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## DIRECTIONS

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# NATIONAL HEALTH SERVICE, ENGLAND

## SOCIAL CARE, ENGLAND

### The Matters to be Addressed in Local Healthwatch Annual Reports Directions 2013

The Secretary of State gives the following Directions in exercise of the powers conferred by section 227(3)(a) and (10) of the Local Government and Public Involvement in Health Act 2007(a).

#### Citation, commencement and interpretation

1.—(1) These Directions may be cited as the Matters to be Addressed in Local Healthwatch Annual Reports Directions 2013 and come into force on 2 December 2013.

(2) These Directions have effect for the purpose of the preparation of annual reports by Local Healthwatch organisations as required by section 222(7) of the Act.

(3) In these Directions—

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

“the 2006 Act” means the National Health Service Act 2006(b);

“the Board” means the National Health Service Commissioning Board established under section 1H of the 2006 Act(c);

“clinical commissioning group” means a body established under section 14D of the 2006 Act(d);

“independent provider” means a body or person—

- (a) providing, or assisting in the provision of, a service, under the 2006 Act under arrangements made by an NHS trust(e);
- (b) providing, or assisting in the provision of, a service, under arrangements made by a local authority (within the meaning of section 1 of the Local Authority and Social Services Act 1970(f)) in pursuance of its social services functions (within the meaning of section 1A of that Act(g));
- (c) providing a service in pursuance of arrangements made by the Board or a clinical commissioning group under sections 3, 3A, 3B or 4 of, or Schedule 1 to, the 2006 Act(h)

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(a) 2007 c.28 (“the 2007 Act”). There are no relevant amendments to section 227(3) and (10).

(b) 2006 c.41 (“the 2006 Act”).

(c) Section 1H of the 2006 Act was inserted by section 9(1) of the Health and Social Care Act 2012 (c.7) (“the 2012 Act”).

(d) Section 14D of the 2006 Act was inserted by section 25(1) of the 2012 Act. *See* also section 11 of the 2006 Act, inserted by section 10 of the 2012 Act.

(e) An NHS trust is a body established under section 25 of the 2006 Act (NHS trusts). Section 25 of the 2006 Act is repealed by section 179 of the 2012 Act with effect from a date to be appointed.

(f) 1970 c.42. Section 1 was amended (so far as is relevant) by section 195 of the Local Government Act 1972 (c.70).

(g) Section 1A was inserted by section 102(3) of the Local Government Act 2000 (c.22).

(h) Section 3 was amended by section 13 of the 2012 Act. Section 3A was inserted by section 14 of the 2012 Act. Section 3B was inserted by section 15 of the 2012 Act. Section 4 was amended by section 16 of, and paragraphs 1 and 2 of Schedule 14 to, the 2012 Act. Schedule 1 was amended by section 143(1) of, and paragraph 6 of Schedule 14 to, the Health and Social Care Act 2008 (c.14) (“the 2008 Act”), section 17 of the 2012 Act and S.I. 2010/1158.

(duties and powers of clinical commissioning groups to commission health services, Secretary of State's power to require Board to commission services, high security psychiatric services and further provision about Secretary of State and services);

- (d) providing a service in pursuance of arrangements made by a local authority (within the meaning of section 275 of the 2006 Act<sup>(a)</sup> (general interpretation)) for the purpose of the exercise of its functions under or by virtue of section 2B or 6C(1) of, or Schedule 1 to, the 2006 Act<sup>(b)</sup> (local authority functions as to health improvement, regulations on local authority public health functions and further provision about Secretary of State and services); or
- (e) providing a service in pursuance of arrangements made by the Board, a clinical commissioning group or a local authority (within the meaning of section 275 of the 2006 Act) by virtue of section 7A of the 2006 Act<sup>(c)</sup> (exercise of Secretary of State's public health functions);

"local authority", except as otherwise provided, has the meaning given by section 229 of the Act <sup>(d)</sup>;

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

"local care services" has the meaning given in section 221(6) of the Act;

"Local Healthwatch arrangements" has the meaning given by section 222(2B) of the Act<sup>(e)</sup> (arrangements under section 221(1): Local Healthwatch organisations);

"local people" has the meaning given in section 221(6) of the Act<sup>(f)</sup>;

"relevant contractor", in relation to a Local Healthwatch organisation, means a Local Healthwatch contractor, within the meaning of section 223(3) of the Act<sup>(g)</sup>, who carries on section 221 activities on behalf of that organisation;

"services-provider" has the meaning given by section 225(7) of the Act<sup>(h)</sup> (duties of services-providers to allow entry by Local Healthwatch organisations or contractors);

"the financial year", in relation to a matter to be addressed in an annual report<sup>(i)</sup>, means the relevant financial year<sup>(j)</sup> in respect of which that report has been prepared;

"the Local Healthwatch organisation", in relation to an annual report, means the Local Healthwatch organisation by whom that report has been prepared;

"the relevant persons", in relation to a matter to be addressed in an annual report, means—

- (a) the Local Healthwatch organisation by whom that report has been prepared; and
- (b) any person who is a relevant contractor in relation to that organisation;

"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

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(a) Section 275 of the 2006 Act was amended by paragraph 138 of Schedule 4 to the 2012 Act. *See* also S.I. 1981/1473 as to the modification of that term in relation to the Isles of Scilly. S.I. 1981/1473 has effect, in part, as if made under section 278 of the 2006 Act by virtue of paragraph 1 of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006 (c.43).

(b) Section 2B was inserted by section 12 of the 2012 Act. Section 6C was inserted by section 18 of the 2012 Act.

(c) Section 7A was inserted by section 22 of the 2012 Act.

(d) 1970 c.42. Section 1 was amended (so far as is relevant) by section 195 of the Local Government Act 1972 (c.70).

(e) Section 222 was 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.

(f) The definition of "local people" was inserted by section 182(1) and (8) of the 2012 Act.

(g) Section 223 of the 2007 Act was amended by section 184 of the 2012 Act. The definition of "Local Healthwatch contractor" was inserted into section 223 by section 184(1) and (6) of that Act.

(h) Section 225(7) was amended by section 55(2) of, paragraph 151 of Schedule 5 to the 2012 Act and by section 179(6) of, and paragraph 106 of Schedule 14 to, that Act.

(i) *See* section 227 of the 2007 Act as to annual reports of Local Healthwatch organisations. Section 227 was amended by section 187 of, and Schedule 5 to, the 2012 Act.

(j) *See* section 227(9) of the 2007 Act for the definition of "financial year".

- (b) in relation to a Local Healthwatch contractor, the section 221 activities that that contractor is to carry on under Local Healthwatch arrangements; and  
“the section 221 activities” means the activities specified in section 221(2) of the Act(a).

### **Matters that must be addressed in a Local Healthwatch annual report**

2. For the purposes of section 227(3)(a) of the Act (directions on matters to be addressed in annual reports), the annual report must address the matters specified in the Schedule.

### **Revocation**

3. The Directions on Matters to be Addressed in Local Involvement Network Annual Reports 2008(b) are revoked.

Signed by authority of the Secretary of State for Health



Charlotte Buckley  
Department of Health

28 November 2013

## **SCHEDULE 1**

Paragraph 2

### **Matters that must be addressed in a Local Healthwatch annual report**

1. The name and address of the registered or principal office, and contact details of the Local Healthwatch organisation as at the end of the financial year.

2. The name and address of the registered or principal office, and contact details, as at the end of the financial year, of any relevant contractor of the Local Healthwatch organisation.

3.—(1) The steps taken during the financial year—

(a) by the Local Healthwatch organisation to involve lay persons and volunteers in—

- (i) the governance of the organisation;
- (ii) relevant decisions of the organisation;
- (iii) the carrying-on of the relevant section 221 activities; and

(b) by any relevant contractor of that organisation to involve lay persons and volunteers in the carrying-on of the relevant section 221 activities.

(2) In this paragraph, “lay person”, “volunteer” and “relevant decision” have the meaning given in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012(c).

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- (a) Section 221(2) was amended by section 182(1) to (4) of the 2012 Act.  
(b) These Directions were given by the Secretary of State on 31st March 2008, a copy is available from the Healthwatch Team, Department of Health, Room 330, Richmond House, 79 Whitehall, London, SW1A 2NS.  
(c) S.I.2012/3094 (“the 2012 Regulations”). As to the meaning of “lay person” and “volunteer” *see* regulation 34(1), and as to the meaning of “relevant decision” *see* regulation 40(2).

**4.** Details of the payments made to the Local Healthwatch organisation during the financial year, under the local authority arrangements pursuant to which the annual report has been prepared.

**5.** The section 221 activities that have been undertaken by the relevant persons during the financial year.

**6.** The impact of those activities on the commissioning, provision and management of the care services (within the meaning of section 221(6) of the Act<sup>(a)</sup> (local arrangements in relation to health services and social services) to which those activities relate, and on improvements to those services.

**7.—**(1) Whether the relevant persons have, during the financial year, made recommendations to the Healthwatch England committee of the Care Quality Commission<sup>(b)</sup> to advise the Commission about special reviews or investigations<sup>(c)</sup> to conduct, or made such recommendations direct to the Commission.

(2) Whether the Commission has conducted any special reviews or investigations following such recommendations.

**8.** The methods used by the relevant persons during the financial year to obtain the views of local people about their needs for, and their experiences of, local care services.

**9.—**(1) Whether steps were taken by the relevant persons during the financial year to obtain the views of a wide range of local people, including the people specified in sub-paragraph (2).

(2) The people referred to in sub-paragraph (1) are—

- (a) people who are aged under 21 or over 65;
- (b) people who work or volunteer in the area in relation to which the annual report has been prepared; and
- (c) people from diverse backgrounds and sectors of society, including—
  - (i) people of disadvantaged socio-economic status;
  - (ii) people from groups which are perceived by the Local Healthwatch organisation or its relevant contractors, as the case may be, as vulnerable; and
  - (iii) people from groups whose views are perceived by that organisation or its relevant contractors, as the case may be, as seldom heard by persons responsible for commissioning, providing, managing or scrutinising local care services.

(3) For the purposes of this paragraph—

- (a) a reference to “views”, in relation to people, is a reference to the views of those people about their needs for, and their experiences of, local care services; and
- (b) “volunteer” means a person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative.

**10.** In relation to any requests for information made by the relevant persons to services-providers, responsible persons (within the meaning of section 224(2) of the Act<sup>(d)</sup> (duties of responsible persons to respond to Local Healthwatch organisations and contractors)) and independent providers during the financial year, the number of providers and persons from whom no response was received.

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

(b) The Care Quality Commission was established by section 1 of the 2008 Act. Healthwatch England was established as a committee of the Commission by virtue of paragraph 6(1A) of Schedule 1 to that Act, as inserted by section 181(1) and (2) of the 2012 Act.

(c) See section 48 of the 2008 Act as to the Commission’s functions in relation to special reviews and investigations. Section 48 was amended by section 40(6) and 293(1) and (2) of, and paragraphs 154 and 158 of Schedule 5 to, the 2008 Act.

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

**11.—**(1) As regards any premises entered and viewed by an authorised representative as a result of a services-provider complying with the duty imposed by regulation 11 of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013(a), in the financial year, the reasons for the decision to enter and view each of those premises.

(2) As regards any premises of an independent provider entered and viewed by an authorised representative in the financial year as a result of any provision of relevant arrangements made pursuant to paragraph 2 of the Arrangements to be made by Relevant Bodies in respect of Local Healthwatch Organisations Directions 2013(b), the reasons for the decision to enter and view each of those premises.

(3) What actions, if any, were taken by the relevant persons as a result of the authorised representative entering and viewing each of the premises referred to in sub-paragraphs (1) and (2).

(4) For the purposes of this paragraph—

- (a) “authorised representative” means an authorised representative (within the meaning of section 225(5) of the Act(c) (duties of services-providers to allow entry by Local Healthwatch organisations or contractors)) who is authorised as such by the Local Healthwatch organisation or any relevant contractor;
- (b) “relevant arrangements” means arrangements of the kind described in paragraph (a) or (b) of the definition of “independent provider”; and
- (c) a reference to “premises of an independent provider” is a reference to premises owned or controlled by that provider.

**12.—**(1) What steps, if any, have been taken during the financial year, by the relevant persons to enable the Local Healthwatch organisation’s representative(d) on the relevant Health and Wellbeing Board(e) to effectively discharge that representative’s role as a member of that Board.

(2) In sub-paragraph (1), “the relevant Health and Wellbeing Board”, in relation to a Local Healthwatch organisation which is the Local Healthwatch organisation for the area of a particular local authority(f), means the Health and Wellbeing Board established by that authority.

**13.** The manner in which copies of the annual report have been made, or are proposed to be made, publicly available(g).

**14.—**(1) A statement as to whether the Local Healthwatch organisation has, during the financial year, used the trade mark(h) to which any relevant licence relates in relation to the carrying-on of the relevant section 221 activities.

(2) A statement as to whether any relevant contractors of that organisation have, during the financial year, used the trade mark to which any relevant sub-licence relates in relation to the carrying-on of the relevant section 221 activities.

(3) In this paragraph—

- (a) “relevant licence”, in relation to the Local Healthwatch organisation, means a licence granted to that organisation under section 45D of the Health and Social Care Act 2008(i); and

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(a) S.I. 2013/351.

(b) These Directions were given by the Secretary of State on 1st April 2013, a copy is available from the Healthwatch Team, Department of Health, Room 330, Richmond House, 79 Whitehall, London, SW1A 2NS.

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

(d) See section 194 of the 2012 Act as to the composition of the Board and, in particular, section 194(2)(e) and (5) as to the representation of the Local Healthwatch organisation for the area on the Board.

(e) Established under section 194 of the 2012 Act.

(f) See sections 222(2A) and (1) and 221(1) of the 2007 Act as to the Local Healthwatch organisation for the area of a local authority.

(g) See section 227(2)(d)(i) of the 2007 Act.

(h) See regulation 43 of the 2012 Regulations, and the meaning of “use” and “trade mark” in section 223(3) of the 2007 Act.

(i) 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 was inserted by section 182(11) of the 2012 Act.

- (b) “relevant sub-licence”, in relation to a relevant contractor of the Local Healthwatch organisation, means a sub-licence granted to that contractor by that organisation under a relevant licence.