

**PWYLLGOR ARCHWILIO A SICRWYDD RISG
AUDIT AND RISK ASSURANCE COMMITTEE**

DYDDIAD Y CYFARFOD: DATE OF MEETING:	05 May 2020
TEITL YR ADRODDIAD: TITLE OF REPORT:	NHS Non-Statutory Instruments Update (Ministerial Directions)
CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:	Joanne Wilson, Board Secretary
SWYDDOG ADRODD: REPORTING OFFICER:	Rachel Williams, Assurance and Risk Administrator

Pwrpas yr Adroddiad (dewiswch fel yn addas)

Purpose of the Report (select as appropriate)

Er Sicrwydd/For Assurance

**ADRODDIAD SCAA
SBAR REPORT**

Sefyllfa / Situation

To provide the Audit and Risk Assurance Committee with a status report and assurance that all NHS Non-Statutory Instruments (often know as Ministerial Directions) received from the Welsh Government in 2019/20 have been complied with.

Cefndir / Background

Acts of Parliament, Assembly Measures and Assembly Acts enable Welsh Ministers to make more detailed legislation, known as secondary or subordinate legislation, usually by means of Statutory Instruments (SIs).

Non-Statutory Instruments are legislative in character, they alter legal rights and duties however they are not statutory instruments. Non-Statutory Instruments which are issued by Welsh Ministers include codes of practice and guidance.

In complying with the requirements of various governance codes and the Annual Governance Statement requirements, the UHB has a duty to provide assurance that the non-statutory instruments have been complied with.

Asesiad / Assessment

Non-statutory Instruments (Ministerial Directions) which have been issued in 2019/20 and which relate to the National Health Service have been implemented by the UHB.

Appendix 1 details the Non-Statutory Instruments (Ministerial Directions) and provides confirmation that these have all been complied with.

Argymhelliad / Recommendation

The Audit and Risk Assurance Committee is asked to note the Non-Statutory Instruments (Ministerial Directions) which have been issued and to endorse the confirmation that the UHB is compliant with these.

Amcanion: (rhaid cwblhau) Objectives: (must be completed)	
Committee ToR Reference Cyfeirnod Cylch Gorchwyl y Pwyllgor	5.2 In particular, the Committee will review the adequacy of: 5.2.1 all risk and control related disclosure statements (in particular the Annual Governance Statement and the Annual Quality Statement), together with any accompanying Head of Internal Audit statement, external audit opinion or other appropriate independent assurances, prior to endorsement by the Board; 5.2.2 the underlying assurance processes that indicate the degree of the achievement of corporate objectives, the effectiveness of the management of principal risks and the appropriateness of the above disclosure statements; 5.2.3 the policies for ensuring compliance with relevant regulatory, legal and code of conduct and accountability requirements; and 5.2.4 the policies and procedures for all work related to fraud and corruption as set out in National Assembly for Wales Directions and as required by the Counter Fraud and Security Management Service.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Not applicable
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	Governance, Leadership and Accountability Choose an item. Choose an item. Choose an item.
Amcanion Strategol y BIP: UHB Strategic Objectives:	Not Applicable Choose an item. Choose an item. Choose an item.
Amcanion Llesiant BIP: UHB Well-being Objectives: Hyperlink to HDdUHB Well-being Objectives Annual Report 2018-2019	10. Not Applicable Choose an item. Choose an item. Choose an item.

Gwybodaeth Ychwanegol: Further Information:	
Ar sail tystiolaeth: Evidence Base:	Ministerial Directions
Rhestr Termiau: Glossary of Terms:	Incorporated within the main body of the report

Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Archwilio a Sicrwydd Risg: Parties / Committees consulted prior to Audit and Risk Assurance Committee:	Board Secretary
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Effaith: (rhaid cwblhau) Impact: (must be completed)	
Ariannol / Gwerth am Arian: Financial / Service:	Non-statutory Instruments are legal tools which often have a financial impact on the organisation.
Ansawdd / Gofal Claf: Quality / Patient Care:	Non-statutory Instruments are legal tools which can impact patient care
Gweithlu: Workforce:	Not applicable
Risg: Risk:	Non-Statutory Instruments are legislative in character, they alter legal rights and duties and must be implemented by the Health Board.
Cyfreithiol: Legal:	Non implementation of Non-Statutory Instruments may result in the UHB being less likely to defend itself in a legal challenge which could lead to fines/penalties and damage to reputation.
Enw Da: Reputational:	As above.
Gyfrinachedd: Privacy:	Not applicable
Cydraddoldeb: Equality:	Not applicable

Welsh Government Non-statutory Instruments used in relation to the National Health Service in Wales
(Ministerial Directions 2019/20)

Direction Number	Name of Direction	Date Issued	Description	Progress on implementation
2019 No. 6	The Local Health Boards (Area Change) (Transfer of Staff, Property and Liabilities) (Wales) Order 2019 (2019 No. 6)	01/04/19	This Order is made as a result of the change to the area of the two local health boards by the Local Health Boards (Area Change) (Wales) (Miscellaneous Amendments) Order 2019 (“the Area Change Order”). The Area Change Order transferred the principal local government area of Bridgend so that it forms part of the area of Cwm Taf Morgannwg University Local Health Board. The Area Change Order also renamed the two local health boards.	N/A- nothing for the UHB to implement
2019 No. 8	The Clinical Negligence Scheme for NHS Trusts and Local Health Boards (Administration) (Wales) Directions 2019 (2019 No.8)	01/04/19	The Clinical Negligence Scheme for NHS Trusts and Local Health Boards (Administration) (Wales) Directions 2019 set out that Velindre NHS Trust must exercise all functions of the Welsh Ministers in connection with the administration of the Clinical Negligence Scheme for NHS Trusts and Local Health Boards, established by regulation 3 of the National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019, with effect from 1 April 2019.	N/A- no response required
2019 No. 5	Directions to Local Health Boards as to the Statement of Financial Entitlements (Amendment) Directions 2019 (2019 No. 5)	04/04/19	The amendment Direction reduces the Global Sum figure to take account of the one-off funding for indemnity and removes the Quality and Outcomes Framework whilst making provision for GMS contractors to receive aspiration payments equivalent to the monthly amount they received for the 2018/19 financial year.	Implemented

2019 No. 12	Directions to Local Health Boards as to the Statement of Financial Entitlements (Amendment) (No. 2) Directions 2019	02/07/19	In paragraph 2.3 for “1 April 2019” substitute “1 July 2019” and for “£86.75”, substitute “£90.00” followed by “At the end of July 2019, a backdated Global Sum monthly payment of £3.25 is to be applied per weighted patient for the period from 1 April 2019 to 30 June 2019.”	Implemented
2019 No. 04	The Primary Medical Services (Mental Health) (Directed Enhanced Services) (Wales) (Amendment) Directions 2019	17/07/19	The Primary Medical Services (Mental Health) (Directed Enhanced Services) (Wales) Directions 2017(2) dated 11 April 2017 are revoked with effect from 1 September 2019.	Implemented
2019 No.35	The Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) (Amendment) Directions 2019	01/10/19	<p>The Welsh Ministers in exercise of the powers conferred by section 3A(1) of the Adoption and Children Act 2002(1), having consulted the local authorities in Wales to whose adoption services these Directions relate(2), give the following Directions:</p> <p>Title, commencement, application and interpretation 1.—</p> <p>(1) The title of these Directions is the Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) (Amendment) Directions 2019. (2) These Directions come into force on 1 October 2019. (3) These Directions are given to local authorities in Wales.</p> <p>(4) In these Directions, “the Principal Directions” means the Adoption and Children Act 2002 (Joint Adoption Arrangements) (Wales) Directions 2015(1).</p> <p>Amendments to the Principal Directions 2. The Principal Directions are amended as follows— (a) in paragraph 3(1), omit the definition of “registered adoption society” (“cymdeithas fabwysiadu cofrestredig”); (b) in paragraph 16— (i) in sub-paragraph (1)(a), for “three months have”</p>	N/A – Local Authorities to implement

			substitute “one month has”; (ii) in sub-paragraph (3)(a), for “three months have” substitute “one month has”.	
2019 No.43	The Directions to Local Health Boards as to the General Dental Services Statement of Financial Entitlements (Amendment) Directions 2019	06/12/19	1.—(1) The title of these Directions is the Directions to Local Health Boards as to the Personal Dental Services Statement of Financial Entitlements (Amendment) Directions 2019. (2) These Directions come into force on 6 December 2019 but have effect from 1 April 2019(2).	Implemented
2020 No. 232	The Health Protection (Notification) (Wales) (Amendment) Regulations 2020	06/03/20	These Regulations amend the Health Protection (Notification) (Wales) Regulations 2010 (“the 2010 Regulations”) which place obligations on various persons for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination. Regulation 2(2) inserts “Coronavirus Disease 2019 (COVID-19)” into Schedule 1 to the 2010 Regulations for the purposes of adding this to the list of “Diseases and Syndromes” for which there is a duty upon medical practitioners to notify a relevant local authority if a patient they are attending is believed to have such a disease or syndrome. This extends to the notification of suspected disease, infection or contamination in a dead body.	Implemented
2020 No. 308	The Health Protection (Coronavirus) (Wales) Regulations 2020	18/03/20	These Regulations supplement the health protection regime found in Part 2A of the Public Health (Control of Disease) Act 1984 (“the 1984 Act”) in the event that there exists a serious and imminent threat to public health from the virus known as Coronavirus or “Severe acute respiratory syndrome coronavirus 2”, which causes the disease known as “COVID-19”.	Implemented

2020 No. 007	Directions to Local Health Boards as to the Statement of Financial Entitlements (Amendment) Directions 2020	26/03/20	<p>The Welsh Ministers in exercise of the powers conferred on them by sections 45, 203(9) and (10) and 204(1) of the National Health Service (Wales) Act 2006(1), and after consulting in accordance with section 45(4) of that Act with the bodies appearing to them to be representative of persons to whose remuneration these Directions relate, give the following Directions.</p> <p>Title, application and commencement</p> <p>1.—(1) The title of these Directions is the Directions to Local Health Boards as to the Statement of Financial Entitlements (Amendment) Directions 2020. (2) These Directions are given to Local Health Boards. (3) These Directions are made on 24 March 2020 and come into force— (a) for the purposes of Directions 5, 6, 8.(3)(a) and 9, on the day after the day on which these Directions are made, and (b) for all other purposes, on 1 April 2020.</p>	Implemented
2020 No.014	Directions to Local Health Boards as to the Statement of Financial Entitlements (COVID-19 Suspension of Enhanced Services) Directions 2020	26/03/20	<p>The Welsh Ministers in exercise of the powers conferred on them by sections 45, 203(9) and (10) and 204(1) of the National Health Service (Wales) Act 2006(1), and after consulting in accordance with section 45(4) of that Act with the bodies appearing to them to be representative of persons to whose remuneration these Directions relate, give the following Directions.</p> <p>Title, application, commencement and interpretation</p>	Implemented

			<p>1.—(1) The title of these Directions is the Directions to Local Health Boards as to the Statement of Financial Entitlements (COVID-19 Suspension of Enhanced Services) Directions 2020.</p> <p>(2) These Directions are given to Local Health Boards. They relate to the payments to be made by Local Health Boards to a GMS contractor under a GMS contract.</p> <p>(3) These Directions are made on 24 March 2020 and come into force on 25 March 2020.</p> <p>(4) In these Directions—</p> <p>“enhanced service” means a service listed in column 1 of the table in the Schedule to these Directions;</p> <p>“financial year” means the period from 1 April to 31 March in any year;</p> <p>“GMS” means general medical services provided pursuant to a GMS contract;</p> <p>“GMS contract” means a general medical services contract entered into in accordance with section 42 of the National Health Services (Wales) Act 2006;</p> <p>“GMS contractor” means a contractor who provides primary medical services under a GMS contract;</p> <p>“Local Health Board” means a Local Health Board established in accordance with section 11(2) of the National Health Service (Wales) Act 2006.</p>	
2020 No. 366	The Coronavirus Act 2020 (Commencement No.1) (Wales) Regulations 2020	26/03/20	Brings into force Coronavirus Act 2020 provisions relating to the Mental Health Review Tribunal for Wales and local authorities’ duties under the Social Services and Well-being (Wales) Act 2014.	In progress

2020	The Abortion Act 1967 – Approval of a Class of Place for Treatment for the Termination of Pregnancy (Wales) 2020	31/03/2020	The approval also allows doctors to prescribe the medications from their own homes. This approval expires on the day on which the temporary provisions of the Coronavirus Act 2020 expire.	Implemented
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