



NHS England
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Sarah Wilkinson
Chief Executive
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[] March 2020

Dear Sarah

1. Covid-19 Public Health NHS England Directions 2020

- 1.1 I am writing on behalf of the National Health Service Commissioning Board (known as **NHS England**) to provide directions to the Health and Social Care Information Centre, known as and hereafter referred to in these Directions as **NHS Digital**.
- 1.2 These Directions are given in exercise of the powers conferred by sections 254(1) and (6), section 260(2)(d), section 261(2)(e), section 262(1), section 262(3) and section 304(9), (10) and (12) of the Health and Social Care Act 2012¹ (**the 2012 Act**) and Regulation 32 of the National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013² (**the Regulations**).
- 1.3 In exercising the activities and functions described in these Directions, NHS Digital must have regard to such priorities, policies, advice or guidance of NHS England as NHS England may notify in writing from time to time to NHS Digital.

¹ 2012 c.7

² S.I. 2013/259

1.4 These Directions are to be known as the **Covid-19 Public Health NHS England Directions 2020** and come into force on the date signed.

2. Purpose of these Directions

2.1 The purpose of these Directions is to provide NHS Digital with the necessary powers to support NHS England's response to Covid-19 and support various Covid-19 purposes, including those set out below, through:

2.1.1 establishing and operating information systems to collect and analyse data in connection with Covid-19, and

2.1.2 developing and operating information and communication systems to deliver services in connection with Covid-19,

(Covid-19 Purposes).

2.2 Such Covid-19 Purposes include but are not limited to the following purposes:

2.2.1 understanding Covid-19 and risks to public health, trends in Covid-19 and such risks, and controlling and preventing the spread of Covid-19 and such risks;

2.2.2 identifying and understanding information about patients or potential patients with or at risk of Covid-19, information about incidents of patient exposure to Covid-19 and the management of patients with or at risk of Covid-19 including: locating, contacting, screening, flagging and monitoring such patients and collecting information about and providing services in relation to testing, diagnosis, self-isolation, fitness to work, treatment, medical and social interventions and recovery from Covid-19;

2.2.3 understanding information about patient access to NHS services as a direct or indirect result of Covid-19 and the availability and capacity of those services;

2.2.4 monitoring and managing the response to Covid-19 by NHS bodies and the Government including providing information to the public about Covid-19 and its effectiveness and information about capacity, medicines, equipment, supplies, services and the workforce within the NHS services;

2.2.5 delivering services to patients, clinicians, the NHS workforce and the public about and in connection with Covid-19, including the provision of information, fit notes and the provision of NHS services; and

2.2.6 research and planning in relation to Covid-19.

3. Establishing and operating information systems for Covid-19

- 3.1 In accordance with sections 254(1) and 254(6) of the 2012 Act, NHS England directs NHS Digital to establish and operate such systems as are required for the collection and analysis of information for Covid-19 Purposes, in the manner provided for below. Such systems are to be known as the **Covid-19 Public Health NHS England Information Systems**.
- 3.2 Pursuant to sections 254(1) and 254(6) of the 2012 Act, at the request of NHS England or as NHS Digital otherwise determines necessary to achieve the Covid-19 Purposes as part of the Covid-19 co-ordinated response, NHS Digital is directed to analyse information:
- 3.2.1 collected pursuant to these Directions, and/or
- 3.2.2 obtained by NHS Digital complying with these Directions and any other direction under section 254 or a request made under section 255 of the 2012 Act, or on any other lawful basis where NHS Digital is a controller³ of the data.
- 3.3 Such analysis referred to above includes analysis by reference to or by linkage to information obtained by NHS Digital, as such analysis may be requested by NHS England, or as NHS Digital determines is necessary to achieve the Covid-19 Purposes.

4. Systems delivery functions

In accordance with Regulation 32 of the Regulations, NHS England directs NHS Digital to exercise such systems delivery functions of NHS England, as may be requested by NHS England from time to time for Covid-19 Purposes, or as NHS Digital determines are necessary to establish and operate the Covid-19 Public Health NHS England Information Systems or as are necessary to achieve the Covid-19 Purposes as part of the Covid-19 co-ordinated response.

5. Service levels etc.

NHS England directs NHS Digital to exercise the functions conferred under these Directions generally in such a way as to enable and facilitate the Covid-19 Purposes and in accordance with the service levels, support and monitoring requirements, and the reporting and governance requirements notified by NHS England in writing to NHS Digital from time to time.

6. Requirement for these Directions

- 6.1 In accordance with section 254(3) of the 2012 Act, NHS England considers that the information which could be obtained by complying with these Directions is information which it is necessary or expedient for NHS England to have in relation to its exercise of functions in connection with the provision of NHS services.

³ as defined in Article 4(7) of the General Data Protection Regulation 2016

6.2 In accordance with section 254(5) of the 2012 Act, NHS Digital has been consulted before these Directions have been given and will be consulted first in relation to any specific request made by NHS England under these Directions.

7. No Publication

In accordance with section 260(2)(d) of the 2012 Act, NHS Digital is directed not to publish any information it obtains under section 254 of the 2012 Act by complying with these Directions.

8. Dissemination

8.1 In accordance with section 261(2)(e) of the 2012 Act, despite the prohibition on publication above, NHS Digital may disseminate such information it has obtained under section 261(1) of the 2012 Act to those persons or organisations who require it for Covid-19 Purposes, and where it would be lawful for NHS Digital to do so.

8.2 In accordance with section 262(1) of the 2012 Act, NHS Digital is required at the written request of NHS England or as NHS Digital may otherwise consider necessary, to disseminate information it obtains by complying with these Directions, where the information falls within section 262(2) of the 2012 Act, to those organisations who reasonably require it for Covid-19 Purposes, and where it would be lawful for NHS Digital to do so.

8.3 In accordance with section 262(3) of the 2012 Act, NHS Digital is required at the written request of NHS England or as NHS Digital may otherwise consider necessary, to exercise its powers:

8.3.1 under s261(4) of the 2012 Act, to disseminate any information it collects pursuant to these Directions; and/or

8.3.2 under regulation 3 of the National Health Service Control of Patient Information Regulations 2002 (**COPI**), to disseminate any information it obtains under section 254 of the 2012 Act pursuant to these Directions

to those persons or organisations who reasonably require it for Covid-19 Purposes, and where it would be lawful for NHS Digital to do so. ,

8.4 Any information obtained by NHS Digital complying with these Directions under section 254 may also be disseminated by NHS Digital in accordance with its powers under section 261 of the 2012 Act or its powers under or by virtue of any other Act, including under Regulation 3 of COPI.

8.5 Details about all information disseminated by NHS Digital which has been obtained under these Directions will be published in the NHS Digital Data Release Register⁴.

⁴ <https://digital.nhs.uk/services/data-access-request-service-dars/register-of-approved-data-releases>

9. Fees and Accounts

- 9.1 Pursuant to section 254(7) of the 2012 Act and regulation 32(2)(b) of the Regulations, NHS Digital is entitled to charge NHS England a reasonable fee in respect of the cost of NHS Digital complying with these Directions.
- 9.2 NHS Digital must keep proper accounts, and proper records in relation to the accounts, in connection with these Directions.

10. Duration

NHS Digital is directed to operate the Covid-19 Public Health NHS England Information Systems and undertake the system delivery functions referred to above (**the Directed Functions**) [until 31st March 2022], unless and until revoked [earlier or replaced] by a further direction or instructed in writing by an authorised officer of NHS England on reasonable notice to suspend and/or permanently cease the Directed Function. Where a Directed Function is to cease, such written request will also contain a direction to revoke these Directions in full or in part and in accordance with the timescales and arrangements to be agreed with NHS Digital.

11. Review of these Directions

These Directions will be reviewed six months following the date they come into force and every six months thereafter.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a series of loops and a horizontal line extending to the right.

Signed by authority of NHS England

