

Memorandum of Understanding

between

**Social Care and Social Work Improvement
Scotland ('The Care Inspectorate')**

and

The Nursing and Midwifery Council (NMC)

1 Purpose and scope of Memorandum of Understanding

- 1.1 The purpose of this Memorandum of Understanding ('MoU') is to set out the framework that Social Care and Social Work Improvement Scotland ('the Care Inspectorate') and the Nursing and Midwifery Council ('the NMC') have agreed for co-operation and collaboration. The MoU aims to support and facilitate the exchange of information. It details the type of information that will be shared and how each body should exchange information and bring concerns to the attention of the other.
- 1.2 The Care Inspectorate and the NMC are fully committed to the aims of this MoU which are to:
- promote a common understanding of the role and functions of each organisation and their regulatory responsibilities, legal powers and constraints
 - promote cooperation between the Care Inspectorate and the NMC and their staff at an operational level; and
 - facilitate effective and appropriate exchange of information with the objective of assisting each organisation to fulfil their respective roles and functions.
- 1.3 Cooperation and collaboration between the Care Inspectorate and the NMC is necessary to protect the safety and well-being of people who use or are eligible to use health and care services and to support improvements to the quality of health and care services.
- 1.4 This MoU does not affect existing statutory functions or amend any other policies or agreements relating to the activities of the Care Inspectorate or the NMC. It does not seek to transfer functions or responsibilities from one party to the other nor does it imply the sharing of statutory responsibilities.
- 1.5 This MoU is not a contract and is not legally enforceable. However, the Care Inspectorate and the NMC are committed to working in ways that are consistent with the content of this MoU and to show proper regard for each other's activities.
- 1.6 This MoU relates to the areas of interface between the Care Inspectorate and the NMC.
- 1.7 Interfaces may arise between the NMC and the Care Inspectorate:
- (a) through on-going exchange of information and co-ordination of activity where appropriate.
 - (b) where either organisation wishes to bring specific concerns to the attention of the other.

2 Functions, duties and roles of the Care Inspectorate and the Nursing and Midwifery Council

- 2.1 The Care Inspectorate was established under section 44(1) of the Public Services Reform (Scotland) Act 2010 ('the 2010 Act') as an independent body responsible for the scrutiny and improvement of care, social work and child protection services.
- 2.2 The NMC is the regulator for nurses and midwives in the UK and nursing associates in England.
- 2.3 The detailed responsibilities and the functions of Care Inspectorate and the NMC are set out in Annexe 1.

3 Exchange of Information

- 3.1 The Care Inspectorate and the NMC will agree to exchange such information as is necessary to fulfil their respective statutory functions and to ensure the safety and well-being of people who use care services.
- 3.2 The working relationship between the Care Inspectorate and the NMC will be characterised by regular on-going contact and open exchange of appropriate information, through both formal and informal meetings and at all levels, including senior levels. This will be kept under review by the named contacts in APPENDIX 2.
- 3.3 The parties will exchange information of varying nature and content. This will include the following:

3.4 Issues relating to an individual registered nurse, midwife or nursing associate:

- 3.4.1 This MoU does not purport to confer any responsibility onto Care Inspectorate staff for monitoring standards of professional conduct of nurses, midwives or nursing associates. However the Care Inspectorate may identify an issue during an inspection or investigation or in otherwise carrying out its regulatory activities, which may require to be referred to the NMC. Where an issue is identified which appears to relate to the fitness to practise of any individual registered nurse, midwife or nursing associate, consideration will be given to referring the matter to the NMC. Such issues may relate to a nurse, a midwife or a nursing associate in a frontline care role or one who is a manager or leader responsible for the safety and quality of nursing or midwifery.
- 3.4.2 The first course of action for Care Inspectorate staff will be to discuss the matter with their line manager and/or the Improvement Support Team manager. A decision will then be made about whether the matter appears to fall within the NMC's remit and should therefore be referred. Prior to any referral, the Care Inspectorate may initially discuss the concerns with the nurse, midwife or nursing associate's employer with a view to resolving the issue. If appropriate, the Care Inspectorate will request advice on making a referral from the NMC's Employer Link Service. This

would satisfy the Care Inspectorate that the provider was fulfilling their responsibilities as a registered care service.

3.4.3 Where the Care Inspectorate has considered that the registered provider is obliged to report the issue to the NMC and they fail to do so, the Care Inspectorate will report the matter to the NMC. The Care Inspectorate may also consider taking regulatory action against the registered provider under the 2010 Act.

3.4.4 Where the registered provider is also a registered nurse, midwife or nursing associate, and the Care Inspectorate considers that the issue constitutes a concern which should have been reported to the NMC, the Care Inspectorate may in addition refer the nurse, midwife or nursing associate's failure to report the matter to the NMC.

3.5 Issues relating to registered care services or other social services:

3.4.5 Under the Nursing and Midwifery Order 2001, the NMC may disclose to any person any information relating to a practitioner's conduct, professional performance or fitness to practise which the NMC consider to be in the public interest to disclose.

3.4.6 The NMC's policy intent is to disclose such information to the Care Inspectorate when the NMC considers that to be in the public interest.

3.4.7 The NMC may disclose information about a fitness to practise investigation and/or write to invite the Care Inspectorate to consider appropriate action, where it identifies any issues that appear to fall within the Care Inspectorate's remit.

3.4.8 the NMC will inform the Care Inspectorate of any issue or concerns it identifies while conducting an investigation, where such issues or concerns relate to a registered care service.

3.6 If concerns reported to either organisation appear to fall within the remit of the other organisation, the party in receipt of that information may either refer the person raising the concern to the other organisation, or may notify the other organisation of the concerns. This might include anonymous or unsubstantiated reports made regarding fitness of nurses, midwives or nursing associates; concerns about safety and quality of registered care services or reports of unregistered services operating illegally.

3.7 The Care Inspectorate and the NMC will adhere to the Data Protection Principles, as set out in the General Data Protection Regulation and the Data Protection Act 2018. Both the Care Inspectorate and the NMC will ensure that disclosure of information under the terms of this MoU is carried out in a manner that is efficient, proportionate, and fully compliant with the law, including the requirements of the General Data Protection Regulation, Data Protection Act 2018, the Human Rights Act 1998, the Freedom of Information (Scotland) Act 2002 (Care Inspectorate and NMC in Scotland) and the Freedom of Information Act 2000 (NMC). The common law duty of confidentiality will also be maintained.

- 3.8 Information disclosed by either party under the terms of this MoU is not a disclosure under Freedom of Information legislation.
- 3.9 Both parties will take necessary steps to protect the confidential nature of documents and information that the other may provide. It is acknowledged that information may be subject to disclosure in the context of enforcement, legal proceedings or to satisfy statutory requirements.

4 Coordination - investigations and inquiries relevant to both bodies' functions

- 4.1 It is possible that an investigation by the NMC into a nurse, midwife or nursing associates' fitness to practice could coincide with a Care Inspectorate investigation or inspection of a registered care service. It might also be the case - for example in a child or adult protection situation, or a criminal investigation - that other statutory agencies might be involved. Should such a situation arise, both organisations will be guided by the following principles.
- The Care Inspectorate and the NMC will co-operate with each other as far as possible. This may require planning respective activities so that they are complementary by keeping each other informed of developments, sharing information (within statutory limitations) and pooling resources where possible, in order to minimise regulatory burden and enable greater efficiency and effectiveness.
 - Whilst those conducting investigations may work closely together, the investigations will remain separate and the limitations of each investigation will be clearly defined.

5 Wider collaboration

- 5.1 The Care Inspectorate and the NMC will collaborate more generally where considered appropriate by both. This may include, for example, joint events or publications, or relevant collaborative initiatives. The parties will endeavor to meet annually.
- 5.2 The Care Inspectorate and the NMC will cooperate where appropriate over how any media interest should be handled, where it relates to both organisations.
- 5.3 The Care Inspectorate and the NMC will endeavour to ensure that members of staff are made aware of the content of this MoU and the responsibilities it places on them.

6 Reconciliation of Disagreement

- 6.1 Any disagreements will normally be resolved amicably at working level. If this is not possible senior managers at both organisations should seek to settle any issue. The Chief Executive of the Care Inspectorate and the Chief Executive and Registrar from the NMC will jointly be responsible for ensuring a mutually satisfactory resolution and will become involved only where

necessary. (See APPENDIX 2 for details).

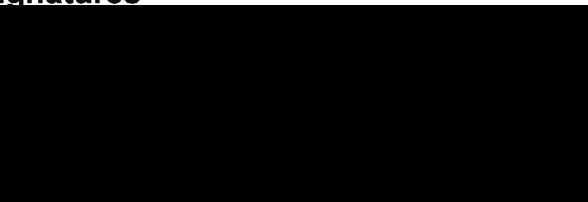

7 Working arrangements

7.1 Contact points for both organisations are detailed in APPENDIX 2.

8 Review of MoU

8.1 The Care Inspectorate and the NMC will keep this MoU under review to ensure it remains relevant and up-to-date and in any event will endeavour to review it every three years.

Signatures

 Date: 10.9.19. Peter Macleod Chief Executive Care Inspectorate	 Date: 10.9.19 Matthew McClelland Director of Fitness to Practise Nursing and Midwifery Council
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APPENDIX 1 – RESPONSIBILITIES AND FUNCTIONS

Care Inspectorate

The Care Inspectorate was established under section 44(1) of the Public Services Reform (Scotland) Act 2010 ('the 2010 Act') as an independent body responsible for the scrutiny and improvement of care, social work and child protection services.

The role and functions of the Care Inspectorate are set out in the 2010 Act, the Public Bodies (Joint Working) (Scotland) Act 2014 (sections 54 and 56) and the Adults with Incapacity (Scotland) Act 2000 (Part 4 only).

The Care Inspectorate has a general duty of furthering improvement in the quality of social services for the benefit of people who use, or are eligible to use, them. It has a number of duties and powers specified in the 2010 Act and in Regulations made under the 2010 Act.

Nursing and Midwifery Council

Better, safer care for people is at the heart of what we do

Nurses, midwives and nursing associates are highly skilled, compassionate and caring professionals. They strive to deliver the best care possible for people but all too often workforce pressures hold them back.

As the professional regulator of nurses, midwives and nursing associates, we work with these dedicated practitioners to ensure they have the knowledge and skills to deliver consistent, quality care that keep people safe.

Better, safer care today: working with professionals to drive up standards of care

We set the education standards that nurses, midwives and, in England, nursing associates, must achieve to practise. When they have shown both clinical excellence and a commitment to kindness, compassion and respect, we welcome them onto our register of nearly 700,000 professionals.

Once registered, professionals must uphold day in, day out the standards and behaviour set out in our code so that people can have confidence that they will consistently receive quality, safe care wherever they're treated.

We operate a revalidation process that encourages nurses, midwives and nursing associates to promote lifelong learning. It's a journey that asks professionals to reflect on their practice and how the code applies to their day-to-day work.

Professional regulation enables better care and keeps people safe. But on the rare occasions when care goes wrong or falls short of people's expectations, we step in to investigate and take action when needed.

We promote a culture that encourages professionals to be open and learn from mistakes, gives the public an equal voice, and where everyone involved is treated with kindness and understanding.

Better, safer care together: working with partners and the public to improve the health and social care system

When demand from the public for health and social care is increasing across the UK, it is vital there are enough professionals to deliver world class care and keep the public safe.

We work with partners to influence policy and decision-making that supports and develops the future health and social care workforce.

We're also delving deeper into the data we hold on our register and from other activities to shine a light on the many different environments nurses, midwives and nursing associates provide care.

Using our influence and data effectively has a positive impact on the recruitment and retention of nurses, midwives and nursing associates across the UK.

When the health and social care system fails we engage with the public and work closely with partners to learn from these mistakes and ensure appropriate action is taken to prevent this happening again.

A better NMC: improving how we operate for everyone's benefit

To enable professionals to deliver better, safer care and improve the system nurses, midwives and nursing associates work in, we are committed to becoming a better regulator.

We are changing our culture to be kinder to each other, and everyone else we engage and interact with. We are adopting new ways of working to become smarter at pinpointing opportunities for and barriers to enabling consistent, quality care that keeps people safe. We are investing in our people to become a great place to work, delivering a high quality, value for money service.

To demonstrate our commitment to change, we are working with people, partners, professionals and employees to co-produce a new long-term strategy. Join us today, and together we'll develop an ambitious new plan for the next five years – one that helps us become the best NMC possible, supporting nurses, midwives and nursing associates to deliver even better, safer care for people.

APPENDIX 2 - CONTACT DETAILS

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