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STATUTORY INSTRUMENTS

2009 No. 1768

**NATIONAL HEALTH SERVICE, ENGLAND
SOCIAL CARE, ENGLAND**

**The Local Authority Social Services and National Health
Service Complaints (England) (Amendment) Regulations 2009**

<i>Made</i>	- - - -	<i>2nd July 2009</i>
<i>Laid before Parliament</i>		<i>9th July 2009</i>
<i>Coming into force</i>	- -	<i>1st September 2009</i>

The Secretary of State, in exercise of the powers conferred by sections 113(1), 114(1) and (2), 115(1) and (2) and 195(1) and (2) of the Health and Social Care (Community Health and Standards) Act 2003⁽¹⁾, makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009.

(2) These Regulations come into force on 1st September 2009.

(3) In these Regulations, “the Complaints Regulations” means the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009⁽²⁾.

(4) These Regulations apply in relation to England.

Amendment of regulation 1 of the Complaints Regulations

2. In paragraphs (3) and (4) of regulation 1 of the Complaints Regulations (citation, commencement, effect and application), for “1st April 2010” substitute “1st October 2010”.

Amendment of regulation 6 of the Complaints Regulations

3. In regulation 6 of the Complaints Regulations (duty to handle complaints), after paragraph (1), insert—

(1) 2003 c. 43.
(2) [S.I.2009/309](#).

“(1A) This regulation also applies to a complaint made on or after 1st September 2009 in accordance with these Regulations to a local authority where—

- (a) the local authority has made arrangements with a person for the discharge of a relevant function; and
- (b) the complaint relates to the discharge of, or the failure to discharge, a relevant function under those arrangements.

(1B) In paragraph (1A), “relevant function” means—

- (a) any of the local authority’s social services functions; or
- (b) any function to be discharged by the local authority under arrangements specified in paragraph (1)(a)(ii).”.

Amendment of regulation 8 of the Complaints Regulations

4.—(1) Regulation 8 of the Complaints Regulations (complaints not required to be dealt with) is amended in accordance with the following paragraphs.

(2) In paragraph (1), omit “Subject to paragraph (2),”.

(3) For paragraph (2), substitute—

“(2) Subject to paragraph (2A), where a complaint is a complaint specified in paragraph (1), and a responsible body makes a decision to that effect, the responsible body must as soon as reasonably practicable notify the complainant in writing of its decision and the reason for its decision.

(2A) Paragraph (2) does not apply to a complaint specified in sub-paragraph (c) of paragraph (1).”.

Signed by authority of the Secretary of State for Health.

2nd July 2009

Ann Keen
Parliamentary Under-Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (“the Complaints Regulations”), which make provision for complaints in relation to local authority adult social services and the National Health Service.

Regulation 2 of these Regulations changes the date on which regulation 10 of the Complaints Regulations ceases to be in force, and the date on which regulation 11 of those Regulations comes into force, from 1st April 2010 to 1st October 2010. Regulations 10 and 11 of the Complaints Regulations make provision for disclosure and co-operation by local authorities considering a complaint relating to certain care services. The current registration arrangements in respect of the care services concerned, referred to in regulation 10 of the Complaints Regulations, are to be replaced by new arrangements under the Health and Social Care Act 2008. Consequential changes are made to the date on which regulation 2(2) of those Regulations ceases to be in force, and regulation 2(3) of those Regulations comes into force.

Regulation 3 extends the duty of local authorities to handle complaints under the Complaints Regulations, so as to include complaints where the local authority has made arrangements with another person for the discharge of its adult social services functions or certain other functions.

Regulation 4 amends regulation 8 of the Complaints Regulations. Regulation 8(1) specifies the types of complaint that are not required to be dealt with in accordance with the Complaints Regulations. Regulation 4 removes the specific provision made by regulation 8(2) of those Regulations as to the circumstances in which a body is not required to consider the complaint. Regulation 8(2) of those Regulations is also amended so that the requirement to notify a complainant that the complaint is of a type that is not required to be dealt with in accordance with the Complaints Regulations arises where (a) a complaint is a complaint specified in regulation 8(1) (other than regulation 8(1)(c)), and (b) the body responsible for handling complaints under the Regulations makes a decision to that effect.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.