

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Public involvement and local government

Chapter 1 – Public involvement

Local Healthwatch organisations

Section 183 – Local authority arrangements

1133. This section makes provision as to the contractual arrangements that a local authority is required to make under section 221(1) of the 2007 Act.
1134. *Subsection (2)* amends section 222 of the 2007 Act to specify who a local authority must contract with under section 221(1) for the carrying-on of Local Healthwatch activities. It requires the contractual arrangements under section 221(1) to be made with a body corporate which is a social enterprise, and which satisfies any criteria prescribed by regulations. It inserts new *subsection (2A)* into section 222 which provides that the body contracted under section 221(1) is to have the function of carrying on the Local Healthwatch activities in the area concerned and is to be known as the Local Healthwatch organisation for that area. *Subsection (2)* of section 183 also inserts new *subsection (2B)* into section 222 of the 2007 Act which enables local authorities to authorise Local Healthwatch organisations to make arrangements (Local Healthwatch arrangements) for other persons (Local Healthwatch contractors) (which could be individuals or bodies) to assist them to carry on the activities or to carry on some of the activities on their behalf.
1135. *Subsections (3) to (5)* make consequential amendments to section 222 of the 2007 Act.
1136. *Subsection (6)* inserts new *subsections (7A)* and *(7B)* into section 222 of the 2007 Act. New *subsection (7A)* places a duty on local authorities to seek to ensure that the arrangements they make with Local Healthwatch organisations are operating effectively and are providing value for money. *Subsection (7B)* requires the local authority to publish a report of its conclusions in seeking to meet these two objectives.
1137. *Subsection (7)* substitutes *subsection (8)* of section 222 of the 2007 Act and inserts new *subsections (9)* and *(10)* into that section. *Subsection (8)* as substituted sets out when a body is a social enterprise for the purposes of the duty under section 222(2). For these purposes a body is a social enterprise if it could reasonably be considered to act for the benefit of the community in England (the community benefit test) and it satisfies any criteria prescribed in regulations. *New subsection (9)* provides a regulation-making power to allow provision to be made about the sort of activities that are to be treated as meeting the community benefit test and the activities that are to be treated as not meeting it. *New subsection (10)* clarifies that “community”, for these purposes, includes a section of the community and provides a regulation-making power to allow provision to be made as to what constitutes a section of the community, what does not constitute a section of the community and what may constitute a section of the community.

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

1138. *Subsection (9)* inserts new section 222A into the 2007 Act to impose a duty on the local authority to have regard to any guidance from the Secretary of State on managing conflicts of interest between the making of arrangements under section 221(1) of the 2007 Act with Local Healthwatch organisations and the carrying-on of Local Healthwatch activities. It also requires the local authority to require the Local Healthwatch organisation to have regard to such guidance.