

**Memorandum of Understanding between
the Care Quality Commission and the
Healthy Behaviours Team at the
Department of Health and Social Care**

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Introduction

1. This Memorandum of Understanding (MoU) sets out the framework to support the working relationship between the Care Quality Commission (CQC) and the Department of Health and Social Care Healthy Behaviours Team (HBT), in order to safeguard the wellbeing of the public receiving independent termination of pregnancy services in England.
2. This MOU defines the critical elements of the relationship between the HBT on behalf of the Secretary of State for Health and Social Care and CQC as it relates to termination of pregnancy services that are carried out in independent sector places.
3. The working relationship between CQC and the HBT is part of the maintenance of a regulatory system for health care in England that promotes patient safety and high-quality care.
4. CQC is the independent regulator of health and social care in England. The HBT is the team within the Department of Health and Social Care (DHSC) with policy responsibility for abortion. It leads on the approval of independent sector places where treatment for termination of pregnancy (“abortion”) may be carried out, monitoring compliance with The Abortion Act legislation and consideration of the withdrawal of approval if evidence of non-compliance comes to their attention. The responsibilities and functions of CQC and the HBT are set out in Annex 1. Both organisations share a concern for the quality and safety of health and care services and recognise that the development of models of health and care service delivery requires close cooperation between the two organisations.
5. This MoU relates only to regulation of healthcare in England. It does not override the statutory responsibilities and functions of CQC and the HBT and is not enforceable in law. However, CQC and the HBT are committed to working in ways that are consistent with the principles of this MoU.
6. The MOU is to be read alongside the [Framework Agreement between the Department of Health and CQC 2014](#). This MOU supplements and does not supersede that agreement.

Principles of Co-operation

This MoU is a statement of principle which supports our focus on promoting patient and public safety and wellbeing. More detailed operational protocols and guidance can be developed as required.

7. CQC and HBT intend that their working relationship be characterised by the following principles:
- a. The need to make decisions which promote people's safety and high-quality health care when receiving treatment for termination of pregnancy (TOP).
 - b. Respect for each organisation's independent status.
 - c. The need to maintain public and professional confidence in the two organisations and the regulatory process.
 - d. Openness and transparency between the two organisations as to when co-operation is and is not considered necessary and/or appropriate.
 - e. The need to use resources effectively and efficiently.
 - f. Keep each other informed, where appropriate, of any policy developments, and where appropriate consult with each other on policy development.
 - g. The aim of learning from each other about good practice in regulation and working together to collectively influence policy where relevant

Areas of Co-operation and inspection

8. The working relationship between CQC and the HBT involves co-operation in the following areas:
- a. Work in partnership to serve users of TOP services and the public to ensure that all service users have access to safe, high quality and lawful services.
 - b. Pursuant to paragraph 9 of Schedule 4 to the Health and Social Care Act 2008 CQC will assist the DHSC in their functions by taking on a more formal role of inspecting against all of the Department's Required Standard Operating Procedures (RSOPs) and incorporate the findings into ratings of services (where CQC apply a rating).
 - c. Sharing information, supporting each other's roles and focus on patient safety and quality of care of services providing treatment for TOP
 - d. Timely and focused exchange of information will be essential to effective working and cooperation. The HBT and CQC will share information in cases where either party becomes aware about services that may be providing TOP without being appropriately registered with CQC and/or licenced with the DHSC. In addition, the HBT and CQC

will share information of concern in a timely manner where either party believes a service being provided is not safe or where the Abortion Act 1967 and Abortion Regulations 1991 may be being breached

- e. The HBT and CQC nominated person or their deputy will meet on a regular basis or as required. The purpose of the meetings is to ensure that the arrangements under the MOU are functioning effectively, for CQC to update the HBT on any changes to inspection methodology of TOP services and to generally discuss published CQC inspection reports.
9. Both organisations recognise that all processing of personal data (including the sharing of personal data) must be carried out in accordance with the General Data Protection Regulation, The Data Protection Act 2018, section 76 to 79 of the Health and Social Care Act 2008, The Human Rights Act 1998 and all relevant CQC and HBT respective Codes of Practice, frameworks or other policies relating to confidential personal information and information issues. Both organisations agree that the sharing of personal data will be considered on a case by case basis and carried out in a manner consistent with the Data Sharing Code of Practice published by the Information Commissioner's Office.
 10. Both organisations recognise their responsibilities under the Freedom of Information Act 2000. Where either organisation receives a request under the Act for information received from the other, both organisations agree to take reasonable steps to consult on the proposed disclosure and the application of exemptions but recognise that the responsibility for disclosure lies with the organisation that received the request.

Resolution of Disagreement

11. Where there is disagreement between CQC and HBT, this should be resolved in the first instance 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 Chief Executive of CQC and Director - Population Health at DHSC, who will then be jointly responsible for ensuring a mutually satisfactory resolution.

Duration and Review

12. This MoU commences on the date of the signatures below. It is not time limited and will continue to have effect unless the principles described above need to be altered and/or cease to be relevant.

13. This MoU will be reviewed every 2-3 years but may be reviewed at any time at the request of either party. Any alterations to the MoU will, however, require both parties to agree.

14. Both organisations have identified a person responsible for the management of this MoU (known as 'Relationship Leads') and their contact details are set out in Annex 2. Relationship Leads will liaise as required to ensure that:

- a. This MoU is kept up to date;
- b. They identify any emerging issues in the working relationship between the organisations;
- c. They resolve any questions that arise regarding the interpretation of this MoU.

Signatures



Ian Trenholm
Chief Executive
Care Quality Commission
Date: 23/07/2019

Mark Davies
Director - Population Health
Department of Health and
Social Care
Date: 01/08/2019

Annex 1: Responsibilities and functions of CQC and HBT

Care Quality Commission

CQC is the independent regulator of health and adult social care in England. Its purpose is to make sure health and care services provide people with safe, effective, compassionate, high-quality care and to encourage them to improve.

CQC does this by registering, monitoring, inspecting and regulating hospitals, adult social care services, dental and general practices and other care services in England, to make sure they meet fundamental standards of quality and safety. We set out what good and outstanding care looks like and we make sure services meet these standards which care must never fall below.

CQC reports publicly on what it finds locally, including performance ratings for care providers, to help people choose care and encourage providers to improve. It also reports annually to Parliament on the overall state of health and adult social care in England.

Providers are required by law to register their services with CQC if they provide one or more of the regulated activities. Regulated activities have been set out by the Department of Health and are contained in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. CQC `Scope of Regulation` guidance describes Regulated activities and sets out the types of services that are required to register.

There are 14 regulated activities. The activity of termination of pregnancy is regulated. This is the fundamental purpose of this MOU being agreed

Healthy Behaviours Team at the Department of Health and Social Care (HBT)

HBT is the team within DHSC with policy responsibility for abortion.

Notification

The Abortion Regulations make provision for the certification of the relevant opinion of the registered medical practitioners referred to in the Act and the giving of notice

of abortions to the Chief Medical Officer (CMO). Practitioners are required to send to the CMO a notice of each termination on Form HSA4. In England, the Regulations require that Form HSA4 be submitted within 14 days of the procedure. This notification is used by the Department as an aid to check that terminations are carried out within the law. Form HSA4 requires detailed information relating to the procedure including the names and addresses of the doctors who certified there were grounds under the Act, gestation, method used and place of termination. Every form is checked and monitored by DHSC officials, authorised by the CMO.

Approval and monitoring

- Approving places where treatment for termination of pregnancy (“abortion”) may be carried out.
- Monitoring compliance with The Abortion Act 1967, regulations made under that Act – currently the Abortion Regulations 1991 and the Procedures for the Approval of Independent Sector Places for the Termination of Pregnancy
- Consideration of the withdrawal of approval if evidence of non-compliance comes to the Department’s attention. In addition, reporting to the appropriate authorities if there are concerns or allegations that a criminal act may have been carried out. Decisions will be based on the facts and circumstances of each individual case

Annex 2: Contact details for all parties

Contact details redacted.