
STATUTORY INSTRUMENTS

2013 No. 218

The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

PART 4

HEALTH SCRUTINY BY LOCAL AUTHORITIES

Saving and transitional provision

34.—(1) Where a relevant committee has reviewed or scrutinised a matter under regulation 2 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 (“the 2002 Regulations”) before the relevant date but, as at that date, has yet to make a report or recommendation under regulation 3 of those Regulations, the health scrutiny authority may make a report or recommendation on that matter under regulation 22 of these Regulations.

(2) Where before the relevant date a local NHS body, other than an NHS foundation trust, had under consideration a proposal to which regulation 4(1) of the 2002 Regulations applied, but as at the relevant date had not consulted the relevant committee—

- (a) if the body was a Primary Care Trust or Strategic Health Authority, the Board or clinical commissioning group which is responsible from the relevant date for arranging the services to which the proposal relates, or
- (b) if the body was an NHS trust or NHS foundation trust, that trust, must consult the health scrutiny authority in accordance with regulation 23 of these Regulations.

(3) This paragraph applies where—

- (a) a relevant committee has been consulted by a local NHS body pursuant to regulation 4(1) of the 2002 Regulations before the relevant date;
- (b) the date specified under regulation 4(4) of the 2002 Regulations (“the specified date”) is on or after the relevant date; and
- (c) the relevant committee has not made comments on the proposal by the relevant date.

(4) Where paragraph (3) applies—

- (a) the health scrutiny authority may make comments under regulation 23(4), as if the specified date was the date referred to in that paragraph, to—
 - (i) if the local NHS body was a Primary Care Trust or Strategic Health Authority, the relevant body; or
 - (ii) if the local NHS body was an NHS trust, that trust; and
- (b) regulation 23(1) and regulations 23(5) to (14) and 25 apply in relation to the consultation and proposal, as if the relevant body had consulted the authority under regulation 23(1).

(5) This paragraph applies where—

- (a) a relevant committee has been consulted by a local NHS body pursuant to regulation 4(1) of the 2002 Regulations before the relevant date;
 - (b) the relevant committee has made comments on the proposals by the relevant date; and
 - (c) the local NHS body has not made a decision on the proposal by the relevant date.
- (6) Where paragraph (5) applies, regulations 23(5) to (14) and 25 apply in relation to the consultation and proposal, as if—
- (a) the health scrutiny authority had made comments on the proposal;
 - (b) the relevant body (if the local NHS body was a Primary Care Trust or Strategic Health Authority) or the NHS trust (if the local NHS body was such a trust) had consulted the authority under regulation 23(1).
- (7) This paragraph applies where a relevant committee has before the relevant date referred a matter to the Secretary of State under regulation 4(5) or (7) of the 2002 Regulations, but the Secretary of State has not made a decision on that referral by that date.
- (8) Where paragraph (7) applies, the Secretary of State may make a decision and, the Secretary of State and the Board may give directions, in accordance with regulation 25, as if the referral had been made by a health scrutiny authority under regulation 23(9).
- (9) This paragraph applies where an NHS foundation trust has consulted a relevant committee under regulation 4A(2) of the 2002 Regulations before the relevant date, but—
- (a) the date specified under regulation 4A(3) is on or after the relevant date and the committee has not made comments on the proposal by that date; or
 - (b) the relevant committee has made comments on the proposal before the relevant date, but the trust has not made an application to Monitor by the relevant date.
- (10) Where paragraph (9) applies, regulation 4A of the 2002 Regulations continues to apply in relation to the proposal, as if the health scrutiny authority were the relevant committee.
- (11) For the purposes of this regulation—
- “local NHS body” has the meaning given in the 2002 Regulations;
 - “health scrutiny authority”, in relation to a relevant committee, means—
 - (a) the local authority or authorities which arranged for the discharge of functions under the 2002 Regulations by the relevant committee; or
 - (b) any other person or body who exercises relevant functions of the authority or authorities under these Regulations;
 - “relevant body or bodies” in relation to a proposal, means the clinical commissioning group or groups or the Board responsible for arranging the provision of the services which are the subject of the proposal;
 - “relevant committee” means an overview and scrutiny committee or joint overview and scrutiny committee which exercised functions under the 2002 Regulations;
 - “relevant date” means 1st April 2013.