

Memorandum of understanding between the Healthcare Safety Investigation Branch and the General Dental Council

1. Purpose

- 1.1. This memorandum of understanding (MOU) sets out the framework for the working relationship between Healthcare Safety Investigation Branch (HSIB) and the General Dental Council (GDC) (together referred to as "the signatories").
- 1.2. It is intended to inform our staff and the public about how we relate to each other and will work together, and to ensure that effective channels of communication are maintained between us when information needs to be exchanged.
- 1.3. This MOU is not intended to be a contract in law and does not give rise to any contractual rights or liabilities. It does not override the signatories' statutory responsibilities or functions, nor does it infringe their autonomy or accountability.

2. Role and responsibilities

- 2.1. The roles and responsibilities of the signatories are set out in appendix 1.

3. General principals

- 3.1. The following general principals will underpin our working relationship – we need to:
 - 3.1.1. Make independent decisions that promote public and patient safety.
 - 3.1.2. Recognise each other's statutory responsibilities and respect each other's independent status.
 - 3.1.3. Collaborate and cooperate with each other where relevant and appropriate.
 - 3.1.4. Promote public confidence in both organisations.
 - 3.1.5. Be open and transparent in our communications with each other.
 - 3.1.6. Use our resources efficiently and effectively.

3.1.7. Identify gaps and overlaps in our activities and information gathering, and discuss them with a view to agreeing how best to address them.

3.2. We will share information in accordance with the law. Full details of how we will share information are set out in our information sharing agreement at appendix 2.

4. Areas for liaison

4.1. Cross referral of concerns

4.1.1. Where the HSIB or the GDC encounters concerns which, it believes may fall within the remit of the other, they will at the earliest opportunity provide the other with details of the concerns and supporting information. In the interests of patient safety yet recognising any competing obligations, the referring organisation will not wait until they have completed their own review or investigation.

4.1.2. In particular, the HSIB, subject to any confidentiality agreements or obligations arising from its remit, will refer to the GDC:

4.1.2.1. Any concerns and/or relevant information about a GDC registrant which may call into question his or her fitness to practise.

4.1.2.2. Any concerns and/or relevant information relating to the delivery of dental care at an organisation that may call into question the robustness of its dentistry leadership.

4.1.3. The HSIB will provide the GDC with the necessary information and documentation on which the referral is based and any additional information and documentation reasonably requested by the GDC, subject to any confidentiality agreements or obligations arising from HSIB's remit. It will recognise that the GDC is best placed to determine what may reasonably be required to investigate allegations of impairment of fitness to practise or to carry out its regulatory functions regarding education. It is accepted however that in many cases, the provision of such information may not be possible owing to the sensitivities of HSIB's role.

4.1.4. Where the GDC is investigating the fitness to practise of an individual or individuals, it will normally disclose to them all documents it has received.

4.1.5. In particular, the GDC will refer to the HSIB:

4.1.5.1 Any significant concerns and relevant information (including

where appropriate, registrant's names, registered addresses, registration status and registration number, details of ongoing investigations, details of any convictions held and a Registrant's fitness to practise history) in relation to an organisation within NHS England in which dentists and/or dental care professionals practice, which may call into question the safety of the services it provides;

- 4.1.5.2 Information about any investigations it conducts that may be relevant to HSIB's remit;
- 4.1.5.3 Any issues or data from its regulatory work which may be useful intelligence to HSIB in reviewing and developing its approach and work in relation to healthcare regulation.

4.2. Investigations and inquiries relevant to both organisations' functions

- 4.2.1. It is possible that investigations by the signatories could coincide. Where this is the case they will cooperate closely with each other as far as differing remits allow. They will plan activities so that they are complementary, keep each other informed of appropriate developments, and share information within statutory limits and the terms of the information sharing agreement. They will take care not to contaminate evidence or breach any common law or duty of confidentiality.

4.3. Other information sharing

- 4.3.1. Other examples of how the signatories will collaborate and share information include:
 - 4.3.1.1. Sharing information on strategic and policy developments which may impact on each other's work.
 - 4.3.1.2. Sharing information about trends, data approaches and initiatives which may be of interest to each other.
 - 4.3.1.3. Collaborating on relevant external communication.

5. Key contacts, relationships, and dispute resolution

5.1. Details of key contacts are set out in appendix 3.

5.2. The signatories will maintain regular contact through formal and informal meetings at all levels (including senior level) as appropriate. This will be kept under review by the officers with responsibility for this MOU, as set out in appendix 3.

5.3. In the event of any dispute, representatives of the signatories agree to

discuss how best to resolve the issues at an appropriate level. This discussion should take place within 14 days of any dispute where possible. If this does not resolve the dispute, the issue will be referred to the Chief Executives of the signatories, who shall endeavour to agree an appropriate resolution within 14 days of the matter being referred to them.

6. Duration and review

6.1. This MOU will be effective from 1st April 2017. It is not time limited and will continue until varied or otherwise as agreed by the signatories.

6.2. The appendices to this MOU may be reviewed and amended without amendment to this MOU.

6.3. The MOU and its appendices may be reviewed at any time at the request of either party. Additionally, the MOU will be reviewed every year, and the appendices will be reviewed every 6 months, to ensure that they remain accurate and relevant. Details of who is responsible for carrying out the review are set out in the key contacts information at appendix 3.

Signed:



Name: **KEITH CONRADI**
Chief Investigator
Healthcare Safety Investigation Branch

Date:

12 APR 17

Signed:



Name: **IAN DRACK**
Chief Executive
General Dental Council

Date:

24 April 2017

Appendix 1: Roles and responsibilities

1. The GDC

1.1. The GDC is the independent statutory body with responsibility for regulating dental professionals in the United Kingdom. The following professionals must all be registered with the GDC in order to be able to work in the UK:

- 1.1.1. Dentists
- 1.1.2. Dental nurses
- 1.1.3. Clinical dental technicians
- 1.1.4. Dental technicians
- 1.1.5. Dental hygienists
- 1.1.6. Dental therapists
- 1.1.7. Orthodontic therapists

1.2. The GDC's purpose is to protect the public by regulating dental professionals. It does this by:

- 1.2.1. Registering qualified dental professionals
- 1.2.2. Setting and enforcing standards of dental practice and conduct
- 1.2.3. Protecting the public from illegal practice
- 1.2.4. Assuring the quality of dental pre-registration education and training
- 1.2.5. Ensuring that dental professionals keep their knowledge and skills up to date
- 1.2.6. Investigating and acting upon complaints received about the fitness to practise of registered dental professionals
- 1.2.7. Helping patients and the profession to resolve complaints about private dentistry

1.3. Effective regulation of dental professionals enhances public safety, improves the quality of dental care, and helps ensure public confidence in the dental professions and dental regulation.

1.4. The GDC aims to regulate in a way that is proportionate, accountable, transparent, consistent, targeted, and responsive to changing demands, risks and priorities.

1.5. The GDC is governed by the Dentists Act 1984 and various statutory instruments, full details of which are set out at <https://www.gdc-uk.org/about/who-we-are/governance>

2. The HSIB

2.1. The aim of HSIB is to improve patient safety through effective and independent investigations that do not apportion blame or liability. This is achieved by determining the causes of clinical incidents and encouraging safety action and making safety recommendations to prevent recurrence.

2.2. HSIB can only conduct a limited number of safety investigations each year. These will be selected according to a set of systemic risk criteria which consider the expected outcome impact, systemic risk and learning potential from investigating the event(s).

2.3. The objectives of HSIB can be summarised as follows:

2.3.1 To conduct thorough, independent, impartial and timely investigations into clinical incidents occurring in England;

2.3.2 To engage NHS staff, other medical organisations and patients and/or relatives in the investigation process;

2.3.3 To treat the patients and relatives of incidents sympathetically and help them understand 'what happened' and what is being done to prevent similar events in the future;

2.3.4 To produce clearly written, thorough and concise reports with well-founded analysis and conclusions that explain the circumstances and causes of clinical incidents without attributing blame;

2.3.5 To make safety recommendations to improve patient safety where appropriate and report on any safety action planned or already taken;

2.3.6 To improve patient safety by promulgating the lessons learned from investigations as widely as possible;

2.3.7 To encourage the development of skills used to investigate local safety incidents in the NHS;

2.3.8 To act as global ambassadors for safety investigations;

2.3.9 To maintain and develop excellence in its people and provide a fulfilling and safe environment in which to work.

Appendix 2: Information sharing agreement

Dated 1st April 2017

Between

- (1) The General Dental Council (the **GDC**)
 - (2) The Healthcare Safety Investigation Branch (the **HSIB**)
- (collectively, the **Parties**)

Background

- (A) The Parties each collect and hold information, including Personal Data, as part of their statutory functions.
- (B) The Parties have agreed a Memorandum of Understanding (**MOU**) setting out a framework for the sharing of information, including Personal Data, to enable each Party to fulfil its statutory functions.
- (C) The Parties now wish to enter into this Information Sharing Agreement (**Agreement**) to record their obligations in respect of the sharing of information, including Personal Data.

1 DEFINITIONS

1.1 In this Agreement, the terms below shall have the following meanings:

| | |
|-------------------------|--|
| Data Controller | has the meaning set out in Section 1 of the DPA |
| DPA | the Data Protection Act 1998 |
| FOIA | the Freedom of Information Act 2000 |
| Information Provider | the Party providing information under this Agreement |
| Information Recipient | the Party receiving information under this Agreement |
| Personal Data | has the meaning set out in Section 1 of the DPA |
| Sensitive Personal Data | has the meaning set out in Section 1 of the DPA |

2 PURPOSE

2.1 Personal Data shall only be transferred by the Information Provider to the Information Recipient where such Data is relevant to the Information Recipient's statutory functions, as described in the MOU (the **Purpose**).

2.2 Any Personal Data transferred under this Agreement shall only be used by the Information Recipient for the Purpose and may not be used by the Information Recipient for any other purpose.

3 LEGAL BASIS

3.1 The Information Provider may only share Personal Data with the Information Recipient where such sharing complies with the DPA, the Human Rights Act 1998, the common law duty of confidence and all other applicable laws.

3.2 General Dental Council

3.2.1 The GDC is a statutory corporation established under the Dentists Act 1984. Its principal purpose is the protection of the public through the promotion of high standards (i) in all stages of dental education, and (ii) of professional conduct among dental professionals.

3.2.2 In order to fulfil its statutory functions, the GDC collects and retains Personal Data, including Sensitive Personal Data, relating to dental professionals, patients and other individuals.

3.3 Healthcare Safety Investigation Branch

3.3.1 The Secretary of State for Health established HSIB following a recommendation made by the Public Administration Select Committee (PASC) in March 2015. The National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) Directions 2016 bring into force the powers under which the HSIB operates.

3.3.2 HSIB will conduct 30 investigations a year into the most serious risks to patient safety across the NHS in England.

4 RESPONSIBILITIES OF THE PARTIES

4.1 The Parties agree that each shall act as an independent Data Controller for any Personal Data transferred under this Agreement.

4.2 In respect of any Personal Data transferred under this Agreement, each Party shall:

4.2.1 ensure that such Personal Data is processed in accordance with the DPA and all other applicable law; and

4.2.2 comply at all times with the information governance arrangements set out in Clause 7 of this Agreement.

5 TRANSFER OF INFORMATION

5.1 Information may only be transferred between the Parties in accordance with this Clause 5

- 5.2 The Information Provider shall:
- 5.2.1 promptly provide to the Information Recipient all Personal Data and any other information that the Information Provider reasonably considers may be relevant to the Purpose; and
 - 5.2.2 respond to any specific written request for information from the Information Recipient [made in the format set out in the Schedule to this Agreement] promptly and in any event within five working days.
- 5.3 In all cases where Personal Data is being transferred under this Agreement, and in the case of other information where agreed between the Parties, the Information Provider must ensure that the information transferred is either:
- 5.3.1 suitably encrypted prior to transfer; and/or
 - 5.3.2 transferred using GDC Secure File
- 5.4 The Information Provider gives no warranty that the information being transferred meets any quality standard or is free from errors.
- 5.5 Nothing in this Agreement shall be interpreted as compelling the Information Provider to disclose any Personal Data to the Information Recipient.

6 INFORMATION GOVERNANCE ARRANGEMENTS

6.1 Security

- 6.1.1 The Information Recipient shall ensure that appropriate technical and organisational measures are taken against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data.
- 6.1.2 The Parties agree to comply with all their own policies on data protection and records management in respect of all information transferred under this Agreement.

6.2 Retention and disposal

- 6.2.1 Personal Data transferred under to this Agreement shall be retained by the Information Recipient only for so long as is required for the Purpose.
- 6.2.2 At the end of the period specified in Clause 6.2.1, the Information Recipient must either (i) securely dispose of all Personal Data, or (ii) return such Personal Data to the Information Provider.
- 6.2.3 In the event that the Parties agree to terminate this Agreement or the MOU, the Information Recipient shall return all Personal Data to the Information Provider.

6.3 Access to information

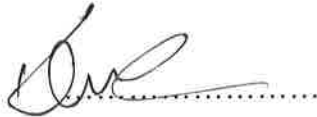
6.3.1 The Parties acknowledge that each is subject to the FOIA and that requests for information transferred under this Agreement may be received by either Party under either the FOIA or the DPA. The Parties shall co-operate with each other to ensure that each can comply with their respective obligations under the DPA and the FOIA.

6.3.2 Where the Information Recipient receives a request under either the DPA or FOIA for information that has been transferred by the Information Provider, the Information Recipient shall inform the Information Provider promptly of the request.

7 REVIEW

7.1 This Agreement shall be subject to review every twelve months from the date on the front page of this Agreement in accordance with the terms of the MOU.

Signed:



Name:
Keith Conradi
Chief Investigator
Healthcare Safety Investigation Branch

Date:

12 APR 17

Signed:



Name:
Ian Brack
Chief Executive
General Dental Council

Date:

14 APRIL 2017