

# Memorandum of understanding and information-sharing protocol between the Health and Care Professions Council and Ofsted

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## Introduction

1. This memorandum of understanding (MoU) is between the Office for Standards in Education, Children's Services and Skills (Ofsted) and the Health and Care Professions Council (HCPC). The MoU sets out the areas in which Ofsted and the HCPC will work together and share information. Our shared aim is to protect the well-being of children and young people who use health and social care services in England.
2. Ofsted inspects and regulates services that care for children and young people, and services providing education and skills for learners of all ages in England. This includes:

<b>Early years</b>	Childminders Children's centres Home childcare providers Childcare providers on domestic or non-domestic premises Childminder agencies
<b>Education</b>	Further education colleges Schools (including academies)
<b>Social Care</b>	Adoption support agencies <sup>1</sup> Boarding schools Cafcass Children's homes; including secure children's homes <sup>1</sup> Independent fostering agencies <sup>1</sup> Local authority children's services Residential family centres <sup>1</sup> Residential holiday schemes for disabled children <sup>1</sup> Residential special schools Secure training centres Voluntary adoption agencies <sup>2</sup>

3. The HCPC is the independent regulator in the UK for the 16 professions listed below:

Art therapists	Orthoptists
Biomedical scientists	Paramedics
Clinical scientists	Physiotherapists
Dieticians	Radiographers
Hearing aid dispensers	Practitioner psychologists
Occupational therapists	Social Workers (in England)
Operating department practitioners	Speech and language therapists
Chiropodists/podiatrists	Prosthetists/orthotists

<sup>1</sup> These services have both a registered provider and registered manager.

<sup>2</sup> Voluntary adoption agencies have only a registered provider.

## Purpose of information sharing

4. The purpose of the MoU is to enable both HCPC and Ofsted to share relevant information that supports their ability to exercise their differing functions and thereby protect and promote the safety of children, young people and, where appropriate, vulnerable adults. HCPC and Ofsted's responsibilities and functions are set out at Annex A.
5. The MoU does not override the statutory responsibilities and functions of Ofsted and the HCPC and is not enforceable in law. However, Ofsted and the HCPC are committed to working in ways that are consistent with the content of this MoU.

## The legal basis for sharing information

6. The power for Ofsted to share information is set out in paragraph 8 of Schedule 13 to the Education and Inspections Act 2006.<sup>3</sup> This says that the Chief Inspector may, if appropriate, 'provide advice or assistance to another public authority for the purpose of the exercise by that authority of its functions'. It is understood that this includes Ofsted having the power to share information to provide this advice and assistance.
7. Under the Health and Social Work Professions Order 2001, the HCPC has a duty to cooperate with, among other things bodies concerned with the regulation of, or the coordination of the regulation of, other health and social care professionals; the provision, supervision or management of health or education services; and the provision, supervision or management of services of persons engaged in social work in England.

## Principles of cooperation

8. Ofsted and the HCPC's working relationship is founded in the guidance within 'Working together to safeguard children'<sup>4</sup> and characterised by the following principles:
  - **Protecting** the public and improving care – the primary purpose of this MoU is to assist both organisations to perform more effectively to protect the well-being of children, young people and, where appropriate, vulnerable adults; and to support improvement in the care, education and support of these groups.
  - **Understanding** each organisation and respecting each organisation's independent status – joint work and coordination under this MoU is in the context of the two organisations' different remits and legal frameworks.

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<sup>3</sup> Education and Inspections Act 2006; [www.legislation.gov.uk/ukpga/2006/40/contents](http://www.legislation.gov.uk/ukpga/2006/40/contents).

<sup>4</sup> 'Working together to safeguard children', Department for Education, 2015; [www.gov.uk/government/publications/working-together-to-safeguard-children--2](http://www.gov.uk/government/publications/working-together-to-safeguard-children--2)

- The need to **maintain public confidence** in each organisation.
- The need to **use each organisation's resources effectively and efficiently**.
- The **principles of better regulation** – transparent; accountable; proportionate; consistent; and targeted.

## Areas for information sharing

9. If the HCPC or Ofsted identifies a concern that it believes falls within the remit of the other, they may at the earliest opportunity communicate the concern and relevant information to the other. In the interests of public safety and protection, the referring organisation will not wait until its own investigation or inspection has concluded. In particular, the HCPC and Ofsted will contact each other to discuss a particular set of circumstances on an individual basis. They will do this when they consider there is an overlap of functions.
10. In carrying out its functions, one organisation may also need to request information from the other. In these circumstances, the other organisation will consider the request on a case-by-case basis and will assist as much as possible.

## Exchange of information

11. The principles of cooperation outlined in paragraph 8 will require the HCPC and Ofsted to exchange information. All exchanges of information as set out in the MoU, and any other supplementary agreements, will take account of, and comply with:
  - the Data Protection Act 1998
  - the Human Rights Act 1998 (article 8)
  - any common law duties of confidence.
12. Both the HCPC and Ofsted are subject to the Freedom of Information Act 2000. If one organisation receives a request for information that originated from the other, the receiving organisation will discuss the request with the other before responding. The ultimate decision on the release of information however, will remain with the information owner (the organisation that has been requested to release it). Both organisations may share information about any requests for information they receive that the other has provided.

## Resolution of disagreement

13. Any disagreement between the HCPC and Ofsted will normally be resolved 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 the National Director, Social Care of Ofsted and the Chief Executive and Registrar of the

HCPC who will be jointly responsible for ensuring a mutually satisfactory resolution.

## Duration and review of the MoU

14. This MoU takes effect on the date of signatures below. The MoU may be reviewed urgently at any time at the request of either party. It will be reviewed after its first year of operation to ensure that it is working appropriately for both parties. The annexes may be reviewed more regularly.
15. Both organisations have identified a person responsible for the management of this MoU at Annex B. They will liaise as required to ensure that this MoU is kept up to date and to identify any emerging issues in the working relationship between the two organisations.

## Signatures

HCPC	Ofsted
Marc Seale Chief Executive and Registrar 	Eleanor Schooling National Director, Social Care 
Date: 17 August 2016	Date: 17 August 2016

## **Annex A. The responsibilities and functions of the HCPC and Ofsted**

16. The HCPC and Ofsted acknowledge the responsibilities and functions of each other and will take account of these when working together. Each organisation's main responsibilities and functions are outlined below.

### **The Health and Care Professions Council**

17. The Health and Care Professions Council (HCPC) is the regulator of the 16 professions set out in paragraph 3 of this MoU.
18. The responsibilities and functions of the HCPC are set out in the Health and Social Work Professions Order 2001 (the Order). The main objective of the HCPC in exercising its functions is to safeguard the health and well-being of persons using or needing services of registrants.
19. Under the Order, the principal functions of the HCPC are to establish standards of education, training, conduct and performance for members of the relevant professions and to ensure the maintenance of those standards.
20. The HCPC does this by:
- setting standards, including standards of proficiency, standards of conduct, performance and ethics and standards of education and training
  - approving education programmes and qualifications that meet its standards
  - maintaining a register of appropriately qualified professionals
  - investigating and adjudicating complaints about professionals' fitness to practise.
21. The Order also protects one or more designated titles for each of the relevant professions and anyone using one of those titles must be registered with the HCPC. Misuse of a title is a criminal offence.

### **Ofsted**

22. The Office for Standards in Education, Children's Services and Skills (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 are:

- improved quality, efficiency and effectiveness, ensuring that inspection and regulation provide value for money
  - improved focus, so that we target inspection and regulation where we can add the most value
  - improved engagement, working with those we inspect, and those using their services, to ensure that we are credible, valued and trusted and do not introduce unforeseen burdens.
23. 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 and Support Service (Cafcass). It assesses children's services in local areas, and inspects services for children looked after, safeguarding and child protection.
24. Ofsted seeks to promote improvement in the services it inspects and regulates, and to ensure that they 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.

## Annex B. Contacts

### 25. Addresses and main telephone switchboard numbers

HCPC	Ofsted
Park House 184 Kennington Park Road London SE11 4BU 0845 3006184	Piccadilly Gate Store Street Manchester M1 2WD 0300 123 1231

### 26. Operational contacts

HCPC	Ofsted
John Barwick, Head of Fitness to Practise Operations  <a href="mailto:john.barwick@hcpc-uk.org">john.barwick@hcpc-uk.org</a> 0207 840 9190  Fitness to Practise Department Park House 184 Kennington Park Road London SE11 4BU	<b>Social Care</b> Paul Armitage, Deputy Director, Social Care Inspection  <a href="mailto:paul.armitage@ofsted.gov.uk">paul.armitage@ofsted.gov.uk</a> 0300 0131 544 07887831477  <b>Early Years</b> Gill Jones, Deputy Director Early Years  <a href="mailto:gill.jones@ofsted.gov.uk">gill.jones@ofsted.gov.uk</a> 0300 0130 958 07876651756  <b>HR</b> Gwen Lennard, Deputy Head of HR  <a href="mailto:gwen.lennard@ofsted.gov.uk">gwen.lennard@ofsted.gov.uk</a> 0300 0130 142 07876650590  Aviation House 125 Kingsway London WC2B 6SE

27. Escalation contacts for the HCPC and Ofsted

HCPC	Ofsted
<p>Kelly Holder, Director of Fitness to Practise</p> <p><a href="mailto:kelly.holder@hcpc-uk.org">kelly.holder@hcpc-uk.org</a> 0207 840 9125</p> <p>Fitness to Practise Department Park House 184 Kennington Park Road London SE11 4BU</p>	<p>Philip Forder, Principal Officer, Social Care Inspection Policy and Development</p> <p><a href="mailto:philip.forder@ofsted.gov.uk">philip.forder@ofsted.gov.uk</a> 0300 0130 798 07786856463</p> <p>Social Care Policy Team Aviation House 125 Kingsway London WC2B 6SE</p>

28. Contacts responsible for MoU management

HCPC	Ofsted
<p>John Barwick, Head of Fitness to Practise Operations</p> <p><a href="mailto:john.barwick@hcpc-uk.org">john.barwick@hcpc-uk.org</a> 0207 840 9190</p> <p>Fitness to Practise Department Park House 184 Kennington Park Road London SE11 4BU</p>	<p>Philip Forder, Principal Officer, Social Care Inspection Policy and Development</p> <p><a href="mailto:philip.forder@ofsted.gov.uk">philip.forder@ofsted.gov.uk</a> 0300 0130 798 07786856463</p> <p>Social Care Policy Team Aviation House 125 Kingsway London WC2B 6SE</p>

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 looked after children, safeguarding and child protection.

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