



# Department of Health & Social Care

Department of Health and Social  
Care  
39 Victoria Street  
London SW1H 0EU

Amanda Pritchard  
Chief Executive  
NHS England  
Quarry House  
Leeds LS2 7UE

9<sup>th</sup> June 2023

Dear Amanda

## **Amendment to the Cost Recovery Collection, Processing and Dissemination of overseas visitor and UK Patient-Level Data Directions 2021 (as amended)**

1.1 I am writing on behalf of the Secretary of State for Health and Social Care to give directions to NHS England, amending the Cost Recovery Collection, Processing and Dissemination of overseas visitor and UK Patient-Level Data Directions 2021 (as amended) (**the Original Directions**<sup>1</sup>). Before giving these Directions, the Secretary of State has consulted with NHS England as required by section 254(5) of the Health and Social Care Act 2012<sup>2</sup> (**the 2012 Act**).

1.2 These Directions are given in exercise of the powers conferred by sections 254(1), 260(2)(d), 261(2)(e) and (3) and 304(9) to (12) of the 2012 Act, sections 13ZC and 272(7) and (8) of the National Health Service Act 2006<sup>3</sup> (**the 2006 Act**) and regulation 32 of the National Institute for Health and Care Excellence (Constitution and

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<sup>1</sup> The Directions were given by the Secretary of State to NHS Digital on 26 March 2021. NHS Digital was abolished, and its functions transferred to NHS England, with effect from 1 February 2023, by the Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98). By virtue of regulation 6, those Directions have effect as if references to the Health and Social Care Information Centre (or NHS Digital) were references to NHS England (and the Directions accordingly have effect as if given to NHS England). The Original Directions were amended by paragraph 7 of the NHS England De-Identified Data Analytics and Publication Directions 2023 which were given on 1 February 2023.

<sup>2</sup> 2012 c.7. Relevant amendments were made by the Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98).

<sup>3</sup> Section 13ZC was inserted by section 45 of the Health and Care Act 2022 (c.31).

Functions) and NHS England (Information Functions) Regulations 2013<sup>4</sup> and come into force on the day after the day on which they are signed.

1.3 In accordance with section 254(2)(b) of the 2012 Act, the Secretary of State considers that it is in the interests of the health service in England or of the recipients or providers of adult social care in England for these Directions to be given.

1.4 In accordance with section 13ZC(5) of the 2006 Act, the Secretary of State considers these Directions to be in the public interest.

## **2. Purpose of these Directions**

The purpose of these Directions is to amend the Original Directions by extending the scope of the information that is to be collected, linked, analysed and disseminated by NHS England under the Original Directions.

## **3. Amendment of the Original Directions**

The Original Directions are amended as follows:

3.1 Before paragraph 2.1 of the Original Directions, insert:

“This Direction has been given to facilitate the following purposes (‘the Purposes’).”.

3.2 For paragraph 3.1(a) of the Original Directions substitute:

“a) Establish and operate a system for the collection and analysis of data which is necessary or expedient to support the Relevant Bodies in exercising their functions and complying with their obligations under the Charging Regulations or which is otherwise necessary or expedient to support the Purpose of this Direction (‘the Purpose’) including:

- I. Data of a description set out in the "Data" column of Annex 1 (excluding the data which is identified as data NHS England does not itself collect) which is to be collected from the sources identified in Annex 1, subject, in the case of sources which are not NHS organisations, to data sharing agreements being put in place if required;
- II. Data of a description set out in the "Data Item" column of Annex 2 which is to be collected from Relevant Bodies, who will update patient records, or provide information directly to NHS England on the chargeable status of NHS patients;
- III. Data of a description set out in Annex 3 (‘Annex 3 data’) for the purposes of remedying and reporting on known errors in data collected, and processed under, this Direction;

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<sup>4</sup> S.I. 2013/259 as amended by S.I. 2023/98.

- IV. Analysis of Annex 3 data by way of reference or linkage to Hospital Episodes Statistics (HES) and the Personal Demographics Service (PDS) data and any other datasets as necessary or expedient for the Purpose;
- V. Other collection and analysis of data as necessary or expedient for the Purpose.”.

3.3 For paragraph 3.1(b) of the Original Directions, substitute:

- “b) Check the data obtained by complying with this Direction is as expected, carry out validation and data quality checks for any significant issues, including in accordance with any specific validation and data quality checks set out within the Memorandum of Understanding<sup>5</sup> or in any data sharing agreements that have been agreed with organisations which are not NHS organisations, and investigate and resolve any such issues arising from the data and/or with the system.”.

3.4 After paragraph 3.1(e) of the Original Directions, insert:

- “f) Link Annex 3 data with data held by NHS England in HES and the PDS, and any other datasets as necessary or expedient for the purposes of:
  - I. Investigating and correcting errors;
  - II. Reporting and informing on errors;
  - III. Updating relevant systems to resolve errors;
  - IV. Aiding Relevant Bodies in exercising their functions and complying with their obligations under the Charging Regulations.”.

3.5 After paragraph 3.3 of the Original Directions, insert:

- “3.4 NHS England is directed to input the Home Office Reference Numbers into the PDS records of relevant patients to improve the quality of data within the PDS and otherwise for the efficient operating of the PDS.”.

3.6 For paragraph 6 of the Original Directions (as amended by paragraph 7 of the NHS England De-Identified Data Analytics and Publication Directions 2023<sup>6</sup>) substitute:

- “6. For the purposes of section 260(2)(d) of the 2012 Act, information obtained by complying with this Direction is specified as information

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<sup>5</sup> Memorandum of Understanding on the transmission of immigration status data from the Home Office to NHS Digital for the purpose of supporting chargeable status decisions to be made for NHS patients pursuant to the Cost Recovery Collection, Processing and Dissemination of overseas visitor and UK Patient-Level Data Directions 2021 (as amended).

<sup>6</sup> The Directions were given on 1 February 2023.

falling within section 260(2)(d) (and the prohibition in section 260(1) on publishing information accordingly applies to it).”.

3.7 For paragraph 7.2 of the Original Directions, substitute:

“7.2 NHS England is directed to exercise its power under section 261(4) of the 2012 Act, to disseminate the information collected pursuant to this Direction to Relevant Bodies for the purpose of enabling those Relevant Bodies to exercise their functions under regulation 3 of the Charging Regulations save for Annex 3 data which NHSE England may only disseminate where so directed by the Secretary of State.”.

3.8 After Annex 2 of the Original Directions, insert Annex 3 as follows:

**“Annex 3: Directed Visitors and Migrants’**

**Data shared by the Home Office for the purposes of investigating and correcting errors, reporting, informing on errors, updating relevant systems to resolve errors, and aiding Relevant Bodies in exercising their functions and complying with their obligations under the Charging Regulations.**

4.

Data	Source
UID2 Date of Birth Date of decision e.g., refusal	From Home Office for those individuals whose digital status has been subsequently updated

To be updated as appropriate (within the confines of the scope set out in this Direction) by the Secretary of State in consultation with NHS England via the Programme Board. Updates may include other data items or processing necessary to enable NHS England to analyse the data (including by way of linkage with datasets as necessary or expedient) for the purposes of investigating and correcting errors, reporting, informing on errors, updating relevant systems to resolve errors, and aiding Relevant Bodies in exercising their functions and complying with their obligations under the Charging Regulations.”.

Yours sincerely,



Louise Greenrod

Signed by authority of the Secretary of State

Date Signed: 9<sup>th</sup> June 2023