

# Memorandum of understanding between the Care Quality Commission and the Office for Standards in Education, Children's Services and Skills

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**361**

## Introduction

1. This memorandum of understanding (MoU) is between the Care Quality Commission (CQC) and the Office for Standards in Education, Children's Services and Skills (Ofsted).
2. It sets out the areas in which Ofsted and CQC will work together and coordinate their roles and activity.
3. The MoU sets out how the two inspectorates' interests and responsibilities will complement each other and how they will work together to avoid duplication or confusion. This will help regulated bodies and those being inspected to be clear about their accountability. It will also clarify to our staff when and how to coordinate our work.
4. This MoU does not override the legal responsibilities and functions of the CQC and Ofsted, and is not enforceable in law. However, the CQC and Ofsted are committed to working in ways that are consistent with the content of this MoU.

## Principles of cooperation

5. In working together, we will build our approach on five core principles.
  - **Good regulation and inspection.** We are committed to the principles of better regulation and inspection, as championed by the Better Regulation Executive. These are that regulation and inspection should be:
    - proportionate
    - accountable
    - consistent
    - transparent
    - targeted.Working together and coordinating our activities enables us to put these into practice more successfully than if we acted alone. It also helps us to be more cost-effective overall.
  - **Understanding each organisation and its independence.** Joint work and coordination must be in the context of our two organisations' different remits, legal powers and duties, and systems of accountability to parliament, the public and ministers (as appropriate). The ways in which

we work together will avoid confusion or duplication. They will also support the efficient and effective exercise of our different functions.

- **Focus on results.** In working together and cooperating in the exercise of our respective regulatory functions, we will target any joint action on aspects of regulation that are likely to make a positive difference. We will therefore consider:
  - areas of work that may not be a priority when considered from just one organisation's perspective, but when cooperation and joint action is likely to bring broader benefits to the people using, or running, the service
  - seeking out areas where, by acting together, we may have greater impact in promoting quality of care than if we acted alone.
- **Pragmatism.** We will take a practical approach to working together. We will design our methods so that they accommodate and make maximum use of each organisation's knowledge, expertise and existing processes, whenever appropriate. We will both seek to re-use each other's findings and information whenever this is relevant to our respective functions, and when it is lawful for us to do so. We will take a common-sense approach that, between our efforts, finds the quickest, simplest, most efficient and most effective ways of assuring quality of care.
- **Being as clear as possible.** We will set out in this MoU the areas that we will prioritise for working together and will review them regularly. We will set out in detail what working together means in practice in each case. For example, we will do this through joint working agreements and information sharing agreements linked to this MoU.

## Lawfulness of information sharing

6. To achieve the objectives of this MoU, we will share information and intelligence, and pool our knowledge and expertise. We will only do this as appropriate and necessary, and when it is fair and lawful to do so. We will also coordinate inspection, enforcement and other activity to follow up concerns. In practice, we will do this by developing joint working protocols and/or information sharing agreements, agreed separately as required.

## Areas for joint work and coordination

7. Annex 1 summarises the range of Ofsted's and CQC's functions. Areas for joint working and coordination include:

- inspections of children’s services, including the timing and selection for inspections carried out by Ofsted and CQC together
- inspections of secure training centres
- inspections of secure children’s homes
- regulation of certain Ofsted-registered children’s residential settings that also require registration with CQC to provide health services under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- dual inspection of Independent Specialist Colleges
- the joint inspection of local area special educational needs and/or disabilities
- market intelligence/market oversight – sharing intelligence on organisations with dually registered provision
- unregistered provision – sharing information with each other in those cases when CQC or Ofsted becomes aware of a provider that does not need to register with them but may need to be registered with the other
- the review and study of projects, when working together or information sharing is beneficial to the outcomes and it is lawful to do so.

## Our approach to joint working

8. Ofsted inspects and regulates services that care for children and young people, and inspects services providing education and skills for learners of all ages. CQC is the independent regulator of health and adult social care in England.
9. Each organisation will seek to access the other’s expertise when needed. They will involve the other in any direct intervention when the other body has relevant legal powers.
10. In relation to issues that affect both organisations, we will engage in and act in close coordination with these jointly as far as possible and when relevant.
11. We will involve each other in meetings with stakeholders or other key partners when discussions relate to development of joint programmes of work. We will facilitate understanding among external partners of each other’s functions and approaches.
12. We will involve each other in our planning for future work, including any project or thematic review work, when there may be significant benefit in a joined-up approach.

13. We will keep our employees informed of the working arrangements between us and enable joint operational working within the principles of this MoU. All decisions that may have national implications and require more than short-term resource, may have media impact or may contradict the principles of this MoU, will be referred to the officers named in this MoU who will facilitate discussions and resolution at an appropriate level.
14. We will work together on staff training if joint work is being carried out or when such training is beneficial to joint working arrangements.
15. Unless we agree specific exceptions, our work together will not affect each organisation's standing policies and procedures. This includes human resources policies and terms and conditions of employment for staff.
16. We will promote equality and wider diversity issues throughout our work together.

## **Exchange of information**

17. Joint working may in certain circumstances require the CQC and Ofsted to exchange information. The CQC and Ofsted acknowledge and agree that ultimately any decision to share information will be judged on a case-by-case basis and will be subject to compliance with the EU General Data Protection Regulation, the Data Protection Act 2018 and applicable codes of practice, guidance notes and information sharing and data sharing agreements.

## **Media and publications**

18. We always aim to give each other advance notice of external communications relating to relevant areas of activity. We will coordinate in presenting our findings externally when appropriate.
19. Subject to the overarching principle of lawfulness of information sharing detailed in paragraph 6, we share any advanced-publication documents with each other in confidence. We will take appropriate steps to maintain that confidentiality to the fullest extent possible.
20. We will consult with the other party when considering any disclosure of information received from that party, for example, in response to requests under the Freedom of Information Act 2000.

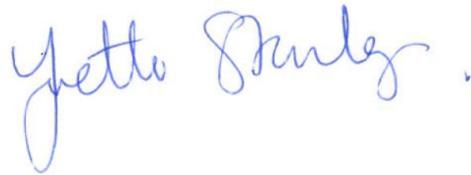
## Resolution of disagreement

21. We will nominate leads for day-to-day management of our joint work. We normally resolve any disagreement swiftly both at operational level or through these leads. If this is not possible, it may be referred upwards by them, up to and including Her Majesty's Chief Inspector and the Chief Executive of CQC, who will jointly be responsible for ensuring a mutually satisfactory resolution.

## Implementation

22. This MoU commences on 6 May 2019. It will continue to remain in force until such time as it is revoked by the parties.
23. The MoU may be reviewed at any time at the request of either party.
24. The officers named in the appendix to this MoU, together with any other relevant staff, will meet quarterly.
25. This MoU has been agreed by Yvette Stanley, National Director, Social Care, Ofsted and Nigel Thompson, Head of Inspections, CQC.

Signatures



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Ian Trenholm

Yvette Stanley

Chief Executive

National Director, Social Care

Care Quality Commission

Ofsted

Date: 16 May 2019

Date: 16 May 2019

## Annex 1: Functions of CQC and Ofsted

### CQC

26. The CQC was established under the Health and Social Care Act 2008 as the independent regulator of health and adult social care in England.

#### CQC's strategic priorities

- **Encourage improvement, innovation and sustainability in care** – we will work with others to support improvement, adapt our approach as new care models develop, and publish new ratings of NHS trusts' and foundation trusts' use of resources.
- **Deliver an intelligence-driven approach to regulation** – we will use information from the public and providers more effectively to target resources where the risk to the quality of care is greatest and to check where quality is improving, and introduce a more proportionate approach to registration
- **Promote a single shared view of quality** – we will work with others to agree a consistent approach to defining and measuring quality, collecting information from providers and delivering a single vision of high-quality care.
- **Improve our efficiency and effectiveness** – we will work more efficiently, achieving savings each year and improving how we work with the public and providers.

#### CQC's main activities

- **Register** – we register health and adult social care providers.
- **Monitor, inspect and rate** – we monitor and inspect services to see whether they are safe, effective, caring, responsive and well-led, and we publish what we find, including quality ratings.
- **Enforce** – we use our legal powers to take action where we identify poor care.
- **Independent voice** – we speak independently, publishing regional and national views of the major quality issues in health and social care, and encouraging improvement by highlighting good practice.

## Ofsted

27. Ofsted was established under the Education and Inspections Act 2006. It came into existence on 1 April 2007 by bringing together, in a single organisation, four previously separate inspectorates. It regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages.

### Ofsted's strategic priorities

28. Ofsted's guiding principle is to be a force for improvement through intelligent, responsible and focused inspection and regulation:

- **Intelligent** – all our work will be evidence-led and our evaluation tools and frameworks will be valid and reliable.
- **Responsible** – our frameworks will be fair. We will seek to reduce inspection burdens and make our expectations and findings clear.
- **Focused** – we will target our time and resources where they can lead directly to improvement.

29. Ofsted regulates and inspects childcare and children's social care. It inspects schools, colleges, initial teacher education, work-based learning and skills training, adult and community learning, education and training in prisons and other secure establishments, and the Children and Family Court Advisory Support Service (Cafcass). It assesses children's services in local areas, and inspects services for looked after children, safeguarding and child protection.

30. Ofsted seeks to promote improvement in the services it inspects and regulates. It also ensures that these services focus on the interests of the children and young people, parents and carers, adult learners and employers who use them. Ofsted also encourages services to be efficient and effective.



## **Lead officers for contact between CQC and Ofsted**

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The Office for Standards in Education, Children’s Services and Skills (Ofsted) regulates and inspects to achieve excellence in the care of children and young people, and in education and skills for learners of all ages. It regulates and inspects childcare and children’s social care, and inspects the Children and Family Court Advisory and Support Service (Cafcass), schools, colleges, initial teacher training, further education and skills, adult and community learning, and education and training in prisons and other secure establishments. It assesses council children’s services, and inspects services for children looked after, safeguarding and child protection.

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