

NHS England Board meeting

Paper Title:	Summary of NHS App 2023 Directions issued to NHS England by the Secretary of State in March 2023
Agenda item:	10.2 (Public session)
Report by:	Jackie Gray, Director of Privacy, Transparency & Ethics
Paper type:	For information

Organisation Objective:

NHS Mandate from Government	<input type="checkbox"/>	Statutory item	<input checked="" type="checkbox"/>
NHS Long Term Plan	<input type="checkbox"/>	Governance	<input checked="" type="checkbox"/>
NHS People Plan	<input type="checkbox"/>		

Executive summary:

This paper is for the Board's information only to provide an overview of the NHS App Directions 2023 (Directions) issued to NHS England (NHSE) in March 2023 by the Secretary of State for Health and Adult Social Care (SoS). These are issued under section 254 of the Health and Social Care Act 2012 (2012 Act), regulation 32 of the National Institute for Health and Care Excellence (Constitution and Functions) and the Health and Social Care Information Centre (Functions) Regulations 2013 (NICE Regs), and section 13ZC of the National Health Service Act 2006 (the 2006 Act).

The purpose of the Directions (Purpose) is to require NHSE to develop and operate the NHS App Platform and related services (NHS App Services). These services will provide access to digital health and care information and services that have been assessed as being beneficial to health and adult social care services in England, and to the recipients of health and adult social care services provided in England. They will also generate anonymous statistical data which may be used by NHSE to understand health issues and challenges better, and to support strategies which may improve health outcomes for the population and reduce inequalities in health.

These Directions replace the NHS Digital (Establishment of Information Systems for NHS Services: NHS App) Directions 2018 (2018 Directions) and the NHS account Messaging and App Push Notifications Service Directions 2022 (2022 Directions), both previously issued by NHSE to NHS Digital (NHSD), which are revoked by these Directions.

Action required:

The Board is asked to note the new consolidated Directions and the information provided in this Paper regarding their purpose, effect, and requirements.

Background

1. Under section 254 of the 2012 Act, the SoS may direct NHSE to establish and operate a system for the collection or analysis of information. Under Regulation 32, the SoS may direct NHSE to exercise such of the SoS's system delivery functions as may be specified in directions. These are functions exercisable in relation to the

development or operation of information or communications systems in connection with the provision of health services or of adult social care in England. Under section 13ZC of the 2006 Act, the SoS may give NHSE directions as to the exercise of any of its functions. The Directions are issued by the SoS to NHSE under these provisions and are functions which have been transferred to NHSE from NHSD under the Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023.

Purpose of the Direction

2. The Directions require NHSE to develop and operate the NHS App Services in accordance with the Purpose described above. The Directions replace the 2018 Directions and the 2022 Directions previously issued to NHSD by NHSE to reflect and consolidate the full range of services delivered through the NHS App since 2019 (consolidating these into the uplifted Directions). The Directions will also enable a wider range of service offerings to be provided through the NHS App, including widening the scope of potential services to include adult social care.

Effect and Requirements of the Direction

3. From the date of signature of the Directions, NHSE has a legal duty to comply with the Directions, which require it:-
 - a. to exercise such systems delivery functions¹ of the Secretary of State as are necessary for NHS England to develop and operate the NHS App Services;
 - b. to establish and operate such systems for the collection and analysis of information as are necessary to meet the above Purpose of the Directions; and
 - c. to analyse the information collected, including linkage to other data lawfully held by NHSE, as NHSE determines is necessary, to achieve the above Purpose.
4. These functions are to be exercised in accordance with the Technical and Requirements Specifications attached to the Directions (as they may be updated from time to time). Also in accordance with the service levels, support and monitoring requirements, and the reporting and governance requirements notified by the SoS in writing to NHSE. The exercise by NHSE of the functions set out in the Directions will also be subject to the SoS draft statutory guidance², which when finalised, is guidance that NHSE will have a duty to have regard to when discharging its functions under these Directions.

Approval of acceptance of Directions and publication

5. The National Director of Transformation and National Medical Director approved acceptance of the Directions on behalf of the Accounting Officer as set out in the NHSE Scheme of Delegation and the Directions are published on the NHSE website³.

¹ See section 274 of the 2012 Act for the meaning of “systems delivery functions”.

² <https://www.gov.uk/government/publications/draft-guidance-on-nhs-englands-protection-of-patient-data/draft-guidance-on-nhs-englands-protection-of-patient-data>

³ <https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/directions-and-data-provision-notice/secretary-of-state-directions>

Annex 1

NHS England NHS App Directions 2023