EXPLANATORY MEMORANDUM TO THE

CHILDREN ACT 2004 (DESIGNATION OF NHS DIRECT) ORDER 2005

2005 No. 2411

1. This explanatory memorandum has been prepared by Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 NHS Direct is a Special Health Authority functioning in England. This Order designates NHS Direct for the purposes of section 11(1) (d) of the Children Act 2004. The effect of this is to make NHS Direct subject to a duty to make arrangements to ensure that, in carrying out its normal functions, it has regard to the need to safeguard and promote the welfare of children. It places the same duty on NHS Direct as already exists for other NHS bodies under s11.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Section 11 of the Children Act 2004 applies to a range of persons and bodies, including NHS bodies, but only to those Special Health Authorities designated by the Secretary of State. This is the first (and likely to be the only) designation order made under this section of the Children Act 2004.

5. Extent

5.1 This instrument applies to England, as NHS Direct exercises functions only in relation to England.

6. European Convention on Human Rights

6.1 No statement is required.

7. Policy background

7.1 The object of the section 11 duty was to ensure that public sector bodies commissioning or providing services or giving strategic direction for the delivery of those services are under a duty to ensure that safeguarding and promoting the welfare of children is factored into the work that is done with children and families. The provision in relation to Special Health Authorities in s11 was made in recognition of the fact that while most such authorities would not fall under this definition, there was one - NHS Direct - that deals with

children and families in a way that would make it necessary to apply s11 to them. NHS Direct is a part of the NHS that offers advice to patients by telephone and via the internet

8. Impact

8.1 The order places no new burdens on the public sector . This reflects the position in relation to all the key people and bodies named in section 11 of the Children Act 2004. A Regulatory Impact Statement on the section 11 guidance has been published on the DfES website www.dfes.gov.uk.

9. Contact

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