Memorandum of understanding between the Care Quality Commission and the Health and Care Professions Council

Introduction

1. This Memorandum of Understanding (MoU) establishes the framework for working relationships between the Care Quality Commission (CQC) and the Health and Care Professions Council (HCPC) in order to safeguard the wellbeing of the public receiving health and adult social care services in England.

2. The working relationship between the CQC and HCPC is part of the maintenance of a regulatory system for health and adult social care in England which promotes patient safety and high quality care.

3. The CQC is the regulator of health and adult social care in England. The HCPC is the independent regulator in the UK for the 16 professions listed below:

Art therapists	Orthoptists
Biomedical scientists	Paramedics
Chiropodists / podiatrists	Physiotherapists
Clinical scientists	Prosthetists / Orthotists
Dietitians	Radiographers
Hearing aid dispensers	Practitioner psychologists
Occupational therapists	Social Workers (in England)
Operating department practitioners	Speech& language therapists

The responsibilities and functions of the CQC and HCPC are set out at Annex A to this MoU.

4. This MoU does not override the statutory responsibilities and functions of the CQC and HCPC and is not enforceable in law. However, the CQC and HCPC are committed to working in ways that are consistent with the content of this MoU.

Principles of cooperation

5. The CQC and HCPC intend that their working relationship will be characterised by the following principles.

   a. The need to make decisions which promote people's safety and high quality health and adult social care.

   b. Respect for each organisation's independent status.

c. The need to maintain public confidence in the two organisations.

d. Openness and transparency between the two organisations as to when cooperation is and is not considered necessary or appropriate.

e. The need to use resources effectively and efficiently.

6. The CQC and HCPC are also committed to a regulatory system for health and adult social care in England which is transparent, accountable, proportionate, consistent, and targeted (the principles of better regulation).

Areas of cooperation

7. The working relationship between the CQC and HCPC involves cooperation in the following areas:

- Cross referral of emerging, urgent concerns;
- routine sharing of fitness to practise information;
- sharing of feedback about particular health or adult social care providers upon direct request by the CQC to assist with regulatory activity;
- risk summits;
- media and publications;
- evidence to parliamentary committees and central government; and
- joint working projects.

8. The joint operating protocol (Annex B to this MoU) sets out the operational model of how the CQC and the HCPC will cooperate with each other in these areas.

Cross-referral of concerns

9. Where the CQC or HCPC encounters a concern which it believes falls within the remit of the other, they will at the earliest opportunity convey the concern and relevant information to a named individual with relevant responsibility at the other (subject to the provisions of paragraph 11 and 12 of this document). In the interests of patient safety or protection, the referring organisation will not wait until its own investigation has concluded.

10. In particular, the CQC will share with or refer to the HCPC;

a. Any concerns and relevant information about any individual from one of the professions listed above (or social work student in England) which may call into question his or her fitness to practise (or suitability to be on a social work programme in England).

b. Any concerns and relevant information about a health or adult social care organisation which may call into question its suitability as a learning environment for students.

c. Any information about an individual purporting to be one of the 16 professions listed above where the CQC has reason to believe that that person is not on the HCPC Register.

d. Any concerns and relevant information, such as serious failings in professional leadership, supervision, case load management, training, safeguarding or other related factors, affecting the general delivery of care or services at a health or adult social care organisation or adult social services department by any of the professions listed above or social work student which may call into question issues of professional leadership.

11. In particular, the HCPC will refer to the CQC:

a. Any concerns and relevant information about a health or adult social care organisation in which a HCPC registrant or registrants practise or are trained which may call into question its registration with the CQC.

b. Any concerns and relevant information about a health or adult social care organisation which may call into question the suitability of its supervision practices or its learning environment for student health professionals.

c. Information about any investigations it conducts which raise concerns about poor team working, leadership, record keeping, appraisal systems and general organisational failures.

d. Any concerns and relevant information about the ability of an English local authority to discharge its adult social services functions to an acceptable standard, relevant to the CQC duties under Part 1, Chapter 3 of the Health and Social Care Act 2008.

e. Where the HCPC becomes aware that a person registered by the HCPC is working as a CQC Registered Manager in a health or adult social care organisation registered with CQC, any concerns and relevant information about that individual that may call into question his or her suitability to perform his or her functions in that setting.

f. Where the HCPC becomes aware that an individual who has been refused HCPC registration at initial admission, re-admission restoration or renewal is a CQC Registered Manager, any serious concerns and relevant information concerning that individual.

Exchange of information

12. The cooperation outlined in paragraphs 9-11 will often require the CQC and the HCPC to exchange information. All arrangements for collaboration and exchange of information set out in this MOU and any supplementary agreements will take account of and comply with the Data Protection Act 1998, section 76 of the Health and Social Care Act 2008, the Health and Social Work Professions Order 2001 and any CQC and HCPC codes of practice frameworks or other policies relating to confidential personal information.

13. Both the CQC and HCPC are subject to the Freedom of Information Act 2000. If one organisation receives a request for information that originated from the other, the receiving organisation will discuss the request with the other before responding. However, the ultimate decision on the release of information will remain with the information owner (the organisation that has been requested to release it).

Resolution of disagreement

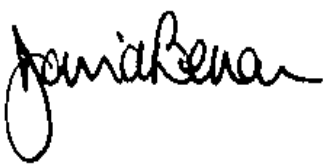
14. Any disagreement between the CQC and HCPC will normally be resolved at working level. If this is not possible, it may be referred through those responsible for the management of this MOU, up to and including the Chief Executive of the CQC and the Chief Executive and Registrar of the HCPC who will then jointly be responsible for ensuring a mutually satisfactory resolution.

Duration and review of this MOU

15. This MoU commences on the date of signatures below. This MoU is not time-limited and will continue to have effect unless the principles described need to be altered or cease to be relevant. The Annexes may be reviewed more regularly. The MoU may be reviewed urgently at any time at the request of either party.

17. Both organisations have identified a person responsible for the management of this MoU at Annex B. They will liaise as required to ensure this MoU is kept up to date and to identify any emerging issues in the working relationship between the two organisations.

Signatures



David Behan
Chief Executive
Care Quality Commission

Date: 3 September 2014

Marc Seale
Chief Executive and Registrar
Health and Care Professions Council

Date: 22 September 2014

Annex A: Responsibilities and functions

1. The Care Quality Commission (CQC) and the Health and Care Professions Council (HCPC) acknowledge the responsibilities and functions of each other and will take account of these when working together.

The Care Quality Commission

2. The responsibilities of the Care Quality Commission (CQC) are set out primarily in the Health and Social Care Act 2008 as amended (the 2008 Act) and the accompanying Regulations (as amended).

3. CQC's role is to protect and promote the health, safety and welfare of people who use health and social care services. It does this to encourage:

    - The improvement of health and social care services
    - The provision of services that focus on the needs and experiences of people who use those services
    - The efficient and effective use of resources

4. CQC's purpose is to drive improvements in the quality of care through the unique function of measuring whether services meet national standards of quality and safety.

5. To do these things the CQC:

    - Registers providers under the Health and Social Care Act 2008 against national standards of quality and safety. These are the standards providers have a legal responsibility to meet and that people have a right to expect whenever or wherever they receive care.
    - Regulates, monitors and inspects providers against those standards. This may include carrying out inspections at any time in response to concerns, themed inspections and specialist investigations based on particular aspects of care.
    - Takes action if finds that a service is not meeting the fundamental standards, using a range of powers. These may include issuing a warning notice, restricting admissions, fining a provider or manager, prosecuting a registered manager or provider or if necessary, cancelling either or both a provider's or manager's registration.
    - Involves people in its work. This may include local groups, national organisations, other registered health and social care providers and the public to make sure that the views and experiences of people are at the centre of what it does.
    - Publish information about whether or not health and social care services are meeting the standards. This will include national reports

on key themes, and an annual publication on the state of care in England.

The Health and Care Professions Council

6. The Health and Care Professions Council (HCPC) is the regulator of 16 professions:

Arts therapists	Orthoptists
Biomedical scientists	Paramedics
Chiropodists / podiatrists	Physiotherapists
Clinical scientists	Prosthetists / Orthotists
Dietitians	Radiographers
Hearing aid dispensers	Practitioner psychologists
Occupational therapists	Social Workers (in England)
Operating department practitioners	Speech& language therapists

7. The responsibilities and functions of the HCPC are set out in the Health and Social Work Professions Order 2001 (The Order). The Order protects one or more designated titles for each of the relevant professions and anyone using one of those titles must be registered with the HCPC. Misuse of a title is a criminal offence.

8. Under the Order the principal functions of the HCPC are to establish standards of education, training, conduct and performance for members of the relevant professions and to ensure the maintenance of those standards. It does this by:

    a) setting standards, including Standards of Proficiency, Standards of Conduct, Performance and Ethics and Standards of Education and training;

    b) approving education programmes and qualifications which meets its standards;

    c) maintaining a register of appropriately qualified professionals; and

    d) investigating and adjudicating complaints about their fitness to practise.

9. The main objective of the HCPC in exercising its functions shall be to safeguard the health and well-being of persons using or needing services of registrants.

    The HCPC also has a duty to co-operate, with, inter alia, bodies concerned with the regulation, or the co-ordination of the regulation, of other health and social care professionals, the regulation of health services, and the provision, supervision or management of health or education service.

Annex B: Joint Operating Protocol

This protocol sets out the details of how the CQC and HCPC work together to operationalise the Memorandum of Understanding (MoU). It outlines:

1. Key communication route between the CQC and HCPC;
2. When and how we share information; and
3. Strategic collaboration.

This protocol is designed to work alongside and not separately from, existing processes in each organisation and, where relevant, reflects these for the benefit of staff and management.

The persons in each organisation responsible for the MoU will oversee the application of the protocol. The protocol is not time limited and will continue to have effect unless any section needs to be altered or ceases to be relevant.

1. Key communication route between the CQC and HCPC

The CQC and the HCPC have very different structures. To make sure there is always a clear point of contact and to record information sharing between the two organisations effectively, each organisation has a single email address that should be included in any email correspondence. The email addresses should be used both to request information and to refer concerns. The email addresses are also an important component of how the exchange of information will be monitored and how the outcomes and effectiveness of the relationship will be evaluated.

The CQC enquiries email ensures that queries are directed to the relevant inspector via the customer relationship management (CRM) system for a particular service or the relevant member of CQC staff.

The HCPC email account is checked regularly by the Assurance and Development Team to ensure requests and concerns are transferred to the appropriate part of the organisation as quickly as possible.

Acknowledgements that emails have been received will be sent promptly by both organisations.

If a direct relationship already exists between the CQC and the HCPC in relation to a matter, staff can email contacts directly, but should also copy in the relevant email address.

HCPC approaching the CQC: enquiries@cqc.org.uk
CQC approaching HCPC: cqcandhcpc@hcpc-uk.org

If you think something is urgent and presents a risk to public protection or patient safety you should also escalate the issue to the nominated contact in your own organisation, both by email and phone. Your nominated contact will ensure that their counterpart at the other

organisation is fully aware. For details of escalation contacts see Appendix 1 to this protocol.

2. When and how we share information

The HCPC and CQC share information with each other through planned activity and when there is a need to respond to emerging, urgent concerns.

There are four planned ways that we share information:

- Emerging and urgent concerns;
- routine sharing of fitness to practise information;
- routine sharing of feedback about particular providers to assist with upcoming CQC inspections; and
- risk summits.

We must always ensure that we comply with data handling requirements (such as the Data Protection Act 1998) in handling any individual personal information.

2.1. Emerging and urgent concerns

Emerging or urgent concerns that may present a danger to the safety of people using services need to be shared promptly and more quickly than routine channels allow for.

The principles of cross referral set out in the MoU should be followed using the contact details and escalation routes set out in Appendix 1 to this protocol.

If a member of staff is uncertain whether a concern is sufficiently serious to engage the process, they should discuss it with their manager and/or the key escalation contacts in Appendix 1 to this protocol.

<u>Emerging and urgent concerns about individual HCPC registrants</u>

Referrals to the HCPC – referring a concern to the HCPC is appropriate when the conduct, performance or health of a registrant raises potential issues about their fitness to practise.

Information for CQC staff on making referrals about registrants to the HCPC is set out in Appendix 2 to this protocol.

<u>Emerging and urgent concerns about systems or environment</u>

Referrals to the CQC – referring a concern to the CQC is appropriate when a concern is about the systems at a health and social care provider. The CQC is a systems regulator, monitoring and inspecting healthcare services against national standards of quality and safety. The systems and environment at a healthcare provider are key factors in determining patient safety.

Information for HCPC staff on referring system concerns to the CQC is set out in Appendix 3 to this protocol.

2.2 Routine sharing of fitness to practise information

The HCPC share information it publishes about the fitness to practise of individual registrants with the CQC. Information about a registrant's health is always kept confidential.

A monthly decision circular is sent to the CQC. This lists all the sanctions (whether interim or substantive) brought against HCPC registrants in the previous month. It also lists those registrants who have taken voluntary erasure while in the HCPC fitness to practise processes. It also lists all those social work students who are entered onto the prohibited record.

This information can also be provided on request, and a registrant's registration status can be checked by searching the Register on the HCPC's website: HCPC - Health and Care Professions Council - The Register.

When there are particularly serious allegations about a registrant the HCPC can restrict their practice during the course of an investigation by placing conditions on their registration or by suspending them. This is known as an 'interim order'. These restrictions and suspensions are included in the decision circular, but it is important to note that the allegations have not been investigated and may be unfounded.

2.3 Routine sharing of feedback about particular providers to assist with upcoming CQC inspections;

The HCPC share feedback about particular health or social care providers to assist with upcoming CQC inspections following direct requests from the CQC.

The CQC make their requests to the HCPC in a timely manner and allow the HCPC sufficient time to respond.

Upon receipt of a request, the HCPC's Assurance and Development Team interrogate the HCPC's fitness to practise case management system and provide the CQC with any feedback which is available from that system about a particular health or social care provider at that time.

The HCPC only respond to those requests where it has feedback to provide. The HCPC responds to the email address specified in the request.

2.4 Risk Summits

Risk summits to review concerns at a health and social care provider can be triggered by a range of organisations, including members of quality surveillance groups.

When the CQC calls a risk summit, it should consider whether it is appropriate to invite the HCPC.

Upon invitation the HCPC will consider whether it is appropriate to attend.

3. Strategic Collaboration

Strategic collaboration includes longer term, higher level activity such as national concerns, thematic reviews, and media and communications work. This work strand is primarily managed by both organisations through the strategic contacts listed in Appendix 1 to this protocol.

3.1 Media and publications

The CQC and the HCPC will seek to give each other adequate warning of and sufficient information about any planned announcements to the public that the other may need to know of.

Each organisation will involve the other as early as possible in the development of planned announcements, including the sharing of draft proposals and publications, which may affect both regulators.

The CQC and HCPC will ensure wherever possible that each receives:

- drafts of any planned publications with implications for specific healthcare providers approximately 48 hours before they are released to the media; and
- drafts of any press releases with implications for specific healthcare providers approximately 24 hours before they are released to the media.

The CQC and HCPC respect confidentiality of any documents shared in advance of publication and will not act in any way that would cause the content of those documents to be made public ahead of the planned publication date.

3.2 Evidence to parliamentary committees and central government

The CQC and HCPC will, when appropriate (and subject to the standard rules on parliamentary hearings and engagements), share with each other details of evidence provided to any parliamentary committees in relation to the operation of the regulatory regime or the exercise of their functions.

3.3 Joint working

The CQC and the HCPC may, by agreement, undertake joint regulatory or strategic work, relevant to each body's statutory powers. If and when the CQC and HCPC decide to undertake joint work, a joint working statement will be developed setting out the specific detail and arrangements for that work. Throughout such work the CQC and the HCPC will retain and exercise their own statutory powers. This work could include:

- Joint reviews of information about a health and adult social care organisation;
- site visits to a health or adult social care organisation;
- the co-production of documents and reports and the coordination of any follow up action planning to address any recommendations;
- the joint production of research and analysis reports;
- joint public responses to external policy developments; and
- joint guidance or position statements.

Appendix 1: Contacts

Addresses

Care Quality Commission 151 Buckingham Palace Road London SW1W 9SZ Telephone: 03000 616161	Health and Care Professions Council Park House 184 Kennington Park Road London SE11 4BU Telephone: 0845 300 6184

Operational contacts for CQC

CQC Regional contacts	**Adult social care**	**Email** **Please phone 03000 61 61 61**
North	Dorothy Smith (North West) Diane Chaplin (North East)	Dorothy.smith@cqc.org.uk Diane.chaplin@cqc.org.uk
Central	Sue Howard (Central Midlands) Deb Holland (Central west) Jemima Burnage (Central South) Rob Assall-Marsden (Central East)	Sue.howard@cqc.org.uk Deb.holland@cqc.org.uk jemima.burnage@cqc.org.uk Rob.assall-marsden@cqc.org.uk
South	Debbie Ivanova (South Central) Nicky Nendick (South West) Alison Murray (South East) Gale Stirling (South Coast)	Deborah.ivanova@cqc.org.uk Nicky.nendick@cqc.org.uk Alison.murray@cqc.org.uk Gale.stirling@cqc.org.uk
London	Rebecca Bauers Segun Oladokun	Rebecca.bauers@cqc.org.uk Segun.oladokun@cqc.org.uk

Contacts for HCPC

Rebecca Gray Quality Compliance Officer Email: rebecca.gray@hcpc-uk.org Tel: 020 7840 9745	Ellis Christie Quality Compliance Officer Email: ellis.christie@hcpc-uk.org Tel: 020 7840 1736

Escalation contacts at the HCPC and CQC

CQC	**HCPC**
Adrian Hughes Deputy Chief Inspector (South Region and Registration) Adult Social Care Directorate Email: Adrian.hughes@cqc.org.uk Mobile: 077 8987 6111	Sarita Wilson Head of Fitness to Practise Service Improvement Email: sarita.wilson@hcpc-uk.org Tel: 020 7840 9758

Deborah Ivanova Interim Deputy Chief Inspector (South Region) Adult Social Care Directorate Email: Deborah.Ivanova@cqc.org.uk Mobile: 07789 875006	

Strategic contacts and those responsible for MoU management

CQC	HCPC
Karen Culshaw Regulatory Policy Manager Email: Karen.culshaw@cqc.org.uk	Kelly Holder Director of Fitness to Practise Email: kelly.holder@hcpc-uk.org (between January 2014 to January 2015, John Barwick (john.barwick@hcpc-uk.org) will be Acting Director of Fitness to Practise) Sarita Wilson Head of Fitness to Practise Service Improvement Email: sarita.wilson@hcpc-uk.org

Chief Executives (internal escalating policies should be followed before referral to Chief Executives)

CQC	HCPC
David Behan Chief Executive Email: David.behan@cqc.org.uk	Marc Seale Chief Executive Email: marc.seale@hcpc-uk.org

Appendix 2: Information for CQC staff on making referrals to the HCPC

The HCPC regulates the following health and social care professionals:

- arts therapists;
- biomedical scientists;
- chiropodists/podiatrists;
- clinical scientists;
- dietitians;
- hearing aid dispensers;
- occupational therapists;
- operating department practitioners;
- orthoptists,
- paramedics;
- physiotherapists;
- practitioner psychologists;
- prosthetists/orthotists;
- radiographers;
- social workers in England; and
- speech and language therapists.

All of these professions have at least one professional title that is protected by law, including those shown above. This means that anyone using the titles must be registered with the HCPC. An individual's registration status can be checked by searching the Register on the HCPC's website: HCPC - Health and Care Professions Council - The Register.

Unregistered individuals – referring a concern to the HCPC is appropriate when you suspect that an individual is using a protected title (or implying that they are a member of one of the professions) however they are not registered with the HCPC. Further guidance on protection of title can be found on the HCPC's website: HCPC - Health and Care Professions Council - Protection of title.

Registered individuals (registrants) - referring a concern to the HCPC is appropriate when the conduct, performance or health of a registrant raises potential issues about their fitness to practise. A registrant is 'fit to practise' when they have the skills, knowledge and character to practise their profession safely and effectively. Further guidance about raising a concern about a registrant can be found on the HCPC's website: HCPC - Health and Care Professions Council - Complaints.

Consider the reasons for referring your concerns and discuss them with your manager or inspection team chair first. It is important to establish whether:

- local action has been taken;
- the employing organisation or agency has already investigated the concern or is in the process of doing so; and
- the employing organisation or agency has already made a referral to the HCPC.

Local action or an existing referral should not preclude CQC referral to the HCPC. HCPC processes often take place alongside any local action. Where a referral has already taken place, additional information can usefully support any investigation.

You can also ask for advice from the named CQC regional lead. If you are still not sure what to do, please check with either of the following people:

- the National Professional Adviser; or
- the Regulatory Policy Manager.

In some cases, the CQC may suggest that you take advice directly from the HCPC. You can also ask for advice directly from the HCPC (contact details are set out in Annex 1).

Once you have decided to refer a registrant to the HCPC you should complete a HCPC ‘reporting a fitness to practise concern’ form and forward it to cqcandhcpc@hcpc-uk.org.

Appendix 3: Information for HCPC staff on making referrals to the CQC

System concerns about patient safety or the quality of care may emerge during a fitness to practise investigation.

If you are not sure whether to refer a system concern to the Assurance and Development Team for consideration for referral to the CQC, you should speak to your manager.

Step	Activity
1	A HCPC function (for example, case management or a Panel) identifies an issue that may require referral to the CQC. The issue is forwarded to the Assurance and Development Team via cqcandhcpc@hcpc-uk.org.
2	A Quality Compliance Officer reviews the information as soon as possible and arranges to meet with the Quality Compliance Manager and the Head of Assurance and Development* to decide whether a referral to the CQC is required. If necessary advice may be sought from the CQC (contacts listed in Appendix 1).
3	If the Head of Assurance and Development* decides a referral should be made, the Quality Compliance Officer makes the referral via email to enquiries@cqc.org.uk.
4	The CQC provides feedback by informing the Assurance and Development Team whether any activity will be undertaken. If the CQC undertakes activity, the CQC will provide the Assurance and Development Team with update/s on the activity and the final outcome.

*Or the Head of Investigations, Head of Case Management, Head of Adjudication, Head of Service Improvement or the Director.

All documents in relation to the HCPC's decision making on referrals to the CQC are added to the case on the CMS system. Any feedback or updates received from the CQC on a particular referral is also be added to the case on the CMS system.

The HCPC keeps a separate audit trail of the referrals it makes to the CQC and the outcome of those referrals. It can therefore report on the referrals it makes. The reports will be discussed as appropriate at appropriate forums at the HCPC.