



A memorandum of understanding between
NHS Practitioner Health and Social Work England

January 2022

Purpose

1. The purpose of this memorandum of understanding is to set out a framework between Social Work England (SWE) and NHS Practitioner Health (NHS PH) to ensure that effective channels of communication are maintained between SWE and NHS PH.
2. This memorandum relates to the areas of interface between SWE and NHS PH, clarifies respective roles and responsibilities and outlines mechanisms in place to promote effective liaison.
3. The agreement does not affect existing statutory functions or amend any other policies or agreements relating to the activities of SWE and NHS PH.

Functions of the SWE and NHS PH

Social Work England

4. Social Work England (SWE) is a statutory body responsible for regulating social workers in England. Its purpose is to protect the public by registering social workers, setting standards for their practice, conduct, training and education and by requiring them to evidence their continuing professional development.
5. SWE has statutory powers under the Children and Social Work Act 2017 and The Social Workers Regulations 2018. Where social workers in England fall below the required standards of practice and conduct, SWE can investigate and take action through its fitness to practise processes.

NHS Practitioner Health

6. NHS Practitioner Health (NHS PH) is a free, confidential NHS service for health and care staff working in England. NHS Practitioner Health will provide advice, assessment, treatment and case management services. Where necessary, they will arrange onward referral to specialist services. Practitioners accessing NHS Practitioner Health will have health concerns that relate to:
 - a. a mental health or addiction problem (at any level of severity).
7. NHS Practitioner Health is a national service commissioned by NHS England & NHS Improvement. It is a self-referral service. Health care organisations may seek advice or make referrals.

Interpretation

8. For the purposes of this agreement any reference to 'practitioner' means 'social worker' and vice versa.

Confidentiality

9. SWE has a statutory duty under Regulation 25 of The Social Workers Regulations 2018 to publish the orders and decisions by fitness to practise panels, or any sanctions consented to by the practitioner.
10. SWE does not publish information relating solely to a practitioner's health. It treats this information as confidential. This means it does not publish the details of conditions or other sanctions that directly relate to a practitioner's health. Where details regarding a practitioner's health are disclosed during any part of a hearing, the relevant part of the hearing is usually held in private, but if health information is disclosed in public, by any party, this information is redacted from the published decision.
11. Practitioners approaching NHS Practitioner Health for help need to be assured that they have the same rights to confidentiality as any other patient. To this end, the NHS Practitioner Health has devised a confidentiality policy for practitioners which will be found on the Wellbeing website via the NHS Practitioner Health page.

Potential areas of communication

12. Communication between SWE and NHS Practitioner Health is based on an overriding duty to protect users of services while, as far as possible, being fair to practitioners and protecting confidential health information about individual practitioners. Areas of potential communication between SWE and NHS Practitioner Health include the following (the list is not intended to be exhaustive):
 - a. Pre-referral discussion:
 - i. 'in principle' about how best to manage concerns about a practitioner and whether or not SWE would need to be informed on an anonymised basis, or
 - ii. discussions about individuals who have been referred to either organisation, where there are concerns about public protection or the safety of people the practitioner is working with, on a named practitioner basis.
 - b. Post-referral discussion – to coordinate activity where appropriate.
13. Each of these areas is further explored in the following paragraphs.

Pre-referral discussions 'in principle' or about named practitioners

14. Both NHS Practitioner Health and SWE are approached for advice by organisations which have concerns about the health of particular practitioners; the purpose of these discussions is to determine whether the organisation should take further steps locally, refer to SWE, or refer to NHS Practitioner Health.

15. Although in most cases it will be clear what advice should be given to the enquiring organisation at this stage, it may sometimes be appropriate for SWE and NHS Practitioner Health to liaise in order to clarify the issues raised.
16. In these cases SWE or NHS Practitioner Health will discuss the matters raised by the enquiring organisation. Consent should be sought before doing so and if not provided there should be an assessment of whether the risk is such that the information should be disclosed without consent. If the nature of the risk is not such that it would be appropriate to disclose the information without consent, the enquiring organisation should be offered appropriate contact details for both bodies so they may conduct their own discussions. Should NHS Practitioner Health need to provide contact details for SWE, they should give the enquiring organisation the details for the operational contact identified at Annex A.

Post-referral discussions about individual practitioners

17. SWE and NHS Practitioner Health recognise that there will be times where they both have a case open about a named practitioner. They will work together to ensure that appropriate channels of communication exist.

Disclosure of concerns

18. Disclosure should be made to SWE where the practitioner's health raises concerns regarding the possibility of impaired fitness to practise. This will normally be limited to those cases where the practitioner's condition may affect public safety and/or the practitioner is not managing their health condition appropriately, for example by not complying with assessment, treatment or monitoring, or heeding advice to remain on sick leave.
19. Disclosure should also be made to SWE where there are allegations (at initial assessment or emerging during assessment or treatment) about a practitioner's performance or conduct which may call into question their fitness to practise.

Cases under investigation/monitoring by SWE

20. Whenever SWE receives a complaint about a practitioner an initial assessment of the concerns is conducted. The complaint may include information which indicates the practitioner may be unwell.
21. Where the complaint raises issues which call the practitioner's fitness to practise into question, SWE's fitness to practise procedures are engaged and an investigation will follow. In these cases, for practitioners who appear to have a mental or physical health concern, SWE will ask the practitioner if they are currently undergoing assessment or treatment by NHS Practitioner Health. If so, it will, with the practitioner's consent, seek relevant information from NHS Practitioner Health.
22. Any information provided by NHS Practitioner Health will be considered by SWE decision makers and may be disclosed to a Panel in relation to the practitioner's fitness to practise.

23. Where a practitioner is under investigation/being monitored by SWE and is also under the care of NHS Practitioner Health, NHS Practitioner Health will inform SWE whether they are acting in a treating capacity or as a support group. If NHS Practitioner Health is acting in a treating capacity, they will provide a named person with whom SWE can liaise.
24. NHS Practitioner Health will ensure that any information arising from the monitoring of the health of a practitioner being investigated or monitored by SWE that indicates they have breached condition(s) imposed on their registration and/or are not complying with advice on managing their health problem, and/or their health condition appears to pose a risk to the public, will be shared with SWE as soon as possible.

Practitioner being treated/monitored by NHS Practitioner Health

25. When NHS Practitioner Health receives a referral (self-referrals or referrals from an employer/contracting organisation) they will ask the practitioner/referring organisation if the practitioner is currently under investigation/being monitored by SWE and perform a registration check to ascertain if restrictions are in place.
26. If the practitioner or referring organisation indicates that SWE is currently investigating/monitoring, NHS Practitioner Health will seek the practitioner's consent to contact SWE to explain that the practitioner has sought NHS Practitioner Health's intervention. If consent is not forthcoming, NHS Practitioner Health will consider whether or not disclosure to SWE is required, without consent, using the criteria set out in paragraph 20, 21 and 25.

Thresholds for referral

27. NHS Practitioner Health should contact the Operational Manager identified at Annex A in order to seek advice on thresholds for referral on an 'in principle' or a named practitioner basis.

Lawful exchange

28. SWE and NHS Practitioner Health are subject to a range of legislative duties in relation to information governance, including the Data Protection Act 2018, UK GDPR, Human Rights Act 1998, and the Freedom of Information Act 2000. This document sets out the approach to the routine exchange of information between the two organisations within this legal framework.
29. Nothing in this MoU seeks to create a joint controller or processing relationship between the parties. Each party will ensure that information is shared in accordance with their respective obligations under data protection law.
30. Each party will take responsibility for their own failures to comply with data protection law.

Resolution of disagreement

31. Where any issues arise which cannot be resolved at an operational level, the matter will be referred to the policy leads identified at Annex A to ensure a satisfactory resolution.

Review and Governance arrangements

32. This MoU will have effect for a period of 36 months commencing on the date which it is signed by the Chief Executive of SWE and the Medical Director of NHS Practitioner Health.
33. Both bodies have identified a MoU manager at Annex A and these will liaise as required to ensure this MoU is kept up to date and to identify any emerging issues in the working relationship between the two bodies.
34. The MoU managers may coordinate a formal review of this MoU at any time during the duration of this MoU. The purpose of such a review will be to consider the operational effectiveness of this agreement in enabling both bodies to fulfil their functions.

On behalf of Social Work England

Name: Colum Conway

Signature 

Date: 2 February 2022

On behalf of NHS Practitioner Health

Name: Dame Clare Gerada

Signature 

NHS Practitioner Health Medical Director

Date: 4th February 2022

Annex A

The memorandum of Understanding will be managed on behalf of the two bodies by the following contacts:

Managers for the MOU

1. Social Work England

NAME Berry Rose

TITLE Head of Fitness to Practise Investigations

Email: Berry.Rose@socialworkengland.org.uk

2. NHS Practitioner Health, NHS

NAME Sam Godwin

TITLE Director of Operations NHS Practitioner Health Email:

sam.godwin1@nhs.net

Operational contacts

1. Social Work England

NAME Laurie Marris

TITLE Triage Manager

Email: laurie.marris@socialworkengland.org.uk

2. The NHS Practitioner Health

NAME Sam Godwin

TITLE Director of Operations, NHS Practitioner Health

Email: misha.patel9@nhs.net