

NATIONAL HEALTH SERVICE ACT 1977

ENGLAND

Healthcare Professionals Alert Notices Directions 2006

The Secretary of State for Health gives the following directions in exercise of the powers conferred on her by section 17 of the National Health Service Act 1977(a).

Application, commencement and interpretation

1.— (1) These Directions may be cited as the Healthcare Professionals Alert Notices Directions 2006 and come into force on 6th December 2006.

(2) These Directions apply in relation to England.

(3) In these Directions—

“alert notice” means a notice issued by or on behalf of a Strategic Health Authority and addressed to the National Clinical Assessment Service(b) which states that a named individual poses a significant risk of harm to patients, staff or the public and may seek work in the NHS;

“health care professional” means any person who is a member of a profession which is regulated by a health regulatory body;

“health regulatory body” means a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;

“NHS body” means a Strategic Health Authority, a Primary Care Trust, an NHS trust and a Special Health Authority;

“primary care services” means primary medical services, primary dental services, general ophthalmic services, pharmaceutical services and local pharmaceutical services;

“the relevant Strategic Health Authority” means in relation to—

- (a) an NHS trust or a Primary Care Trust, the Strategic Health Authority in whose area the NHS trust or Primary Care Trust wholly or mainly exercises its functions; and
- (b) a Special Health Authority, the Strategic Health Authority in whose area the headquarters of the Special Health Authority is located.

“work in the NHS” means—

- (a) employment by, or engagement to provide services to, an NHS body;

(a) 1977 c. 49. Section 17 was substituted by section 12(1) of the Health Act 1999 (c.8), and was amended by section 67(1) of , and Schedule 5, Part 1, paragraph 5(1) and (3), to the Health and Social Care Act 2001 (c.15) and section 1(3) of, and Schedule 1, Part 1 paragraphs 1 and 7 to the National Health Service Reform and Health Care Professions Act 2002 (c.17). The functions of the Secretary of State under section 17 (except in some cases not relevant to these Directions), are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672 as amended by section 66(4) to (6) of the 1999 Act.

(b) The National Clinical Assessment Service is part of the National Patient Safety Agency, a Special Health Authority established under section 11 of the National Health Service Act 1977.

- (b) employment by, or engagement to provide services to, any organisation which provides services to an NHS body; and
- (c) providing or performing, or assisting in the provision or performance of, primary care services.

(4) When applying these Directions NHS bodies must have regard to the document entitled “Safer Recruitment- Scheme for the Issue of Alert Notices for Healthcare Professionals in England” issued on 1st November 2006 by NHS Employers(a).

Request to a Strategic Health Authority to issue an alert notice

2.—(1) Where an NHS body is satisfied that the circumstances specified in paragraph (2) or (3) apply and that there is a pressing need, it may ask the relevant Strategic Health Authority to issue an alert notice.

(2) The circumstances are that the NHS body has reasonable grounds to believe that any healthcare professional who-

- (a) is or has been employed or engaged to provide services to the NHS body or any organisation which provides services to the NHS body, or
- (b) is or has been employed or engaged by a person or body with which that NHS body has made arrangements for the provision of primary care services,

poses a significant risk of harm to patients, staff or the public and intends or may intend to continue in that employment or engagement or seek additional or other work in the NHS.

(3) An NHS body may also request the issue of an alert notice where it has reasonable grounds to believe that a person may falsely hold himself out to be a healthcare professional and may seek work, in the NHS in that capacity.

(4) A request for the issue of an alert notice—

- (a) may be made orally or in writing (including electronically) but where it is made orally it must be confirmed in writing as soon as is practicable;
- (b) must be made by the Chief Executive or an executive board member of the body making the request;
- (c) must give the full name and last known address of the individual who is the subject of the proposed letter;
- (d) must contain a summary of the circumstances which give rise to the request including -
 - (i) a summary of all relevant information about the individual which supports the request,
 - (ii) an assessment of the relevant risks, and
 - (iii) any advice taken;
- (e) must explain what action the NHS body has already taken in respect of the individual concerned, including any referral of the individual to the relevant health regulatory body; and
- (f) must state the gender and ethnic origin of the individual if known.

(a) NHS Employers is the employers’ organisation for the NHS in England. It is part of the NHS Confederation, see <http://www.nhsemployers.org>.

Responsibility for the issue of alert notices

3. Each Strategic Health Authority must—

- (a) designate a person to take responsibility for the issue, monitoring and revocation of alert notices in accordance with these Directions; and
- (b) ensure that there are effective arrangements in place for some other suitable person to take such responsibility in the absence of the designated person.

Issue of an alert notice

4.—(1) A Strategic Health Authority may issue an alert notice —

- (a) when requested to do so by an NHS body in accordance with article 2; or
- (b) in any other circumstances in which it considers it appropriate to do so,

provided that, having taken appropriate advice, it is satisfied that a healthcare professional (or a person holding himself out to be a healthcare professional)—

- (c) poses a significant risk of harm to patients, staff or the public; and
- (d) may continue to work or seek additional or other work in the NHS as a healthcare professional; and
- (e) that there is a pressing need to issue an alert notice.

(2) An alert notice must identify the individual to whom it relates by giving as much of the following information as is possible—

- (a) the individual's full name and last known address;
- (b) the individual's national insurance number;
- (c) the individual's registration number if he or she is registered with a professional body; and
- (d) a description of the capacity in which the individual was employed or engaged to provide services and in which it is thought possible that he might seek work in the NHS.

(3) An alert notice must be sent to—

- (a) the National Clinical Assessment Service;
- (b) the Chief Executive of each Strategic Health Authority in England;
- (c) the Chief Medical Officer for Northern Ireland, the Chief Medical Officer for Scotland and the Chief Medical Officer for Wales;
- (d) where applicable, the NHS body which requested it;
- (e) the health regulatory body which regulates the profession or purported profession of the individual to whom the letter relates;

and may be sent to any NHS body, or other organisation which provides services to an NHS body, which, in the opinion of the Strategic Health Authority, may be approached by the subject of the alert notice with a view to work in the NHS.

Informing the subject of an alert notice that a notice has been issued

5.—(1) When a Strategic Health Authority has issued an alert notice, it must within 7 days, write a letter to the person who is the subject of the notice and provide a copy of the notice at the same time.

(2) The letter mentioned in paragraph (1) must be addressed to the individual's last known home address and must give a summary of the Strategic Health Authority's reasons for the issue of the alert notice.

Monitoring and revocation of Alert Notices

6.—(1) Each Strategic Health Authority must keep under review any alert notice which it has issued and must, at intervals of no more than 6 months, consider in respect of each notice whether it should be revoked.

(2) The duty in paragraph (1) includes an obligation so far as is reasonably practicable, to ensure that the information held by the Strategic Health Authority in relation to an alert notice is up to date.

(3) In any case where the Strategic Health Authority that issued the alert notice considers that the circumstances which gave rise to the issue of the notice no longer apply (whether as a result of information supplied to it by the subject of the notice or otherwise), it must revoke the notice by notice in writing to all those to whom the original notice was sent.

Records of Alert Notices

7.—(1) Each Strategic Health Authority must keep a record of—

- (a) any alert notice which it has issued and not revoked; and
- (b) for five years after its revocation, any alert notice which it has revoked.

(2) The record mentioned in paragraph (1) must state the gender and ethnic origin of the person to whom it relates.

(3) Each NHS body must keep a record of any alert notice which it has received and ensure that such records are:—

- (a) kept up to date;
- (b) kept secure;
- (c) not disclosed except in response to a request for information for the purposes of a prospective employer or person who may engage the subject of the notice to work in the NHS; and
- (d) destroyed when the NHS body is informed that the notice has been revoked.

Revocation of earlier Directions and transitional provision

8.—(1) The Directions governing the issue of Alert Letters in the Healthcare Sector in England dated 23 October 2002 are revoked(a).

(a) These Directions were issued under cover of Health Service Circular 2002/011.

(2) An alert letter issued in accordance with the Directions mentioned in paragraph (1), which has not been revoked in accordance with those directions, is to be treated as if it were an alert notice issued under article 4.

Signed by authority of the Secretary of State for Health

A handwritten signature in black ink, appearing to read "N. P. Oke". The signature is written in a cursive style with a large initial "N" and a distinct "P" and "Oke" following.

2 November 2006

Department of Health
A member of the Senior Civil Service