
STATUTORY INSTRUMENTS

2013 No. 351

**The Local Authorities (Public Health
Functions and Entry to Premises by Local
Healthwatch Representatives) Regulations 2013**

PART 4

**DUTY OF SERVICES-PROVIDERS TO ALLOW ENTRY
BY LOCAL HEALTHWATCH REPRESENTATIVES**

Duty of services-providers to allow entry by Local Healthwatch organisations or contractors

11.—(1) In relation to premises that a services-provider⁽¹⁾ owns or controls, that services-provider must allow an authorised representative⁽²⁾ to—

- (a) enter and view those premises; and
- (b) observe the carrying-on of activities on those premises.

(2) Paragraph (1) does not apply—

- (a) in respect of any premises, or parts of premises, if the presence of an authorised representative on those premises, or those parts of premises, would compromise—
 - (i) the effective provision of care services, or
 - (ii) the privacy or dignity of any person;
- (b) if the authorised representative does not comply with regulation 13;
- (c) in respect of excluded premises;
- (d) to observing the carrying-on of excluded activities;
- (e) to entering and viewing premises, or parts of premises, for the purpose of observing the carrying-on of excluded activities;
- (f) in respect of any premises, or parts of premises, at any time when care services are not being provided on those premises or those parts of premises;
- (g) if, in the opinion of the services-provider, the authorised representative in seeking to enter and view, or observe the carrying-on of activities on, premises is not acting reasonably and proportionately;
- (h) if an authorised representative does not provide the services-provider with evidence that the representative is authorised in accordance with regulation 12.

(1) See section 225(7) of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) for the definition of “services-provider”.

(2) See section 225(5) of the 2007 Act for the definition of “authorised representative”. Section 225(5) is amended by section 186(6) and (7) of the 2012 Act.

(3) Where any premises, or parts of premises, are owned by a services-provider and controlled by another services-provider, the duty under paragraph (1) applies only to the services-provider who controls those premises, or those parts of premises.

(4) In this regulation—

“care home” means an establishment which is a care home within the meaning of section 3 of the Care Standards Act 2000(3);

“excluded activities” means any activities provided in pursuance of—

- (a) the social services functions of a local authority(4) so far as relating to persons aged under 18;
- (b) the functions, in so far as not covered by paragraph (a), conferred on or exercised by a local authority under the Children Act 1989(5), the Adoption (Intercountry Aspects) Act 1999(6) or the Adoption and Children Act 2002(7); or
- (c) the functions, in so far as not covered by paragraph (a), continuing to be exercisable by a local authority under the Adoption Act 1976(8);

“excluded premises” means—

- (a) parts of a care home which are not communal areas;
- (b) premises or parts of premises used as residential accommodation for employees of services-providers;
- (c) premises which are occupied by one or more persons as their home and which at least one of those persons occupies under a tenancy or a licence;

“social services functions”, in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970(9).

(3) 2000 c.14. Section 3 was amended by paragraphs 1 and 4 of Schedule 5 to the Health and Social Care Act 2008.

(4) See section 229(1) of the 2007 Act for the definition of “local authority”.

(5) 1989 c.41.

(6) 1999 c.18.

(7) 2002 c.38.

(8) 1976 c.36.

(9) 1970 c.42. See section 1A (meaning of “social services functions”), which was inserted by section 102(3) of the Local Government Act 2000 (c.22).