
DIRECTIONS

NATIONAL HEALTH SERVICE ACT 2006

The National Health Service Litigation Authority (Functions Relating to Pharmaceutical and Local Pharmaceutical Services) (England) Directions 2013

The Secretary of State for Health gives the following Directions in exercise of the powers conferred by sections 8, 272(7) and (8) and 273(1) of the National Health Service Act 2006(a).

Citation, commencement and application

1.—(1) These Directions may be cited as the National Health Service Litigation Authority (Functions Relating to Pharmaceutical and Local Pharmaceutical Services) (England) Directions 2013 and come into force on 1st April 2013.

(2) These Directions apply in relation to England.

Interpretation

2.—(1) In these Directions—

“the 2013 Regulations” means the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013(b); and

“the Authority” means the National Health Service Litigation Authority established by the National Health Service Litigation Authority (Establishment and Constitution) Order 1995(c).

(2) Unless the context otherwise requires, words and expressions used in these Directions and in the 2013 Regulations bear the meanings they bear in the 2013 Regulations.

Consideration of pharmaceutical services and local pharmaceutical services issues

3.—(1) The Authority must make arrangements for the following functions that it is directed to exercise by virtue of regulation 117 of the 2013 Regulations (functions of the Secretary of State to be exercised by the NHS Litigation Authority) to be exercised on its behalf by a committee established for the purpose and constituted in accordance with direction 4—

(a) as regards an appeal against the grant or refusal of an application for inclusion in a pharmaceutical list by a person not already included in it, or for inclusion also in respect of premises other than those already listed in relation to that person—

(i) the final deciding of the appeal, and

(ii) the hearing, where oral representations are to be made in the course of the appeal, of those oral representations prior to the final deciding of the appeal;

(b) as regards an appeal against the grant or refusal of an application for outline consent or premises approval—

(i) the final deciding of the appeal, and

(a) 2006 c. 41; section 8 has been amended by the Health and Social Care Act 2012 (c. 7), Schedule 4, paragraph 5, and Schedule 14, paragraph 3.

(b) S.I. 2013/349.

(c) S.I. 1995/2800; amended by S.I. 2002/2621, 2005/1445 and 2012/1641.

- (ii) the hearing, where oral representations are to be made in the course of the appeal, of those oral representations prior to the final deciding of the appeal;
- (c) as regards an appeal against a determination of whether or not an area is, or is part of, a controlled locality—
 - (i) the final deciding of the appeal, and
 - (ii) the hearing, where oral representations are to be made in the course of the appeal, of those oral representations prior to the final deciding of the appeal; and
- (d) as regards an appeal to which sub-paragraphs (a) to (c) do not apply but in the course of which it is decided by the Authority that oral representations are to be heard—
 - (i) the hearing of those oral representations prior to the final deciding of the appeal, and
 - (ii) the final deciding of an appeal.
- (2) Any function which—
 - (a) the Authority is directed to exercise by virtue of regulation 117 of the 2013 Regulations; and
 - (b) need not be exercised on behalf of the Authority by a committee established under paragraph (1) by virtue of that paragraph,
 must be exercised on behalf of the Authority either by an officer or employee of the Authority or by such a committee.

Membership of a committee

- 4.—(1) A committee established under direction 3(1)—
- (a) may, but need not, be composed wholly or partly of officers of the Authority; and
 - (b) is to consist of no more than 5 members, of whom—
 - (i) in the case of a committee consisting of 2 members, both members must be lay persons, or
 - (ii) in the case of a committee consisting of more than 2 members, a majority or all of the members must be lay persons.
- (2) No person is to be a member of a committee established under direction 3(1) (whether or not their involvement would give rise to a reasonable suspicion of bias) who—
- (a) is a person who is included in a pharmaceutical list or is an employee of such a person;
 - (b) assists in the provision of pharmaceutical services under Chapter 1 of Part 7 of the 2006 Act (pharmaceutical services and local pharmaceutical services – provision of pharmaceutical services);
 - (c) is an LPS chemist, or provides or assists in the provision of local pharmaceutical services;
 - (d) is a provider of primary medical services;
 - (e) is a member of a provider of primary medical services that is a partnership or a shareholder in a provider of primary medical services that is a company limited by shares;
 - (f) is employed or engaged by a primary medical services provider; or
 - (g) is employed or engaged by an APMS contractor in any capacity relating to the provision of primary medical services.
- (3) No other person is to be a member of a committee established under direction 3(1) which is considering any matter if because of an interest or association they have, or because of a pressure to which they may be subject, their involvement in that consideration would give rise to a reasonable suspicion of bias.
- (4) In paragraph (1), “lay person” means a person who is not and never has been registered by—

- (a) a body (B) mentioned in section 25(3)(a) to (ga) of the National Health Service Reform and Health Care Professions Act 2002(a) (the Professional Standards Authority for Health and Social Care); or
- (b) a body that preceded B as the statutory regulator of any profession regulated by B.

Revocation

5. The National Health Service Litigation Authority (Functions Relating to Pharmaceutical Services and Local Pharmaceutical Services) (England) Directions 2012(b) are revoked.

Saving provision

6. A person who—

- (a) before 1st September 2012 was a member of a committee established under direction 8 of the National Health Service Litigation Authority (Functions) (England) Directions 2005(c)(exercise of miscellaneous functions by the authority) (“the 2005 Directions”); but
- (b) is prevented from being a member of a committee established under direction 3(1) by virtue of direction 4(2),

may, until the end of 31st December 2013, be a member of a committee established under direction 3(1), notwithstanding direction 4(2), in circumstances where the Authority is satisfied that their involvement in the matter before the committee would not give rise to a reasonable suspicion of bias.

Signed by authority of the Secretary of State for Health



27th March 2013

Jeannette Howe
Head of Pharmacy
Department of Health

(a) 2002 c. 17; section 25(3) has been amended by: the Health and Social Care Act 2008 (c. 14), Schedule 10, paragraph 17; S.I. 2010/231; and the Health and Social Care Act 2012 (c. 7), Schedule 15, paragraph 56(b).

(b) Signed on 20th July 2013.

(c) Signed on 31st March 2005. Relevant amendments were made by the National Health Service (Miscellaneous Amendments Relating to Prescribing, Pharmaceutical Services and Local Pharmaceutical Services etc.) (England) Directions 2006, signed on 8th March 2006, and by the National Health Service Litigation Authority (Functions Relating to Pharmaceutical Services and Local Pharmaceutical Services) (England) Directions 2012, signed on 20th July 2012.

