Health Service (Pharmaceutical Services) Regulations 2005(c) are amended as follows.

- (2) In regulation 2 (interpretation) in paragraph (1)—
 - (a) omit the definition of “Patients’ Forum”; and
 - (b) at the appropriate places insert—
 - ““relevant local authority”, in relation to a Primary Care Trust, means a local authority whose area falls, wholly or partly, within the area of the Primary Care Trust;”

(a) S.I. 2004/627.

(b) Paragraph 47 was substituted by S.I. 2005/3315.

(c) S.I. 2005/641

“relevant local involvement network” means a person who in pursuance of arrangements made by a relevant local authority under section 221(1) of the Local Government and Public Involvement in Health Act 2007 is to carry on activities specified in section 221(2) of that Act;”.

- (3) In regulation 23 (notification of applications)(a)—
- (a) for paragraph (2)(f) substitute—
 - “(f) any relevant local involvement network; and”; and
 - (b) in paragraph (3)—
 - (i) in sub-paragraph (e) omit “Patients’ Forum or” and “and”;
 - (ii) after paragraph (e) insert—
 - “(ee) any relevant local involvement network as the Primary Care Trust considers appropriate; and”.
- (4) In regulation 27 (notification of decision)(b)—
- (a) omit paragraph (1)(a)(vii); and
 - (b) in paragraph (3)(e) omit “Patients’ Forum or”.
- (5) In regulation 33 (notification of an application in respect of premises in a controlled locality)—
- (a) for paragraph (2)(g) substitute—
 - “(g) any relevant local involvement network;”; and
 - (b) in paragraph (3)—
 - (i) in sub-paragraph (e) omit “and”;
 - (ii) in sub-paragraph (f) omit “Patients’ Forum or”; and
 - (iii) after sub-paragraph (f) insert—
 - “(ff)any relevant local involvement network;”.
- (6) In Schedule 1 (terms of service of pharmacists), omit paragraphs 1(d) and 26(2)(a)(vi).
- (7) In Schedule 2 (terms of service of dispensing doctors), omit paragraph 1(d).
- (8) In Schedule 3 (terms of service of suppliers of appliances), omit paragraph 1(d).

The National Health Service (General Dental Services Contracts) Regulations 2005

9.—(1) In the National Health Service (General Dental Services Contracts) Regulations 2005(c) in Schedule 3 (other contractual terms)—

- (a) omit paragraph 36;
- (b) in paragraph 44(3)—
 - (i) omit “45 or”;
 - (ii) in sub-paragraph (a) omit “, members of a Patients’ Forum”; and
- (c) omit paragraph 45.

The National Health Service (Personal Dental Services Agreements) Regulations 2005

10.—(1) In the National Health Service (Personal Dental Services Agreements) Regulations 2005(d) in Schedule 3 (other contractual terms)—

- (a) omit paragraph 37 (requests for information from Patients’ Forums);

(a) Regulation 23 was amended by S.I. 2006/3373.
(b) Regulation 27 was amended by S.I. 2006/3373.
(c) S.I. 2005/3361.
(d) S.I. 2005/3373.

- (b) in paragraph 44(3)—
 - (i) omit “45 or”;
 - (ii) in sub-paragraph (a) omit “, members of a Patients’ Forum”; and
- (c) omit paragraph 45.

The National Health Service (Local Pharmaceutical Services etc.) Regulations 2006

11.—(1) The National Health Service (Local Pharmaceutical Services etc.) Regulations 2006^(a) are amended as follows.

- (2) In regulation 2 (interpretation), in paragraph (1) omit the definition of “Patients’ Forum”.
- (3) Omit regulations 4(5)(f) and 15(5)(f).
- (4) In Schedule 2 (contract terms), omit paragraph 1(1)(b).

^(a) S.I. 2006/552.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to local involvement networks. These networks are provided for in the Local Government and Public Involvement in Health Act 2007 (c.28) (“the Act”). These Regulations also make provision in relation to the temporary duty to be imposed on local authorities under section 228 of the Act to make arrangements for activities under section 221(2) of the Act (“section 221 activities”) to be carried on.

Part 2 of these Regulations makes provision regarding local involvement networks. Regulations 2 and 3 impose a requirement on local authorities to ensure that local involvement network arrangements include certain provisions about local involvement networks’ procedures and decision-making. This includes who may be an authorised representative for the purposes of entering and viewing the premises of services-providers and how such a person may be authorised.

Regulation 4 sets out that a person carrying out local involvement network activities must notify the local authority that made the arrangements under which those activities are to be carried out as soon as that person carries on one of those activities.

Regulations 5 and 6 set out the duties to be imposed on services-providers where a local involvement network has made a recommendation or report to a services-provider.

Part 3 of these Regulations makes provision regarding the temporary duty to be imposed on local authorities under section 228 of the Act to make arrangements for section 221 activities to be carried on. Regulation 7 provides when this duty is to end. Regulations 8 and 9 set out how local authorities are to comply with the temporary duty. Regulations 10 to 14 provide that similar duties are imposed on services-providers in relation to responding to reports or recommendations by a person carrying on section 221 activities as a result of the temporary duty and allowing authorised representatives to enter and view their premises as apply in relation to a local involvement network.

Regulation 15 imposes a duty on a person who carried on section 221 activities as a result of the temporary duty to prepare a transitional report including details of the section 221 activities carried on.

Regulation 16 imposes a duty on an overview and scrutiny committee of a local authority to respond to a referral of a social care matter by a person who, as a result of the temporary duty, is carrying-on section 221 activities.

Regulation 17 sets out the time limit for an overview and scrutiny committee of a local authority to acknowledge receipt of a referral of a social care matter by a local involvement network.

Regulation 18 amends the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 (S.I. 2002/3048). The amendments set out how and when an overview and scrutiny committee of a local authority is to respond to a referral of a health matter by a local involvement network or a person who, as a result of the temporary duty, is carrying-on section 221 activities.

Regulation 19 and the Schedule make consequential amendments relating to the abolition of Patients’ Forums and the Commission for Public and Patient Involvement in Health and the establishment of local involvement networks. They also amend a reference to a Community Health Council.

A full Impact Assessment has been produced for this instrument and copies are available from the PPI Policy Team, Room 502A, Skipton House, 80 London Road, London SE1 6LH (email – ppimailbox@dh.gsi.gov.uk).

STATUTORY INSTRUMENTS

2008 No. 528

NATIONAL HEALTH SERVICE, ENGLAND

SOCIAL CARE, ENGLAND

The Local Involvement Networks Regulations 2008

£3.50

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Stationery Office and Queen's Printer of Acts of Parliament.

E2043 3/2008 182043T 19585