Memorandum of Understanding between the Care Quality Commission and The National Fire Chiefs Council (NFCC)

Introduction

1. This Memorandum of Understanding (MoU) sets out the framework to support the working relationship between the Care Quality Commission (CQC) and the National Fire Chiefs Council (NFCC), to safeguard the wellbeing of the public receiving health and social care in England.

2. The CQC is the independent regulator of health and adult social care in England. CQC regulates the provision of health and social care services by those providers registered with CQC to seek to ensure those providers deliver safe, effective, compassionate and high- quality care, and encourages care services to improve. CQC is also the lead inspection and enforcement body under the Health and Social Care Act 2008 (HSCA 2008) for the safety and quality of health and social care services provided to patients and/or people using services ('service users') by providers registered with CQC. CQC can also prosecute unregistered providers.

3. The NFCC is the professional voice of the UK Fire and Rescue Services (UK FRS) and is committed to developing both strategic and technical guidance, sharing notable practice and encouraging its adoption within the UK's FRS, making it a driving force in managing change and implementing reform in FRS. FRS are the statutory fire and rescue services for a locality and have responsibilities for firefighting, fire prevention and fire safety regulation in their areas.

4. Both organisations share a concern for the quality and safety of health and care services and recognise that closer cooperation between the two organisations is beneficial.

5. This MoU is not enforceable in law and does not give rise to any right or liabilities for any party. This MoU will not affect the statutory duties, regulatory responsibilities or the legal rights, responsibilities and obligations of either party and it doesn't preclude enforcement action by the CQC or FRS. However, CQC and the NFCC are committed to working in ways that are consistent with the principles of this MoU.

Context

6. The changing social care landscape and ageing demographic mean that an increasing percentage of the population is now over 65 years of age. A significant portion of that

demographic is currently living in various forms of care homes, sheltered housing, extra care, supported and specialised housing.

7. This sector is more likely to be in receipt of health and social care services than the general population and are also those most vulnerable to injury or death if a fire occurs; whether by a propensity to contribute to the likelihood of a fire, reduced capacity to respond or health/mobility constraints. These factors already lead to a disproportionately high number of deaths and injuries from fire in this sector.

8. Poor understanding of this increased vulnerability and an un-met need for proper assessment of fire risks means that additional fire protection measures may be overlooked leading to increased avoidable deaths and injuries – impacting severely on the victim, their families, carers and neighbours, and the communities around them.

9. A new guide **Fire Safety in Specialised Housing** was published by the **NFCC** in May 2017[1]. Its aim is to clarify good practice and introduces for the first-time guidance and new tools for a 'Person Centred' approach to identifying fire risks among vulnerable people. This new guide provides an opportunity for the UK Fire Service, the CQC and Care Providers to reduce the risks of fire to this sector of the population and reduce the significant number of avoidable deaths and injuries.

Principles of Co-operation

10. This MoU and the associated Joint Working Protocols in Annex A are the principles which support collaborative working between the CQC, NFCC and FRS to support and improve fire protection and prevention and promote patient and public safety for those people in receipt of health and social care services. More detailed Working Protocols and guidance will be developed as required.

11. Criminal investigations into deaths at work (including deaths of persons using health and social care services) at health and social care settings in England are covered by an existing agreement known as the Work-Related Deaths Protocol (WRDP). WRDP includes both CQC and Chief Fire Officers Association (CFOA) (which is now the National Fire Chiefs

[1] National Fire Chiefs Council "Fire Safety in Specialised Housing' https://www.nationalfirechiefs.org.uk/write/MediaUploads/NFCC%20Guidance%20publications/NFCC_Specialised_Housing_Guidance_-_Copy.pdf

Council) as signatories. This memorandum of understanding does not affect the operation of the WRDP but should be used in conjunction with it.

Roles and responsibilities

12. It is recognised that the primary regulatory responsibilities for fire safety in buildings sits with the Fire & Rescue Services and Local Authorities, and regulatory responsibility for the safetyof health and social care provision sits with the CQC. It is not intended for this Memorandumof Understanding to circumscribe the regulatory remit, independence or responsibilities of the CQC, NFCC or individual Local Authorities or FRS.

13. The statutory responsibilities and functions of CQC and FRS are set out in Annex C for information.

Areas of Co-operation

14. The overriding objective of this MOU is to reduce fire risk and improve protection for people in receipt of health and social care services.

15. To achieve this objective and where appropriate the working relationship between CQC, FRS and NFCC involves cooperation in the following areas:

16. Each FRS may:

(a) Share information about fires and other relevant incidents at locations that fall within CQC regulation and in premises where services being provided are CQC regulated (such as private dwellings).

(b) Provide technical, regulatory and legislative fire safety advice.

The CQC may:

(c) Share address information about locations that fall within CQC regulation and care services providers.

17. In seeking to meet those objectives both parties will seek to:

a) Engage with one another as early as possible where risks to persons using services are identified to coordinate each organisations' respective regulatory responsibilities and actions to address those risks;

b) Identify and share risk issues and concerns relating to regulated locations, service providers and/or vulnerable people in receipt of health and social care services and determine suitable options and response measures.
c) Provide regulatory information such as enforcement outcomes, and support each other in our regulatory and enforcement roles, where appropriate.
d) Share good practice, consider collaborative research, and work together to collectively influence policy and working practices where relevant.
e) Encourage closer liaison at a local level and a consistent service delivery.
f) Promote the aims of this Memorandum of Understanding to others and in particular those professionals and/or agencies providing regulated services.

18. The parties agree in good faith to deliver against the principles subject at all times to their other duties and the legal and regulatory framework within which they operate.

Training

19. All parties will seek opportunities to promote and facilitate joint training and guidance material and learning from each other about good practice in regulation and reduction of fire risks at national and local levels.

Finance

20. This Memorandum of Understanding does not commit either party to allocate funds or other resources.

Public relations

21. If there is no conflict of interest, and where it's an area of mutual interest, parties will consider issuing joint communications following any process agreed between them.

Confidentiality and sharing of information

22. All parties recognise that all processing of personal data (including the sharing of personal data) set out in this MoU will take account of and comply with the Data Protection Act 2018.

23. In their correspondence the CQC will comply with section 76 Health and Social Care Act 2008, and all relevant CQC legislation relating to these matters and respective Codes of Practice, frameworks or other policies relating to confidential personal information and information issues. All parties 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.

24. All parties shall keep all information acquired from or disclosed by the others as a result of this Memorandum of Understanding confidential unless either party is obliged by law, by any governmental or other regulatory authority, or by a court or other third party authority of competent jurisdiction to disclose that information.

25. All parties recognise their responsibilities under the Freedom of Information Act 2000. Where any party receives a request under the Act for information received from another party, both 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 Disagreements

26. Where there is disagreement between CQC, NFCC or an FRS, 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 Chair of the NFCC, who will then be jointly responsible for ensuring a mutually satisfactory resolution.

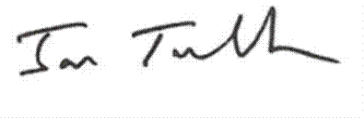
Duration and Review

27. 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.

28. This MoU will be reviewed annually 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. CQC and NFCC Strategic Liaison Group will be responsible for reviewing this Memorandum of Understanding.

29. Both organisations have identified a person responsible for the management of this MoU (known as 'Strategic Leads') and their contact details are set out in Annex B. These 'Strategic 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: March 2021

Roy Wilsher
Chair
National Fire Chiefs Council
Date: March 2021

Annex A - Joint Working Protocols

Introduction

30. The CQC, NFCC and FRS will collaborate by pursuing three objectives that will support and improve fire protection for vulnerable people in receipt of health and social care services:
    a. Implement local planning and liaison;
    b. Work together to regulate, advise and inform health and social care service providers;
    c. Maintain effective communication.

Implement local planning and liaison.

31. Individual FRS and CQC local inspection managers, inspectors and registration officers will work together to implement local liaison and contact arrangements that enable them to:
    a. Identify and share intelligence, risk issues and concerns relating to regulated locations and registered service providers to determine suitable options andresponse measures. This will include CQC providing a full list of registeredproviders to FRS for their area if requested. The FRS will inform CQC of all significant fires that have occurred in care homes or locations where regulated services are provided, the outcomes of any post fire inspections, and any enforcement action.
    b. If appropriate - carry out joint visits or liaison relating to regulated and registered service locations - for example following fires or other emergency incidents;
    c. Work together to ensure that issues of common interest, concern and improvementare shared and discussed at Local Forums, joint training events and with other agencies which have an influence on adult social care.

Support and enhance our working together to regulate, advise and inform health and social care service providers, including those providing domiciliary care.

32. Individual FRS and the CQC local inspection managers, inspectors and registration officers should work together to:
    a. Share information and outcomes from CQC or FRS inspections that identify potential fire safety risks. For example:
        - In regulated locations - management records not available or current, such as fire risk assessments, staff training records, fire alarm testing records etc)
        - For domiciliary care service providers – levels of high fire risk evident that are

not suitably addressed as part of the care planning process or the service provided.

b. Share information about fires or other emergency incidents if death/injury, property damage, or evacuation has occurred.

c. Carry out joint visits and collaborate on regulatory actions where immediate risks are apparent (For example – fire alarm inoperative, lack of staff for evacuation, locked exits, fire doors wedged open or defective) to:

- Identify deficiencies, agree enforcement action and recommendations for improving fire safety prevention and protection arrangements;
- Provide an integrated and co-ordinated regulatory response to care service providers to minimise duplication whilst enabling anynecessary remedial action to be taken at pace.

d. Provide regulatory support and information at no cost to each other, but each organisation may seek to recover the other parties' costs as part of any court proceedings.

e. Improve fire risk reduction measures through the development of guidance and training for registered health and social care providers, commissioners of care services and other organisations. (For example – through promotion of the Fire Safety in Specialised Housing guide and the principles of 'Person Centred Fire Risk Assessments').

f. Where relevant the CQC will consult FRS on new applications for regulated sites, using their existing procedures.

Maintain effective communication

33. The NFCC, CQC and individual FRS recognise that excellent local and national communication is fundamental for working together and arrangements for both local and national contact is essential.

Local contacts and day to day communication

34. Each local CQC inspection team and FRS should identify a single point of contact to co-ordinate the above liaison work. These local contacts shall ensure effective communication is maintained and information should generally be shared at an operational level between FRS fire safety inspectors and CQC compliance inspectors and registration assessors. The information shared will relate to providers that are regulated by CQC.

35. Generic contact details for each local FRS can also be found at https://www.nationalfirechiefs.org.uk/Fire-and-Rescue-Services

36. CQC inspectors can be contacted via the National Customer Service Centre (03000 616161) asking for the relationship owner for the service.

Additional sources of Information

37. Nationally, CQC is also able to capture information about enforcement activity on hospitals, care homes and independent healthcare from NFCC's Enforcement Register, which is hosted on its website.

38. NFCC and individual FRS are also able to capture information about CQC registered premises and care providers from CQC's website, which is regularly updated.

39. Both organisations will be able to use the above information to inform their respective risk management processes.

Annex B - NFCC and CQC National & Strategic Liaison

NFCC National & Strategic Leads:

40. Officers representing NFCC Protection and Prevention Committees will provide the point of contact for CQC managers for advice or information as it relates to generic or national policy matters and can be contacted via nfccadminsupport@nationalfirechiefs.org.uk
    - Protection and Business Safety Committee Chair (Gavin Tomlinson)
    - Prevention Committee Chair (Neil Odin)

41. The CQC National Strategic Lead for contact with NFCC and FRS is:
    - Neil Cox – neil.cox@cqc.org.uk

Strategic Liaison Group

42. The NFCC and the CQC have established a Strategic Liaison Group to oversee our work together, the implementation of the principles and good practice, and to share information outlined in this MoU. Any issues related to this MoU that need to be addressed will generate an action plan which will be reviewed at each meeting.

43. The Group will meet every six months and at least one meeting a year will be face to face. The chairmanship of the group will be rotated between the parties.

44. Representatives should be of an appropriate level of seniority and experience. Minimum attendance will be as follows
    - NFCC National & Strategy Contact leads in para 40 above,
    - CQC National & Strategy Contact Lead in para 41 above.

45. The group will also invite representatives from other stakeholders to their meetings to support their work when appropriate:
    - FRS representatives;
    - CQC representatives;
    - MHCLG;
    - Public Health England;
    - NHS England; and
    - Health & Safety Executive.

46. If required, the group may meet outside of the regular meetings to resolve an issue or carry out a specific piece of work. The triggers for identifying this may include (but are not restricted

to) the following;

- Identification and implementation of good practice,
- To review any lessons learnt,
- Legislative or national guidance changes,
- A request to review the MoU by a signatory to it.

Annex C - Roles & Responsibilities

Care Quality Commission (CQC)

47. CQC is the independent regulator of health and social care in England. CQC regulates the provision of health and social care services by those registered with CQC and can prosecute unregistered providers. It is also the lead inspection and enforcement body under the Health and Social Care Act 2008 (HSCA 2008) for the safety and quality of health and social care services provided to service users by providers registered with CQC.

48. CQC's regulatory remit includes:

- Residential care and Nursing homes;
- Community-based services including services for people with learning disabilities and substance misuse services;
- Home care agencies, mobile doctors and services over the phone;
- NHS trusts and independent hospitals;
- NHS and independent ambulance services;
- Hospice services;
- Health and social care in secure settings including prisons, youth offender institutions and secure hospitals (with HMIP and other inspectorates);
- Health services for children (with Ofsted);
- GP practices, walk-in centres and out-of-hours services.
- Dental services;
- Family planning and slimming clinics;
- Mental health services including those for detained patients;

49. CQC's main objectives are to protect and promote the health, safety and welfare of people who use health and social care services, and to promote improvement, as set out in the HSCA 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 (RR 2009).

50. Where appropriate CQC will pursue civil and/or criminal enforcement action against registered persons who provide health and social care services for breaches of health and

social care law under HSCA 2008 and RAR 2014, using the approach set out in CQC's Enforcement Policy.

51. CQC's civil enforcement powers include the cancellation or suspension of registration, and the imposition, removal or variation of conditions on the registration of a registered person.

52. Under urgent civil procedures CQC can also:
    - impose, vary or remove conditions on a registered person's registration, or suspend it, on an urgent basis where the CQC has reasonable cause to believe that unless it acts any person will or may be exposed to a risk of harm; and
    - apply to a Justice of the Peace to cancel the registration of a registered manager or provider on an urgent basis where it believes there will be a serious risk to a person's life, health or well-being.

53. From 1 April 2015 CQC has a power to prosecute for failures to provide safe care and treatment resulting in avoidable harm or a significant risk of exposure to avoidable harm (Regulation 12(1) RAR 2014). This power does not apply to failures before 1 April 2015. Prosecutions can be brought against registered providers, individual registered managers and directors 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) the relevant prosecutable regulations includes Regulation 12(1) RAR 2014 safe care and treatment which will in turn include fire safety.

54. **Limitation**: Under section 90(2) HSCA 2008 where CQC are investigating criminal offences into specific incidents under Regulation 22(2), 12, 13 or 14 RAR 2014, the statutory time- limits require that CQC prosecutions must be commenced within twelve months of the date at which sufficient evidence in the opinion of the prosecutor to justify a prosecution came to the prosecutor's knowledge. Additionally, no prosecution can be brought where information is laid more than 3 years after the commission of the offence.

Fire and Rescue Services

The Fire and Rescue Services Act 2004

55. This sets out four key responsibilities for Fire and Rescue Services that they must make provision for:
    - extinguishing fires in their area
    - protecting life and property in the event of fires in their area
    - rescuing and protecting people in the event of a road traffic collision, and
    - rescuing and protecting people in the event of other emergencies.

56. FRS also need to collect information to assess risk in their areas as well as protect the health and safety of their workers. The Fire and Rescue Services Act 2004 also gives the Government responsibility for producing the **Fire and Rescue National Framework** which outlines the Government's high level priorities and objectives for FRS in England. The National Framework's priorities for FRS are to:
    - identify and assess the full range of foreseeable fire and rescue related risks their areas face, make provision for prevention and protection activities and respond to incidents appropriately
    - work in partnership with their communities and a wide range of partners locally and nationally to deliver their service
    - be accountable to communities for the service they provide

The Regulatory Reform (Fire Safety) Order 2005

57. The Fire and Rescue Services are also the regulator for fire safety in premises to which the Regulatory Reform (Fire Safety) Order 2005 applies. In broad terms this applies to all premises except those that are occupied as a private dwelling.

58. The Fire Safety Order places a duty on a 'Responsible Person' in all relevant premises to take general fire precautions to protect employees or people on the premises from fire.

59. To regulate premises the Fire and Rescue Service may apply a Risk Based Inspection Programme to generate proactive inspections of premises or respond to concerns or fire risks notified to them by reactive inspections of premises.

60. The Fire and Rescue Service can take enforcement action to address failures in general fire precautions by providing informal advice, issuing formal Notices requiring improvements, and /or prosecuting the responsible persons.