

NATIONAL HEALTH SERVICE, ENGLAND

The Health Education England Directions 2013

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

Citation, commencement and interpretation

- 1.—(1) These Directions may be cited as the Health Education England Directions 2013.
- (2) These Directions come into force on 1st April 2013.
- (3) These Directions are given to Health Education England.
- (4) In these Directions—
 - “the Act” means the National Health Service Act 2006;
 - “commissioner of health services” means—
 - (a) the Board(b);
 - (b) a clinical commissioning group(c); or
 - (c) any other person who arranges for the provision of such services;
 - “the education and training function” means the Secretary of State’s duty under section 1F(1) of the Act(d);
 - “healthcare workers” means persons who are employed, or are considering becoming employed, in an activity which involves or is connected with the provision of services as part of the health service in England;
 - “HEE” means Health Education England established by article 2 of the Order;
 - “health services” means health services provided as part of the health service in England continued under section 1(1) of the Act;
 - “Local Education and Training Board” or “LETB” means a committee of HEE appointed under regulation 10 of the Health Education England Regulations 2012(e) (appointment of committees and sub-committees) for the purpose of carrying out the function referred to in direction 5(2);
 - “the Order” means the Health Education England (Establishment and Constitution) Order 2012(f).

General national functions

- 2.—(1) The Secretary of State directs HEE to exercise on behalf of the Secretary of State the education and training function.
- (2) The Secretary of State directs that in carrying out the function set out in paragraph (1), HEE must—

(a) 2006 c.41. By virtue of section 271(1) of the National Health Service Act 2006 (“the Act”) the functions of the Secretary of State under those sections as exercised in making these Directions are exercisable only in relation to England. Section 7 has been amended by section 21 of the Health and Social Care Act 2012 (c.7) (“the 2012 Act”). Section 8 has been amended by section 55(1) of, and paragraph 5(1) and (2) of Schedule 4 to, the 2012 Act.

(b) Established by section 1H(1) of the Act (which was inserted by section 9(1) of the 2012 Act).

(c) Established under section 14D of the Act (which was inserted by section 25(1) of the 2012 Act).

(d) Inserted by section 7 of the 2012 Act.

(e) S.I. 2012/1290.

(f) S.I. 2012/1273.

- (a) ensure that a sufficient number of persons with the skills and training to work as healthcare workers will be available to do so throughout England;
 - (b) secure continuous improvement in—
 - (i) the quality of education and training provided for healthcare workers, and
 - (ii) the quality of health services; and
 - (c) achieve the priorities and objectives specified annually by the Secretary of State in the document referred to in paragraph (5)(g) which are for HEE to achieve in the exercise of its functions under these Directions.
- (3) The Secretary of State directs that in carrying out the function set out in paragraph (1), HEE must promote research into matters relating to health services and promote the use of evidence obtained from research in health services.
- (4) The Secretary of State directs that HEE must exercise its functions under these Directions with a view to securing that education and training for healthcare workers is provided in a way which promotes the NHS Constitution(a).
- (5) The Secretary of State directs that in carrying out its functions under these Directions, HEE must—
- (a) take into account the likely future demand for health services and for persons with the skills and training to work as healthcare workers for the purposes of the health service;
 - (b) consider the sustainability of the supply of persons with the skills and training to work as such;
 - (c) do so in a way which accords with the priorities that providers of health services have for the education and training of persons wishing to work as such;
 - (d) do so in a way which accords with the priorities that persons who commission or are likely to commission the provision of health services have for the provision of health services;
 - (e) do so in a way which accords with the objectives of the Secretary of State in exercising public health functions (as defined by section 1H(5) of the Act(b) (the National Health Service Commissioning Board and its general functions));
 - (f) take into account the mandate published under section 13A of the Act(c) (mandate to the Board);
 - (g) do so in a way which accords with the document published annually by the Secretary of State, known as the HEE Mandate, which specifies the priorities and objectives of the Secretary of State in relation to education and training to be provided for healthcare workers; and
 - (h) do so in a way which accords with the document published by the Secretary of State which specifies the outcomes that the Secretary of State wants to be achieved in relation to education and training to be provided for healthcare workers (“the Education Outcomes Framework”).
- (6) The Secretary of State directs HEE—
- (a) to publish, and review from time to time, its policy for the transfer of officers who may be transferred to the employment of HEE;
 - (b) to achieve the outcomes set by the Secretary of State in the Education Outcomes Framework which are for HEE to achieve in the exercise of its functions under these Directions; and

(a) The NHS Constitution is the document referred to in section 1 of the Health Act 2009 (c. 21).

(b) Section 1H was inserted by section 9(1) of the 2012 Act.

(c) Section 13A was inserted by section 23(1) of the 2012 Act.

- (c) to collaborate with the Secretary of State (which includes other Department of Health Ministers), the Scottish Ministers, the Welsh Ministers and the Department of Health, Social Services and Public Safety for Northern Ireland in the exercise of its functions.

(7) The Secretary of State directs HEE that it is to be able to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any function conferred on it by these Directions and, in particular, to enter into contracts in accordance with guidance issued by the Secretary of State.

Priorities, objectives and outcomes

3.—(1) The Secretary of State gives HEE the following directions.

(2) HEE must publish a document which—

- (a) specifies the priorities and objectives that HEE has set, for the period specified in the document, for the planning and delivery of education and training to healthcare workers;
- (b) specifies the outcomes that HEE expects to achieve in that respect during that period having regard to those priorities and objectives; and
- (c) includes, or refers to a document which includes, guidance for LETBs on the exercise of the functions conferred on LETBs in these Directions.

(3) HEE must review the document published under paragraph (2) annually, and if any amendments are made to it in that annual review, it must re-publish it.

(4) HEE must ensure that the priorities, objectives and outcomes specified for the purposes of paragraph (2)(a) and (b) are consistent with those specified for the purposes in the documents published by the Secretary of State referred to in direction 2(5)(g) and (h).

(5) A document under paragraph (2) may specify different periods in relation to different categories of healthcare worker.

Advice

4.—(1) The Secretary of State gives HEE the following directions.

(2) HEE must make arrangements to obtain advice from persons who are involved in, or who HEE thinks otherwise have an interest in, the provision of education and training for healthcare workers.

(3) HEE must seek to ensure that it receives representations from, in particular, the following, in respect of the arrangements it makes under paragraph (2)—

- (a) persons who provide health services;
- (b) persons to whom health services are provided;
- (c) carers for persons to whom health services are provided;
- (d) healthcare workers;
- (e) bodies which regulate healthcare workers;
- (f) persons who provide, or contribute to the provision of, education and training for healthcare workers.

(4) HEE may comply with paragraph (3) by receiving representations from organisations which represent the persons referred to in the sub-paragraph in question.

(5) HEE must advise the Secretary of State on such matters relating to its functions as the Secretary of State may request, and a request under this paragraph may specify how and when the advice is to be provided.

LETBs: establishment etc

5.—(1) The Secretary of State gives HEE the following directions.

(2) HEE must set criteria (“the establishment criteria”) for the establishment of LETBs, the main function of which is to exercise on HEE’s behalf the education and training function so far as it is exercisable in or in relation to the LETB’s area and in so doing represent the interests of all the persons who provide health services in the area for which the LETB is established.

(3) HEE must—

- (a) publish; and
- (b) review annually,
the establishment criteria.

(4) If the establishment criteria are amended as a result of such an annual review, they must be approved by the Secretary of State and re-published.

(5) HEE must—

- (a) consider whether it is satisfied that a group of persons which applies to become a LETB (“the applicants”) meets the establishment criteria, and—
 - (i) if the applicants meet the establishment criteria, HEE must establish the applicants as the LETB for such area as HEE considers appropriate; and
 - (ii) if the applicants meets some (but not all) the establishment criteria, HEE may nonetheless establish the applicants as the LETB for such area and subject to such conditions as HEE considers appropriate; and
- (b) ensure that the establishment criteria must include criteria which will ensure—
 - (i) that a majority of the members of a LETB are members, employees or otherwise represent the interests of providers of health services in the area for which the LETB is established; and
 - (ii) that a LETB represents the interests of all providers of health services in the area for which the LETB is established.

(6) The following may also be members of a LETB—

- (a) persons who provide education or training for healthcare workers or for persons wishing to work as healthcare workers, and who are in the area for which the LETB is established; and
- (b) persons of such other description as HEE may decide, and a member of the board of HEE (whether an officer or non-officer member) may not be a member of a LETB.

(7) On establishing a LETB, HEE must appoint the chair of the LETB; but it may not appoint a person as chair who—

- (a) provides health services in the area for which the LETB is established; or
- (b) provides education or training for healthcare workers or persons wishing to work as healthcare workers in the area for which the LETB is established.

(8) The conditions on which a person is appointed as a member of a LETB must include a condition not to use information obtained in that capacity otherwise than for the purposes of the LETB.

(9) HEE must notify applicants under this direction of the decision on their application and—

- (a) in the case of an approval of an application under paragraph (5), the area for which the LETB is established and the appointment under paragraph (7);
- (b) in the case of a rejection, the reasons for the rejection.

(10) HEE having complied with paragraph (9), must publish the decision and, in the case of a rejection, the reasons for that rejection.

(11) Where there is an area of England which does not form all or part of the area of a LETB, HEE must establish a LETB for the area in question; and the persons entitled to serve as members of the LETB include employees of HEE.

(12) HEE must—

- (a) ensure that the area of LETBs do not coincide or overlap, and together cover the whole of England; and
 - (b) work with commissioners of health services in the area of a LETB to ensure that every person who provides health services in that area co-operates with the LETB in the exercise of the LETB's functions.
- (13) HEE may vary the area of a LETB.
- (14) HEE must keep an up-to-date record of the area of each LETB and publish that record.

LETBs; assessment of continuing compliance with establishment criteria

- 6.—(1) The Secretary of State gives HEE the following directions.
- (2) HEE must, whenever it considers it appropriate, assess—
- (a) whether a LETB continues to meet the establishment criteria; and
 - (b) if it does not, whether it meets enough of the establishment criteria in order to exercise its functions.
- (3) Having carried out an assessment under paragraph (2), HEE must notify the LETB of, and then publish—
- (a) the result of the assessment; and
 - (b) if HEE is not satisfied that the LETB meets the establishment criteria, HEE's reasons for not being so satisfied.
- (4) Where, on an assessment under paragraph (2), HEE is not satisfied that a LETB is meeting all the establishment criteria but is satisfied that the LETB is meeting enough of them to be able to exercise its functions, HEE may impose conditions on the LETB relating to its operation.
- (5) Where, on an assessment under paragraph (2), HEE is not satisfied that a LETB is meeting enough of the establishment criteria to be able to exercise its functions, HEE may do one or more of the following—
- (a) appoint new members of the LETB (whether as well as or instead of existing members);
 - (b) exercise functions on behalf of the LETB;
 - (c) make arrangements for the persons who provide health services in the area for which the LETB is established to be represented by another LETB instead.
- (6) Before imposing conditions under paragraph (4) or taking action under paragraph (5), HEE must notify the LETB concerned of—
- (a) the conditions it proposes to impose or action it proposes to take; and
 - (b) its reasons for imposing those conditions or taking that action.
- (7) Having imposed conditions under paragraph (4) or taken action under paragraph (5), HEE must publish—
- (a) details of the conditions it imposed or action it took; and
 - (b) its reasons for imposing those conditions or taking that action.

Education and training plans

- 7.—(1) The Secretary of State gives HEE the following directions.
- (2) Each LETB must prepare for each financial year a document (called an "education and training plan") specifying how it proposes to—
- (a) exercise its main function referred to in direction 5(2);
 - (b) achieve the priorities, objectives and outcomes set by the Secretary of State in the documents referred to in direction 2(5)(g) and (h); and
 - (c) achieve the priorities, objectives and outcomes set by HEE in the document referred to in direction 3(2).

- (3) In preparing its education and training plan, a LETB must have regard to—
- (a) the priorities that the providers of health services whom the LETB represents have in relation to the provision in the LETB's area of health services and of education and training for healthcare workers or persons wishing to become healthcare workers;
 - (b) the priorities that commissioners of health services in the LETB's area have in relation to those matters;
 - (c) the priorities and objectives set by the Secretary of State in the document referred to in direction 2(5)(g);
 - (d) the priorities and objectives set by HEE in the document referred to in direction 3(2);
 - (e) any assessment of relevant needs relating to the LETB's area prepared under section 116 of the Local Government and Public Involvement in Health Act 2007(a)(health and social care: joint strategic needs assessments); and
 - (f) any joint health and wellbeing strategy relating to the LETB's area prepared under section 116A of that Act(b)(health and social care: joint health and wellbeing strategies).
- (4) In preparing its education and training plan, a LETB must involve (whether by consultation or otherwise)—
- (a) the providers of health services whom the LETB represents;
 - (b) the commissioners of health services in the LETB's area;
 - (c) the Health and Wellbeing Board(c) for that area;
 - (d) such persons as HEE may instruct the LETB to involve; and
 - (e) such other persons as the LETB considers appropriate.
- (5) HEE may give LETBs instructions about—
- (a) what to include in their education and training plans;
 - (b) how to present them; and
 - (c) when to send them to HEE for review and approval.
- (6) HEE must review each LETB's education and training plan and—
- (a) if HEE is satisfied with the plan, it must approve it; or
 - (b) if HEE is not satisfied with the plan, subject to paragraph (7), it may instruct the LETB to amend its plan in such a way as HEE specifies, and must approve the plan as amended if it is satisfied with it.
- (7) In the case of a LETB which meets all the establishment criteria, the only amendments which HEE may instruct the LETB to make under paragraph (6)(b) are those HEE considers necessary in order to ensure that the LETB achieves the priorities, objectives and outcomes set by HEE in the document referred to in direction 3(2).
- (8) Once a LETB has received approval of its education and training plan from HEE, it must publish the plan.
- (9) Where HEE instructs a LETB to amend its education and training plan, it must publish the amendments in question and its reasons for instructing that they are made.
- (10) A LETB may itself amend its education and training plan but if the amendments are significant, it must send HEE the plan as amended and paragraphs (6) to (8) apply accordingly.

Commissioning education and training

8.—(1) The Secretary of State gives HEE the following directions.

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- (a) 2007 c.28. Section 116 was amended by section 192 of the 2012 Act.
 - (b) Section 116A was inserted by section 193 of the 2012 Act.
 - (c) Section 194 of the 2012 Act makes provision about the establishment of Health and Well Being Boards.

(2) Each LETB must for each financial year arrange for the provision of education and training in accordance with its education and training plan for that year.

(3) In exercising the function under paragraph (2)—

- (a) each LETB must make payments to the providers of education and training of such amounts as the Secretary of State may set from time to time for the provision of education and training (and different amounts may be set by the Secretary of State for the provision of different types of education and training); and
- (b) where the Secretary of State has not set an amount of payment to be made for the provision of a particular type of education and training, each LETB must make payments to the providers of that particular type of education and training of such amounts as the LETB considers appropriate.

(4) HEE must, for each financial year, allocate to each LETB the amount that HEE considers appropriate to enable the LETB to comply with paragraph (2) having regard to the amount of payments the Secretary of State has set from time to time to be made for the provision of education and training.

(5) Where HEE considers that it would be better for the arrangements for the provision of certain education and training to be made on a national basis, it—

- (a) may arrange for the provision of that education and training accordingly; or
- (b) may instruct one or more LETBs to do so on its behalf.

(6) Before exercising the power under paragraph (5), HEE must (whether by consultation or otherwise) involve the LETBs in making its decision.

(7) A LETB may arrange for another person to assist it to exercise its function under paragraph (2) or the function under paragraph (5)(a) if it is instructed to exercise under paragraph (5)(b).

(8) Each LETB—

- (a) must keep under review the quality of the education and training the provision of which it arranges; and
- (b) must report its findings to such persons as it considers may be interested in them.

(9) A LETB must produce such reports on the exercise of the function under paragraph (2) (including on the quality of the education and training the provision of which it arranges) as HEE may require.

LETBs: modification of the application of regulation 13 of the Health Education England Regulations 2012

9.—(1) Subject to the following provisions of this direction, regulation 13 of the Health Education England Regulations 2013(a) applies to a member of a LETB who is present at a meeting of that LETB.

(2) Regulation 13(2) does not apply to a member of a LETB who is present at a meeting of that LETB where the pecuniary interest, direct or indirect, that the member has in a contract, proposed contract or other matter which is the subject of consideration at that meeting is in a contract, proposed contract or other matter relating to education and training of healthcare workers which is connected with the provider of health services by which they are employed, of which they are a member or whom they otherwise represent.

Annual reports

10.—(1) As soon as reasonably practicable after the end of each financial year, HEE must prepare, and publish, an annual report setting out how it has exercised its functions during the year, which must include a breakdown of HEE's income and expenditure for the year.

(a) S.I. 2012/1290.

(2) The report must include, in particular, HEE's assessment of its achievement during the year of the outcomes set by the Secretary of State in the Education Outcomes Framework and the priorities and objectives specified by the Secretary of State in the document referred to in direction 2(5)(g).

(3) HEE must—

- (a) lay a copy of the report before Parliament; and
- (b) send a copy of it to the Secretary of State.

(4) HEE must provide the Secretary of State with such other reports and information relating to the exercise of HEE's functions as the Secretary of State may require.

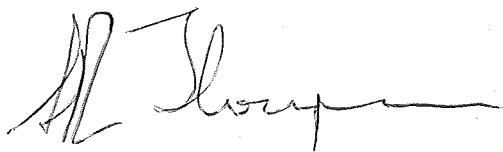
Transitional nature of duties as at 1st April 2013

11. HEE (or the LETBs) will not be in breach of the duties imposed by directions 3(2) or 7(2) (or any other duties imposed by these Directions which are consequent upon compliance with those duties) where HEE has taken all reasonable steps to comply with those duties.

Revocation of Directions

12. The Health Education England Directions 2012, which came into force on 28th June 2012, are revoked.

Signed by authority of the Secretary of State for Health



Member of the Senior Civil Service
Department of Health

Date: 28/3/2013