
STATUTORY INSTRUMENTS

2013 No. 218

The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

PART 3

LOCAL AUTHORITY PUBLIC HEALTH FUNCTIONS

Interpretation

8.—(1) In this Part—

“health professional” means a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002⁽¹⁾;

“height measure” means a stadiometer on which a person stands to be measured by means of a vertical rule and a sliding horizontal rod or paddle;

“the Information Centre” means the Health and Social Care Information Centre, established under section 252 of the 2012 Act;

“parent” includes any person who has parental responsibility for, or has care of, the child concerned and, in determining whether a person has care of the child, any absence of the child at a hospital or boarding school and any other temporary absence shall be disregarded;

“parental responsibility” has the same meaning as in section 3 of the Children Act 1989⁽²⁾;

“personal information” means the information prescribed in regulation 9;

“process” and “processed” are to be interpreted in accordance with the meaning of “processing” in section 1(1) of the Data Protection Act 1998⁽³⁾;

“registered dietitian” means a person who is registered in Part 4 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001⁽⁴⁾;

“scales” means an electronic device on which a person stands to be weighed;

“weighing and measuring exercise” means the arrangements under which a local authority provides for the weighing and measuring of children in attendance at any school in the exercise of its functions under paragraph 7A(1) or (2) of Schedule 1 to the 2006 Act⁽⁵⁾.

Personal information

9. The following information relating to a child to whom a weighing and measuring exercise relates, in these Regulations referred to as personal information, is prescribed pursuant to paragraph

(1) 2002 c.17; section 25(3) was amended by paragraph 17 of Schedule 10 to the 2008 Act, by paragraph 56(b) of Schedule 17 to the 2012 Act, and by S.I. 2010/231.

(2) 1989 c.41.

(3) 1998 c.29. Section 1(1) of the Data Protection Act 1998 was amended by section 68(2) of the Freedom of Information Act 2000 (c.36).

(4) S.I. 2002/254.

(5) Paragraph 7A of Schedule 1 to the 2006 Act is inserted by section 143(1) of the 2008 Act and is amended by section 17(2) and (7) of the 2012 Act.

7B(1)(a) and paragraph 7B(1)(d) of Schedule 1 to the 2006 Act (information relating to children prescribed for the purposes of disclosure and processing)—

- (a) name and address of the child,
- (b) date of birth of the child,
- (c) sex of the child,
- (d) name and reference number of the child’s school,
- (e) ethnicity of the child, and
- (f) NHS number of the child.

Person carrying out the weighing or measuring

10. Where a local authority⁽⁶⁾ provides for a weighing and measuring exercise, personal information relating to the children concerned may be disclosed for the purposes of that exercise—

- (a) by the local authority to the person carrying out the weighing or measuring of the children on behalf of the local authority; and
- (b) by the proprietor of the school concerned to the local authority or to the person carrying out the weighing or measuring of the children on behalf of the local authority.

Conditions for weighing and measuring children

11.—(1) Where the conditions in paragraph (2) are met—

- (a) a child may be weighed and measured as part of a weighing and measuring exercise, and
- (b) a local authority may further process the resulting information and any personal information relating to that child, in accordance with these Regulations.

(2) The conditions are—

- (a) the child to be weighed and measured is able and willing to stand unaided on scales and under a height measure;
- (b) a parent of the child has not withdrawn the child from participation in the weighing and measuring exercise;
- (c) the weighing and measuring exercise is conducted in a room or screened area where information on the measurements is secure and cannot be seen or heard by anyone who is not assisting in the conduct of the exercise or overseeing it; and
- (d) the arrangements for the weighing and measuring exercise are managed on behalf of the local authority by a registered medical practitioner, a registered nurse or a registered dietitian.

Parental involvement

12. In providing for a weighing and measuring exercise, each local authority must take steps—

- (a) to give each parent of a child to whom the exercise relates a reasonable opportunity to withdraw their child from participation in the exercise; and
- (b) to ensure that, during the conduct of the weighing and measuring exercise, no child whose parent has withdrawn that child from participation in the exercise is weighed or measured.

(6) See section 579 of the Education Act 1996 (c.56) for the meaning of “local authority”, which is applied to paragraph 7A(1) and (2) of Schedule 1 to the 1996 Act by virtue of paragraph 7A(4) of that Schedule.

Processing of information by local authorities

13.—(1) This paragraph applies to information resulting from a weighing and measuring exercise and personal information relating to the children to whom that exercise relates.

(2) Information to which paragraph (1) applies may be further processed by or on behalf of the local authority which provided for the exercise, with a view to disclosing such information to any person to be used for the purposes of research, monitoring, audit or the planning of services, or for any purpose connected with public health, subject to the condition that the information may be disclosed only in a form in which no individual child can be identified.

Disclosure of information to parents etc.

14. Information resulting from the weighing and measuring of a child who has participated in a weighing and measuring exercise which has been conducted in accordance with these Regulations, together with any personal information necessary to identify the child concerned, may be further processed by or on behalf of the local authority concerned with a view to the information being—

- (a) communicated to a parent of the child to whom the information relates, together with advisory material relating to the weight of children;
- (b) used for the purpose of providing advice and assistance to a parent of the child to whom the information relates with the aim of promoting and assisting improvement of the child's health;
- (c) disclosed by the local authority to a health professional who is in a position to provide the advice and assistance referred to in sub-paragraph (b) and to offer any related treatment to the child.

Disclosure of information to the Information Centre

15.—(1) Information resulting from a weighing and measuring exercise which has been conducted in accordance with these Regulations, together with personal information relating to the children concerned, shall be disclosed to the Information Centre by the local authority which provided for that exercise and may be further processed by or on behalf of the authority for that purpose.

(2) Information disclosed under paragraph (1) to the Information Centre may be further processed by the Information Centre—

- (a) for use by the Information Centre for the purposes of surveillance, research, monitoring, audit or the planning of health services; and
- (b) for disclosure in accordance with regulation 16.

(3) The information which must be disclosed under paragraph (1) shall include—

- (a) the date on which the weighing and measuring exercise took place;
- (b) the height and weight of each child who participated in the weighing and measuring exercise, together with—
 - (i) the personal information of a description specified in regulation 9(a) to (d) relating to the child concerned, and
 - (ii) where such information is available to the local authority, the personal information of a description specified in regulation 9(e) to (f) relating to that child;
- (c) supplementary information relating to the administration of the weighing and measuring exercise including—
 - (i) the rate of participation in the weighing and measuring exercise among children who were invited to take part in the exercise; and

- (ii) the arrangements for communicating the results of the exercise to the parents of children concerned.

Onward processing of information by the Information Centre

16. Information which has been obtained by the Information Centre under regulation 15(1), including information which has been further processed in accordance with regulation 15(2)(a), may be disclosed by the Information Centre to—

- (a) the Department of Health, including Public Health England, an executive agency of the Department of Health;
- (b) the local authority which provided for the weighing and measuring exercise, where the information which is disclosed to the local authority concerned is derived from that exercise;
- (c) any other person, with a view to enabling further processing of the information for the purposes of research, monitoring, audit or the planning of services, or for any purpose connected with public health, subject to the condition that the information may be disclosed only in a form in which no individual child can be identified.

Guidance

17.—(1) This regulation applies to the exercise of any function in relation to—

- (a) the conduct of a weighing and measuring exercise; or
- (b) the processing of any resulting information or of personal information relating to the children concerned.

(2) Where a local authority or a person acting on its behalf, or the Information Centre, exercises any function to which this regulation applies, they must each have regard to such guidance as may be given from time to time by the Secretary of State.

Revocation

18. The National Child Measurement Programme Regulations 2008(7) are revoked.

Amendment of the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012

19.—(1) The Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012(8) are amended as follows.

- (2) In regulation 4(2) (excluded services) for “2 and 3” substitute “2, 3 and 5”.
- (3) After regulation 4(2) insert—
 - “(3) Paragraph 7 of Schedule 2 ceases to have effect on 1st April 2016.”.
- (4) In Schedule 2 (excluded services)—
 - (a) in paragraph 1, before the definition of “health services” insert the following definition—

““clinical commissioning group” means a body established under section 14D of the National Health Service Act 2006(9);”;
 - (b) after paragraph 4 insert—

(7) S.I. 2008/3080.

(8) S.I. 2012/1313.

(9) 2006 c.41; section 14D is inserted by section 25 of the 2012 Act.

“5. A relevant service provided by or on behalf of a relevant authority in the exercise of any of its functions under sections 2B and 111 of, and paragraphs 1 to 7B and 13 of Schedule 1 to, the National Health Service Act 2006(10), except a service specified in paragraph 6.

6. A relevant service provided by a relevant authority in exercise of the Secretary of State’s functions under sections 2A and 2B of the National Health Service Act 2006(11), in so far as it consists of the provision of such information and advice to a clinical commissioning group as the authority considers necessary or appropriate, with a view to protecting and improving the health of the people in the authority’s area.

7. A relevant service provided by or on behalf of a relevant authority in respect of children aged under five years, in so far as it consists of the provision of health visiting services for the purpose of reviewing the development of the children concerned and for the promotion of their health and welfare, or the provision of other health services for that purpose.”.

(10) Section 2B of the National Health Service Act 2006 (“the 2006 Act”) is inserted by section 12 of the 2012 Act; section 111 of the 2006 Act is amended by section 29(1) and (2) of the 2012 Act; paragraphs 1 to 7B and 13 of Schedule 1 to the 2006 Act are amended by section 17(2) to (8) and section 17(13) of the 2012 Act.

(11) Section 2A of the 2006 Act is inserted by section 11 of the 2012 Act; the Secretary of State’s functions under sections 2A and 2B of the 2006 Act may be exercisable by a relevant authority by virtue of regulations made under section 6C(1) of the 2006 Act, as inserted by section 18 of the 2012 Act.