

## **HEALTHWATCH ENTER AND VIEW – STATUTORY DUTIES**

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# **The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013**

## **PART 4 DUTY OF SERVICES-PROVIDERS TO ALLOW ENTRY BY LOCAL HEALTHWATCH REPRESENTATIVES**

### **Interpretation**

**10.** In this Part—

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

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

### **Duty of services-providers to allow entry by Local Healthwatch organisations or contractors**

**11.—(1)** In relation to premises that a services-provider owns or controls, that services-provider must allow an authorised representative to—

- (a)enter and view those premises; and
- (b)observe the carrying-on of activities on those premises.

**(2)** Paragraph (1) does not apply—

- (a)in respect of any premises, or parts of premises, if the presence of an authorised representative 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 representative does not comply with regulation 13;
- (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 the carrying-on of 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 those parts of premises;

(g)if, in the opinion of the services-provider, the authorised representative in seeking to enter and view, or observe the carrying-on of activities on, premises is not acting reasonably and proportionately;

(h)if an authorised representative does not provide the services-provider with evidence that the representative is authorised in accordance with regulation 12.

(3) Where any premises, or parts of premises, are owned by a services-provider and controlled by another services-provider, the duty under paragraph (1) applies only to the services-provider who controls those premises, or those parts of premises.

(4) In this regulation—

“care home” means an establishment which is a care home within the meaning of section 3 of the Care Standards Act 2000;

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

(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, the Adoption (Intercountry Aspects) Act 1999 or the Adoption and Children Act 2002; or

(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;

“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;

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

## **Authorised representative**

**12.** An individual may be authorised for the purposes of section 225 of the 2007 Act (duties of services-providers to allow entry by Local Healthwatch organisations or contractors) only if that individual is authorised in accordance with arrangements made by a local authority under section 221(1) of the 2007 Act (health and social services: Local Healthwatch) or in accordance with Local Healthwatch arrangements([41](#)).

## **Viewing and observing activities**

**13.** For the purposes of section 225(4)(b) of the 2007 Act (conditions and restrictions imposed on authorised representatives of Local Healthwatch), whilst an authorised representative is on any premises as a result of a services-provider having complied with a duty imposed under regulation 11(1), the authorised representative must not act in any way that compromises—

- (a)the effective provision of care services; or
- (b)the privacy or dignity of any person.

## **Services-provider**

**14.** For the purposes of section 225(7)(e) of the 2007 Act, the following persons are prescribed as services-providers—

- (a)a person providing services which are primary medical services for the purposes of the Act;
- (b)a person providing services which are primary dental services for the purposes of the Act;
- (c)a person providing services which are primary ophthalmic services for the purposes of the Act;
- (d)a person providing services which are pharmaceutical services or local pharmaceutical services for the purposes of the Act; and
- (e)a person who owns or controls premises where services referred to in paragraphs (a) to (d) are provided.

## **Revocation**

**15.** The Local Involvement Networks (Duty of Services-Providers to Allow Entry) Regulations 2008 are revoked.

Signed by authority of the Secretary of State for Health.

*Earl Howe*, Parliamentary Under-Secretary of State, Department of Health  
18th February 2013