

**A MEMORANDUM OF UNDERSTANDING BETWEEN THE LOCAL GOVERNMENT  
OMBUDSMAN (LGO) AND THE CARE QUALITY COMMISSION (CQC)  
DESCRIBING THE FRAMEWORK FOR OUR WORKING RELATIONSHIP**

**1. PURPOSE AND SCOPE**

- 1.1 This Memorandum sets out the framework for the working relationship between the Local Government Ombudsmen (LGO) and the Care Quality Commission (CQC) and is intended to inform our staff and the public about how our organisations relate to each other and work together. LGO and CQC recognise their respective statutory responsibilities and independence but will always seek to collaborate and co-operate where relevant and appropriate to do so in furthering their shared aim of securing high quality care.
- 1.2 This Memorandum cannot override the statutory duties and powers of either the LGO or CQC, and is not enforceable in law. However, both organisations agree to adhere to the principles set out in this Memorandum and will show proper regard for each other's activities. There will be complete openness, transparency and honesty between CQC and the LGO. The interests of people who use services will always be paramount.
- 1.3 This MoU will be effective for at least a twelve month period commencing from the date of signature. Its operation shall be reviewed at the end of the first twelve months in order to inform any changes necessary. The MoU will be supported by protocols and other documents not included here which set out in more detail operation considerations of how LGO and CQC will work together.

**2. LEGISLATIVE FRAMEWORK AND CORE FUNCTIONS**

- 2.1 The CQC is the regulator of health and adult social care in England. The CQC also protect the interests of vulnerable people, including those whose rights are restricted under the Mental Health Act.
- 2.2 The CQC's purpose is to make sure health and social care services provide people with safe, effective, compassionate, high-quality care and encourage care services to improve. The CQC's role is to monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety. The CQC publishes its findings

including performance ratings to help people choose care.

- 2.3 The role of the Local Government Ombudsman (LGO) is set out in the Local Government Act 1974. From 2009 the LGO's role in providing a route to independent redress was extended to all privately funded social care. Since then the LGO has been able to operate as the social care ombudsman dealing with unresolved complaints about any registered care service, whoever is using it and however it has been arranged or funded.

### **3. GENERAL PRINCIPLES UNDERPINNING OUR WORKING RELATIONSHIP**

- 3.1 LGO and CQC agree that the following principles underpin our approach:

- We each make our own independent decisions;
- We acknowledge each other's statutory responsibilities;
- We agree the need to share information (in accordance with this Memorandum) to assist with effective regulation and complaint handling which promotes safety and high quality adult social care services and remedies injustice ;
- We will work together to understand and align our data collection systems to support effective information-sharing and quality monitoring;
- We will inform each other as soon as reasonably practicable of any matters that may require action or a response from the other;
- Information will be shared in an agreed secure format and in a timely manner to a named contact;
- We will be open and transparent in our dealings with each other, acknowledge each other's respective responsibilities and take these into account when working together;
- We recognise the need to maintain public confidence in our two organisations;
- All of our meetings will have agreed actions which will be confirmed in writing.

### **4. INFORMATION SHARING**

- 4.1 The LGO and CQC share information with each other through planned activity and when there is a need to respond to emerging, urgent concerns.
- 4.2 The LGO and CQC will continue to explore how best to improve and share useful information on a regular basis to ensure both organisations can carry out their roles effectively.

### ***Information that LGO will share with CQC***

- 4.3 In relation to complaints about care services provided, or commissioned by local authorities, the LGO can only share information for the purposes of an investigation or report. It can however publish and share all of its complaint outcomes. In relation to complaints about private sector care, the LGO has a statutory power to share information with CQC where it relates to its regulatory functions.
- 4.4 The LGO will normally share information with CQC in accordance with the Information Sharing Protocol,:
- i) Where it is necessary to do so in assessing whether or not to investigate a complaint;
  - ii) Where undertaking, or concluding an investigation depends on information provided by CQC;
  - iii) Where a Final Decision or Report about an investigation has made recommendations to the adult social care provider or local authority and where the LGO asks the provider or local authority to develop an action plan to address the failings and to seek CQC's assurance that the recommendation has been implemented;
  - iv) Where the LGO receives information in the course of an investigation that is of such concern that it is considered likely to constitute evidence of abuse or neglect to a person in vulnerable circumstances; and
  - v) Where the LGO receive information that appears to indicate a breach of regulatory requirements.
- 4.5 The LGO may also, from time to time, share general information (whilst protecting the privacy of persons affected by the complaint) about any identified trends or themes arising from casework. Where the numbers and type of complaints indicate potential concern about a provider's performance - or complaint handling more generally - the LGO may decide to share this in broad terms with the CQC prior to any intended publication, for the wider benefit of timely improvement of services for people using adult social care.

### ***How CQC will use LGO information***

- 4.6 The CQC will use information provided by LGO to inform its regulatory processes by adding this information to other accumulated evidence it holds about the service to inform its surveillance process.
- 4.7 CQC will log any systemic recommendations for remedy and have systems in place to ensure that the organisations' action plans are received and logged to form part of the evidence for its inspection teams.

- 4.8 CQC will inform LGO of any subsequent regulatory activity, and what further action will be taken.
- 4.9 CQC will comply with LGO's statutory requirements regarding subsequent requests for disclosure of this information<sup>1</sup>

#### ***Information that CQC will share with LGO***

- 4.10 CQC will share information about providers and any unresolved complaints with the LGO to assist with their role as social care ombudsman. The detail is explained in the Information Sharing Protocol.
- 4.11 The Health & Social Care Act 2008 (Section 9 (1)) states that the Commission may, *'if it thinks it appropriate to do so, provide advice or assistance to another public authority for the purpose of the exercise by that authority of that authority's functions'*.
- 4.12 CQC will inform LGO of any investigation which CQC decides to carry out as a result of concerns about a registered provider providing adult social care. The information will be limited to the name of the body in question and the service area of concern. LGO will decide whether there is any information it holds which may legitimately be shared to inform that investigation.
- 4.13 CQC undertakes to inform and update LGO of any registered body/practitioner with conditions attached to its registration (and the nature of those conditions) relating to adult social care; and to do so, if this is practicable, prior to release into the public domain.
- 4.14 CQC will transfer and refer individual complainants to LGO.

## **5. WORKING ARRANGEMENTS**

- 5.1 Both the LGO and the CQC are committed to exploring ways to develop more effective and efficient working relationships to remedy injustice and promote quality and safety within their respective statutory remit

---

<sup>1</sup> Information gathered for the purposes of an Ombudsman investigation is subject not only to the statutory requirement of privacy within the Health Service Commissioners Act 1993. It is also generally exempt from disclosure under the Freedom of Information Act by the operation of Section 44 of that Act. Generally there is also exemption from release under the Data Protection Act by the operation of Section 31(4) where there is a likely prejudice to the Ombudsman's statutory function.

- 5.2 LGO and the CQC will keep each other fully informed about developments in their services, approach and methodologies. The practical working arrangements are set out in the Joint Working Protocol
- 5.3 LGO and CQC will seek to ensure that they give each other adequate warning of and sufficient information about any planned announcements to the public that the other may need to know of, including sharing drafts of their proposals and publications, as early as possible where these have a direct impact for both.
- 5.4 LGO and CQC will hold **annual strategic meetings** to focus on:
- i) Organisational relationship
  - ii) High level policy and high risk casework strategy
  - iii) Regulatory and quality landscape in health and social care

In attendance:

**LGO:** Jane Martin, Ombudsman and others to be determined by LGO

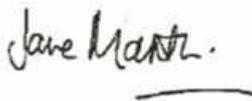
**CQC:** David Behan (Chief Executive) and others to be determined by CQC

- 5.5 LGO and CQC will **maintain engagement meetings** for the purpose of:
- i) Delivery of action agreed by Ombudsman and CQC CE
  - ii) Overseeing the operational relationship between LGO and CQC including this MOU
  - iii) Overseeing the strategic relationship between LGO and CQC
  - iv) Initiation of joint project working
  - v) Sharing corporate information between organisations including matters such as:
    - High risk social care bodies;
    - Horizon scanning of key issues and organizations;
    - Development of the regulatory landscape and quality framework;
    - Reorganisation and changing roles within the sector and implication for regulatory activity, quality and complaints management;
    - Engagement with and issues emerging from local Quality Surveillance Groups as part of the new NHS Quality Framework;
    - Engagement and relationships with other regulators and Healthwatch England and Local Healthwatch.
  - vi) Individual cases liaison between LGO and CQC on matters concerning an individual complaint about a registered

body/practitioner which is also subject to regulatory activity monitoring by CQC

- 5.6 Day to day business will be managed outside these regular Executive meetings through the contacts listed in Annex A

Signed



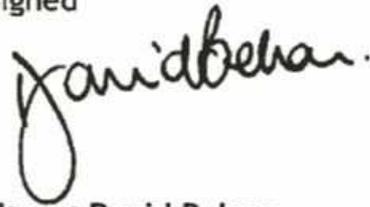
Name: Dr Jane Martin  
(Local Government  
Ombudsman)

Date:

#### Annex A: Contact details

Sarah Bickerstaffe  
Strategy Lead  
Care Quality Commission

Signed



Name: David Behan  
(CQC)

Date: 12 November 2014.

Donna Campbell  
Assistant Ombudsman  
LGO