



The National Health Service Commissioning Board (Payments to Local Authorities) Directions 2014 – Explanatory note

1. This note explains the Directions to the NHS Commissioning Board (i.e. NHS England), requiring the transfer of funding to local authorities in 2014/15. The rationale for the transfer is to promote partnership working and to support investment in social care that also benefits health.

Background

2. For the 2014/15 financial year, the NHS will transfer £1.1bn to social care. This figure consists of £900m that was set aside in the Spending Round and an additional £200m integration payment for preparing for implementation of mandatory pooled budgets between local authorities and clinical commissioning groups in 2015/16 (i.e. the Better Care Fund)¹.
3. The funding transfer to local authorities will be carried out by NHS England. This note explains the Directions to NHS England under section 256 (5A), (5B) and (6) of the NHS Act 2006, as to the amounts to be paid, the use of the funding and related conditions.

Amount to be transferred

4. For the 2014/15 financial year, NHS England will transfer £1.1 billion from its global allocation to local authorities (see direction 2). The amounts to be paid to individual local authorities is set out in the Schedule to the Directions. As in previous years, the Department has used the adult social care relative needs formulae to determine local authority level amounts.

Legal basis for the transfer

5. The payments are to be made under section 256 of the 2006 NHS Act. NHS England should enter into an agreement with each local authority setting out the payments to be made and any conditions which apply. However, these Directions impose certain conditions which must be met in relation to each payment.
6. The Department has also issued updated Directions that set conditions for all section 256/257 payments, entitled “The National Health Service (Conditions Relating to Payments by NHS Bodies to Local Authorities) Directions 2013”. These set conditions around financial probity and audit.
7. All payments made under section 256 will be subject to these conditions, including the payments referred to in this note. If any payments have been made before the amended Directions were issued, the revised conditions would need to be applied retrospectively (that is, they would need to apply to all relevant expenditure, including to any funding transferred before these Directions are issued).

Use of the funding

¹ The Better Care Fund is subject to the Care Bill being given Royal Assent.

8. The funding must be used to support adult social care services in each local authority, which also has a health benefit (see Direction 3(1) and (2)). However, beyond this broad condition, the Department wants to provide flexibility for local areas to determine how this investment in social care services is best used.
9. NHS England may use the funding transfer to support existing services or transformation programmes, where such services or programmes are of benefit to the wider health and care system, provide good outcomes for service users, or would be reduced due to budget pressures in local authorities without this investment. NHS England may also use the funding transfer to support new services or transformation programmes, again where joint benefit with the health system and positive outcomes for service users have been identified. See Direction 3(3).

Other conditions

10. The Directions make it a condition of the transfer that the local authority agrees with its local clinical commissioning groups how the funding is best used within social care, and the outcomes expected from this investment (see Direction 4(2)). Health and Wellbeing boards will be the natural place for discussions between NHS England, clinical commissioning groups and local authorities on how the funding should be spent, as part of their wider discussions on the use of their total health and care resources.
11. The Directions make it a condition of the transfer that local authorities and clinical commissioning groups have regard to the Joint Strategic Needs Assessment for their local population, and existing commissioning plans for both health and social care, in how the funding is used (see Direction 4(3)).
12. The Directions also make it a condition of the transfer that local authorities must be able to demonstrate how the funding transfer will improve social care services, and outcomes for service users (see Direction 4(4)).
13. The *Caring for our future* White Paper also set out that the transfer of funding can be used to cover the small revenue costs to local authorities of the White Paper commitments. NHS England should have regard to this when reaching agreements with local authorities (see Direction 3(4)).
14. In relation to the integration payment (see paragraph 2 above), the Directions make it a condition of the transfer that the local authority must agree with its partner clinical commissioning group a plan for establishing and maintaining a Better Care Fund pooled budget in the financial year 2015/16, and that the integration payment must be used for purposes related to preparing for implementing the Better Care Fund (see Direction 5).

Reporting

15. As part of its agreement with local authorities, NHS England must ensure that it has access to timely information on how the funding is being used locally, in order to be able to account for this expenditure and assure itself that the conditions for each funding transfer are being met (see Direction 6(1)).

Further considerations

16. NHS England must not place any other conditions on the funding transfers without the written agreement of the Department (see Direction 6(2)).

Further information

17. For further information please contact:

Kirsty McCaffery, Social Care Finance (SCFinance-Enquiries@dh.gsi.gov.uk), Social Care, Local Government and Care Partnerships Directorate, Department of Health, Richmond House, 79 Whitehall, London, SW1A 2NS