Draft Regulations laid before Parliament under section 272(6) of the National Health Service Act 2006 and section 240(6) of the Local Government and Public Involvement in Health Act 2007, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. XXXX

NATIONAL HEALTH SERVICE, ENGLAND
SOCIAL CARE, ENGLAND
PUBLIC HEALTH, ENGLAND

The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012

Made - - - - XXX

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 6C(1) to (3), 186A(4)(b) and 272(7) and (8) of the National Health Service Act 2006(**1**) and sections 225(1) to (3) and (7)(e), 229(2) and 240(10) of the Local Government and Public Involvement in Health Act 2007(**2**).

A draft of these Regulations was laid before Parliament in accordance with section 272(6)(**3**) of the National Health Service Act 2006 and section 240(6) of the Local Government and Public Involvement in Health Act 2007, and was approved by a resolution of each House of Parliament.

(**1**) 2006 c.41. Section 6C of the National Health Service Act 2006 ("the 2006 Act") is inserted by section 18(1) of the Health and Social Care Act 2012 (c.7) ("the 2012 Act"); section 186A is inserted by section 50(1) of the 2012 Act. *See* section 275(1) of the 2006 Act for the definitions of "prescribed" and "regulations". The powers conferred by the 2006 Act exercised in making these Regulations are exercisable by the Secretary of State only in relation to England by virtue of section 271(1) of the 2006 Act.

(**2**) 2007 c.28. Section 225(2) is amended by section 186(6) and (7) of the 2012 Act; section 225(7) is amended by paragraphs 148 and 151 of Schedule 5 to the 2012 Act, and by paragraphs 103 and 106 of Schedule 14 to that Act.

(**3**) Section 272(6) of the 2006 Act is amended (so far as is relevant for these Regulations) by sections 18(2) and 50(2) of the 2012 Act.

PART 1

GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012.

(2) These Regulations come into force as follows—

(a) Part 2 comes into force on the date that section 18 of the Health and Social Care Act 2012 ("the 2012 Act") comes fully into force(**4**);

(b) Part 3 comes into force on the date that section 50 of the 2012 Act comes fully into force(**5**);

(c) Part 4 comes into force on the date that section 186 of the 2012 Act comes fully into force(**6**); and

(d) Part 1 comes into force on whichever of the dates specified in paragraphs (a) to (c) is the earliest.

(3) In these Regulations, "the Act" means the National Health Service Act 2006.

PART 2

PUBLIC HEALTH FUNCTIONS

Public health functions of the Secretary of State

2. Where a local authority is required to exercise a public health function of the Secretary of State pursuant to regulation 6(1)(a) or regulation 7(3)(a), the authority may exercise the functions of the Secretary of State under section 2 (general power) and section 12 (arrangements with other bodies) of the Act(**7**) in connection with those functions.

Weighing and measuring of children

3.—(1) In the exercise of its functions under paragraph 7A(1) and (2) of Schedule 1 to the Act(**8**) (weighing and measuring of children), each local authority must so far as reasonably practicable and in accordance with paragraph (4), provide for the weighing and measuring of the children to whom this regulation applies.

(2) This regulation applies to any child who—

(a) is a relevant child within the meaning of paragraph (3); and

(b) is a registered pupil at—

(i) a maintained school which is in the local authority's area,

(ii) an Academy school which is in the local authority's area, or

(**4**) 2012 c.7; section 18 of the 2012 Act is commenced for limited purposes by virtue of section 306(1)(d) of that Act.
(**5**) Section 50 of the 2012 Act is commenced for limited purposes by virtue of section 306(1)(d) of that Act.
(**6**) Section 186 of the 2012 Act is commenced for limited purposes by virtue of section 306(1)(d) of that Act.
(**7**) Section 2 was substituted by paragraph 1(1) of Part 1 of Schedule 4 to the 2012 Act; and section 12 was amended by paragraph 8 of Part 1 of Schedule 4 to the 2012 Act.
(**8**) Paragraph 7A of Schedule 1 to the 2006 Act was inserted by section 143(1) of the Health and Social Care Act 2008 (c.14) and is amended by section 17(2) and (7) of the 2012 Act.

(iii) a school known as a city technology college or as a city college for the technology of the arts(**9**) which is in the local authority's area.

(3) A relevant child is a child who at the beginning of the school year is—

(a) in the school year in which the majority of children are aged either 4 or 5 years; or

(b) in the school year in which the majority of children are aged either 10 or 11 years.

(4) Each local authority must ensure that a child to which this regulation applies is weighed and measured at least once during the school year in which that child is a relevant child.

(5) In this regulation—

"Academy school" has the meaning given by section 1A of the Academies Act 2010(**10**) (Academy schools), except that it does not include a school which is specially organised to make special educational provision for pupils with special educational needs(**11**);

"maintained school" has the meaning given by section 20(7) of the School Standards and Framework Act 1998(**12**) (new categories of maintained schools), except that it does not include a community special school or a foundation special school(**13**);

"registered pupil" has the meaning given by section 434 of the Education Act 1996(**14**) (registration of pupils) and "pupil" has the meaning given by section 3 of that Act (definition of pupil etc); and

"school year" has the meaning given by section 579(1) of the Education Act 1996 (general interpretation).

(6) The duty in paragraph (1) does not apply in relation to any relevant child who has been weighed and measured during the school year in which the child is a relevant child, where the weighing and measuring was done between 1st September 2012 and the date that this Part comes into force, pursuant to arrangements made by a Primary Care Trust.

Health check assessment

4.—(1) In the exercise of its functions under section 2B of the Act(**15**) (functions of local authorities and Secretary of State as to improvement of public health), each local authority shall provide, or shall make arrangements to secure the provision of, health checks to be offered to eligible persons in its area.

(2) Subject to paragraph (5), in this regulation, an eligible person is a person in the local authority's area who is aged from 40 to 74 years.

(3) Each eligible person shall be offered a health check once in every relevant period.

(4) For the purposes of this regulation, the relevant period is—

(a) in the case of a person who is an eligible person on the date that this Part comes into force,

(i) the period of five years starting with that date, and

(ii) each subsequent period of five years starting on the date on which the previous health check was offered;

(**9**) Schools known as city technology colleges and as city colleges for the technology of the arts were originally established under agreements under section 482 of the Education Act 1996 (c.56), which has since been repealed.
(**10**) 2010 c.32. Section 1A was inserted by section 53(7) of the Education Act 2011 (c.21) ("the Education Act").
(**11**) *See* section 1A(2) of the Academies Act 2010 as inserted by section 53(7) of the Education Act.
(**12**) 1998 c.31.
(**13**) *See* section 20(7) of the School Standards and Framework Act 1998.
(**14**) 1996 c.56. Section 3 was amended (so far as is relevant for these Regulations) by paragraph 9 of Schedule 7 to the Education Act 1997 (c.44) and by paragraph 34 of Schedule 21 to the Education Act 2002 (c.32).
(**15**) Section 2B of the 2006 Act is inserted by section 12 of the 2012 Act.

(b) in the case of a person who becomes an eligible person (whether or not that person has ever previously been an eligible person) on a date after the date that this Part comes into force,

(i) the period of five years starting with the date on which the person becomes an eligible person, and

(ii) each subsequent period of five years starting on the date on which the previous health check was offered.

(5) Any person of a description specified in this paragraph shall not be an eligible person for the purposes of this regulation—

(a) a person who has been diagnosed with any of the following—

(i) coronary heart disease,

(ii) chronic kidney disease (CKD), being CKD which has been classified as stage 3, 4 or 5 CKD within the meaning of the National Institute for Health and Clinical Excellence clinical guideline 73 on Chronic Kidney Disease, published September 2008(**16**),

(iii) diabetes,

(iv) hypertension,

(v) atrial fibrillation,

(vi) transient ischaemic attack,

(vii) hypercholesterolaemia,

(viii) heart failure,

(ix) peripheral arterial disease,

(x) stroke;

(b) a person who is being prescribed statins for the purpose of lowering cholesterol;

(c) a person who has been assessed, either through a previous NHS health check or through any other check undertaken through the health service in England, as having a twenty per cent or higher risk of having a cardiovascular event during the ten years following the check.

(6) In discharging the requirement under paragraph (1), the local authority shall act with a view to securing continuous improvement in the percentage of eligible persons in its area participating in the health checks.

Conduct of health checks

5.—(1) Each local authority shall make arrangements to secure that the health checks offered to eligible persons in its area pursuant to regulation 4 are conducted, and that information related to each check is recorded and processed, in accordance with this regulation.

(2) Every person aged from 65 to 74 years who is undergoing a health check shall be given information at the time of the health check designed to raise their awareness of dementia and of the availability of memory services which offer further advice and assistance to people who may be experiencing memory difficulties, including making a diagnosis of dementia.

(3) Subject to paragraph (4), the following information relating to the person undergoing a health check shall be recorded at the time of the health check in relation to that person—

(a) age of the person;

(**16**) Published by the National Institute for Health and Clinical Excellence, a Special Health Authority established under section 28 of the 2006 Act, at London, England. Copies are available from http://www.nice.org.uk.

(b) gender (being the person's reported or phenotypical gender);

(c) smoking status;

(d) family history of coronary heart disease in any parent or sibling when the parent or sibling was aged under sixty years;

(e) ethnicity;

(f) body mass index;

(g) cholesterol level;

(h) blood pressure;

(i) physical activity levels, being categorised as inactive, moderately inactive, moderately active or active;

(j) cardiovascular risk score;

(k) AUDIT score.

(4) The duty in paragraph (3) does not apply in respect of any information which cannot be obtained because the person undergoing the check—

(a) is unable, or refuses, to provide the information, or

(b) does not consent to any test or procedure necessary to obtain that information.

(5) In this regulation—

"AUDIT score" means a score categorising the level of risk associated with the person's alcohol consumption;

"cardiovascular risk score" means a score relating to the person's risk of having a cardiovascular event during the ten years following the health check;

"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(**17**).

(6) The cardiovascular risk score shall be calculated—

(a) using the information recorded under sub-paragraphs (a) to (h) of paragraph (3); and

(b) using an appropriate risk engine, being a software programme which will predict cardiovascular risk based on the population mix within the local authority's area.

(7) The AUDIT score shall be derived from the administration of the World Health Organisation Alcohol Use Disorders Identification Test, Guidelines for Use in Primary Care, Second Edition(**18**).

(8) The following information relating to the person undergoing the health check shall be communicated to that person as soon as reasonably practicable after the test has taken place—

(a) body mass index;

(b) cholesterol level;

(c) blood pressure;

(d) cardiovascular risk score;

(e) AUDIT score.

(**17**) 2002 c.17; section 25(3) was amended by paragraph 17 of Schedule 10 to the Health and Social Care Act 2008 (c.14), by paragraph 56(b) of Schedule 17 to the 2012 Act, and by S.I. 2010/231.

(**18**) Thomas F. Babor, John C. Higgins-Biddle, John B. Saunders, Maristela G. Monteiro, "The Alcohol Use Disorders Identification Test", Guidelines for Use in Primary Care, Second Edition, WHO/MSD//MSB/01.6a; World Health Organization, 2001. Copies are available from http://www.who.int/.