



Department
of Health &
Social Care

Guidance

Investigating healthcare incidents where suspected criminal activity may have contributed to death or serious life-changing harm (accessible version)

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Applies to England

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A memorandum of understanding (MoU) between regulatory, investigatory and prosecutorial bodies.

1. Signatories

1.1 This MoU has been agreed and signed by the following organisations:

- Care Quality Commission (CQC)
- Crown Prosecution Service (CPS)
- Health and Safety Executive (HSE)
- National Police Chiefs' Council (NPCC)
- NHS England
- General Medical Council (GMC)
- Nursing and Midwifery Council (NMC)
- General Dental Council (GDC)
- Health and Care Professions Council (HCPC)
- General Pharmaceutical Council (GPhC)
- General Optical Council (GOC)
- General Chiropractic Council (GCC)
- General Osteopathic Council (GOsC)

1.2 The roles and responsibilities of each signatory, as well as links to strategic aims, can be found at annex A.

James Bullion
Interim Chief Executive
CQC

Nick Price
Head of Crime and Counter Terrorism Division
CPS

David Murray
Director, Planning, Finance and Procurement
HSE

Kate Meynell
Chief Constable
NPCC

3.1 This MoU sets out how healthcare organisations, regulatory bodies, investigatory bodies and prosecutorial bodies in England will work together in cases where there is suspected criminal activity on the part of an individual in relation to the provision of clinical care or care decision-making. It covers any such incidents occurring in the course of healthcare delivery where suspected criminal activity on the part of an individual is believed to have 'led to or significantly contributed to' the death or serious life-changing harm (whether of a physical or psychological nature) of a patient or service user.

3.2 An outcome from the use of this MoU is to help support the development of a 'just culture' in healthcare which recognises the impact of wider systems on the provision of clinical care or care decision-making, as set out in recommendation 3.5 of the Williams' review into GNM in healthcare.

3.3 The signatory organisations are independent from each other and have different legal remits and obligations for safety, regulatory and criminal investigations, and patient safety learning responses. Those which have a remit for such investigations and learning responses should, wherever possible (that is, insofar as their legal and investigatory policies allow), co-ordinate activities and share information where it is appropriate, lawful and reasonable to do so. Information should not be shared where doing so conflicts with statutory obligations; the duty to comply with statutory obligations must take precedence.

3.4 This MoU aims to:

- facilitate efficient and effective co-ordination of appropriate approaches, patient safety learning responses and investigations, while taking steps to avoid prejudicing regulatory or criminal investigations or criminal proceedings
- ensure relevant information and 'confidential information' is quickly, lawfully and efficiently shared between the relevant signatories where necessary to progress learning responses, investigations and proceedings
- ensure evidence is quickly identified, secured and handled in accordance with best practice
- allow steps to be taken quickly to manage ongoing risk and as far as possible protect the public and service users

4. When the MoU applies

4.1. The MoU applies when more than one of the signatories needs to investigate, in parallel, any incident where there is a reasonable suspicion that a criminal offence has or may have been committed by an individual