DIRECTIONS

The NHS England (Healthcare Safety Investigation Branch) (Revocation, Transitional and Saving Provision) Directions 2023

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

Citation, commencement and interpretation

1.—(1) These Directions may be cited as the NHS England (Healthcare Safety Investigation Branch) (Revocation, Transitional and Saving Provision) Directions 2023 and come into force on 1st October 2023.

(2) In these Directions and the modifications made by them-

"the 2022 Directions" means the NHS England (Healthcare Safety Investigation Branch) Directions 2022(b);

"the HSSIB" means the Health Services Safety Investigations Body established by section 109(1) of the Health and Care Act 2022(c);

"the Investigation Branch" means the Healthcare Safety Investigation Branch established under direction 3(1) of the 2022 Directions.

Revocation of the 2022 Directions

2. Subject to direction 3, the 2022 Directions are revoked.

Transitional and saving provision

3.-(1) Notwithstanding direction 2, the 2022 Directions continue to have effect, with the modifications in paragraph (3), in relation to any investigation which was commenced, or continued, pursuant to the 2022 Directions before 1st October 2023 and—

- (a) has not been discontinued as at that date; and
- (b) where no report under direction 8(2) of the 2022 Directions has been published as at that date.
- (2) For the purposes of paragraph (1)—
 - (a) anything done or which, at the coming into force of these Directions, is in the process of being done by or in relation to the Investigation Branch under the 2022 Directions, is to be treated as done or in the process of being done, and may be continued, by or in relation to the HSSIB;
 - (b) anything which, but for direction 2, would fall to be done, by or in relation to the Investigation Branch under the 2022 Directions, on or after the date on which these Directions come into force, is to be as falling to be done by or in relation to the HSSIB.

⁽a) 2006 c. 41.

⁽b) Signed on 30th June 2022. A hard copy can be obtained from the Department of Health and Social Care, 39 Victoria Street London, SWIH OEU.

⁽c) 2022 c. 31.

- (3) For the purposes of paragraph (1) the 2022 Directions are modified as follows—
 - (a) direction 1(2) is to be read as if for the definition of "Chief Investigator" there were substituted—

""Chief Investigator" means the person appointed in accordance with

- paragraph 3 of Schedule 13 to the Health and Care Act 2022(a);";
- (b) direction 3 is to be read as if it were omitted;
- (c) direction 4 is to be read as if it were substituted with-

"Funding of professional fees

4 The HSSIB may, at the discretion of the Chief Investigator, consult and pay the professional fees of specialists on matters requiring expertise in particular fields (such as clinical practice or healthcare technology).";

- (d) direction 5 is to be read as if—
 - (i) for the opening words there were substituted "The HSSIB must, where applicable, exercise the following functions—"; and
 - (ii) paragraph (l)(e) were omitted;

(e) direction 6 is to be read as if—

- (i) in paragraph (4)(e) for "and NHS England" there were substituted "and the HSSIB"; and
- (ii) in paragraph (6) for 'the Data Protection Act 1998" there were substituted "data protection legislation, as defined in section 3 of the Data Protection Act 2018(b)";

(f) direction 7 is to be read as if it were substituted with-

"Investigation Principles

7.—(1) The Chief Investigator must develop and publish a document setting out the principles that are to govern investigations carried out pursuant to the 2022 Directions ("the Investigation Principles").

- (2) The Investigation Principles must set out, in particular—
- (a) the period of time within which an investigation will generally be concluded, and factors that may lead to the period being extended;
- (b) the range of procedures and investigation methods which may be used in conducting an investigation;
- (c) the steps which will be taken to ensure that these investigations do not interfere with investigations commenced pursuant to section 110 of the Health and Care Act 2022.

(3) The Chief Investigator may update the Investigation Principles from time to time.",

- (g) direction 9 is to be read as if it were omitted;
- (h) direction 10 is to be read as if it were substituted with—

⁽a) 2022 c. 31.

⁽b) 2018 c. 12.

"Accountability

10.-(1) At the beginning of each financial year, the Chief Investigator must report in relation to the performance of functions under these Directions by the HSSIB for the preceding financial year.

(2) Within the annual report produced in 2024, the Chief Investigator must either-

(a) report in relation to the performance of functions by the Investigation Branch in the period beginning on 1st April 2023 and ending on 30th September 2023, pursuant to the 2022 Directions, or

(b) assist NHS England in reporting for this period.";

(i) direction 11 is to be read as if it were omitted.

Signed by authority of the Secretary of State

William Vineall 27th September 2023

William Vineall A member of the Senior Civil Service Department of Health and Social Care