

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITY (PUBLIC HEALTH, HEALTH AND
WELLBEING BOARDS AND HEALTH SCRUTINY) REGULATIONS 2013

2013 No. 218

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 This instrument makes provisions concerning functions of local authorities in relation to: Health and Wellbeing Boards; health scrutiny, community right to challenge of public health services (CRC) and the National Child Measurement Programme (NCMP).

Health and Wellbeing Boards

2.2 The instrument makes provision for the disapplication and modification of certain enactments relating to local authority committees appointed under section 102 of the Local Government Act 1972 (“the 1972 Act”), insofar as they are applicable to a Health and Wellbeing Board established under section 194 of the Health and Social Care Act 2012 (“the 2012 Act”).

Health Scrutiny

2.3 This instrument makes provision for local authorities to review and scrutinise matters relating to the planning, provision and operation of the health service in their area. It replaces the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 which make provision on those matters.

Community Right to Challenge

2.4 This instrument provides for exemptions from the Community Right to Challenge for certain public health services to be provided by local authorities, two of which are time-limited exemptions. These exemptions would allow for the effective transfer of public health services from Primary Care Trusts to local authorities during a period of substantial reform to the NHS and local authority architecture without being disrupted by any potential challenges to current service provision. This will enable the NHS and local authority commissioners sufficient time to bed into the new system and assess contracts in a timely manner, protecting service user’s interests.

National Child Measurement Programme

2.5 Part 3 of this instrument revokes and replaces the National Child Measurement Programme Regulations 2008, which provide for Primary Care Trusts to exercise the Secretary of State’s functions in relation to weighing and measuring children at school, and make provision for the processing of resulting information. The new provisions reflect amendments made by the

Health & Social Care Act 2012, under which local authorities, rather than the Secretary of State and Primary Care Trusts, are to be responsible for these functions. The changes will also reduce restrictions on the processing of anonymised NCMP data, enable the return of additional personal identifiable data to the Health and Social Care Information Centre. These changes will enable the programme to continue within the new public health system, and will optimise the public health value of the data and improve the efficiency of the programme's delivery.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None

4. Legislative Context

Health and Wellbeing Boards

4.1 Section 194 of the 2012 Act requires that every upper-tier local authority [and unitary authority] establish a Health and Wellbeing Board. Subsection (11) of section 194 of the 2012 Act provides that the Health and Wellbeing Board is a committee of the local authority which established it and that, for the purposes of any enactment, it is to be treated as if it were a committee appointed by that local authority under section 102 of the 1972 Act.

4.2 Subsection 12 of section 194 of the 2012 Act enables regulations to provide that any enactment relating to a committee appointed under section 102 of the 1972 Act does not apply in relation to a Health and Wellbeing Board or applies to in relation to it with such modifications may be prescribed in the regulations.

Health Scrutiny

4.3 Sections 7 to 10 of the Health and Social Care Act 2001 ("the 2001 Act") made provision for the review and scrutiny of the health service ("health scrutiny functions") by overview and scrutiny committees of local authorities. In particular, sections 7 and 8 of the 2001 Act conferred powers to make regulations on health scrutiny. The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 ("the 2002 Regulations") made provision accordingly. Sections 7 to 10 of the 2001 Act were consolidated in sections 244 to 247 of the National Health Service Act 2006 ("the 2006 Act"). The 2002 Regulations have effect as if they were made under provisions of the 2006 Act.

4.4 Prior to being amended by the 2012 Act, section 244 of the 2006 Act conferred powers to make regulations on the review and scrutiny of matters relating to the health service by overview and scrutiny committees of local authorities. Section 245 of the 2006 Act provides a power for regulations to enable local authorities to make various arrangements for the discharge of their health scrutiny functions, including by a joint overview and scrutiny committee. Section 246 of the 2006 Act provides that information relating to

business discussed at meetings of overview and scrutiny committees concerning health scrutiny functions is exempt information for the purposes of certain provisions of the Local Government Act 1972 if specified conditions are met, thus enabling local authorities to exclude the public from meetings to prevent such information being disclosed. Section 247 of the 2006 Act makes provision on health scrutiny by the Common Council of the City of London.

4.5 Sections 244 to 247 of the 2006 Act are complemented by provisions of Part 1A of the Local Government Act 2000 (“the 2000 Act”) on governance arrangements of local authorities. Section 9F of the 2000 Act requires local authorities which operate executive arrangements to set up overview and scrutiny committees and to ensure those committees have certain powers of review and scrutiny, including health scrutiny powers. Prior to the insertion of Part 1A by the Localism Act 2011 (“the 2011 Act”), the requirement for local authorities with executive arrangements to ensure that their overview and scrutiny committees had health scrutiny powers was imposed by section 21 of the 2000 Act. Review and scrutiny by local authorities with committee systems is governed by Chapter 3 of Part 1A of the 2011 Act and regulations made under that Chapter, the Local Authorities (Committee System) (England) Regulations 2012 (“the 2012 Regulations”).

4.6 Sections 190 and 191 of the 2012 Act made various changes to the system of review and scrutiny of the health service. This included amendments to section 244 of the 2006 Act to enable regulations under it to confer health scrutiny functions on local authorities directly and to provide for health scrutiny functions to be non-executive functions of an authority. The scope of health scrutiny has also been extended to the National Health Service Commissioning Board (“the Board”) and clinical commissioning groups (CCGs), and to providers (“relevant health service providers”) of NHS and public health services commissioned by the Board, CCGs or local authorities. This would include independent and third sector providers.

4.7 In consequence of these changes, section 191 of the 2012 Act amended section 9F of the 2000 Act to remove the requirement for local authorities with executive arrangements to ensure that their overview and scrutiny committees have health scrutiny powers.

4.8 The instrument reflects these changes. It also revokes the 2002 Regulations made under section 244 of the 2006 Act which currently govern health scrutiny and makes a consequential amendment to the 2012 Regulations.

Community Right to Challenge

4.9 Sections 81 to 86 of the Localism Act 2011 make provision for a “right to challenge”, under which local authorities have a duty to consider expressions of interest in providing or assisting in the provision of local authority services. Such expressions may be made by voluntary and community bodies, and certain other persons. The duty applies to all services provided by or on behalf of an authority, unless regulations under section 81(5) exclude that service. The relevant regulations are the Community Right

to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 (S.I. 2012/13/13). This instrument amends those regulations to add three new exemptions –

- a general exemption until 1st April 2014 for services provided under the new local authority public health functions under the National Health Service Act 2006;
- a further exemption for health visiting and other child health services for children under five years from 1st April 2015 to 1st April 2016; and
- a permanent exemption for services which consist of the provision of public health advice to clinical commissioning groups.

National Child Measurement Programme

4.10 Paragraphs 7B(1) and (2) of Schedule 1 to the 2006 Act (as amended by s.17(2) and (8) of the 2012 Act) provide for the Secretary of State to make regulations to govern the weighing and measuring of children in primary and middle schools by local authorities. Regulations to govern how the programme is delivered were made under this power, as it was at that time, in 2008, setting out provisions for the collection of the information and further uses of it and for results to be sent to parents, along with advisory material. At that time the functions were the responsibility of Secretary of State under paragraph 7A of Schedule 1 to the 2006 Act, and carried out by PCTs pursuant to the 2008 Regulations. Under the amendments made by the 2012 Act, those functions are to be performed by local authorities (from 1st April 2013). This instrument revokes and replaces those Regulations to ensure that the programme can continue to operate in the new public health system under the 2012 Act and bring maximum public health benefit going forward.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Health and Wellbeing Boards

7.1 One of the key policy objectives of the 2012 Act is to increase local democratic legitimacy (i.e. transparency and accountability to local people) in health and influence over commissioning decisions for health and social care, through the setting up of Health and Wellbeing Boards. Collaboration is at the heart of Health and Wellbeing Boards; they provide new opportunities for local government to work in partnership with the NHS and their communities to understand local need, and develop a shared strategy to address the issues that matter most to local people.

7.2 In order to fit the Health and Wellbeing Board within existing local authority structures, the 2012 Act provides that a Health and Wellbeing Board is a committee of the local authority which established it and that for the purpose of any enactment, is to be treated as a committee appointed by the authority under section 102 of the 1972 Act. This instrument disapplies and modifies certain provisions in local government legislation relating to local authority committees. These are intended to ensure alignment between the requirements contained within the 2012 Act and existing legislation, and that provisions relating to section 102 committees do not adversely affect how Health and Wellbeing Boards can operate. This reflects their unusual position of being a local authority committee which also involves representatives from, and requires the engagement of, other organisations.

Health Scrutiny

7.3 Strengthening health scrutiny is one of the mechanisms proposed to increase accountability and enhance public voice in health. *Local Democratic legitimacy in health*, a joint consultation between the Department of Health and the Department of Communities and Local Government (“DCLG”), proposed an enhanced role for local authorities and asked a number of questions about how the commitment to strengthen public voice in health could be delivered. It aimed to find ways to strengthen partnership working between NHS commissioners and local authorities so that the planning and delivery of services is integrated across health, public health and social care.

7.4 In the light of responses to that consultation, the Government decided to expand and adapt its proposals for legislation around local democratic legitimacy. *Liberating the NHS: Legislative Framework and Next Steps*¹ proposed extending the scope of scrutiny to include private providers of certain NHS and public health services as well as NHS commissioners. It also proposed conferring health scrutiny functions on local authorities rather than on their overview and scrutiny committees directly, giving them greater freedom and flexibility to discharge these functions in the way they deem to be most suitable. These intentions are encompassed within changes made by the 2012 Act to the health scrutiny provisions in the 2006 Act and related legislation, including the 2000 Act, and in the instrument.

7.5 Under the new system of health scrutiny, subject to certain restrictions, local authorities will have flexibility as to how they discharge their health scrutiny functions – including by full council, by a committee appointed under section 102 of the Local Government Act 1972 (“the 1972 Act”), by an overview and scrutiny or a joint overview and scrutiny committee.

7.6 Certain elements of the new system are carried forward from the 2002 Regulations on health scrutiny. For example, there continues to be a requirement to consult a local authority on proposals for a substantial development of the health service or for a substantial variation in the provision of such a service (“reconfiguration proposals”). The duty falls on “relevant NHS bodies” (CCGs, the Board, NHS trusts and NHS foundation trusts) as

¹ http://www.dh.gov.uk/en/Healthcare/LiberatingtheNHS/DH_122624

well as relevant health service providers. Certain proposals continue to be exempt from the duty to consult such as where a risk to safety or welfare of patients or staff is at stake. This ensures that urgent decisions are not held up by the requirement to consult.

7.7 The instrument introduces certain additional steps in the consultation process. This includes a requirement for a relevant NHS body or relevant health service provider and the local authority to take reasonably practicable steps to try to reach agreement where, on being consulted, a local authority has made recommendations to the body or provider. The instrument provides for the functions of service providers (NHS trusts, NHS foundation trusts or relevant health service providers) in respect of consultation to be carried out by the CCG or the Board, as the case may be, whichever is responsible for commissioning the services to which the reconfiguration proposal relates. This reflects the policy intention that changes to services are supported and led by commissioners.

7.8 The instrument provides for the functions duties, under regulation 23 (which concerns consultation) of NHS trusts, NHS foundation trusts or relevant health service providers to be discharged by the body responsible for commissioning the services to which the reconfiguration proposal relates. This might be a CCG, CCGs or the Board.

7.9 The instrument enables a local authority to report on a reconfiguration proposal to the Secretary of State in certain circumstances. Where a report is made, the instrument confers powers on the Secretary of State to take various steps including to give directions to the Board. The Board itself may give directions to a CCG in respect of a reconfiguration proposal in certain circumstances.

7.10 The changes introduced by the 2012 Act provide for greater flexibility for local authorities to discharge health scrutiny functions however the instrument imposes certain restrictions as to the arrangements a local authority can make in this respect. For example, health scrutiny functions may not be delegated to an officer of the authority and the function of making reports to the Secretary of State may not be delegated to a committee, sub-committee or officer of the authority or to another local authority. In certain situations, namely where a relevant NHS body or relevant health service provider consults more than one local authority on a proposal, the local authorities concerned are required to appoint a joint overview and scrutiny and this incorporates requirements which are imposed in Directions under the 2002 Regulations. [The requirement for joint overview and scrutiny committees in these situations is fundamental to the effective operation of joint scrutiny].

7.11 The instrument carries forward requirements to provide information to local authorities (these now fall on relevant NHS bodies and relevant health service providers) in order to support local authorities in their discharge of health scrutiny functions. The instrument also continues to enable local authorities to require certain persons to attend before them to answer questions. This now applies in relation to members or employees of relevant

NHS bodies or relevant health service providers.

7.12 The instrument revokes the 2002 Regulations and a related statutory instrument. It makes a consequential amendment to the 2012 Regulations. It also makes transition and savings provision to deal with matters which are outstanding under the 2002 Regulations as at the date of commencement of the instrument.

Community Right to Challenge

7.13 The Localism Act 2011 makes provision for a Community Right to Challenge (also referred to here as ‘the Right’) and associated regulations. This involves a right for certain types of body to express an interest in running certain services which the local authority or fire and rescue authority has responsibility for. The authority must consider and respond to this expression of interest, rejecting any only on grounds specified in regulations. If an expression of interest is accepted, the authority must carry out a procurement exercise for the service.

7.14 DCLG’s consultation document published in February 2011 asked about extending the Community Right to Challenge to allow services of other bodies carrying out functions of a public nature to be subject to this challenge. The Department of Health raised concerns that authorities could potentially have to consider an expression of interest under the Right before they had the opportunity to take stock of their new responsibilities and contracts. This led to negotiations resulting in full exemptions, time-limited exemptions and a rejection of an expression of interest for a brief list of health and social care services.

7.15 Responsibility for a range of public health functions will pass to local authorities under the Health and Social Care Act 2012, from 1st April 2013. Without a time-limited, or permanent exemption, these services would be classed immediately as relevant services under the Community Right to Challenge.

7.16 The Community Right to Challenge applies to all relevant services, except those excluded in regulations and the public health exemptions. Two of the public health exemptions which are time-limited only apply to those authorities that have public health functions. The Community Right to Challenge does not apply to functions.

7.17 The exemptions that have been agreed are:

7.17.1 a time-limited exemption from the Community Right to Challenge for 12 months from date of power transfer, which is 1 April 2015 to 1 April 2016, for the provision of health visiting services, and other relevant health services, for children under five, for the purposes of reviewing the development of the children concerned and for the promotion of their health and welfare;

7.17.2 a time-limited exemption from the Community Right to Challenge for 12 months from when responsibility is transferred,

which is 1 April 2013 to 1 April 2014, has been agreed for wider public health functions; and

7.17.3 a permanent exemption from the Community Right to Challenge for the provision of public health advice to clinical commissioning groups.

National Child Measurement Programme

7.18 61% of the adult population in England is overweight or obese. This rate is higher than in almost all other developed countries. The latest NCMP data show that levels of overweight and obesity remain stubbornly high among children in reception year (22.6%) and continue to rise in those in year 6 (33.9%).

7.19 Obesity is a leading cause of serious diseases such as type 2 diabetes, heart disease and cancer. Overweight and obesity is a £5 billion burden on the NHS each year, with estimated costs to society and the economy of £16bn in 2007, with a potential rise to £50 billion in 2050 if increases in obesity rates were to continue.

7.20 *Healthy Lives, Healthy People: A call to action on obesity in England* set out the Government's commitment to tackling overweight and obesity. Continued delivery of the NCMP is a key element of this work.

7.21 The NCMP was established in 2005, and involves the annual height and weight measurement of over 1 million children in reception year and Year 6 in England. The programme provides world-class data on child obesity, which is used to inform public health planning and commissioning decisions at both a local and a national level. Most PCTs also feed back children's results to parents and this provides a tool for direct engagement with families to increase parents' knowledge of the health risks of excess weight and, their recognition of excess weight in their child, and to provide follow-up advice and support where appropriate.

7.22 This instrument will enable the NCMP to continue to run following the public health reforms in which responsibility for public health services, including the NCMP, will move from PCTs to local authorities from April 2013. Additionally, the instrument will enable more effective use of the data collected through the programme, as well as efficiencies through improvements to the IT system used in the programme.

8. Consultation outcome

Health and Wellbeing boards

8.1 The provisions in the 2012 Act are based on a policy tested through a series of consultations; the White Paper, *Equity and Excellence: Liberating the NHS*, and the listening exercise led by the NHS Future Forum.

8.2 The Department engaged broadly with stakeholders between February and July 2012 to develop policy proposals for the Regulations. This period consisted of several targeted activities and discussions:

- with members of a learning set on governance set up as part of the National Learning Network for Health and Wellbeing Boards;
- with the Local Government Association (LGA)
- with LGA's Health Transition Task Group, which includes Local Authority Chief Executives from across the country;
- with Health and Wellbeing board leads regional networks, shadow boards and the Association of Democratic Services Officers; and
- via an invitation to local areas to provide detailed feedback on the National Learning Network's online forum (which has over 1000 members involved or interested in the set up of Health and Wellbeing Boards) and widely circulated.

8.3 We have also shared our proposed measures for the Regulations through a summary report with key audiences.

8.4 The overarching theme of feedback from the engagement exercise was the need for the Regulations to promote continuing flexibility for boards, through disapplication of specific provisions, to enable local areas to have the freedom to shape their boards as best fits with local circumstances.

Health Scrutiny

8.5 The health scrutiny provisions of the 2012 Act are based on a policy tested through a series of consultations; the White Paper, *Equity and excellence: liberating the NHS*, a joint consultation with DCLG, *Local Democratic Legitimacy*, and the listening exercise led by the NHS Future Forum particularly informed the development of scrutiny policy, which this instrument supports.

8.6 There has been on-going engagement on the proposals for health scrutiny since 2010. In July 2012, the Department of Health launched a public consultation (*Local Authority Health Scrutiny*) on its proposals to reform the regulations governing health scrutiny. This was an 8-week consultation, building on the earlier consultation and engagement outlined above.

8.7 The consultation paper was published on the Department of Health's website and consultation hub. The consultation was publicised using a range of bulletins and news alerts, and a number of external organisations publicised the consultation on their own websites. Invitations to respond to the consultation were sent directly to the Chief Executives of key stakeholder organisations.

8.8 The Department received 239 written responses from a diverse range of organisations and individuals. The response to the proposals outlined in the consultation document was positive, strengthening the rationale for intervention.

8.9 A summary of the consultation, published on 14th December 2012 can be found on the Department of Health website:

<http://www.dh.gov.uk/health/2012/12/health-scrutiny/response/>

Community Right to Challenge

8.10 In 2011, following their consultation, DCLG sent correspondence to all relevant Government Departments outlining their intentions regarding the Community Right to Challenge. The Department of Health responded with concerns, which led to both a negative and affirmative SI being laid in 2012.

National Child Measurement Programme

8.11 When considering the policy and legal options for enabling wider sharing of the NCMP data, and the central return of personal identifiable data, key stakeholders were consulted through targeted activities and discussions, including the commissioning of an independent consultation exercise with parents. This included engagement with parents, primary care trusts commissioning the NCMP and public health services, and local public health teams delivering the NCMP, the Local Government Association, the National Screening Committee, Medical Royal Colleges, and public health and epidemiology experts.

8.12 Overall, there was clear support for our proposals, with parents and other stakeholders recognising the benefits of the proposals. Stakeholders emphasised the importance of ensuring the NCMP data were securely processed, and were reassured that data security is being considered carefully in the development and implementation of this policy.

9. Guidance

Health and Wellbeing Boards

9.1 In performing its duty to undertake the preparation of Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies, the Health and Wellbeing Board will be required to have regard to any guidance issued by the Secretary of State.

Health Scrutiny

9.2 The Secretary of State will issue guidance to support local authorities, relevant NHS bodies and relevant health service providers in complying with the instrument.

Community Right to Challenge

9.3 DCLG, as the lead Department for the Right, published Community Right to Challenge Statutory Guidance in June 2012. It is publicised on the DCLG website and the Permanent Secretary's newsletter to local authorities as well as on the Local Government Association's Knowledge Hub.

9.4 Revised Guidance to include the public health regulations will be published to coincide with this SI being laid. This will be advertised and communicated as previously, by DCLG.

National Child Measurement Programme

9.5 The transition of responsibility for public health services from PCTs to local authorities has been widely communicated to the NHS and local authority stakeholders through Healthy lives, healthy people: our strategy for

public health in England and follow-on documents, including those relating to the establishment of Public Health England. These have included the intention for the NCMP to be included in this transition.

9.6 The NCMP will be a mandatory function of local authorities and in delivering the programme, and they will be required to have regard to guidance issued by the Secretary of State for Health.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal

10.2 The impact on the public sector is minimal.

Health and Wellbeing Boards and Health Scrutiny

10.3 An Impact Assessment has not been prepared for these Regulations. Annex C of the combined Health and Social Care Bill Impact Assessment on Increasing Local Democratic Legitimacy in Health contains relevant information on the Health and Wellbeing Boards and health scrutiny aspects of this instrument. The combined Health and Social Care Bill Impact Assessment and coordinating document, and combined equality analyses, can be found on the Department of Health website:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_123583

Community Right to Challenge

10.4 The impact on business, charities or voluntary organisations is minimal. These provisions create no new burdens on them. Charities and voluntary organisations will be able, if they choose to do so, to express an interest in bidding to run public health services for which a local authority is responsible from 2014 for wider public health functions and 2016 for health visiting services for children under 5 respectively. The provision of public health advice to clinical commissioning groups is a permanent exemption and therefore no challenge may be made.

10.5 The impact on the public sector is minimal. The original DCLG impact assessment estimated that there would be between 298 and 318 additional procurement exercises per year across local government as a whole resulting from the Community Right to Challenge – about one per authority. The addition of public health services to the range of eligible services from 2014 is unlikely to increase this number significantly, given the breadth of local authority responsibilities. The impact assessment states that the long term impact of the policy will be positive as a result of lower service delivery costs.

10.6 A further impact assessment for subsequent secondary legislation regarding the time-limited and permanent exemptions in this statutory instrument was not carried out for the following reasons:

10.6.1 Where the intention is to delay the Community Right to Challenge for 12 months there are no additional costs imposed to the

service providers specified above. There will be no new or direct impact to providers currently delivering these services. It is recognised that the potential benefit from delaying the Community Right to Challenge, such as increased innovation or efficiency, may be foregone for the 12 month exemption period, although these potential lost benefits have not been quantified by DH or DCLG.

10.6.2 The permanent exemptions contain services that providers are prohibited to challenge as these are specific to an individual's need or highly specialised. There are very strong policy and public interest arguments outlined above as to why some services should remain permanently out of scope of the Community Right to Challenge.

10.6.3 The primary impact is on the local authority through assessing challenges and undertaking procurement exercises once the time-limited exemptions are over. DCLG's impact assessment estimates annual costs across all local authorities at £2.8 to £3 million for assessing expressions of interest and running additional procurement exercises. There is likely to be no additional costs imposed on the NHS, or providers who wish to make the challenge.

10.7 The DCLG Impact Assessment is attached and already resides in both Houses. New burdens payments have been released to local authorities to cover the costs of assessing Expressions of Interest and additional procurement exercises under the Community Right to Challenge. DCLG have also made funding available for providers to assist in any costs of preparing and making a challenge.

National Child Measurement Programme

10.8 A full impact assessment has not been prepared for these regulations. The regulations do not impact on business, charities or voluntary bodies. The instrument does affect the public sector. The transfer of the NCMP from PCTs to local authorities is covered under the Impact Assessment for the Public Health White Paper.

11. Regulating small business

11.1 The instrument does not apply directly to small businesses.

11.2 However, the Community Right to Challenge aspect of the instrument prevents voluntary organisations and community bodies from challenging-

- (a) local authority public health services from 1st April 2013 to 1st April 2014;
- (b) local authority health visiting and other child health services for children under five years from 1st April 2015 to 1st April 2016; and
- (c) local authority public health advice services to clinical commissioning groups on a permanent basis.

12. Monitoring & review

Health and Wellbeing Boards

12.1 Accountability for the establishment and implementation of Health and Wellbeing Boards from April 2013 will be the responsibility of local government. This instrument will be periodically reviewed by the Department of Health, alongside the statutory guidance on preparation of Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies.

Health Scrutiny

12.2 Accountability for the establishment of effective health scrutiny arrangements will be the responsibility of local government. This instrument will be periodically reviewed by the Department of Health, alongside published guidance.

Community Right to Challenge

12.3 DCLG has a support contract, which runs alongside the Community Right to Challenge itself. DCLG actively manage the support contract and monitor the outcomes for groups who have contacted the service. DCLG will also review impact of communications activities. The contract provides:

- 12.3.1 online guidance, web site and a dedicated telephone advice line;
- 12.3.2 specialist referrals to free advice for groups with promising ideas in need of specialist support;
- 12.3.3 grants for relevant bodies to carry out pre-feasibility and feasibility work to develop challenges or to become contract ready;
- 12.3.4 promotion of the Right - including speaking events, social media, press notices, case studies and regional events; and
- 12.3.5 wider market development.

12.4 DCLG will measure how many of the groups supported go on to submit an Expression of Interest, whether these Expressions of Interest are successful and how many contracts are won by the voluntary sector as a result of the service. Some groups may exercise the Community Right to Challenge without recourse to the advice service so this will not give on its own a full picture of the impact of the right.

12.5 The impact assessment attached sets out DCLG's overall approach to the post-implementation review of the Community Right to Challenge. An officials group, to be established in 2013, will assess the overall impact of the 2011 Localism Act through post legislative scrutiny. This group will consider the impact of the Right to Challenge on public health services transferring to relevant authorities in 2013.

National Child Measurement Programme

12.6 The Department of Health will be carrying out a review of the NCMP to ensure that it is cost-effective and delivered efficiently.

13. Contact

Eleanor Glendenning at the Department of Health Tel: 02072105818 or email: Eleanor.glendenning@dh.gsi.gov.uk can answer any queries regarding the instrument.