

Memorandum of Understanding Care Quality Commission and NHS Resolution

Introduction

1. This Memorandum of Understanding (MoU) sets out the framework to support the working relationship between the Care Quality Commission (CQC) and NHS Resolution (NHSR), to promote the safety and wellbeing of the public receiving NHS funded health and social care in England. It is intended to inform members of staff, our service users and the public about how CQC and NHS Resolution will work together, and to ensure that effective channels of communication are maintained.
2. CQC is the independent regulator of health and 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 was established under the Health and Social Care Act 2008. CQC is independent but reports to Parliament through the Department of Health and Social Care. CQC works with other regulators, local authorities and commissioning groups, health and social care organisations, and organisations that represent people who use services, including the Healthwatch network.
3. NHS Resolution is an arm's-length body of the Department of Health and Social Care, providing expertise to the NHS on resolving concerns and disputes fairly, sharing learning for improvement and preserving resources for patient care. Its main functions are:
 - Claims Management: dealing with claims for compensation on behalf of the NHS in England. The bulk of its workload is handling negligence claims on behalf of the members and beneficiaries of its indemnity schemes: NHS organisations and independent sector providers of NHS care in England and since April 2019, beneficiaries of state-backed indemnity for general practice;
 - Practitioner Performance Advice: providing independent, expert advice to healthcare organisations on the fair and effective management and resolution of concerns about the performance of doctors, dentists and pharmacists;
 - Primary Care Appeals: ensuring the prompt and fair resolution of appeals and disputes between primary care contractors, or those wishing to provide primary care services, and the commissioners of primary care services, such as NHS England and NHS Improvement and Clinical Commissioning Groups; and
 - Safety and Learning: helping providers of NHS care to understand their own claims risk profiles to target safety activity and share learning across the health service in England.

All of this activity gives NHS Resolution a unique perspective on the causes of claims, performance concerns and contracting disputes in the NHS in England which we use to provide insights and feedback to the NHS to help to improve safety and manage risk.

4. The responsibilities and functions of CQC and NHS Resolution are set out in more detail in **Annex 1**. Each organisation has different roles within the health and social care landscape but have a shared role in encouraging and promoting patient safety and quality of care. Key areas of strategic alignment include:
 - a. Improving safety cultures in the NHS and sharing good practice;
 - b. Making more effective use of data including the lawful sharing with others where it will help to improve patient care;
 - c. Delivering effective services to the new structures and systems envisaged by the Health and Care Bill;
 - d. Considering the impact of new innovations and technology on healthcare; and
 - e. Equality, diversity and inclusion.
5. This MoU does not override the statutory responsibilities and functions of CQC and NHS Resolution and is not enforceable in law. However, CQC and NHS Resolution are committed to working in ways that are consistent with the principles of this MoU.

Principles of co-operation

6. This MoU is a statement of principles 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 NHS Resolution intend that their working relationship be characterised by the following principles which promote and drive improvements in the provision of patient safety and high-quality care;
 - The need to provide advice, information or guidance which promote people's safety and encourage high-quality health and social care;
 - The sharing of insight and intelligence drawn from respective activities;
 - Respect for each organisation's independent status as well as the relevant regulatory and legal environment in which they operate;
 - The need to maintain public and professional confidence in the two organisations and the CQC regulatory process;
 - Openness and transparency between the two organisations as to its respective activities carried out under the principles of this MoU;
 - The need to use resources effectively and efficiently.

Areas of co-operation

8. CQC published their most recent [strategy](#) in May 2021. NHS Resolution's strategy of March 2022 can be found [here](#). It is agreed that both organisations share common strategic ambitions and that by working more closely together and sharing information and insight; this will help both organisations deliver on these ambitions/objectives including encouraging and promoting patient safety and quality of care.
9. Reflecting CQC and NHS Resolution's shared strategic ambitions, the working relationship between CQC and NHS Resolution will involve co-operation in the following three broad areas:

Smarter Working	Accelerating improvement	Safety through learning
Sharing data / information lawfully to support each other's role from routine and ad hoc day-to-day activities to enable each organisation to interrogate and use this data / information to support their strategic aims and help support their respective statutory functions.	Working together and sharing data / information to help support services to improve and provide high quality and safe care to patients.	Sharing information and learning (including intelligence) at the earliest opportunity to enable front line services to remain proactive and responsive in the provision of safe and high-quality care

10. More specifically, this will involve CQC and NHS Resolution, acting in the public interest by sharing data and information of concern relating to patient safety, the quality of care and any other information each organisation considers relevant on a regular, timely and ongoing basis. This will include the following which is not exhaustive:

- Sharing information and supporting each other's roles and focus on (a) the safety and quality of care provided for individuals receiving health and social care in England; (b) supporting and informing the regulatory functions of CQC through its inspection, registration, enforcement; and (c) monitoring of providers of independent healthcare and meeting the remit of NHS Resolution which includes the safety and learning Directions issued by the Secretary of State for Health and Social Care.
- Sharing published CQC inspection reports and intelligence about healthcare providers that are relevant to NHS Resolution investigations, and updating about progress and outcomes
- Sharing of relevant data across our respective organisations to support the early identification and understanding of concerns relating to clinical teams which find themselves in significant difficulty
- Working in partnership in order to raise concerns at the earliest opportunity where CQC or NHS Resolution encounter or identify concerns which either believe may fall into the remit of the other. This must not be contrary to the requirements set out for each organisation in either legislation or Secretary of State Directions.
- Promoting and disseminating information and learning obtained and generated by (a) the administration of one or more of the NHS Resolution Schemes; and (b) the quality and safety of services provided, as part of the health service; and in respect of CQC reports where specific learning may help to drive improvements in patient safety and quality of care services.
- Subject to there being a clear legal basis on which both organisations can do so, sharing information on issues which may relate to Duty of Candour, Freedom to Speak Up and Whistleblowing, and co-ordination of the production and dissemination of briefings and guidance to inspectors / investigators and health and social care providers.
- Co-operating on national, thematic and other reviews or investigations

- Sharing data on emerging themes which may be indicative of a wider safety issues across NHS funded care.
- Cooperation on potential areas of research and other publications

Exchange of information

Freedom of information

11. CQC and NHS Resolution recognise their responsibilities under the Freedom of Information Act 2000. Where CQC or NHS Resolution receives a request under the Act for information received from the other organisation, CQC and NHS Resolution agrees 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.

Data protection

12. Before sharing any information, in particular any personal information, CQC and NHS Resolution will need to ensure they are doing so within the appropriate relevant legal frameworks.
13. All arrangements for collaboration and exchange of information, as set out in this MoU and in an accompanying Information Sharing Agreement (to be developed) will take account of and comply with The General Data Protection Regulation and, the Data Protection Act 2018. This will include responsibilities for the management of information shared under this MoU in accordance with appropriate security controls.
14. Where personal data is shared between the organisations, each organisation will separately be the data controller for the information that they hold. Each party is responsible for ensuring that they have a lawful basis for any disclosure of personal data to the other party, and each party is separately responsible for ensuring that they process any personal data that they receive in accordance with GDPR and the Data Protection Act 2018.
15. CQC and NHS Resolution also recognise that there may be instances where sharing confidential personal information or commercially sensitive information in the public interest as part of the principles outlined in this MoU will need to take place. This will be agreed by the relevant Data Protection officers for each organisation.



Resolution of disagreement

16. Where there is disagreement between CQC and NHS Resolution, 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 the CQC and the Chief Executive of NHS Resolution who will then be jointly responsible for ensuring a mutually satisfactory resolution.
17. Each party will be responsible for its own negligent acts or omissions.

Duration and review

18. This MoU commences on the date of the signatures below.
19. The MoU will be reviewed at quarterly meetings in the first instance and then formally reviewed after twelve months and then every two years or when there are changes to either party's legislation or Directions. It will also be reviewed if the principles described above need to be amended and/or cease to be relevant for any other reason. Any amendments to the MoU will require both parties to agree.
20. Both organisations have identified a person responsible for the management of this MoU (known as 'Relationship Leads') and their contact details are set out below. Relationship Leads will liaise as required to ensure that:
- This MoU is kept up to date;
 - They identify any emerging issues in the working relationship between the organisations; and
 - They resolve any questions that arise regarding the interpretation of this MoU.

Signatures

CQC	NHSR
	
Julian Hartley, Chief Executive Care Quality Commission	Helen Vernon, Chief Executive NHS Resolution
Date: 29/01/2025	Date: 3/2/25

Named contacts	
Senior signatory	
Chief Inspector of Healthcare Chris Dzikiti christopher.dzikiti@cqc.org.uk	Director of Advice and Appeals
	Director of Safety and Learning
Management of MoU	
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Intelligence/Information Sharing	
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Duty of Candour/Freedom to Speak Up/ Whistleblowing	
Claire Land, Policy Manager claire.land@cqc.org.uk	Kamalpreet Bedi, Deputy Director of Claims Kamalpreet.Bedi@nhs.net

Annex 1: Responsibilities and functions

Care Quality Commission

The 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. CQC sets out what good and outstanding care looks like and make sure services meet these fundamental standards which care must never fall below. CQC reports publicly on what it finds, including performance ratings for care providers, to help people choose care and encourage providers to improve. CQC also reports annually to Parliament on the overall state of health and adult social care in England.

Where appropriate CQC will pursue civil and/or criminal enforcement action against registered persons who provide health and social care services for breaches under the Health and Social Care Act 2008 and its associated regulations, the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (RAR 2014), and the Care Quality Commission (Registration) Regulations 2009.

Since 1 April 2015, CQC has assumed enforcement responsibility for health and safety related serious incidents where service users have sustained avoidable harm including death or have been exposed to a significant risk of avoidable harm, as a result of a failure by the Registered Person. A Registered Person may be the Registered Service Provider and/or the Registered Manager.

Criminal enforcement can be brought against registered providers, registered managers and individual office holders or members of corporate providers. Prosecutions can arise from single specific incidents where the incident and resulting harm provides sufficient evidence of a serious breach of a prosecutable regulation by the Registered Person. Under Regulation 22(2) RAR 2014, a registered person commits an offence where they fail to comply with the following regulations and that failure also results in avoidable harm to a service user or a service user being exposed to a significant risk of avoidable harm:

- Regulation 12(1) RAR 2014 safe care and treatment
- Regulation 13(1) to (4) RAR 2014 safeguarding from abuse and improper treatment
- Regulation 14(1) RAR 2014 meeting nutritional and hydration needs

NHS Resolution

NHS Resolution is a Special Health Authority and is legally known as the NHS Litigation Authority. It was established in 1995 for the purposes of establishing and administering indemnity schemes for meeting the liabilities of health service bodies.

NHS Resolution's statutory functions (including functions set out in Directions) are to:

1. Administer, on behalf of the Secretary of State, the NHS indemnity schemes established under regulations made under section 71 of the National Health Service Act 2006. A list of current schemes is [Clinical schemes - NHS Resolution](#); [Non-clinical schemes - NHS Resolution](#).
2. Provide a Primary Care Appeals service to assist in resolving disputes and appeals involving GPs, dentists, opticians and other health care professionals with a view to supporting effective primary care contracting, in accordance with the NHS Litigation Authority (Functions) (England) Directions 2005 and other associated Directions;
3. Administer, in accordance with the National Health Service (Performers Lists) (England) Regulations 2013, a list of healthcare performers who have had action taken against them by primary health commissioners;
4. Provide, in accordance with the NHS Litigation Authority Directions 2013, an Advice Service to help improve and promote patient safety by resolving concerns about the professional practice of doctors, dentists and pharmacists. The Practitioner Performance Advice Service provides expert advice, support, interventions, and training to the NHS, devolved administrations and other healthcare partners;
5. Issue Health Professional Alert Notices (HPANs) to NHS bodies and others about healthcare professionals whose performance gives rise to concerns in accordance with the NHS Litigation Authority (Amendment) Directions 2019;
6. Ensure that the lessons learned from claims and the other activities of NHS Resolution are appropriately shared in order to help reduce adverse incidents in the future, in accordance with the NHS Litigation Authority (Safety and Learning) Directions 2019.