

Background

1. Under the Health and Social Care Act 2012 (the Act), the Health and Social Care Information Centre (the HSCIC) is empowered to collect information from any health service provider, when it has been directed or requested to do so. It can be directed to establish information systems by the Secretary of State for Health or by NHS England, and can be requested to do so by other bodies. These Directions are legally binding and must be complied with by the HSCIC; receipt of such Directions effectively triggers HSCIC powers to mandate the collection of the required data.
2. Through the Health and Social Care Act 2012 (Commencement No.4, Transitional, Savings and Transitory Provisions) Order 2013, the HSCIC is empowered to continue to collect data that was collected prior to 1st April 2013, however Directions are required to specify and direct new collections.
3. The Act dissolved the SHAs and PCTs and established a new commissioning structure across England to commission and manage the delivery of £90bn annual care costs on behalf of DH. The commissioning organisations include (number of organisations in brackets):
 - a. Clinical Commissioning Groups (CCGs, 211)
 - b. NHS England Area Teams for
 - i. Direct Commissioning (25 ATs)
 - ii. Specialised Commissioning (10 ATs from the above 25)
 - c. Public Health Commissioning by
 - i. Public Health England (15 areas)
 - ii. Local Authority Public Health bodies (152)
4. Many of these organisations are supported by the 18 Commissioning Support Units (CSU). The CSUs have been established under the governance of NHS England until April 2016, at which point they are expected to become independent commercial organisations.
5. The commissioning framework has changed considerably, with re-enforcement of key information governance legislation (Common Law Duty of Confidence, Data Protection Act) through the SoS acceptance of the findings from the Caldicott 2 review. This has clarified what visibility of Personal Confidential Data (PCD) is allowed for secondary data analysis. By default, commissioning analysis does not require PCD and therefore it should not be visible to commissioners unless a specific legal basis is identified.
6. The principle of Accredited Safe Haven (ASH) organisations has been introduced where limited PCD (NHS Number or Data of Birth) may be visible for a suitably accredited organisation. The data is referred to as weakly pseudonymised. The concept was established in the Caldicott 2 review, and is supported by the Confidentiality Advisory Group (CAG) through Regulation 5/section 251 recommendations for approval to the SoS.
7. The result is that commissioning organisations and commissioning support organisations must perform their duties either with anonymised or

- pseudonymised information. If these organisations are successfully accredited as an ASH, then they are permitted to use weakly pseudonymised data.
8. A significant number of datasets that historically (pre-April 2013) flowed to PCTs now need to be re-routed to flow via the HSCIC. Once directed by NHS England, the HSCIC will then be able to capture, analyse and disseminate to commissioning organisations who will then perform the appropriate commissioning business analysis.
 9. NHS England have taken legal advice and approached CAG on two particular areas of commissioning activity to allow additional PCD to flow to organisations to allow them to operate effectively. These are Invoice Validation and Risk Stratification. The Invoice Validation approach has been agreed with CAG and NHS England are communicating to CSUs and Areas Teams on how they should re-structure their services to comply with approved approaches. Risk Stratification discussions with CAG are still in progress and are expected to conclude in the coming weeks.
 10. The HSCIC has established Data Services for Commissioners Regional Offices (DSCRO) through the secondment of staff from 13 CSUs. Each Regional Office has established a secure and separate Regional Processing Centre (RPC) under HSCIC policy and governance to capture, analyse and disseminate data to and on behalf of customers. The DSCROs are currently funded fully by the CSUs until NHS England takes over direct funding.
 11. The HSCIC has established a central team to coordinate the processes and overall legal framework as Data Services for Commissioners. During FY13/14 this is funded through under-spend within the Data and Information Services Directorate. From April 2014 onwards this will be funded directly by NHS England.
 12. The current service arrangements are interim until the strategic services are scoped and implemented in mid- to late- FY14/15.
 13. The SRO is provided by NHS England and is Ming Tang reporting into Christine Outram, Director of Intelligence.
 14. The Directions for this specific requirement have been received (see Appendix A) and reviewed by HSCIC solicitors to provide assurance that the Directions are lawful and due process has been followed. The Directions include 3 Annexed documents and an Explanatory Note.
 15. As per its statutory duty under the Act, the NHS England and the HSCIC have undertaken activity to consult on the Direction received (see Appendix B for details).

The Direction

Scope

16. The Directions describe the scope of the system to be established and is explicitly limited to data required for Commissioning purposes.
17. The scope of HSCIC delivery covers the data in relation to services contracted between a commissioner and a health service provider.

18. The HSCIC would capture the local data in the DSC Regional Offices, quality check this, link to other data sources as required e.g. SUS, pseudonymise as needed and provide the data securely to customer organisations. Data that is related to invoicing will require additional analysis in line with NHS England guidance, though this activity will be phased into the DSCROs depending on the outcome of the NHS England engagement with CAG around Invoice Validation.
19. The purpose of the data is to enable commissioning activities to be performed within commissioning and commissioning support organisations on appropriate data.
20. The ownership and responsibility for delivering the benefits of Data Services for Commissioners lies with NHS England.

Duration

21. These Directions will be effective as soon as they are approved by the HSCIC Board. A review date has been set of 30 September 2014 to allow time to confirm the strategic requirements and plans and to start implementation and migrating to the future service.
22. These strategic services will be covered by an updated Direction if and where appropriate.

Preparing for delivery

23. The HSCIC will deliver these requirements through
 - a. The Data Services for Commissioning Regional Offices
 - b. The existing central data linkage teams and systems, and
 - c. Leveraging capability that is delivered through the Strategic Capability Platform, MPI and Pseudonymisation projects.
24. HSCIC teams are working collaboratively with NHS England teams, reporting progress and managing plans across both organisations.
25. The Data Services for Commissioning Regional Offices have been established through the secondment of staff from CSUs and the establishment of dedicated Regional Processing Centres. These have been reviewed and risk assessed by central HSCIC IG and technical teams. Each site has completed IG Toolkit submissions and been subject to detailed PwC Audits on IG compliance. Each site is developing an action plan to ensure compliance to the enhanced central HSCIC IG standards in readiness for March 2014.
26. The plan for delivery involves:
 - NHS England engagement with and submissions to the Confidentiality Advisory Group (CAG) on data flows for Invoice Validation and Risk Stratification
 - NHS England engagement with suppliers of commissioning business analysis tools to clarify minimal data requirements for effective commissioning intelligence analysis
 - Defining the requirements for and operating model options of Data Services for Commissioning from the HSCIC
 - Co-ordinating with NHS England and their plans for the lead CSU framework

- Piloting data linkage and collaborative interrogation with HSCIC tools, using direct commissioning as a proof of concept
- Provision of data linkage services using local DSC Regional Offices and existing HSCIC central tools and services
- Co-ordination and collaboration with HSCIC Data and Information programmes and projects, specifically:
 - Strategic Capability Platform
 - Master Patient Index
 - Pseudonymisation
- Data will only be available to commissioning organisations as defined in the Direction and will be subject to a Data Sharing Contracts supported by appropriate Data Sharing Agreements.
- In addition to this, and under its obligations in the Act, the HSCIC will in the course of its work provide publications and supporting aggregated data along with products to cover legislative, Code of Practice and accountability requirements as per all data assets controlled by the HSCIC.

27. Appendix C provides a high level overview of planned activity.

Funding and resourcing

28. The estimated cost to be incurred centrally by the HSCIC in FY2013/14 and FY2014/15 to establish the information system described in the Direction is set out in the table below. Funding for FY2013/14 is being covered by under-spend within the Data and Information Directorate. NHS England is approaching ISCG for the central HSCIC funding for FY2014/15.
29. Over and above the resource costs from central HSCIC service and programme teams there are explicit costs associated with the Data Services for Commissioning Regional Offices. These are currently entirely funded by the Commissioning Support Units (CSUs). There are 9 Regional Offices with staff seconded from and funded by the CSUs, each with their own Regional Processing Centre, also funded by the CSUs. It is anticipated this will continue.
30. Work is underway on the Data Services for Commissioning business case which will clarify the costs and funding of the strategic service.

Year	Cost Category	Revenue (£k)	Capital (£k)
FY2013/14	Central Staff Costs	943	-
	Non-staff costs	536	300
	Total funding from HSCIC Data and Information Directorate underspend *	1,479	300
FY2014/15	Central Staff Costs	1,992	-
	Non-staff costs	839	500
	Funding from NHS England	2,831	500

31. * due to delays in resourcing, the spend in FY13/14 is likely to be less than forecast.
32. When the strategic operating model and funding requirements are confirmed for the Regional Office requirements, NHS England will approach ISCG for the appropriate funding.

Risks

Risk	Mitigation
The requirements for and funding of the strategic service have yet to be finalised, delaying the options analysis and implementation for FY14/15	NHS England are clarifying interim service scope exclusions (Invoice Validation and Risk Stratification) to help clarify the strategic requirements. The funding for the strategic service will be requested when the operating model is clearly defined and agreed. Indicative costs have been advised based on the known obligations.
Interim data and service demands distract resources from strategic service planning and implementation	The HSCIC Data Services for Commissioners Programme has identified staffing levels to specifically address interim service requirements as well as resources for strategic service planning and implementation.
The Regional Offices may not understand or comply with HSCIC IG policy and guidance provided	The staff secondment process explicitly includes HR and IG induction, training and administrative tracking. Weekly communications are provided to business leads to support the monthly individual Regional Office review meetings and management meetings. The Regional Offices are following the HSCIC policy on Data Sharing Contracts and Agreements, and each office has been audited for IG compliance by PwC. Follow on IG support and action plan monitoring will continue.
The manual nature of the administration of HR, IG and contractual documents leads to additional burden, elapsed time and document tracking issues	The processes are documented and communicated to the Regional Offices. Any issues or inconsistencies are being investigated with process changes and additional administrative resources. The central HSCIC team is investigating options for electronic workflow and document handling capabilities.
Uncertainty for DSC Regional Office staff future role, employer and function may impact productivity and resourcing	The HSCIC will work closely with NHS England and their plans for the lead CSU framework. As the staff are CSU employees currently, the HSCIC needs to account for the future direction of CSU delivery and any mergers or consortium/collaborations. Once clarity on the future operating model emerges, then this will be communicated. The TUPE implications will be managed through 2014

Risk	Mitigation
It may take longer than planned to take the business case through reviews and approvals	HSCIC and NHS England will work collaboratively on the business case. NHS England will champion through ISCG.
There may be mis-interpretation of the volume of data flows and their purpose by the public or patients	NHS England and the HSCIC will work together to compile pro-active and potential re-active communications to clarify the re-routing of historic data flows, and how any additional flow approvals are being properly governed and published. Historical PCT commissioning data has been explicitly identified within the directions as a set of historical reference data.
The HSCIC may incur additional costs than those outlined in this paper depending on the scope and timing of interim and strategic services	Work with NHS England teams to appraise options and advise on cost and support implications for the HSCIC. The HSCIC will gain assurance that all costs will be covered within the Data Services for Commissioning business case currently in draft.
Commissioners may request a large volume of additional local datasets that create significant burden on the care system	The data sets are limited to those related to specific commissioner via health care provider contractual relationships.

Next steps

33. There are a number of key issues still to be agreed regarding this Data Services for Commissioning service provision. These are:
- a. Agree a Memorandum of Understanding for the existing interim services and the Programme delivery specifically related to these Directions
 - b. Review the existing local data flows to ensure they are all logged consistently across the regional offices.
 - c. NHS England to confirm that the funding is approved through ISCG.

Recommendation

34. The Board is asked to approve these Directions.

Attachments

- Appendix A - Directions from NHS England
- Appendix B - Consultation activities summary
- Appendix C - High level overview of planned DSfC activity related to the directions