



Department of Health

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Sarah Wilkinson
Chief Executive
NHS Digital
1 Trevelyan Square
Boar Lane
Leeds
LS1 6AE

6th January 2021

Dear Sarah,

The Withdrawal Agreement (Verification of Entitlement to Healthcare Benefits) Direction 2020

1. I am writing on behalf of the Secretary of State for Health and Social Care (the 'Secretary of State') to provide a Direction to the Health and Social Care Information Centre, known as and hereafter referred to in this Direction as 'NHS Digital'.
 - 1.1 This Direction is given in exercise of the powers conferred by sections 254(1) and (6), 260(2)(d), 261(2)(e), 262(3) and 304(9), (10), (11) and (12) of the Health and Social Care Act 2012 (the '2012 Act')¹ 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 '2013 Regulations').
 - 1.2 In exercising the activities and functions described in this Direction, NHS Digital must have regard to such policies, advice or guidance of the Secretary of State as the Secretary of State may notify in writing to NHS Digital.
 - 1.3 This Direction is to be known as the **Withdrawal Agreement (Verification of Entitlement to Healthcare Benefits) Direction 2020** and comes into force on the date signed.
2. **Purpose**
 - 2.1 The purpose of this Direction is to provide NHS Digital with the necessary powers to support the Secretary of State in his duty of ensuring that certain healthcare obligations arising from the Withdrawal Agreement³ are fulfilled. Specifically, this Direction will support the process for verifying that applicants for healthcare benefits pursuant to the

¹ 2012 c.7

² S.I. 2013/259

³ <https://www.gov.uk/government/publications/new-withdrawal-agreement-and-political-declaration>

Withdrawal Agreement are in scope of Title III (Coordination of Social Security Systems) of the Withdrawal Agreement. Pursuant to this Direction, NHS Digital will give this support by providing confirmation of a person's EU settlement status to the NHS Business Services Authority (NHSBSA)⁴.

3. Establishing and operating information systems for the Withdrawal Agreement (Verification of Entitlement to Healthcare Benefits) Direction 2020

3.1 Under sections 254(1) and (6) of the 2012 Act, NHS Digital is directed to

- a) establish and operate a system for the collection and analysis of information to the extent necessary for it to provide confirmation of a person's EU settlement status to the NHSBSA. This should be by the following process:
 - i. collect from the Home Office data of the description set out in Annex 1 for the purpose of reconciliation of a person's Home Office record with their NHS Number, subject to a relevant data-transfer agreement between NHS Digital and the Home Office being in place.
 - ii. check the data collected pursuant to (i) above is as expected and carry out validation and data quality checks for any significant issues.
 - iii. trace any missing NHS Numbers (using NHS Digital datasets) and add these to the data that has been supplied.
 - iv. where a patient does not have an NHS record, or the record cannot be traced, create a new NHS record.
 - v. process requests from NHSBSA to obtain a correct NHS Number or verify a provided NHS Number for a person.
 - vi. receive a verified NHS Number from NHSBSA and as set out in Annex 2, return EU settlement status data to NHSBSA⁵.

3.2 This information system shall be known as the **Withdrawal Agreement (Verification of Entitlement to Healthcare Benefits) Information System**.

4. System delivery functions for the verification of healthcare entitlement under the Withdrawal Agreement Information System

4.1 Under Regulation 32(1) of the 2013 Regulations, NHS Digital is directed to exercise such system delivery functions of the Secretary of State as are necessary for it to provide confirmation of a person's EU settlement status to the NHSBSA.

4.2 The Secretary of State directs NHS Digital to exercise the systems delivery functions described above in accordance with the Withdrawal Agreement Information System Specification (version 1.0, dated 5-Nov-2020) issued with these Directions, which may be updated periodically (within the confines of the scope set out in this Direction) by NHS Digital and agreed in writing by an authorised officer of the DHSC on behalf of the Secretary of State.

⁴ An Arm's Length Body of the Department of Health and Social Care that delivers a range of national services to NHS organisations, NHS contractors, patients and the public

⁵ Where NHSBSA is unable to verify the healthcare benefits of a person, this data will be shared by NHSBSA with the Department of Health and Social Care for resolution of healthcare entitlements

5. Requirement for this Direction

- 5.1 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 this Direction to be given.
- 5.2 In accordance with section 254(5) of the 2012 Act, NHS Digital has been consulted before this Direction has been given.

6. Publication

NHS Digital is directed to not publish information collected or produced by complying with this Direction, in accordance with section 260(2)(d) of the 2012 Act.

7. Dissemination

- 7.1 In accordance with section 261(2)(e) of the 2012 Act, despite the prohibition on publication, NHS Digital may disseminate under section 261(1) of the 2012 Act the information it has obtained by complying with this Direction (where section 261(1) would otherwise not apply due to the restriction on publication) to NHSBSA to support the purpose of this Direction. Any information disseminated under section 261(2)(e) will be information that does not identify an individual, for example aggregated reports.
- 7.2 In accordance with section 262(3)(a) of the 2012 Act, NHS Digital is directed to exercise its power under section 261(4) of the 2012 Act, to disseminate the information collected from the Home Office pursuant to this Direction to NHSBSA for the purpose of enabling NHSBSA to exercise their functions under Regulation 4 of the Healthcare (European Economic Area and Switzerland Arrangements) (EU Exit) Regulations 2019.
- 7.3 Any information obtained as a result of this Direction may also be disseminated in line with NHS Digital's powers under section 261(5) of the 2012 Act.

8. Fees and accounts

- 8.1 In accordance with regulation 32(2)(a) of the Regulations, the Secretary of State and/or the NHSBSA will by written agreement, make payments to NHS Digital for things done in connection with the exercise of the systems delivery functions referred to above.
- 8.2 NHS Digital must keep proper accounts, and proper records in relation to the accounts, in connection with this Direction.

9. Duration

NHS Digital is directed to operate the Withdrawal Agreement (Verification of Entitlement to Healthcare Benefits) Information System and undertake the systems delivery function referred to above (the '**Directed Functions**') unless and until revoked by a further direction or instructed in writing by an authorised officer of the Department of Health and Social Care on behalf of the Secretary of State 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 this Direction in accordance with the timescales and arrangements to be agreed with NHS Digital.

10. Review of this Direction

This Direction will be reviewed as considered appropriate, and in particular when the

Specification is amended. This review will include consultation with NHS Digital as required by section 254(5) of the 2012 Act.

Yours sincerely

A handwritten signature in grey ink that reads "Charlotte Bright". The signature is written in a cursive, flowing style.

Charlotte Bright,
Director, EU and Trade

Annex 1: Data Set collected from the Home Office for the purpose of reconciliation of a person's Home Office record with NHS Number

- Check ID
- Home Office Reference (Home Office generated reference for the person's identity)
- The individual's current and historic demographics. To contain:
 - Date and time that the demographics were captured
 - The type of demographics
 - Information pertaining to how the demographics were captured (for example, supplied by the applicant or supplied by an HO case worker)
 - Given name (Forename)
 - Family name (Surname)
 - Full name
 - Sex⁶
 - Date of Birth
- The individual's current and historic addresses. To contain:
 - The date and time the address was captured
 - An optional start date at that address
 - An optional end date at that address
 - Address line 1
 - Address line 2
 - Address line 3
 - Address line 4
 - City or Town
 - Postal Code
 - Country
- The individual's current and historic email. To include:
 - The date and time the email address was captured
 - The email address
- The individual's current and historic telephone numbers. To include:
 - The date and time the phone number was captured
 - The phone number

⁶ Sex reflects a person's sex as recorded on administrative documents (eg Birth Certificate, Gender Recognition Certificate, Passport etc) it maps to the Gender field used on PDS that excludes a clinical description of a person's sex.

Annex 2: Status data collected from the Home Office for the purpose of confirming EUSS for NHSBSA to determine a person’s eligibility for healthcare benefits

- Check ID
- Healthcare status values pertaining to the requested date. To contain:
 - Product type – under which the status was granted
EUS - indicating the applicant is part of the EU Settlement Scheme.
 - Immigration status – the type of leave that this person holds.
LTR = Leave to Remain: this type of leave would have an expiry associated with it.
ILR = Indefinite Leave to Remain: no time restriction.
 - Start date of the status
 - End date of the status
 - Healthcare status – Person’s right to access Healthcare in UK free of charge, as per Home Office Policy

Data collected from the Home Office will be passed unchanged to NHSBSA with the following exceptions:

Person is not part of the EU Settlement Scheme – non EUSS information will be removed.

Field	Returned data
NHS Number	As supplied in NHSBSA request
HO Reference Number	As present on patient record
Product type	Not provided
Immigration status	Not provided
Start date	Not provided
End date	Not provided
Healthcare status	Not provided

Interim solution – to be used in the event of delay in delivery of the EUSS API.

Field	Returned data
NHS Number	As supplied in NHSBSA request
HO Reference Number	As present on patient record
Product type	EUS
Immigration status	Not provided
Start date	Not provided
End date	Not provided
Healthcare status	Not provided