

## **Memorandum of Understanding between the Care Quality Commission and the NHS Trust Development Authority**

### **Introduction**

1. The Care Quality Commission (CQC) and NHS Trust Development Authority (TDA) are committed to working together to encourage improvements in the quality of care and promote effective, efficient and economic services for the benefit of people who use NHS funded services. We are developing new ways of working that reflect our interdependent relationship and promote efficient and effective regulation.
2. This Memorandum of Understanding (MOU) sets out how we will work together effectively to ensure patients' interests are protected. It describes our respective roles, the principles we will adhere to and our agreed governance framework on joint areas of work. Linked to the MOU are separate annexes, which set out in more detail the working practices and areas of operational co-ordination between our organisations.
3. As outlined in the National Quality Board publication "Review of Early Warning Systems" we will aim "To promote safe, high quality care by eliminating potential duplication and confusion in the system for regulation and oversight of NHS care, by identifying areas for alignment and joint process and developing and implementing proposals to take these forward."

### **Our Roles**

#### **CQC**

4. The Care Quality Commission (CQC) is the independent regulator of health and social care in England. CQC's purpose is to make sure health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage care services to improve. CQC's role is to monitor, inspect and regulate services to make sure we meet fundamental standards of quality and safety and we publish what we find, including performance ratings to help people choose care. Through its work, CQC will protect the rights of vulnerable people, including those whose rights are restricted under the Mental Health Act.
5. CQC has significantly improved the way it regulates health and social care services. CQC's approach asks five questions of all services: are they safe, effective, caring, responsive and well led. CQC uses large teams that include specialists. CQC uses

intelligence and data to target its inspections and to ensure focus on areas of particular risk. CQC is committed to continually seeking opportunities to innovate and change in line with opportunities and identifiable risks.

## **NHS TDA**

6. The NHS TDA is a Special Health Authority charged with providing oversight and support to NHS Trusts, to ensure they provide high quality, sustainable and financially viable services for their patients. It is responsible for holding NHS Trusts to account for clinical quality, operational performance and finance. The NHS TDA is also responsible for developing capacity and capability in the NHS Trust sector, making Chair and non-executive appointments; and providing professional leadership and targeted improvement support. Finally, it is charged with supporting trusts to achieve a sustainable organisational form, whether by becoming a Foundation Trust, through a transaction, or use of new models of care.

## **Working Together**

### **General Principles for Collaborative Working**

7. We share the fundamental goal of working in an open way, which supports and promotes the delivery of safe and good quality care for the public. Our collaboration will be built on the following principles:
  - We will listen to people who use services and act in their interests
  - Our activities will be proportionate, accountable, consistent, transparent and targeted.
  - We acknowledge the statutory responsibilities of each other and respect each other's right to make independent decisions.
  - When we work together, we will be clear about our unique expertise and roles to avoid duplication and ensure the efficient and effective use of resources.
  - Providers of care will be clear about the requirements placed upon them.
  - We will have regard to each other in decisions about priorities (for example themes for inspections).
  - We will collaboratively develop methods to avoid overlap or duplication (for example when developing methods for assessing how well-led trusts are).
  - We will make sure intelligence is proactively and consistently pooled and shared to identify emerging issues early and respond to concerns.
  - We will ensure that CQC's inspection findings join up with and are effective in informing TDA's actions to support trusts to improve.
  - We will work bilaterally to achieve both our common objectives, and with others such as the NHS England to achieve system objectives.

8. This memorandum cannot override the statutory duties and powers of the CQC, and NHS TDA, and is not enforceable in law. However, we will adhere to the principles set and show proper regard for each other's activities.

### **Arrangements to Underpin Co-operation**

9. We are committed to collaborating on protecting and promoting the interests of patients and people who use services, through:
  - working together on operational and strategic issues so that our approaches are aligned and duplication is minimised.
  - influencing the overarching system to bring about the greatest benefits for patients.
  - sharing best practice and working together to manage shared risks.
  - work together where appropriate on inspections, and operational alignment on areas including, but not limited to assurance and improvement.
10. We will work together in communicating our aims, objectives and recommendations where appropriate. This will include, but not be restricted to, the sharing of intelligence and data, in holding joint engagement events, and in developing co-ordinated communication plans and messaging.

### **Joint Working on Strategic Matters**

11. CQC and NHS TDA will continue to work together, with other system partners where appropriate, on areas of joint strategic importance. This includes, for example the development of capability to detect and act on shortfalls in the quality and safety of care, contributing to system-wide implementation of recommendations from the inquiry into Mid-Staffordshire NHS FT, and aligning and joining up our assessment and oversight systems.

### **Joint Working on Operational Matters**

#### **Monitoring the Quality of Care in NHS Trusts**

12. Both CQC and NHS TDA have responsibility for monitoring the quality of care in NHS trusts – the CQC through its Intelligent Monitoring and inspections and the NHS TDA as part of its oversight and escalation process. In order to ensure a common view of the standard of care being delivered in an NHS trust, and in light of the role of CQC as the ultimate authority on quality and safety of care, the metrics used by the NHS TDA are closely aligned to those used by the CQC. As part of its oversight and escalation process,

the NHS TDA also monitors the delivery of commitments to patients as made in the NHS Constitution.

### **Assessing the Quality of Care in NHS Trusts**

The ultimate assessment of the quality of care provided by an NHS provider is determined by its CQC inspection.

13. CQC and NHS TDA have developed a Joint Operating Protocol that sets out how we will work together on both comprehensive and focused inspections of NHS trusts. The protocol ensures that there is appropriate contact and information sharing between the CQC and NHS TDA before, during and after relevant inspections.

14. A copy of the Joint Operating Protocol can be found at Annex A.

### **Addressing concerns about the quality of care in NHS Trusts**

15. Concerns regarding the quality of care in NHS trusts are identified through a variety of ways, including:

- a. Through the day-to-day oversight and accountability relationship between NHS trusts and NHS TDA
- b. Through CQC's Intelligent Monitoring system
- c. Through CQC inspections

16. Improving the quality and sustainability of NHS trust services is core to the business of the NHS TDA. Any serious concerns identified by the NHS TDA in the course of day-to-day business will be raised with the CQC.

17. Where risks and actions are shared in writing these will be proactively saved on the organisations' respective data management systems. A note of meetings and any actions will also be stored where appropriate.

18. The CQC's Intelligent Monitoring system acts as a warning system for potential risk, and informs the CQC priority band for inspection for each trust that it is produced for. The bandings in turn inform the CQC's inspection schedule. 'QC's Intelligent Monitoring results also inform the overall escalation score assigned to NHS trusts by NHS TDA, which determines the level of support and intervention each trust receives from NHS TDA.

19. Where serious concerns are identified through a CQC inspection, the CQC may recommend that the NHS TDA places a trust into special measures. Special measures involves a series of interventions by the NHS TDA aimed at improving the quality of

services delivered by an NHS trust. More detail on how the CQC and NHS TDA will work together where trusts are placed into special measures can be found in Annex A.

20. In terms of enforcement, CQC will make use of their powers of prosecution in consultation with other regulators and oversight bodies, including NHS TDA, against directors and others who jeopardise quality and safety of care.

#### **Duration and Review of the MOU**

21. We recognise our respective statutory functions and independence and the unique nature of our relationships. This agreement sits alongside other arrangements, which we both have in place with organisations operating within the wider health and social care system, including with Monitor, NHS England, and Healthwatch.

22. This MoU will be reviewed and amended as required by April 2016.

#### **Signatures**



**David Behan CBE**  
**CQC Chief Executive**

Date: 31/1/15.



**Robert Alexander**  
**NHS TDA Chief Executive**

Date: 09/07/2015