

**A MEMORANDUM OF UNDERSTANDING BETWEEN THE PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN (PHSO) AND THE CARE QUALITY COMMISSION (CQC) DESCRIBING THE FRAMEWORK FOR OUR WORKING RELATIONSHIP**

**1. PURPOSE AND SCOPE**

- 1.1 This Memorandum sets out the framework for the working relationship between the PHSO and the CQC. It is intended to inform our staff and the public about how our organisations relate to each other and work together.
- 1.2 PHSO and CQC recognize each other's statutory responsibilities, but will seek to collaborate and co-operate where relevant and appropriate to do so in furthering our shared aim of securing high quality healthcare. Patients' interests will always be paramount.
- 1.3 This memorandum will come into effect on 1 October 2015 It will be effective for a three-year period but will be reviewed annually by the Executive Team staff for each organisation.
- 1.4 This Memorandum is not intended to be legally binding, and no legal rights or obligations will arise between PHSO and CQC from this Memorandum.

**2. LEGISLATIVE FRAMEWORK AND CORE FUNCTIONS**

- 2.1 The CQC is the regulator of health and adult social care in England. The CQC also protect the interests of vulnerable people, including those whose rights are restricted under the Mental Health Act.
- 2.2 The CQC's purpose is to make sure health and social care services provide people with safe, effective, compassionate, high-quality care and encourage care services to improve. The CQC's role is to monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety. The CQC publishes its findings including performance ratings to help people choose care.
- 2.3 PHSO has a statutory responsibility under the Health Service Commissioners Act 1993 to consider a complaint that someone has sustained injustice or hardship as a consequence of: failure in services provided by a health service body in England; failure to provide a service which it was a function of the body to provide; and/or maladministration connected with any other action (other

than the provision of, or a failure to provide, a service) taken by or on behalf of such a body.

- 2.4 The Health Service Commissioners Act 1993 section 15 prevents PHSO from disclosing any information obtained in the course of, or for the purposes of, an investigation, except in specified limited circumstances, some of which include:
- “for the purposes of the investigation and any report to be made in respect of it” (s15(1)(a)) or
  - “where the information is to the effect that any person is likely to constitute a threat to the health or safety of patients” (s15(1)(e)).
- 2.5 The Health & Social Care Act 2008 Section 9 (1) states that the Care Quality Commission may, ‘if it thinks it appropriate to do so, provide advice or assistance to another public authority for the purpose of the exercise by that authority of that authority’s functions’.

#### Role of PHSO in relation to complaints about the CQC

- 2.6 PHSO has a statutory responsibility under the Parliamentary Commissioner Act 1967 to consider complaints about maladministration on the part of government departments and non-governmental public bodies, including the CQC. PHSO can, therefore, consider complaints that injustice has been sustained in consequence of maladministration by the CQC.

### **3. GENERAL PRINCIPLES UNDERPINNING OUR WORKING RELATIONSHIP**

- 3.1 PHSO and CQC agree that the following principles underpin our approach:

- We each make our own independent decisions;
- We acknowledge each other’s statutory responsibilities;
- We will inform each other as soon as reasonably practicable of any matters that may require action or a response from the other;
- We will be open and transparent in our dealings with each other, acknowledge each other’s respective responsibilities and take these into account when working together;
- We recognize the need to maintain public confidence in our two organisations;

### **4. INFORMATION SHARING**

- 4.1 The data sharing agreement at Appendix 1 outlines information that will be shared between the two organisations.
- 4.2 Appendix 1 will be reviewed annually and may be amended by agreement between the organisations without needing to amend this Memorandum of Understanding to ensure it remains in line with current legislation or policy guidance.

## 5. Working Arrangements

- 5.1 Both the PHSO and CQC are committed to exploring ways to develop more effective and efficient working relationships to promote quality and safety within their respective statutory remits.
- 5.2 PHSO and the CQC will keep each other fully informed about developments in their services, approach and methodologies.
- 5.3 PHSO and CQC will hold quarterly strategic meetings to focus on;
- a. Organisational relationship
  - b. High level policy and high risk casework strategy
  - c. Regulatory and quality landscape in health
  - d. Any matters arising from the Ombudsman's jurisdiction of CQC

Senior staff will attend these meetings which may include:

**PHSO:** Dame Julie Mellor DBE (Ombudsman), Mick Martin (Managing Director/Deputy Ombudsman) and others to be determined by PHSO

**CQC:** David Behan (Chief Executive) and others to be determined by CQC

- 5.4 Day to day matters arising outside of these regular Executive meetings will take place between staff at an appropriately senior level in each organisation.

Signed:



**Name: Mick Martin  
(Managing Director and Deputy  
Ombudsman)**

Date:

8 FEBRUARY 2016

Signed:



**Name: David Behan  
(Chief Executive)**

Date: 28 January 2016