



MEMORANDUM OF UNDERSTANDING

BETWEEN

HEALTHCARE IMPROVEMENT SCOTLAND

AND

THE MENTAL WELFARE COMMISSION

File Name: 20130422 - MWC HIS mou v1 0	Version: 1.0	Date: 24 April 2013
Produced by: K Freeman HIS / L. Finn MWC	Page: 1 of 4	Review Date: April 2018
Circulation type (internal/external): External		

MEMORANDUM OF UNDERSTANDING
between
HEALTHCARE IMPROVEMENT SCOTLAND
and
THE MENTAL WELFARE COMMISSION

Purpose of the MOU

This agreement is intended to promote an effective working relationship and information sharing protocol between the Mental Welfare Commission for Scotland and Healthcare Improvement Scotland on areas of mutual interest with regards to the effective discharge of their respective statutory roles. In addition, it has a specific aim to improve the care for people with dementia in healthcare establishments by using respective resources and expertise effectively.

Responsibilities

The Mental Welfare Commission acts to protect the welfare of individuals with mental illness, learning disability or related conditions. It investigates cases where it appears that there may be ill-treatment, deficiency in care or treatment, or improper detention of any such person.

Healthcare Improvement Scotland is responsible for supporting, ensuring and monitoring the quality of healthcare provided by NHS boards and providing information to the public about the availability and quality of independent healthcare services. It inspects NHS hospitals and independent healthcare services and identifies and advises on areas for improvement.

The roles and duties of Healthcare Improvement Scotland and the Mental Welfare Commission for Scotland are set out in statute, respectively the National Health Service (Scotland) Act 1978 and the Mental Health (Care and Treatment) (Scotland) Act 2003. It is not the intention of this agreement to transfer any statutory responsibility between either party.

Information Sharing and Cooperation

The Mental Welfare Commission for Scotland and Healthcare Improvement Scotland will, wherever appropriate, cooperate in order to fulfil their respective obligations to

- protect the welfare of persons who have a mental illness, learning disability or related condition
- support providers to deliver high quality, evidence based, safe, effective and person centred care
- to scrutinise those services to provide public assurance as to their quality and safety

Section 10Z19 of the National Health Service (Scotland) Act 1978. This requires Healthcare Improvement Scotland to consult with the Mental Welfare Commission for Scotland in every case where it appears appropriate, having regard to the functions of the Commission, when exercising its functions relating to the provision of guidance, advice or information.

Section 8A of the Mental Health (Care and Treatment) (Scotland) Act 2003. This requires the Mental Welfare Commission for Scotland to raise any concerns (of a general or specific nature) with the Healthcare Improvement Scotland about the provision of any healthcare service to a person who has a mental illness, learning disability or related condition.

Further, under Section 114 of the Public Services Reform (Scotland) Act 2010, both organisations have a duty to cooperate and to coordinate activity with a view to improving the exercise of scrutiny functions in relation to local authorities, social services and health services, having regard to efficiency, effectiveness and economy.

In addition to these duties, Healthcare Improvement Scotland may 'do anything which appears to be necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the exercise of its functions'. This provision is included in schedule 5A of the National Health Service (Scotland) Act 1978.

In order to achieve better outcomes for patients, information will be shared between the Mental Welfare Commission for Scotland and Healthcare Improvement Scotland as follows:

Healthcare Improvement Scotland will inform the Mental Welfare Commission, as soon as possible, of any welfare issues which give rise to any concern, from whatever source. In particular where it appears that patients are being:

- unlawfully or disproportionately deprived of their liberty, or
- given medication without proper consent or legal authorisation.

Mental Welfare Commission will inform Healthcare Improvement Scotland, as soon as possible, of any matter of specific or general interest brought to its attention which impacts upon areas of Healthcare Improvement Scotland's responsibility.

Where contact is necessary, between staff of both organisations, in respect of individual cases, this will take place in accordance with the requirements of the Data Protection Act 1998.

Where a document(s) and/or information is shared between Mental Welfare Commission for Scotland and Healthcare Improvement Scotland, this will be carried out in a manner which ensures confidentiality is not breached.

Both organisations may, for specific projects, agree data sharing protocols as appears necessary.

Dispute Resolution

Where a dispute occurs, the staff who have been involved from the respective organisation should make attempts to effect a resolution, involving line management where a resolution has not been found. For ongoing disputes, the organisations' Chief Executives will work together to effect a resolution.

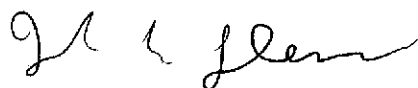
Advice and guidance

In recognition of the complex nature of mental health and incapacity legislation and, in order to ensure a consistent approach to scrutiny, Healthcare Improvement Scotland inspectors may contact the Mental Welfare Commission duty officer for advice and guidance in these areas.

Review

Healthcare Improvement Scotland and the Mental Welfare Commission will ensure that their staff are aware of this agreement and the working arrangements that should apply. The agreement will be reviewed every 5 years with any changes to be agreed by both parties to ensure that it remains relevant and up to date. In addition, Healthcare Improvement Scotland and the Mental Welfare Commission will meet on an annual basis to discuss matters of mutual interest arising from their respective responsibilities.

(Signed)



John Glennie
Chief Executive
Healthcare Improvement Scotland

(Date) ...24 April 2013.....

(Signed)



Dr Donald Lyons
Chief Executive
Mental Welfare Commission

(Date)29/4/13.....