

NATIONAL HEALTH SERVICE, ENGLAND

PUBLIC HEALTH, ENGLAND

**The Consent to Activities Related to the Security of NHS and
Public Health Services Digital Systems (Coronavirus) (No 4
Directions 2021**

The Secretary of State for Health and Social Care gives the following Directions in exercise of the powers conferred by sections 253 and 272(7) of the National Health Service Act 2006⁽¹⁾.

The Secretary of State considers that the incidence of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in England constitutes an emergency for the purposes of section 253(1) of that Act and that, during the emergency, the network and information systems held by or on behalf of the NHS in England or those bodies which provision public health services in England must be protected to ensure those systems continue to function to support the provision of services intended to address coronavirus and COVID-19.

Accordingly, the Secretary of State considers that it is appropriate to give these Directions.

Citation, commencement and application

1. — These Directions may be cited as the Consent to Activities Related to the Security of NHS and Public Health Services Digital Systems (Coronavirus) (No 4 Directions 2021 and come into force on 1st January 2022.

(1) These Directions are given to each of the bodies and persons within section 253(1A) of the Act.

The Consent to Activities Related to the Security of NHS and Public Health Digital Systems (Coronavirus) Directions 2021 dated 30th July 2021

2. — The Consent to Activities Related to the Security of NHS and Public Health Digital Systems (Coronavirus) Directions 2021 dated 30th July 2021 is now cited as The Consent to Activities Related to the Security of NHS and Public Health Digital Systems (Coronavirus) (No 3) Directions 2021.

Interpretation

3. In these Directions—

“the Act” means the National Health Service Act 2006;

¹ (1) 2006 c. 41. Section 253 was amended by section 47(1) to (6) of the Health and Social Care Act 2012 (c. 7). There are amendments to section 272 which are not relevant to these Directions. By virtue of section 273(4)(c), directions under section 253 must be given by regulations or an instrument in writing.

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“coronavirus disease” means COVID-19⁽²⁾;

“GCHQ” has the same meaning as in the Intelligence Services Act 1994⁽³⁾;

“network and information system” means—

- (a) an electronic communications network within the meaning of section 32(1) of the Communications Act 2003⁽⁴⁾;
- (b) any device or group of interconnected or related devices, one or more of which, pursuant to a program, perform automatic processing of digital data; or
- (c) digital data stored, processed, retrieved or transmitted by elements covered under paragraph (a) or (b) for the purposes of their operation, use, protection and maintenance;

“the NHS” has the meaning given in section 64(4) of the Health and Social Care Act 2012⁽⁵⁾;

“NHS services” means services the provision of which is arranged by the Board or a clinical commissioning group under the Act (including pursuant to arrangements made under section 7A of the Act) or section 117 of the Mental Health Act 1983⁽⁶⁾.

“public health body” means a body providing public health services;

“public health services” means services provided in pursuance of arrangements made—

- (a) by a local authority for the purpose of the exercise of its functions under or by virtue of section 2B or 6C(1) of or Schedule 1 to the Act, or
- (b) by the Board⁽⁷⁾, a clinical commissioning group or a local authority by virtue of section 7A of the Act;

“security of network and information systems” means the ability of network and information systems to resist, at a given level of confidence, any action that compromises the availability, authenticity, integrity or confidentiality of stored or transmitted or processed data or the related services offered by, or accessible via, those network and information systems.

Authorisation and consent to GCHQ activities related to the security of the NHS in England and public health service network and information systems

4. —(1) The Secretary of State directs each of the bodies and persons within section 253(1A) of the Act to authorise and consent, for the purposes of the Computer Misuse Act 1990⁽⁸⁾ and any civil liability, to the activities described in paragraph (2) during the period starting on 1st January 2022 and ending on 30th June 2022 .

(2) The activities mentioned in paragraph (1) are any activities carried out by GCHQ for the purpose of supporting and maintaining the security of any network and information system which—

- (a) is held by or on behalf of the NHS or a public health body, and
- (b) supports, directly or indirectly, the provision of NHS services or public health services intended to address coronavirus and coronavirus disease.

(3) The reference in paragraph (2)(b) to a network and information system which indirectly supports the provision of services includes a network and information system which may, if its security is impaired, affect (directly or indirectly) the ability of the NHS or a public health body to provide services to address coronavirus and coronavirus disease.

² (2) That is the official designation of the disease which can be caused by coronavirus.

³ (3) 1994 c. 13.

⁴ (4) 2003 c. 21. Section 32(1) was amended by regulation 2(1) of, and paragraphs 4 and 9(a) of Schedule 1 to, S.I. 2011/1210.

⁵ (5) 2012 c. 7.

⁶ (6) 1983 c. 20.

⁷ (7) Section 275 of the Act defines “the Board” as the National Health Service Commissioning Board.

⁸ (8) 1990 c. 18. Section 1 has been amended by section 35 of the Police and Justice Act 2006 (c. 48) and by paragraph 7(a) of Schedule 4 to the Serious Crime Act 2015 (c. 9).

Provision of information to GCHQ

4. The Secretary of State directs each of the bodies and persons within section 253(1A) of the Act to consent to the disclosure, to GCHQ, of any information relating to the security of any network and information system held by or on behalf of the NHS or a public health body during the period starting on 1st January 2022 and ending on 30th June 2022. **Date on which these Directions cease to have effect**

5. These Directions cease to have effect at the end of 30th June 2022.

Signed by authority of the Secretary of State for Health and Social Care



Date 30/12/21

[Karen Dooley]
Member of the Senior Civil Service
Department for Health and Social Care