

DIRECTIONS

NATIONAL HEALTH SERVICE, ENGLAND

Directions to Primary Care Trusts and NHS trusts concerning decisions about drugs and other treatments 2009

The Secretary of State for Health makes the following Directions in exercise of the powers conferred by sections 8, 272(7) and 273(4) of the National Health Service Act 2006^(a):

Commencement, application and interpretation

- 1.—(1) These Directions apply to—
 - (a) every Primary Care Trust in England; and
 - (b) any NHS trust all or most of whose hospitals, establishments or facilities are situated in England.
- (2) These Directions shall come into force on 1st April 2009.
- (3) In these Directions—

“the Act” means the National Health Service Act 2006;

“health care intervention” includes use of a medicine or medical device, diagnostic technique, surgical procedure and other therapeutic intervention;

“NICE” means the National Institute for Health and Clinical Excellence^(b).

Primary Care Trust responsibilities on funding and commissioning medicines and treatments

2.—(1) In exercising the functions of the Secretary of State under section 2(1)(a) (general power to provide services) and section 3(1) (duty as to provision of certain services) of the Act, each Primary Care Trust must have in place arrangements for making decisions and adopting policies on whether particular health care interventions are to be made available for patients for which the Primary Care Trust is responsible.

(2) For the purposes of these directions, a Primary Care Trust is responsible for the patients for whose benefit they provide or secure the provision of services pursuant to directions given by the Secretary of State under section 7 of the Act (distribution of health service functions).

- (3) Those arrangements must—
 - (a) ensure that the Primary Care Trust complies with any directions given by the Secretary of State as to the application of sums paid to the Primary Care Trust under section 228(1)(b) of the Act (public funding of Primary Care Trusts) in relation to health care interventions recommended by NICE;
 - (b) include arrangements for the determination of requests for the funding of a health care intervention for an individual, where the Primary Care Trust’s general policy is not to fund that intervention; and

^(a) 2006 c. 41. There are no relevant amendments.

^(b) The National Institute for Health and Clinical Excellence is a Special Health Authority established by S.I.1999/220, as amended by S.I.1999/2219 and S.I.2005/497.

- (c) take into account any guidance and principles published by the Secretary of State in relation to the making of decisions or the adoption of policies referred to in paragraph (1).

Duty to give reasons for decisions

3.—(1) Each Primary Care Trust must on request provide a written statement of the reasons for its general policy on whether a particular health care intervention is to be made available for the benefit of patients for which the Primary Care Trust is responsible.

(2) Paragraph (1) shall not apply where the Primary Care Trust has published a written statement of its reasons for a general policy on its website.

(3) Where a Primary Care Trust makes a decision to refuse a request for the funding of a health care intervention for an individual, where the Primary Care Trust's general policy is not to fund that intervention, the Primary Care Trust must provide that individual with a written statement of its reasons for that decision.

Provision of written information

4.—(1) Each Primary Care Trust must compile and publish clear written information outlining the arrangements specified in direction 2.

(2) Each Primary Care Trust must make a copy of that written information available-

- (a) on the website of the Primary Care Trust; and
- (b) to inspect at the main office of the Primary Care Trust.

Co-operation of NHS trusts

5. An NHS trust shall co-operate with a Primary Care Trust to facilitate compliance with these Directions.

Signed by authority of the Secretary of State for Health
12 March 2009



Simon Reeve
A member of the Senior Civil Service
Department of Health