EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (PUBLIC HEALTH FUNCTIONS AND ENTRY TO PREMISES BY LOCAL HEALTHWATCH REPRESENTATIVES) (AMENDMENT) REGULATIONS 2017

2017 No. [XXXX]

1. Introduction

1.1 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 amends the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 (SI 2013/351) ("the principal Regulations") to require ongoing provision by local authorities of five health and development assessment and reviews, as set out in the Department's Healthy Child Programme[1], to be offered to pregnant mothers and children between the ages of 0 – 5.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 This entire instrument applies only to England.

4. Legislative Context

4.1 The Health and Social Care Act 2012 ("the 2012 Act") inserted new section 2B(1) into the National Health Service Act 2006 ("the 2006 Act") to give upper tier and unitary local authorities a duty to take appropriate steps to improve the health of their populations, and to carry out other public health functions. The principal Regulations set out steps that local authorities were obliged to take in carrying out their health improvement functions and certain steps they must take in the exercise of the Secretary of State's public health functions.

4.2 In 2015 the principal Regulations were amended by the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) and Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment) Regulations 2015 (SI 2015/921) ("the 2015 Regulations") to prescribe steps that local authorities must take to provide or secure the provision of universal health visitor reviews, to carry out a policy intention to ensure that elements of the Healthy Child Programme, led by health visitors, should be provided in a universal fashion. The duties were introduced on a time limited basis with an expiry date of 31st March 2017.

[1] Healthy Child Programme

4.3 This instrument removes the expiry date from the principal Regulations, so that the duty on local authorities will continue after 31st March 2017.

5. Extent and Territorial Application

5.1 This instrument extends to England.

5.2 This instrument applies to England.

6. European Convention on Human Rights

6.1 The Parliamentary Under-Secretary of State for Public Health and Innovation Nicola Blackwood MP has made the following statement regarding Human Rights:

"In my view the provisions of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) (Amendment) Regulations 2017 are compatible with the Convention rights."

7. Policy background

7.1 As part of delivering the previous Government's vision to improve the health outcomes of children and young people, responsibility for commissioning 0-5 children's public health services transferred from NHS England to Local Government on 1 October 2015. This joined up commissioning for children under 5 with the commissioning for 5-19 year olds and other public health functions.

7.2 The 2015 Regulations amending the principal Regulations were made on 23 March 2015 and came into force on 1 October 2015. They prescribe universal health and development reviews at five key stages; antenatal, new birth, 6-8 weeks, 1 year and 2-2.5 years. The specific objective was to ensure the ongoing provision of a universal health visiting service essential to supporting the health and well-being of families and children at critical stages of development and also to contribute to the wider benefit of society by:

- offering the opportunity to reduce health and social care needs later in life;
- contributing to the reduction of disease, for example through reviewing immunisation status; and,
- allowing for the collection of data at a national level that enables measurement against elements of the Public Health Outcomes Framework.

7.3 The prescribed reviews are elements of the Healthy Child Programme, which is the clinical and public health early intervention and prevention programme for children and families from pregnancy to 5 years of age, published by the Department of Health. There is strong evidence supporting delivery of all aspects of the Healthy Child Programme.

7.4 The principal Regulations contain a sunset clause that means the duty on local authorities will cease to have effect after 31st March 2017. The principal Regulations also state that a review may be carried out by the Secretary of State into the operation of that duty, and, if carried out, a report of the review must be published by 30th March 2017. The Department of Health commissioned Public Health England (PHE) to undertake such a review. PHE is an executive agency of the Department of Health and acts as the system leader for children's and young people's public health. Being at the heart of the joined-up system, PHE is well-placed to facilitate and capture a

range of feedback from the service. Furthermore, under the auspices of its Best Start in Life (BSiL) programme governance, PHE can harness views and debate through its strong relationship with local government, enhanced by its role in gathering evidence related to the 0 -5 years elements of the Healthy Child programme. As such it was selected to undertake the review. In so doing, PHE collated evidence from a quarterly local authority data collection and via a survey of the three main stakeholder groups - commissioners, providers and professionals. Over 3000 responses were received.

7.5 The review found widespread support for the universal health visitor programme remaining in place. The predominant rationale for doing so is to provide some form of protection for the universal service and to secure the delivery of long term benefits from the Healthy Child Programme, including improved health and wellbeing outcomes for children and their families. There was also a strong view that the services are essential for prevention and early intervention. There was general agreement that these services deliver a positive return on investment and contribute to other government priorities such as reducing childhood obesity, tobacco control, and improving maternal mental health. The review, 'Review of Mandation for the Universal Health Visitor Service', will be published in a report by PHE.

Consolidation

7.6 There are no plans to consolidate these Regulations.

8. Consultation outcome

8.1 The Department of Health did not consult in relation to this instrument.

8.2 The review undertaken by PHE and referred to in paragraph 7.5 summarises the evidence in favour of renewing the duty on local authorities. In particular, it noted:

- stakeholders had found mandation of the five universal reviews to have provided a framework for the service which was helpful from both a commissioning and a service delivery perspective;
- national standards on universal elements of the service were clear;
- it supported tracking of 0 – 5 years health and wellbeing outcomes;
- delivery momentum gained under the former national health visitor programme (ended April 2015) had been maintained;
- from a local authority perspective, the universal health visitor service compares favourably with other mandated public health functions; and
- stakeholders, commissioners, providers and professionals are in agreement that mandation should continue.

9. Guidance

9.1 In September 2015, the Department of Health published the document 'Universal Health Visitor Reviews: Advice for local authorities in delivery of the mandated universal health visitor reviews from 1 October 2015'[2].

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

[2] https://www.gov.uk/government/publications/universal-health-visitor-reviews-advice-for-local-authorities

10.2 There is no new impact on the public sector of renewing the duty on local authorities, because there is no change in the provision of these services. This instrument continues the status quo.

10.3 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

10.4 Funding for the provision of 0-5 services transferred to local authorities from the NHS with the services on 1st October 2015. The universal health visitor reviews form part of these services and no specific funding was attached to them. Funding for 0-5 services is included within the routine local authority annual allocations.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small business.

12. Monitoring & review

12.1 Health Visiting service metrics are currently collected and reported quarterly via an interim reporting system to report activity at a local authority resident level. This is a voluntary collection. Plans are in place to introduce a Children and Young People's health services dataset that will capture this information going forward.

13. Contact

13.1 Dorian Kennedy at the Department of Health tel: 0207 210 5771 or email: dorian.kennedy@dh.gsi.gov.uk can answer any queries regarding the instrument.