



NHS Chief Executives
(by email)

6 August 2024

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Dear colleagues

Use of GP data for near-real time monitoring of infectious respiratory-related risks and outcomes, including for COVID-19 – Public Health Data (Infectious Respiratory Diseases) (Scotland) Directions 2024

General Practitioner (GP) data obtained by Public Health Scotland (PHS) under the auspices of the EAVE II surveillance platform have been central to the Scottish Government's response to the COVID-19 pandemic, and were also essential for monitoring and quantifying the impact of the pandemic in Scotland.

The EAVE II work undertaken in Scotland, and the general benefits of being able to access and link data for surveillance purposes, have been recognised by the wider community and, more recently, were acknowledged as part of Sir Patrick Vallance's response to the COVID-19 Public Inquiry.

The Scottish Government recognises that the ability to risk assess and characterise emerging threats, and therefore provide advice to respond to them, is significant in health protection terms because it could lead directly to the prevention of health harm and loss of life. However, the permissions that allowed PHS access to individual patient-level data from General Practices expired on 31 March 2023.

Given that we remain within a pandemic with a rapidly mutating virus, and being cognisant of future outbreaks and/or health threats, the Scottish Government has worked with PHS and other colleagues within the National Health Service in Scotland to reach a solution that would ensure continued access to the necessary GP data, and in turn, enable PHS to effectively carry out its statutory remit for public health surveillance and investigation into infectious respiratory disease.

Having explored how to meet the immediate, critical need for access to the GP data by PHS, Scottish Government now has Ministerial agreement to issue Directions (statutory instructions) to Health Boards under section 2(5) of the National Health Service (Scotland) Act 1978. These Directions will require Health Boards to issue a request to GPs to provide the relevant GP data to PHS for the purposes of planning and management of health care services. From the GPs perspective, the [GMS](#) and [PMS Regulations](#) require GP practices to share such data, either with the Health Board, or with PHS as a person authorised in writing by the Health Board, further to such request. This requirement to share practice and patient data is replicated within the GMS and PMS contracts. [The Directions are set out in Annex 1 to this letter for ease of reference.]



As the technical solution for extraction of the GP data is already in place, there is no need for GP practices to take any action to facilitate the provision of the relevant data to PHS. The Health Boards will authorise PHS to proceed with the data extraction.

A copy of the Scottish Government's baseline Data Protection Impact Assessment to support this work has been issued with this letter, and it should help provide assurance to Health Boards and GP practices that the sharing of the data with PHS in accordance with the Directions can be carried out in compliance with data protection legislation. For the avoidance of doubt, these Directions do not permit or require the breach of any existing legislation which prohibits the sharing of certain protected data items. The baseline Data Protection Impact Assessment details the technical and organisational measures that have been put in place to ensure that no data will be shared where such sharing is expressly prohibited by law.

GP practices and Health Boards will, of course, retain their responsibilities as joint controllers in respect of their processing of such GP data in terms of the Information Sharing and Joint Controller Agreement in place between them. Once the relevant GP data is in the hands of PHS, PHS will be controller in respect of its processing of such data for the purposes of public health surveillance and investigation into respiratory disease. Further information about the work of PHS is available in its privacy notice available <https://publichealthscotland.scot/our-privacy-notice/organisational-background/>.

I would like to stress that PHS will *only* use the GP data for public health surveillance (including the planning and management of healthcare services) and investigation into respiratory disease. The Directions do not cover use of these data for research purposes.

As part of the planned consultation and in line with requirements in the GMS/PMS Regulations that a GP representative body is consulted on the Directions, this solution has been discussed with both SGPC and RCGP who are content with the proposed action. In addition, officials from the Scottish Government and PHS have presented at forums including those for the NHS Information Governance Leads and Primary Care Leads. The Information Commissioner's Office in Scotland and Scottish Government Data Protection colleagues have not flagged any concerns from a Data Protection perspective. Throughout this process, officials have taken on board any comments or concerns raised and have sought to offer assurances around responsibilities and accountability.

We ask that you share this communication and accompanying documents with GPs within your territory, as well as with your Data Protection Officers. The Directions come into force on 12 August 2024 and Health Boards should ensure that they have arrangements in place to facilitate compliance with the Directions from this date. If you have any questions as to the implementation of these Directions, I ask that you direct these to PopulationHealthResilienceandProtection@gov.scot.

Yours sincerely

Christine McLaughlin
Co-Director of Population Health





ANNEX 1 - THE NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978 - PUBLIC HEALTH DATA (INFECTIOUS RESPIRATORY DISEASES) (SCOTLAND) DIRECTIONS 2024

The Scottish Ministers, in exercise of the powers conferred by sections 2(5) and 105(7) of the National Health Service (Scotland) Act 1978(a), and of all other powers enabling them to do so, hereby give the following Directions:

Citation and commencement and application

1. – (1) These Directions may be cited as the Public Health Data (Infectious Respiratory Diseases) (Scotland) Directions 2024 and come into force on 12 August 2024.

(2) These Directions are given to Health Boards in Scotland and, where applicable, to the special health board known as Public Health Scotland and apply in relation to Scotland only.

Interpretation

2. – (1) In these Directions—

“the Act” means the National Health Service (Scotland) Act 1978;

“contractor” means a person who has entered into a GMS contract or a section 17C arrangement with a Health Board;

“GMS contract” means an agreement between a person and a Health Board which is subject to the terms of the GMS Regulations;

“GMS Regulations” means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018(b);

“Health Board”, in relation to a contractor, means the Health Board with which the contractor has entered into a GMS contract or section 17C arrangement;

“PMS Regulations” means the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018(c);

“Public Health Scotland” means the body constituted by article 3 of the Public Health Scotland Order 2019(d); and

“section 17C arrangement” means an arrangement to provide primary medical services which is set out in an agreement made under section 17C of the Act and is subject to the terms of the PMS Regulations.

(2) Unless defined by sub-paragraph (1) above, terms in these Directions have the meaning given to them by—

- (a) where the contractor has entered into a GMS contract with the Health Board, the GMS Regulations; or
- (b) where the contractor has entered into a section 17C arrangement with the Health Board, the PMS Regulations.

(a) c. 29. Section 105(7) has been amended by the Health Services Act 1980 (c. 53), Health and Social Services and Social Security Adjudications Act 1983 (c.41), and the Health Act 1999 (c. 8).

(b) S.S.I. 2018/66.

(c) S.S.I. 2018/67.

(d) S.S.I 2019/336.

Public health data regarding infectious respiratory diseases

3. – (1) Subject to sub-paragraphs (2) and (4), each Health Board must request that each of its contractors provides to Public Health Scotland:-

(a) at least once in every 7 day period, beginning with the date on which these Directions come into force, and

(b) where otherwise requested by the Health Board to do so,

the patient data specified in Schedule 1.

(2)(a) Patient data as mentioned in sub-paragraph (1) may only be requested where, and to the extent that, the data being requested is necessary for a purpose relating to the effective planning and management of health and social care services in Scotland; and

(b) the request from each Health Board must acknowledge that compliance by a contractor is subject always to the availability of necessary technical systems which allow for the extraction of the relevant information.

(3) A Health Board must also share with Public Health Scotland any patient data specified in Schedule 1 which it holds directly as a result of providing primary medical services under section 2C of the Act.

(4) A Health Board may only issue a request mentioned in sub-paragraph (1) where it has authorised in writing that Public Health Scotland may obtain the data.

(5) For the purpose of sub-paragraphs (1) and (3), the Health Board may determine the most appropriate means by which the data should be provided, including by electronic means.

(6) A Health Board must ensure that the request issued in accordance with sub-paragraph (1) complies with the requirements of paragraph 69(2) of Schedule 6 (processing and access of data) of the GMS Regulations or paragraph 37(2) of Schedule 1 (processing and access of data) of the PMS Regulations, as appropriate.

Use of data by Public Health Scotland

4. – Any information obtained by Public Health Scotland in accordance with these Directions is to be used only for the purposes of the collection, dissemination and analysis of epidemiological data, the participation in epidemiological investigations, the protection of public health and the control of spread of infectious respiratory diseases, and is not to be used for research purposes.

Review of these Directions

5. – The Scottish Ministers must review these Directions not later than 12 months after the date on which the Directions came into force.

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A Member of the Staff of the Scottish Ministers
Population Health Directorate

Edinburgh

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2024



SCHEDULE 1

1. Demographic information

- (a) Patient's date of birth;
- (b) Patient's age;
- (c) Patient's sex;
- (d) Patient's Community Health Index number;
- (e) Patient's postcode at which they are registered with a GP practice; and
- (f) Patient's ethnic group.

2. Clinical information

- (a) Information about any health conditions that a patient has that may put them at greater risk of infectious respiratory disease or that may have a significant impact on day-to-day activity following respiratory infection; and
- (b) Any medications, treatments or vaccinations which a patient has been prescribed or has received in the previous 24 months, including the dates of prescription or administration.

