# Memorandum of Understanding between Public Health England and the Care Quality Commission

## INTRODUCTION

1. This Memorandum of Understanding (MoU) sets out the framework for the working relationship between Public Health England (PHE) and the Care Quality Commission (CQC).

2. PHE and the CQC recognise that there is a distinct and unique relationship between the two organisations. Accordingly the framework set out in this MoU takes account of that relationship and details ways in which PHE and the CQC will work together and alongside one another in delivering their respective statutory functions. The MoU is intended to communicate clearly and unambiguously that PHE and the CQC will work together where relevant and appropriate to do so.

3. PHE and the CQC recognise their respective statutory responsibilities and organisational status, but will always seek to collaborate and cooperate when relevant and appropriate to do so in delivering their core functions.

4. This MoU cannot override the statutory duties and powers of either PHE or the CQC and is not enforceable in law. However, PHE and the CQC agree to adhere to the principles set out in this MoU and will show proper regard for each other's activities.

5. The MoU sets out principles that PHE and the CQC will follow in the course of day-to-day working relationships. The MoU may need to be supported by protocols and other documents not included here which set out in more detail operational considerations of how PHE and the CQC will work together.

### Statutory Responsibilities of PHE and the CQC

6. The Care Quality Commission (CQC) was established under the Health and Social Care Act 2008 (HSCA) and is responsible for the regulation of the quality of health and social care services. The CQC also protect the interests of vulnerable people, including those whose rights are restricted under the Mental Health Act.

7. Public Health England was established as an Executive Agency of the Department of Health on 1 April 2013 to protect and improve the nation's health and wellbeing, addressing inequalities and improving the health of the poorest fastest.

8. The responsibilities and functions of PHE and the CQC and are set out in Annexes A and B to this MoU. PHE's functions will continue to develop and further requirement for information sharing between PHE and the CQC may become apparent in the future. To facilitate this, both organisations agree to add, as relevant outside of any formal review, further annexes that refer to such specific functions.

**Principles of cooperation**

9. PHE and the CQC have agreed that their working relationship will be characterised by the following principles:

   (i) the need to make decisions which promote patient safety and high quality health and adult social care;

   (ii) respect for each organisation's independence, in the case of PHE, as an Executive Agency of DH and, in the case of the CQC, as an Executive Non-Departmental Public Body of DH;

   (iii) the need to maintain public confidence;

   (iv) openness and transparency between the two organisations as to when cooperation is and is not considered necessary or appropriate; and

   (v) the need to use resources efficiently, effectively and economically.

10. PHE and the CQC will work in an open and transparent fashion, acknowledge each other's respective responsibilities, and will take these into account when working together.

**Areas of cooperation**

11. The working relationship between PHE and the CQC involves cooperation across a number of functions. Where relevant, named contacts with responsibility for specific areas are identified in the annexes. Annex C covers the specific function of alcohol and drug services.

*Cross-referral of concerns*

12. PHE and the CQC will keep each other fully informed about developments in their approach and methodologies in which the other may have an interest.

13. PHE and the CQC will maintain dialogue as relevant with each other and other key stakeholders, particularly Local Government and the NHS Commissioning Board, about the risks and challenges involving health and wellbeing, healthcare and treatment services.

***Information sharing***

14. PHE has a leading role in providing expert public health advice and intelligence to ensure that Local Government and the NHS systematically deliver improved outcomes to the nation's health and wellbeing.

15. PHE will work proactively with the CQC and provide evidence and advice as required on significant matters relating to the standards and outcomes of relevant health care and treatment services. PHE will assist the CQC in helping to ensure knowledge and intelligence is available to regulate health and social care provision and to uphold the welfare of people who use care services.

16. PHE and the CQC will share relevant information with each other at local and national level.

17. Where it is necessary to share patient identifiable data, PHE and the CQC will ensure that such data is shared and processed in accordance with the requirements of the Data Protection Act 1998.

18. PHE and the CQC will keep each other fully informed about developments in their services, approach and methodologies in which they share a mutual operational interest. This will include, but is not limited to:

    (i) the development of information relating to the registration and compliance monitoring of relevant healthcare and treatment sectors;

    (ii) the development and implementation of inspection methodologies for regulated services, such as alcohol or drug treatment services; and

    (iii) quality assessment of health, social care and independent sector substance misuse services.

19. At a local level, PHE Centres will identify operational contacts to work collaboratively with the CQC and agree what information is required. At a national level, PHE's Health and Wellbeing Directorate and Chief Knowledge Officer's Directorate will work together to provide the CQC with appropriate national information.

20. Where PHE has concerns about relevant incidents and outbreaks, including in relation to how a service (both NHS and non-NHS) has managed them, they will notify the CQC under this MoU. Such notifications are forwarded to the relevant CQC compliance inspectors as enquiries in the Customer Relationship Management (CRM) system using a similar process to that for notifications from registered persons (described below). When a compliance inspector receives a PHE notification, they will contact the relevant PHE staff member shown in their notification before taking any further action.

21. PHE and the CQC recognise each organisation's responsibilities under the Freedom of Information Act 2000. If either organisation receives an FOI request for information that it obtained from the other organisation, they will consult the other organisation prior to making a decision on disclosure.

22. PHE and the CQC will apply adequate and appropriate security measures to confidential information that they receive in accordance with central government requirements.

**Press and publications**

23. Where activity will have a direct impact for one another, PHE and the CQC will seek to ensure that they involve each other in the development of planned announcements, including sharing drafts of their proposals and publications as early as possible.

24. In any event, PHE and the CQC will ensure that the other organisation receives:

    (i) drafts of any planned publications with specific implications for either organisation approximately 72 hours before they are released to the media wherever this is possible; and

    (ii) drafts of any press releases with specific implications for either organisation approximately 24 hours before they are released to the media wherever this is possible.

25. PHE and the CQC will respect the 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.

**Resolution of disagreement**

26. Any disagreement between the CQC and PHE will normally be resolved at working level. If this is not possible, it will be brought to the attention of the MoU managers identified at Annex D who may then refer it upwards through those responsible, up to and including the Chief Executives of the two organisations who will then jointly be responsible for ensuring a mutually satisfactory resolution.

**Duration and review of this MoU**

27. This MoU will be effective for at least a twelve month period commencing from the date on which it was signed by the Chief Executives of the two organisations. Its operation shall be reviewed at the end of the first twelve months in order to inform any changes necessary going forward.

28. The Chief Executive of PHE and the Chief Executive of the CQC will meet on a regular basis. Day-to-day business will be managed outside the regular Chief Executive meetings. Both organisations have identified staff responsible for the management of this MoU as set out at Annex D, who 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.

29. Both the CQC and PHE are committed to exploring ways to develop more effective and efficient partnership working to promote quality and safety within their respective statutory remits.

30. A Joint Working group will oversee the development of operational working arrangements that support the delivery of the principles outlined in this MOU.

31. The named contacts with responsibility for each area of cooperation identified within the relevant annexes will liaise as required to carry out day-to-day business.

**Signatures**

**Duncan Selbie**
**Chief Executive**
**Public Health England**

**David Behan**
**Chief Executive**
**Care Quality Commission**

**Date: 2 April 2013**

## Annex A - Responsibilities and functions

### Role of the Care Quality Commission

The CQC's role is to protect and promote the health, safety and welfare of people who use health and social care services.

We do 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

Our 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.

To do these things we

- Register providers 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.

- Monitor and inspect providers against those standards, carrying out inspections regularly, at any time in response to concerns. We also carry out themed inspections, themed reviews and specialist investigations based on particular aspects of care.

- Take action if we find that a service isn't meeting the standards, using a range of powers. These include issuing a warning notice, restricting admissions, fining a provider or manager, and if necessary, cancelling a provider's or manager's registration or prosecuting them.

- Involve people in our work, working with local groups, national organisations and the public to make sure that the views and experiences of people are at the centre of what we do.

- Publish information about whether or not services are meeting the standards and national reports on key themes, and reports on the state of care.

## Annex B - Responsibilities and functions

### Role of Public Health England

The Secretary of State for Health has instructed PHE to carry out certain public health duties on his behalf. These are:

- Section 2A of the National Health Service Act 2006 ("the 2006 Act") – a duty to take such steps as Secretary of State considers appropriate to protect the health of the public in England;

- Section 2B of the 2006 Act – a power to take such steps as the Secretary of State considers appropriate for improving the health of the people of England;

- paragraph 12 of Schedule 1 to the 2006 Act – a power to provide a microbiological service in England;

- Section 58 of the Health and Social Care Act 2012 – a duty to take such steps as the Secretary of State considers appropriate for the purpose of protecting the public in England, Scotland, Wales and Northern Ireland from radiation;

- Section 1E of the 2006 Act – in so far as this duty relates to the statutory functions performed by PHE a duty to promote research on matters relevant to the health service (including public health), and the use of evidence obtained from research;

- paragraph 13 of Schedule 1 to the 2006 Act – a power (also available to the NHSCB or a clinical commissioning group) to conduct, commission or assist research in relation to public health;

- as a Category 1 responder under the Civil Contingencies Act 2004 (CCA) in respect of emergency planning, the response and resilience functions for public health. For the avoidance of doubt, these duties under the CCA shall be delegated from the Secretary of State to officials in PHE who are responsible for emergency planning, resilience and response, such that those officers operate as if PHE itself were a category 1 responder under the CCA; and

- Public Health (Control of Disease) Act 1984 gives the Secretary of State powers in relation to port health.

## Annex C - PHE's specific responsibilities in relation to alcohol and drug services

The Alcohol and Drugs team, based in PHE's Health and Wellbeing Directorate, will work in partnership with national, regional and local agencies to:

- ensure the efficient use of public funding to support effective, appropriate and accessible local services
- promote evidence-based and coordinated practice, by distilling and disseminating best practice
- improve performance by developing standards for treatment, promoting user and carer involvement, and expanding and developing the drug treatment workforce
- monitor and develop the effectiveness of treatment.

### Specific principles of collaborative working in relation to alcohol and drug services

PHE will normally be the main provider of information and advice for the CQC about the quality of care in the drug treatment sector.

PHE and the CQC will engage with each other through joint working arrangements on significant matters including registration and compliance monitoring of alcohol and drug treatment services under the Health and Social Care Act 2008.

The CQC and PHE will keep each other fully informed about developments in their approach and methodologies in which the other may have an interest. This will include, but is not limited to:

- The development of further information, advice and guidance for the registration and compliance monitoring of the alcohol and drug treatment sector.
- The development and implementation of inspection methodologies for regulated services which provide alcohol or drug treatment services.
- Quality assessment of health, social care and independent sector substance misuse services.

### Registration of alcohol and drug service providers

- PHE to supply specialist input and consultation to the CQC in respect of the registration of organisations that provide regulated activities which are new to registration and are delivering alcohol and drug treatment services within the scope.

**Compliance monitoring and inspection of alcohol and drug service providers**

- PHE to supply relevant data and intelligence in respect of registered services, including for providers new to registration to inform the monitoring of service providers' compliance with registration regulations. Sources of data and intelligence include NDTMS and Regional Managers.
- PHE to supply links to stakeholders in the drug and alcohol treatment sector including service user groups who can then in turn feed intelligence into the registration and compliance system.
- Channels of communication to be established for the consideration or escalation of enforcement action in respect of services registered by the CQC.
- Consideration to be given to the involvement of PHE staff in the inspection activity of the CQC.
- PHE to advise on the development of further information, advice and guidance to inform compliance monitoring of the drug and alcohol treatment sector.

**Future development of regulation in relation to alcohol and drug services**

- Work with Department of Health on scope of regulation specifically to consider:-
    - the inclusion of day treatment (Tier 3) and
    - the addition of drug workers to the list of professionals included in the list of healthcare professionals needed to trigger registration

**Operational Contacts – Alcohol and drug services**

There will be specific points of contact between the operational teams for the PHE and the CQC as set out in paragraph 11 of the MoU. Where needed in cases of annual leave etc a named deputy should be contacted if required.

**Strategic and policy issues**
The specific contacts on all strategic and policy issues will be:
CQC: Alex Baylis, Interim Head of Better Regulation
PHE: Pete Burkinshaw, Skills and Development Manager

**Issues related to the exchange of data**
The specific contacts on issues relating to the exchange of data will be:
CQC: Tom Ward, Head of Information Management
PHE: Jonathan Knight, Analysis Manager

**Issues related to regional cooperation** in relation to **alcohol and drug services**

The specific contacts on issues relating to regional cooperation will be:

CQC: Malcolm Bower-Brown, Deputy Director North
Andrea Gordon, Deputy Director Central
Matthew Trainer, Deputy Director London
Ian Biggs, Deputy Director South

CQC regional leads:
Dawn Hodgkins, North - West
Sheila Grant / Rod Hamilton, North - East
Deb Holland, Central - West
Maggie Hannelly / Carolyn Jenkinson, Central - East
Michele Golden, London
Mary Cridge, South - West
Sally Newell – South - Central
Tracey Halladay, South -East

CQC Heads of regional compliance:
Ann Ford, North – West
Debbie Westhead, North - East
Sue Howard, Central – West
Vicki Wells, Central - East
Sarah Seaholme, London
Mary Cridge, South - West
Debbie Ivanova, South – Central
Sue Sheath, South – East

**PHE**:
Helen Clark – Head of Delivery Support
Lynn Bransby – Head of Delivery (South)
Mark Gillyon – Head of Delivery (North)

PHE regional leads:
Bernie Casey, East of England
Alison Keating, London
Beverley Oliver, North East
Phil Conley, North West
Fintan Hayes, South East
Clive Lewis, South West
Hayden Duncan, East/ West Midlands
Corrine Harvey, Yorkshire

The specific contacts on issues requiring national oversight are:
CQC: Amanda Sherlock, Director of Operations
PHE: Rosanna O'Connor, Director, Alcohol and Drugs, PHE

**Annex D**

**Contact details**

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|---|---|
| Public Health England<br>Wellington House<br>133-135 Waterloo Road<br>London SE1 8UG<br>Telephone: 020 7972 2000 | Care Quality Commission<br>Finsbury Tower<br>103 – 105 Bunhill Row<br>London EC1Y 8TG<br>Telephone: 03000 616161 |

There will be named contacts between the CQC and PHE as follows:

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|---|---|
| **Chief Executives (internal escalating policies should be followed before referral to Chief Executives)** | |
| Duncan Selbie<br>Chief Executive<br>Email: Duncan.Selbie@phe.gov.uk | David Behan<br>Chief Executive<br>Email: david.behan@cqc.org.uk |
| **MoU management (including strategic issues)** | |
| Alex Sienkiewicz<br>Chief of Staff<br>Email: Alex.Sienkiewicz@phe.gov.uk<br>Telephone:020 7654 8087 | Alex Baylis<br>Interim Head of Better Regulation<br>Email: alex.baylis@cqc.org.uk<br>Telephone: 02074489264<br><br>Claire Robbie<br>Regulatory Policy Manager<br>Email: claire.robbie@cqc.org.uk<br>Telephone: 03000 616161 |
| **Data protection and confidentiality (direct contacts)** | |
| Anthony Haworth<br>Head of Information Governance<br>Email: Anthony.Haworth@phe.gov.uk<br>Telephone 02083276701 | Simon Richardson<br>Information Rights Manager<br>Email: simon.richardson@cqc.org.uk<br>Direct line: 0191 233 3599 |
| **Media, public affairs and evidence to parliamentary committees (direct contacts)** | |
| Emily Collins<br>Communications Manager<br>Email: emily.collins@phe.gov.uk<br>Direct line: 07764906637<br><br>Lis Birrane<br>Director of Communications<br>Email: lis.birrane@phe.gov.uk | Victoria Carson<br>Interim Head of Public Affairs<br>Email: Victoria.carson@cqc.org.uk<br>Direct line: 07740677260<br><br>Anna Jefferson<br>Head of Media<br>Email: anna.jefferson@cqc.org.uk<br>Direct line: 020 7448 9018 |