
STATUTORY INSTRUMENTS

2012 No. 3094

The NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012

PART 6

LOCAL HEALTHWATCH

Interpretation

34.—(1) In this Part—

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

“authorised representative” means an authorised representative within the meaning of section 225(5) of the 2007 Act⁽¹⁾ (duties of services-providers to allow entry by Local Healthwatch organisations or contractors);

“care services” has the meaning given in section 221(6) of the 2007 Act⁽²⁾ (local arrangements in relation to health services and social services);

“health or social care professional” means (subject to paragraph (2)) an individual who is 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⁽³⁾ (the Professional Standards Authority for Health and Social Care);

“lay person” means an individual who is not—

- (a) a health or social care professional; or
- (b) an employee of a Local Healthwatch organisation⁽⁴⁾;

“local authority arrangements” means arrangements made by a local authority⁽⁵⁾ under section 221(1) of the 2007 Act (health services and social services);

“Local Healthwatch arrangements” has the meaning given by section 222 of the 2007 Act⁽⁶⁾ (arrangements under section 221(1): Local Healthwatch organisations);

“Local Healthwatch contractor” has the meaning given by section 223 of the 2007 Act⁽⁷⁾ (prescribed provision to be included in arrangements under section 221(1));

(1) Section 225(5) is amended by section 186(6) and (7) of the 2012 Act.

(2) There are no relevant amendments to section 221(6).

(3) [2002 c.17](#). Section 25 was amended by section 113 of, and paragraphs 16 and 17 of Schedule 10 to, the Health and Social Care Act 2008 ([c.14](#)) (“the 2008 Act”), section 222 of, and paragraphs 56 and 62 of Schedule 15 to, the 2012 Act, and [S.I. 2010/231](#). See also section 25(3A) and the related provision in regulation 34(2) of these Regulations.

(4) See section 222(2A) of the Local Government and Public Involvement in Health Act 2007 ([c.28](#)) (“the 2007 Act”) for the meaning of “Local Healthwatch organisation”. Subsection (2A) is substituted by section 183(1) and (2) of the 2012 Act.

(5) See section 229 of the 2007 Act for the definition of “local authority”.

(6) Section 222 is amended by section 183 of the 2012 Act. See in particular section 222(2B) which is substituted by section 183(2) of the 2012 Act, and the definition of “local authority” in section 229(1) of the 2007 Act.

(7) Section 223 is amended by section 184 of the 2012 Act. The definition of “Local Healthwatch contractor” is inserted by section 184(1) and (6) of that Act – see section 223(3).

“overview and scrutiny committee” has the meaning given by section 226(8) of the 2007 Act⁽⁸⁾ (referrals of social care matters);

“responsible person” has the meaning given by section 224(2) of the 2007 Act⁽⁹⁾ (duties to respond to Local Healthwatch);

“section 221 activities” means activities specified in section 221(2) of the 2007 Act⁽¹⁰⁾ (patient and public involvement in health and social care);

“services-provider”, except in regulation 47, has the meaning given by section 225(7) of the 2007 Act⁽¹¹⁾ (duties of services-providers to allow entry by Local Healthwatch organisations and contractors);

“social care workers in England” has the meaning given in section 60 of the Health Act 1999⁽¹²⁾ (regulation of health professions, social workers and other care workers);

“the relevant section 221 activities” means—

- (a) in relation to a Local Healthwatch organisation, the section 221 activities that that organisation is to carry on under local authority arrangements; and
- (b) in relation to a Local Healthwatch contractor, the section 221 activities that that contractor is to carry on under Local Healthwatch arrangements;

“the social work profession in England” has the meaning given in section 60 of the Health Act 1999⁽¹³⁾;

“volunteer” means, in relation to a Local Healthwatch organisation or Local Healthwatch contractor, a person who without being paid (except for travel or other expenses)—

- (a) is a member or director of, or otherwise participates in the governance of, the organisation or contractor, or
- (b) is engaged in the carrying-on of the relevant section 221 activities by that organisation or contractor;

“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⁽¹⁴⁾.

(2) In the definition of “health or social care professional” in paragraph (1), the reference to a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 is to be read as including a reference to the Health and Care Professions Council⁽¹⁵⁾, or a regulatory body within section 25(3)(j) of that Act⁽¹⁶⁾, so far as it has functions relating to—

- (a) the social work profession in England; or

(8) There are no relevant amendments to section 226(8). Section 21 of, and Schedule 2 to, the Localism Act 2011 (c.20) inserted new Part 1A into the Local Government Act 2000 (c.22) (arrangements with respect to local authority governance in England) which replaces Part 1 of that Act in relation to England. Overview and scrutiny committees are provided for in section 9F(1) of that Act for authorities operating executive arrangements, and in section 9JA for authorities operating a committee system.

(9) Section 224(2) is amended by paragraphs 148 and 150 of Schedule 5 to the 2012 Act.

(10) Section 221(2) is amended by section 182(1) to (4) of the 2012 Act.

(11) Section 225(7) is amended by paragraphs 148 and 151 of Schedule 5 and paragraphs 103 and 106 of Schedule 14 to the 2012 Act.

(12) 1999 c.8. See section 60(2ZB) and (2ZC) which is inserted by section 209(1) and (6) of the 2012 Act.

(13) See section 60(2ZA) which is inserted by section 209(1) and (5) of the 2012 Act.

(14) 1971 c.80.

(15) The Health and Care Professions Council was formerly known as the Health Professions Council and is continued in existence by section 214 of the 2012 Act. The Council was established under article 3 of the Health and Social Work Professions Order 2001 (S.I. 2002/254). The Order is so re-named by section 213(4) and (6) of the 2012 Act and has been amended by paragraph 8 of Schedule 12 to the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 9 and paragraph 48 of Schedule 8 to the Health Act 2006 (c.28), paragraph 15 of Schedule 10 to the 2008 Act, by virtue of section 81(5) of the Policing and Crime Act 2009 (c.26), by sections 213(1) to (6), 214(2) to (4), 215, 216, 218 and 219 of the 2012 Act and S.I. 2003/3148, 2004/2033, 2007/3101, 2009/1182, 2010/233, 2011/1043 and 2012/1479.

(16) Section 25(3)(j) was substituted by paragraph 17 of Schedule 10 to the 2008 Act.

- (b) social care workers in England.

Criteria concerning social enterprises

35.—(1) For the purposes of section 222(8)(b) of the 2007 Act (Local Healthwatch: social enterprises) the criteria prescribed are that the constitution of the body must—

- (a) state, or contain provisions which ensure, that not less than 50 per cent of its distributable profits in each financial year will be used or applied for the purpose of the activities of that body;
 - (b) contain a statement or condition that the body is carrying on its activities for the benefit of the community in England; and
 - (c) where appropriate, contain provisions relating to the distribution of assets which take effect when that body is dissolved or wound up, as specified in paragraph (2).
- (2) The provisions referred to in paragraph (1)(c) are ones which—
- (a) require that the residual assets of the body be distributed to those members of the body (if any) who are entitled to share in any distribution of assets on the dissolution or winding up of that body according to those members' rights and interests in that body;
 - (b) in the case of a company not limited by guarantee and registered as a charity in England and Wales, provide that no member shall receive an amount which exceeds the paid up value of the shares which the member holds in the company; and
 - (c) designate another social enterprise (within the meaning of section 222(8) of the 2007 Act) to which any remaining residual assets of the body will be distributed after any distribution to members of the body.
- (3) The criteria prescribed in paragraph (1) do not apply to the following bodies—
- (a) a company limited by guarantee and registered as a charity in England and Wales;
 - (b) a community interest company registered as a company limited by guarantee; and
 - (c) a charitable incorporated organisation (within the meaning of Part 11 of the Charities Act 2011⁽¹⁷⁾ (charitable incorporated organisations)).
- (4) In this regulation—
- “charity” has the meaning given in section 1(1) of the Charities Act 2011;
- “community interest company” means a company as referred to in section 26 of the Companies (Audit, Investigations and Community Enterprise) Act 2004⁽¹⁸⁾;
- “constitution” means—
- (a) in the case of a company, the company's memorandum and articles of association; and
 - (b) in the case of any other body, a written instrument which sets out the purpose, objectives, proposed activities and provisions for the governance of the body, including any provisions relating to the membership of the body and the distribution of profits and assets;
- “distributable profits” means—
- (a) in relation to a company, the company's profits available for distribution, within the meaning of section 830 of the Companies Act 2006⁽¹⁹⁾; and

⁽¹⁷⁾ 2011 c.25.

⁽¹⁸⁾ 2004 c.27. Section 26 was amended by S.I. 2006/242 and S.I. 2007/1093.

⁽¹⁹⁾ 2006 c.46.

- (b) in relation to any other body, its accumulated, realised profits, so far as not previously utilised by distribution, less its accumulated, realised losses, so far as not previously written off;

“financial year” means the 12 month period that a body uses for accounting purposes;

“realised losses” and “realised profits” means the losses or profits of the business carried on by the body as fall to be treated as realised in accordance with generally accepted accounting practice;

“residual assets” means, in relation to the dissolution or winding up of a body, the assets of the body which remain after satisfaction of the body’s liabilities.

Political activities not to be treated as being carried on for the benefit of the community

36.—(1) For the purposes of section 222(9) of the 2007 Act (social enterprises: activities for the benefit of the community) and regulation 35(1)(b), the following activities are to be treated as not being activities which a person might reasonably consider to be activities carried on for the benefit of the community in England—

- (a) the promotion of, or opposition to, changes in—
- (i) any law applicable in the United Kingdom or elsewhere; or
 - (ii) the policy adopted by any governmental or public authority in relation to any matter;
- (b) the promotion of, or opposition (including the promotion of changes) to, the policy which any governmental or public authority proposes to adopt in relation to any matter;
- (c) activities which can reasonably be regarded as intended or likely to—
- (i) provide or affect support (whether financial or otherwise) for a political party or political campaigning organisation; or
 - (ii) influence voters in relation to any election or referendum.

(2) But activities of the descriptions prescribed in paragraph (1) are to be treated as being activities which a person might reasonably consider to be activities carried on for the benefit of the community in England if—

- (a) they can reasonably be regarded as incidental to other activities, which a person might reasonably consider to be activities carried on for the benefit of the community in England; and
- (b) those other activities cannot reasonably be regarded as incidental to activities of the descriptions prescribed in paragraph (1).

(3) In this regulation—

“governmental authority” includes—

- (a) any national, regional or local government in the United Kingdom or elsewhere, including any organ or agency of any such government;
- (b) the EU(20), or any of its institutions or agencies; and
- (c) any organisation which is able to make rules or adopt decisions which are legally binding on any governmental authority falling within paragraph (a) or (b) of this definition;

“political campaigning organisation” means any person carrying on, or proposing to carry on activities—

(20) See section 5 of, and Schedule 1 to, the Interpretation Act 1978 (c.30) for the definition of “the EU”. The definition was substituted by the Schedule to the European Union (Amendment) Act 2008 (c.7).

- (a) to promote, or oppose, changes in any law applicable in the United Kingdom or elsewhere, or any policy of a governmental or public authority (unless such activities are incidental to other activities carried on by that person); or
- (b) which could reasonably be regarded as intended to affect public support for a political party, or to influence voters in relation to any election or referendum (unless such activities are incidental to other activities carried on by that person);

“political party” includes any person standing, or proposing to stand, as a candidate at any election, and any person holding public office following election to that office;

“public authority” includes—

- (a) a court or tribunal; and
- (b) any person certain of whose functions are functions of a public nature;

“referendum” includes any national or regional referendum or other poll held in pursuance of any provision made by or under the law of any state on one or more questions or propositions specified in or in accordance with any such provision.

Section of the community

37. For the purposes of section 222(8)(a) and (10) of the 2007 Act (social enterprises: activities for the benefit of the community including a section of the community) and regulation 35(1)(b), any group of individuals may constitute a section of the community if—

- (a) they share a readily identifiable characteristic; and
- (b) other members of the community of which that group forms part do not share that characteristic.

Criterion to be met by bodies to be Local Healthwatch organisations

38. For the purposes of section 222(2)(b) of the 2007 Act (arrangements under section 221(1): criteria to be satisfied by social enterprises which are to be Local Healthwatch organisations), the criterion prescribed is that the governance arrangements of the body must include provision for the involvement of lay persons and volunteers in the governance of the body.

Regulations 40 to 43 - application and interpretation

39.—(1) Regulations 40 to 43 apply to any local authority arrangements.

(2) In those regulations, in relation to local authority arrangements—

“A” refers to the local authority which made the arrangements;

“L” refers to the Local Healthwatch organisation with which the arrangements were made;

“relevant Local Healthwatch arrangements” means any Local Healthwatch arrangements made by L pursuant to section 222(2B) of the 2007 Act;

“the relevant contractor”, in relation to each set of relevant Local Healthwatch arrangements, means the Local Healthwatch contractor with whom those arrangements were made.

Provision to be included in local authority arrangements

40.—(1) Arrangements to which this regulation applies must include provision that L 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;
 - (e) comply with the requirements in regulation 42 (authorised representatives);
 - (f) comply with the requirements in regulation 43(1) (trade mark); and
 - (g) involve lay persons and volunteers in the carrying-on of the relevant section 221 activities.
- (2) For the purposes of this regulation, a “relevant decision” is a decision as to—
- (a) how 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 those activities;
 - (d) whether to request information from a responsible person or services-provider;
 - (e) whether to refer a report or a recommendation to a responsible person or services-provider;
 - (f) which premises owned or controlled by a services-provider an individual authorised as an authorised representative by L 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 to a health scrutiny authority;
 - (h) whether to report a matter concerning one or more of the section 221 activities to another person; or
 - (i) in relation to relevant Local Healthwatch arrangements, the matters specified in paragraph (3).
- (3) The matters referred to in paragraph (2)(i) are—
- (a) which relevant section 221 activities in relation to which relevant Local Healthwatch arrangements are to be made;
 - (b) which care services in relation to which such arrangements are to be made;
 - (c) in relation to each set of such arrangements, the identity of the relevant contractor;
 - (d) in relation to each set of such arrangements, whether those arrangements are to include provision for the relevant contractor to—
 - (i) authorise individuals as authorised representatives;
 - (ii) request information from a responsible person or services-provider;
 - (iii) refer a report or a recommendation to a responsible person or services-provider;
 - (iv) refer a matter to an overview and scrutiny committee of a local authority or to a health scrutiny authority; or
 - (v) report a matter concerning one or more of the section 221 activities to another person;
 - (e) in relation to each set of such arrangements, the provision to be included in those arrangements in relation to decisions as to which premises owned or controlled by a services-provider are to be visited by an authorised representative or when those premises are to be so visited; or
 - (f) in relation to any provision of the kind described in sub-paragraph (d)(i) to (v), whether such provision is to be subject to any conditions or restrictions.
- (4) In this regulation—

“health scrutiny authority” means a committee or other person who discharges any functions conferred on a local authority under regulations under section 244(2) to (2ZC) of the 2006 Act⁽²¹⁾ (health scrutiny by local authorities);

“the required procedures” means—

- (a) a procedure for making relevant decisions, including provisions as to who may make such decisions;
- (b) a procedure for involving lay persons or volunteers in such decisions; and
- (c) a procedure for dealing with breaches of any procedure referred to in sub-paragraph (a) or (b).

(5) The procedure referred to in sub-paragraph (c) of the definition of “the required procedures” in paragraph (4) must include provision setting out the circumstances in which a breach must be referred by L to A.

Provision to be included in Local Healthwatch arrangements

41.—(1) Arrangements to which this regulation applies must require each set of relevant Local Healthwatch arrangements to include provision that the relevant contractor must, in so far as that contractor carries on the relevant section 221 activities on behalf of L—

- (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) involve lay persons and volunteers in the carrying-on of the relevant section 221 activities.

(2) Without prejudice to paragraph (1), arrangements to which this regulation applies must require each set of relevant Local Healthwatch arrangements, in so far as they include provision of the kind described in regulation 40(3)(d)(i) (arrangements to authorise individuals as authorised representatives), to include provision that the relevant contractor must comply with the requirements in regulation 42 (authorised representatives).

(3) For the purposes of this regulation, a “relevant decision” is a decision as to—

- (a) how to undertake the relevant section 221 activities;
- (b) the spending of amounts in relation to those activities;
- (c) whether to request information from a responsible person or services-provider;
- (d) whether to refer a report or a recommendation to a responsible person or services-provider;
- (e) whether to refer a matter to an overview and scrutiny committee of a local authority or to a health scrutiny authority;
- (f) whether to report a matter concerning one or more of the section 221 activities to another person; or
- (g) where the relevant Local Healthwatch arrangements include provision as described in regulation 40(3)(e), which premises owned or controlled by a services-provider are to be visited by an authorised representative and when those premises are to be so visited.

(4) In this regulation—

“health scrutiny authority” has the same meaning as in regulation 40;

(21) Sections 244 and 245 are amended by sections 190 and 191 respectively of the 2012 Act.

“the required procedures” means—

- (a) a procedure for making relevant decisions, including provisions as to who may make such decisions; and
- (b) a procedure for dealing with breaches of the procedure referred to in sub-paragraph (a).

(5) The procedure referred to in sub-paragraph (b) of the definition of “the required procedures” in paragraph (4) must include provision setting out the circumstances in which a breach must be referred by the relevant contractor to L.

Requirements relating to authorised representatives for the purposes of entering and viewing

42.—(1) The requirements referred to in regulation 40(1)(e) and 41(2) are that L or the relevant contractor, as the case may be, must—

- (a) have and publish a procedure for the making of decisions 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 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⁽²²⁾ has been obtained in respect of that individual;
 - (b) the relevant person has considered that certificate; and
 - (c) that 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 relevant person” means—
- (a) in the case of a representative to be authorised by L, L; and
 - (b) in the case of a representative to be authorised by the relevant contractor, that contractor.

Requirements relating to trade mark

43.—(1) The requirements referred to in regulation 40(1)(f) are that L must—

(22) Section 113A was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15) and amended by paragraph 14(1) and (2) of Schedule 9 to, the Safeguarding Vulnerable Groups Act 2006 (c.47), section 78(2)(a) to (d) and 79 of, and paragraphs 27 and 28 of Schedule 4 to, the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), section 50(1) and (3)(a) to (c) of the Criminal Justice and Immigration Act 2008 (c.4), sections 97(2) of, and Schedule 8 to, the Policing and Crime Act 2009 (c.26), section 188 of the Children’s Hearings (Scotland) Act 2011 (asp 1), sections 79(2)(a) and 80(1) of, and Schedule 10 and paragraphs 35 and 36 of Schedule 9 to the Protection of Freedoms Act 2012 (c.9) and S.I. 2009/203 and 2010/1146.

- (a) by such date as A may specify, apply to the Commission for a licence under section 45D(1) of the 2008 Act⁽²³⁾ (grant of licence to use trade mark) which provides for the grant of a sub-licence by the licensee in accordance with section 45D(2) of that Act;
 - (b) where a licence under section 45D(1) of the 2008 Act is obtained, use the trade mark⁽²⁴⁾ to which that licence relates in relation to the carrying-on of the relevant section 221 activities; and
 - (c) provide such advice, support or other assistance to the Commission as the Commission may reasonably require in connection with infringement proceedings (whether existing or proposed) relating to that trade mark.
- (2) In this regulation—
- “the 2008 Act” means the Health and Social Care Act 2008⁽²⁵⁾;
 - “infringement proceedings” has the same meaning as in the Trade Marks Act 1994⁽²⁶⁾;
 - “the Commission” means the Care Quality Commission⁽²⁷⁾.

Duties of responsible persons to respond to reports and recommendations by Local Healthwatch organisations contractors

44.—(1) Subject to regulation 45, this regulation applies where a Local Healthwatch organisation or a Local Healthwatch contractor has, in the carrying-on of the relevant section 221 activities, made a report or recommendation to a responsible person.

(2) Where a report or recommendation (whether an original or a copy) is received for the first time by a relevant responsible person (“R”), R must within the period specified in paragraph (3)—

- (a) acknowledge receipt to the referrer; and
 - (b) provide an explanation to the referrer of any action R intends to take in respect of the report or recommendation or an explanation of why R does not intend to take any action in respect of that report or recommendation.
- (3) The period referred to in paragraph (2) is—
- (a) 20 working days beginning with the date of receipt of the report or recommendation in any case other than one to which paragraph (4) applies; and
 - (b) 30 working days beginning with the date of receipt of the report or recommendation in a case to which that paragraph applies.
- (4) This paragraph applies where—
- (a) the report or recommendation to which the duty in paragraph (2) applies appears to R to have been sent to more than one relevant responsible person;
 - (b) the report or recommendation relates to a care service that more than one responsible person was responsible for arranging the provision of;
 - (c) R is a clinical commissioning group and might reasonably consider it appropriate to consult the National Health Service Commissioning Board in respect of the report or recommendation; or

(23) Section 45D(1) of the 2008 Act enables the Care Quality Commission to grant a Local Healthwatch organisation a licence authorising the use, in relation to the carrying-on of activities under arrangements made under section 221(1) of the 2007 Act, of a registered trade mark of which the Commission is the proprietor. See the definition of “registered trade mark” and “use” in section 45D(3) of the 2008 Act. Section 45D is inserted by section 182(11) of the 2012 Act.

(24) See the meaning of “use” and “trade mark” in section 223(3) of the 2007 Act.

(25) 2008 c.14.

(26) 1994 c.26; see section 103 for the definition of “infringement proceedings”.

(27) The Commission was established by section 1(1) of the 2008 Act.

- (d) it is agreed by R and the referrer that, in all the circumstances, it is not expedient for R to comply with the duty in paragraph (2) within 20 working days.
- (5) Where a report or recommendation (whether an original or a copy) is received for the first time by a responsible person, other than a relevant responsible person, that responsible person 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 responsible person which appears to the responsible person to be a relevant responsible person; and
 - (c) inform the referrer if no other responsible person appears to the responsible person to be a relevant responsible person.
- (6) A relevant responsible person is a responsible person who was responsible for providing or arranging the provision of any of the care services to which the report or recommendation relates.
- (7) This paragraph applies where persons who are relevant responsible persons in respect of a report or recommendation agree that one of those responsible persons may act on their behalf in relation to a report or recommendation made in accordance with paragraph (1).
- (8) Where paragraph (7) applies—
- (a) the duty in paragraph (2)(b) and the period specified in paragraph (3) do not apply; and
 - (b) the responsible person acting on behalf of the relevant responsible persons must, within 30 working days of the latest date on which the report or recommendation was received by one of those responsible persons, provide to the referrer—
 - (i) an explanation of any action any of those responsible persons intends to take in respect of the report or recommendation; or
 - (ii) an explanation of why none of those responsible persons intends to take any action in respect of that report or recommendation.
- (9) If a relevant responsible person receives a report or recommendation from a Local Healthwatch organisation or a Local Healthwatch contractor, the relevant responsible person must send a copy of the report or recommendation to any other relevant responsible person which appears to the relevant responsible person not to have received that report or recommendation, or a copy of it.
- (10) If a relevant responsible person receives a copy of a report or recommendation from a responsible person, the relevant responsible person must send a copy to any other relevant responsible person which appears to the relevant responsible person not to have received a copy of that report or recommendation.
- (11) In this regulation, “the referrer” means the Local Healthwatch organisation or Local Healthwatch contractor which made the report or recommendation.
- (12) Where a responsible person is required to acknowledge receipt, provide an explanation or inform the referrer, that responsible person must do so in writing.

Excluded services

- 45.—**(1) Regulation 44 does not apply where a report or recommendation relates wholly to excluded services.
- (2) Where a report or recommendation relates partly to excluded services, regulation 44 applies only to that part of the report or recommendation that does not relate to those services.
- (3) In this regulation, “excluded services” means services which are not care services in respect of which the Local Healthwatch organisation or Local Healthwatch contractor, as the case may be, which made the report or recommendation is carrying on the relevant section 221 activities.

Referrals of social care matters

46. For the purposes of section 226(2)(a) of the 2007 Act (overview and scrutiny committees: acknowledgement of referrals by Local Healthwatch), 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 received.

Revocation and saving provision

47.—(1) The Local Involvement Networks Regulations 2008(28) are revoked.

(2) Where paragraph (3) applies, subject to paragraphs (4) and (5), regulations 5 and 6 of the 2008 Regulations continue to have effect as if this Part were not in force.

(3) This paragraph applies where—

- (a) a services-provider has, prior to the commencement of this Part, received a report or recommendation (whether an original or a copy) made by a local involvement network in the carrying-on of section 221 activities pursuant to arrangements made under section 221(1) of the 2007 Act (“the relevant report or recommendation”);
- (b) the time by which any duties under regulations 5 and 6 of the 2008 Regulations as respects the relevant report or recommendation are to be performed has not expired as at the date of commencement of this Part; and
- (c) any such duties have yet to be performed as at that date.

(4) For the purposes of paragraph (2)—

- (a) the referrer of a relevant report or recommendation is deemed to be the Local Healthwatch organisation for the local authority area in respect of which the local involvement network referred to in paragraph (3)(a) carried out the section 221 activities in question;
- (b) regulation 5 of the 2008 Regulations is to be read as if references to “Local Healthwatch organisation” are substituted for references to “local involvement network”.

(5) For the purposes of paragraph (2), in any case where a Primary Care Trust was a relevant services-provider, as defined in regulation 5(4) of the 2008 Regulations, in respect of the report or recommendation—

- (a) the body or bodies responsible for discharging the duties of that services-provider on or after the date this Part comes into force are the relevant body or bodies exercising the function of arranging the provision of the care services to which the report or recommendation relates and which were commissioned by the Trust;
- (b) the references to “relevant services-provider” in regulation 5(3)(b) and (c) of the 2008 Regulations include a reference to the relevant body or bodies; and
- (c) the period referred to in regulation 5(3) of the 2008 Regulations is to be treated as 30 working days beginning with the date, or latest date, on which the report or recommendation was received by the relevant body or bodies.

(6) In this regulation—

- “the 2008 Regulations” means the Local Involvement Networks Regulations 2008;
- “local involvement network” has the same meaning as in the 2008 Regulations(29);
- “services-provider” has the same meaning as in the 2008 Regulations(30);

(28) [S.I. 2008/528](#), as amended by [S.I. 2008/1877](#).

(29) See regulation 1(3) of the Local Involvement Networks Regulations 2008.

(30) See regulation 1(3) of the Local Involvement Networks Regulations 2008.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“relevant body or bodies” means a clinical commissioning group or groups or the National Health Service Commissioning Board.