

<b>DECISION-MAKER:</b>	HEALTH OVERVIEW AND SCRUTINY PANEL		
<b>SUBJECT:</b>	THE NATIONAL HEALTH SERVICE (PROCUREMENT, PATIENT CHOICE AND COMPETITION) (No.2) REGULATIONS 2013		
<b>DATE OF DECISION:</b>	21 March 2013		
<b>REPORT OF:</b>	HEAD OF COMMUNITIES, CHANGE AND PARTNERSHIPS		
<b><u>CONTACT DETAILS</u></b>			
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#### **STATEMENT OF CONFIDENTIALITY**

None.

#### **BRIEF SUMMARY**

This paper provides the Panel with the background to The National Health Service (Procurement, Patient Choice And Competition) (No.2) Regulations 2013 and the opportunity to comment on the regulations.

#### **RECOMMENDATIONS:**

- (I) The Panel are asked to note The National Health Service (Procurement, Patient Choice And Competition) (No.2) Regulations 2013 and consider if they wish to comment on them.

#### **REASONS FOR REPORT RECOMMENDATIONS**

1. To inform members of the opportunity to respond to The National Health Service (Procurement, Patient Choice And Competition) (No.2) Regulations 2013, currently before Parliament.

#### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

2. None.

#### **DETAIL (Including consultation carried out)**

3. On 13 February the Government laid before Parliament The National Health Service (Procurement, Patient Choice And Competition) Regulations 2013 to be made using the negative procedure and come into effect on 1 April 2013. The regulations are made under Section 75 of the Health and Social Care Act 2012. The regulations were intended to help ensure that commissioners' decisions on buying clinical services are transparent and fair, and that they

improve the quality and efficiency of health care services for patients.

4. After they were laid, concerns were raised about the extent to which competition was going to be used. The Government received representations from lobby groups and the medical professions including a letter signed by more than 1000 doctors expressing concern. The Government stated that the regulations went no further than the set of procurement guidelines issued in March 2010. However, on Tuesday 5 March the Health Minister agreed that as the wording of the regulations had "inadvertently created confusion" it would be withdrawing the first draft of the regulations to rewrite them.
5. Revised regulations, (appendix 1) were laid in Parliament on 11 March 2013 and will come into effect from 1 April. Accompanying the regulations is a note of changes (appendix 2), and explanatory memorandum (appendix 3).
6. The regulations are again being made using the negative procedure. Under the negative procedure there are 40 days, within which MPs or Members of the House of Lords may request a debate. If there are no objections to an SI subject to the negative procedure then the regulations are passed. As with the previous regulations, the House of Lords Secondary Legislation Scrutiny Committee has signalled its intent to look at the regulations.
7. Lobby Group 38 Degrees contacted the Chair of the Panel in February with a request to address the Panel regarding the regulations. They will be invited to address the Panel regarding the revised regulations at this meeting. Members will want to consider if they wish to make any representations regarding the regulation to the Health Minister, Clarke to the House of Lords Secondary Legislation Committee or other Parliamentary representative.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

8. None.

### **Property/Other**

9. None.

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

10. The duty to undertake overview and scrutiny is set out in Section 21 of the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007.

### **Other Legal Implications:**

11. None.

## **POLICY FRAMEWORK IMPLICATIONS**

12. None

KEY DECISION? Yes/No

WARDS/COMMUNITIES AFFECTED:

**SUPPORTING DOCUMENTATION**

**Appendices**

1.	The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013
2.	Note of Changes to the Regulations
3.	Explanatory Memorandum

**Documents In Members' Rooms**

1.	None
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**Equality Impact Assessment**

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes/No
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**Other Background Documents**

**Equality Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper: Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None
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