**Memorandum of understanding between local Healthwatch and ICSs**

**[Please read and delete guidance notes]**

**How to use this guidance template**

This guidance for Memorandum of Understanding (MoUs) provides a structure which your local Healthwatch and the Integrated Care System (ICS) can use and adapt to reach an agreement on how to work together.

The guidance is designed to accommodate the variety that exists across Systems, whilst also framing the MoU within existing and emerging guidance and legislation.

To achieve this balance, this document provides a series of headings which you should include in any MoU. Under these headings is a combination of suggested text and prompt questions. The suggested text can be amended to meet individual requirements, whilst the prompt questions should be answered collaboratively by local Healthwatch and the ICS in order to reach an agreement. Suggested headings are clearly marked as such in order to differentiate from the rest of the document.

Before you draft an MoU with the ICS, you should develop a Collaboration Agreement between local Healthwatch This will help determine how local Healthwatch want to work together before engaging with the ICS.

The section below provides some context to this national transformation process and references key documents for more context.

## **Key Aims of the Integrated Care Board (ICB) and the ICS**

As a reminder, below are the four key aims of the ICB and the ICS:

1. Improve outcomes in population health and healthcare

2. Tackle inequalities in outcomes, experience and access

3. Enhance productivity and value for money

4. Help the NHS support broader social and economic development

The ICB and the ICS will use six principles to govern the discharge of its functions and approach to decision making (p.27 Interim guidance on functions and governance of the ICB). The first of these is the principle of subsidiarity, with activity and decisions being made as close to where people live as possible. This will include a significant number of delegated duties to the level of place (sometimes referred to as Integrated Care Partnerships or Alliances).

It is therefore likely that the primary focus for Healthwatch activity will remain at the existing level and only in the case of very large-scale commissioning and transformation work will it be necessary to operate at the level of the ICB, ICP and ICS.

A structure is envisaged to exist at place level too, in order for local decision-making and prioritisation to happen, and that local Healthwatch will feed into this.

Where there is a requirement for Healthwatch to work collectively with the ICS this work will be underpinned by a mechanism to work collaboratively and develop a consensus approach.

**Statement from the guidance on why and how local Healthwatch should be working together**

The key documents governing the way ICB’s and ICSs work with Healthwatch are:

1. The ICB model constitution (Currently in draft form 1.4).
   * In section 4 page 21 (4.2.1) The ICB will respond to reports and recommendations made by local Healthwatch.
   * Section 9 (p33) (e) lists one of the 10 principles which need to underpin the approach to working with people and communities, listing Healthwatch.
2. Building strong integrated communities everywhere – ICS implementation guidance on working with people and communities. [Download and read the document.](https://www.england.nhs.uk/wp-content/uploads/2021/06/B0664-ics-clinical-and-care-professional-leadership.pdf%20)
   * Application of the 10 principles on page 9
   * Working with Healthwatch on page 9
     + 1. **Introduction**

*[Read and delete: This section explains the purpose of the MoU, introduces the stakeholders involved and provides a background to any collaborative working up to this point.]*

* 1. **Background and context**

[*Suggested text]*

This Memorandum of Understanding (MoU) sets out the details of our commitment to work together in partnership to realise our shared ambitions to improve the health and wellbeing of the people of (include geographic areas). We serve a population of (include population size). Our (ICS area/footprint) faces several health and social care challenges, including (include key health and social care priorities for the system).

We had previously established a (Working Agreement/ Partnership) in (add year) which included (add stakeholders) with the ambition of (add prior priorities). Going forward, the locality is transforming into an Integrated Care System (ICS) for the population of (ICS area/footprint), which will focus on (add key priorities) in order to improve health outcomes for the whole population.

In early 2021, the government published a white paper setting out proposed reforms to health and care. This includes a duty to collaborate across the healthcare, public health, and social care system, and a shift away from competition and toward integration, collaboration and partnership. New legislation is expected to establish ICSs on a statutory footing to be accountable for population health outcomes from (add date) 2022.

* 1. **Purpose of the MoU**

*[Suggested text]*

The purpose of this MoU is to formalise the ways of working between (add local Healthwatch names) as an Integrated Care System with (add system names) going forward for the benefit of the population of (add ICS area/footprint). This MoU supersedes existing agreements that may have been in place already.

* 1. **Parties involved**

*[Suggested text]*

This MoU is between:

(list local Healthwatch members)

(list ICS members)

(list ICB members)

* 1. **Role of local Healthwatch**

*[This section sets out what role local Healthwatch play in the new system structure.]*

*[Suggested text]*

Healthwatch is the health and social care champion. As an independent body with statutory functions, we have powers to ensure system leaders and other decision makers listen to people’s feedback and improve standards of care. We use that feedback to better understand the challenges facing the system, to make sure people’s experiences improve health and care services for everyone. We also help people with the information and advice they need to make the right decisions and get the support they need.

The Local Government and Public Involvement in Health Act 2007, which was amended by the Health and Social Care Act 2012, outlines the main legal requirements of Healthwatch:

* Promoting and supporting the involvement of local people in the commissioning, the provision and scrutiny of local care services.
* Enabling local people to monitor the standard of provision of local care services and whether and how local care services could and ought to be improved.
* Obtaining the views of local people regarding their need for, and experiences of, local care services and importantly to make these views known to those responsible for commissioning, providing, managing or scrutinising local care services and to Healthwatch England.
* Making reports and recommendations about how local care services could or ought to be improved. These should be directed to commissioners and providers of care services, and people responsible for managing or scrutinising local care services and shared with Healthwatch England.
* Providing advice and information about access to local care services so choices can be made about local care services.
* Formulating views on the standard of provision and whether and how the local care services could and ought to be improved; and sharing these views with Healthwatch England.
* Making recommendations to Healthwatch England to advise the Care Quality Commission (CQC) to conduct special reviews or investigations (or, where the circumstances justify doing so, making such recommendations direct to the CQC); and to make recommendations to Healthwatch England to publish reports about issues.
* Providing Healthwatch England with the intelligence and insight it needs to perform effectively.

The role of Healthwatch in gathering patient experience is well known and we would expect to be involved in developing engagement proposals by the system to ensure best practice.

However, as can be seen in the statutory duties, Healthwatch also offers significant value in providing constructive challenge and scrutiny from the perspective of the public in a spirit of partnership working.

It is also important that the system acknowledges the independence of Healthwatch and its ability to raise the issues the public feel is important. Healthwatch will look for those that align with the strategic priorities of the system, but there may be issues that Healthwatch will raise because they come through strongly in the insights we get from the public. This might include supporting local Healthwatch to publish reports with findings that may be uncomfortable for the system to have shared.

(Include any other specific activities or examples relevant to your ICS area/footprint.)

* 1. Joint working

*[This section sets out the approach to joint working between local Healthwatch and the ICS.]*

*[Suggested text]*

The ICS should expect local Healthwatch to work in constructive partnership with the system, taking up opportunities to represent the public at a strategic level wherever possible. Local Healthwatch will raise concerns with the system appropriately and with the right people; for example, a local Healthwatch should not raise concerns publicly before raising them with the ICS first.

The ICS should ensure it makes opportunities for partnership appropriate, reasonable and realistic, recognising the often-limited resources of local Healthwatch. This would be demonstrated by actions such as giving local Healthwatch sufficient notice and clarity on the expectations of their involvement.

The ICS will respond to local Healthwatch reports and recommendations in a timely manner. As making recommendations is a statutory function, the ICS should be clear who are the appropriate officers to respond and ensure they respond within the agreed timescale. Where local Healthwatch provide insight reports and updates, the ICS will confirm how these have been used to improve services.

(Include any other specific circumstances or examples relevant to your ICS area/footprint.)

* 1. Values and Behaviours

*[The values and behaviours that shape the way local Healthwatch and the ICS work in partnership should build on the existing Collaboration Agreement between local Healthwatch. This way, the values and behaviours in the MoU are an extension of how local Healthwatch want to work together. As a reminder, the table below sets out an approach to identifying the behaviours you may wish to establish with the ICS.]*

|  |  |  |  |
| --- | --- | --- | --- |
| What behaviours do we want to establish? | Key question | What are you trying to do? | How can you do this? |
| Respecting each other | How can we establish a comfortable, safe space where everyone feels included and willing to contribute their views? | Create and holding a safe space | Establish and maintain ground rules (see more detail in the next tool below) |
| Recognise other commitments and collaborations | How do we want to prioritise the local Healthwatch collaboration alongside competing priorities and commitments? | Search out disagreement and consensus  Manage group dynamics | Work with group to observe group dynamics  Prompt questions around agreement and disagreement |
| Willingness to learn and act on evaluation | How do we ensure the local Healthwatch collaboration is seen as a ‘work in progress’ that can always be improved if needed? | Encourage reflection | Provide reflection time  Provide examples and alternative views |
| Establish rights and obligations | As members of a local Healthwatch collaboration, how can we negotiate mutual rights and obligations? | Listen for underlying values  Encourage reflection | Provide reflection time  Prompt questions to understand what has influenced differing views |

2. Expectations of local Healthwatch

*This section set out what the expectations are of local Healthwatch and their contributions across the system. It should reflect the contents of the Collaboration Agreement, where local Healthwatch have already come together to determine:*

* *Who the representative will be from your local Healthwatch.*
* *The key strategic priorities for the local Healthwatch.*
* *How key updates from the system will be distributed to the local Healthwatch and vice versa.*

2.1 Strategic representation on the ICS

*The Guidance on* [ICS implementation](https://www.gov.uk/government/publications/integrated-care-partnership-icp-engagement-document/integrated-care-partnership-icp-engagement-document-integrated-care-system-ics-implementation) *suggests that ICS are expected to include a representative from Healthwatch to bring senior level expertise in how to engage with people and communities and to provide scrutiny.*

*This section should build on Phase two of the Collaboration Toolkit. By this point, you should have determined:*

* *Which strategic board/groups align with your key goals?*
* *Which opportunities for engaging with the system are worth the demands on capacity?*
* *Who within your local Healthwatch collaboration has the capacity, confidence and competence to attend these meetings?*

*[Prompt questions]*

* Where in the system will local Healthwatch interact with the ICB and ICP and how?
* How will representation be provided?
* Which executive groups will local Healthwatch be represented at?
* Which working groups will local Healthwatch belong to?

2.2 Holding commissioners, providers and system partners to account

Strategic representation allows local Healthwatch to ensure public involvement in planning, commissioning and providing services. As described above this will be in a spirit of constructive partnership.

However, Healthwatch also need to represent the views of the public in areas such as:

* Appropriate use of public funds
* Ensuring safe and high quality services
* Duty of candour for NHS organisations
* Transparent and ethical decision making
* Compliance with law, guidance and policy

*[Prompt questions]*

* Do you have an Independence Statement that sets out how you will hold organisations to account?
* How will you raise your concerns, in public or private?
* Will it be verbally or in writing?
* How will you expect the system to respond?

2.3 Further involvement in ICS priorities

*This section sets out the expectation for any additional involvement from local Healthwatch beyond strategic representation.*

*[Suggested text]*

Above and beyond the strategic representation role, local Healthwatch commit to: (delete/ add as appropriate from discussions agreed through local Healthwatch Collaboration Agreement):

* Working with the ICS on an (add frequency) basis to discuss, align, prioritise and review (delete as appropriate) the activities the ICS would like engagement support on from local Healthwatch.
* Sharing insight on X (topic) on X (frequency) in X format with X/ Y forums.
* Advising on engagement approaches to inform the development of X strategy(ies)/ plans from the outset (or state what was agreed)
* Advising on the engagement approach to inform the commissioning of X and/or Y service (add timeframes)
* Advising on the engagement approach to inform the review of X and/or Y service (add timeframes).
* Undertaking (coordinated) engagement activities in relation to X and Y in the next period of X (add timeframe) with Y (add specific people and communities).
* Representing local Healthwatch on the following forums (specify e.g., Voluntary Sector) in addition to those identified above.
* Ensuring local Healthwatch monitor, review and publicly share progress with activities related to working with the ICS.
* Being timely in the provision of information for meetings or any other activity.

3. Expectations of the ICS

*This section sets out what the expectations of the ICS are in how they engage with and work collaboratively alongside local Healthwatch.*

***Guidance on*** [***ICS implementation***](https://www.gov.uk/government/publications/integrated-care-partnership-icp-engagement-document/integrated-care-partnership-icp-engagement-document-integrated-care-system-ics-implementation) ***suggests that:***

*“To bring independent insight, expertise in engagement, and constructive challenge to ICPs from a community perspective, we recognise the important role that Healthwatch will play (Section 116ZB Health and Care Bill). Local Healthwatch organisations have an existing statutory presence in places, bringing together views of local residents to inform decision making at, for example, HWBs and scrutiny committees. ICSs should build on this, working with local Healthwatch organisations to resource the coordination and analysis of user experience data. ICSs should also draw on the expertise of Healthwatch to engage harder to reach communities and collaborating with voluntary and community sector. This will offer unique insight when tackling issues such as health inequalities. We expect the people and communities of every system to be fully involved in all aspects of the development and delivery of the ICP integrated care strategy. We expect each ICP to set out how it has involved, engaged and listened to local people and explain how it has acted in response to these views.”*

3.1 Overarching commitments

*[Suggested text]*

The ICS will commit to working effectively with local Healthwatch and the local Healthwatch collaboration by:

* Acknowledging local Healthwatch’s engagement expertise; the rich, unique insight and community connections they have built; and their role in scrutinising the involvement of people and communities at an ICS level.
* Recognising local Healthwatch’s level of resourcing to support ICS work.
* Working with local Healthwatch on an (add frequency) to discuss, align, prioritise and review the activities the ICS would like support with.
* At the start of any work, being clear about the level of influence local Healthwatch’s insight and activities will have to shape the outcomes being sought.
* Providing clarity and articulating expectations of activities prior to agreeing them with local Healthwatch.
* Being timely in the provision of information for meetings or any other activity.
* Provide regular feedback (state frequency) as to how local Healthwatch support to the ICS has changed outcomes for local people and communities.
* Providing sufficient time for local Healthwatch to consider and respond to any additional requests outside the priorities agreed in this MoU.

3.2 Commissioning of and funding for local Healthwatch

*Is funding currently being made available to resource local Healthwatch? If no, then remove the following section/s:*

This section could include the agreement you have made with the ICS for resources it is providing to local Healthwatch to support them working at system level.

It can also clarify:

* Is the funding available for capacity development, a specific role or for a single defined piece of work?
* What are the resources for Healthwatch to work at system level? Is there sufficient resource to cover all the commitments set out in this MoU?

This is also where you could agree how commissioned pieces of work might be arranged.

4. Practicalities of delivering the MoU

*This section focuses on providing guidance around the deliverables that local Healthwatch and ICS may produce together or independently. It is designed to ensure that both parties are clear on what the expectations are of each other when it comes to producing any outputs.*

4.1 Reporting and insights

*This section focuses on identifying who has ownership of any outputs created either exclusively by local Healthwatch or in partnership with the ICS.*

*[Prompt questions]*

* How will local Healthwatch share their combined insights?
* What format will reports be in?
* Where and how often will insights be shared?
* Who from the ICS will respond to confirm receipt of reports and insights?
* Who owns the Intellectual Property?
* Who is responsible for determining which insights and deliverables are published and accessible to the public?

4.2 Confidentiality

*This section allows local Healthwatch and the ICS to clarify how local Healthwatch will be involved in confidential discussions, for example the confidential Part 2 of an ICS governance meeting.*

*[Prompt questions]*

Local Healthwatch need to consider how access to confidential information impacts on your role and think about:

* Is the confidential information essential to ensuring public involvement in planning, commissioning and providing services?
* If you hear about serious concerns about services, and you have agreed not to disclose them to the public, does this compromise you in any way?
* How will access for local Healthwatch to confidential parts of meetings be arranged?
* Are local Healthwatch a strategic partner or treated as a member of the public?
* How will you approach the requirement for local Healthwatch to hold the system to account in the context of remaining confidential? Consistency is essential.

4.3 Managing disputes and resolving disagreements

*[Suggested text]*

Partners in this agreement will attempt to resolve in good faith any dispute between them in line with the Principles, Values and Behaviours set out in this Memorandum.

Partners will apply a dispute resolution process to resolve any issues that cannot otherwise be agreed through these arrangements. The key stages of the dispute resolution process are:

1. An Executive Group (or equivalent body in your area) in the ICS will seek to resolve the dispute to the mutual satisfaction of each of the affected parties. If the Executive Group cannot resolve the dispute within 30 days, then the dispute should be referred to a Partnership Board.
2. The Partnership Board may choose to convene an independent Resolution Committee, whose purpose will be to consider the dispute and make a recommendation on resolution to the Partnership Board. The Partnership Board will agree the Terms of Reference and membership for the Resolution Committee with the ICS and local Healthwatch.
3. The Partnership Board will come to a majority decision, with input from the Resolution Committee if relevant, and will advise the Partners of its decision in writing. A majority decision will be reached by a majority of eligible Partners participating in the meeting who are not affected by the matter in dispute determined by the scope of applicable issues, applying the Principles, Values and Behaviours of this Memorandum, taking account of the Objectives of the Partnership.
4. If the parties do not accept the Partnership Board decision, or the Partnership Board cannot come to a decision which resolves the dispute, it will be referred to an independent mediator selected by the Partnership Board. The mediator will work with the Partners to resolve the dispute in accordance with the terms of this Memorandum.

4.4 Managing conflicts of interest

*All local Healthwatch should have a conflict of interest policy in place, which can form the basis of your process to manage conflicts of interest with the ICS.* [*You can find guidance and resources on creating a conflict of interest policy here*](https://network.healthwatch.co.uk/guidance/2021-01-13/helping-you-to-create-robust-conflict-interest-policy)*.*

*[Suggested text]*

The individual local Healthwatch (list names here) and the ICS (list name here) have individually made arrangements to manage any potential conflicts of interest to ensure that decisions will be taken without influence by external or private interest and do not affect the integrity of their decision-making processes. All parties will comply with their individual organisation’s policies on conflicts of interest.

The parties will maintain registers of interest of:

* (include roles that will require to declare any conflicts of interest)

The registers of interest are published on the (include website). The registers will be populated from the information held on (name individual organisation) registers.

Individuals should declare interests in line with their own organisation’s policy for the management of conflicts of interest. All parties to this MoU must ensure that those representing their organisation declare any interest that is relevant to the functions described in this MoU.

4.5 Process for review and updating the MoU

*This section sets out the process by which you will evaluate, review and if required update the MoU.*

*[Prompt questions]*

* How often will local Healthwatch representatives and the ICS come together to review this MoU?
* What activities will you undertake to evaluate the effectiveness of the partnership working?
* If any issue is identified with the MoU, how soon should an attempt be made to address the issue?
* What should the process be for rectifying any issues that are identified? Who should be involved in the decision-making process?

4.6 Key Contacts

Include contact details for:

* ICS leads
* Place leads
* Local Healthwatch