

Memorandum of understanding guidance

Corporate services productivity programme

June 2018

We support providers to give patients safe, high quality, compassionate care within local health systems that are financially sustainable.

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Introduction

This document provides trusts with guidance on when to use a memorandum of understanding (MoU) and what information it should contain.

It is part of a toolkit of 'how-to' guides and templates to help NHS providers implement changes to corporate services and to enable the NHS to share best practice. We expect providers' executive and project teams to use the toolkit based on their local needs.

Methods of delivering corporate services in the NHS have changed little in the last 20 years compared to other sectors. This limited modernisation coupled with the variation in delivery methods, and therefore outcomes, contributed to NHS provider trusts spending £4 billion on corporate services in 2016/17.

Lord Carter's review, *Operational productivity and performance in English NHS acute hospitals: Unwarranted variations*, published in 2016, investigated whether the NHS gets the best value (defined as the product of quality of care and the efficiency with which it is delivered) from its annual budget. It concluded that the NHS could save £5 billion a year if it addressed the significant and unwarranted costs and clinical practice variations.

The report recommended that trusts should rationalise their corporate functions to use resources in the most cost-effective manner; the Secretary of State for Health accepted all the report's recommendations in March 2016.

From talking to function leadership groups (eg Future Focused Finance), trust directors and heads of corporate services functions, we found they agree that the way corporate services are delivered needs to change to benefit from modernisation.

They recognise that this means taking advantage of available economies of scope and scale. Most are asking for the direction and future operating model to be carefully guided on their behalf and for the system-wide obstacles to be removed centrally. This gives them the opportunity to deliver and receive quality services in line with national expectations and direction.

A collaborative delivery model has inherent challenges for trusts, which include forming the desired operating model and the governance to manage it. These changes need to happen at a time of constraints on capital and internal resources. We have designed this toolkit to help.

We compiled this guidance using subject matter expertise and feedback from trusts that have been through the process. We will update it regularly to reflect new information.

Useful resource

- [Governance guidance](#)

Overview

What is a memorandum of understanding?

A memorandum of understanding (MoU) is a document that records the common intent and agreement between two or more parties. It defines the working relationships and guidelines between collaborating groups or parties.

Functions of MoUs

MoUs can help clarify roles and responsibilities, intent and goals. A MoU's content and depth depend on its purpose. For example, if the MoU is to be used to describe the service delivered by one trust to another, it will contain significantly more detail on scope of services than if it is used to describe something less complex, like a working arrangement.

How is a MoU different from a contract and service-level agreement?

MoUs, service-level agreements (SLAs) and contracts are all joint-working agreements, each with different implications and purposes.

The key difference between a MoU and a contract is that a MoU is neither a legal document nor legally binding. Therefore the principles within it are not legally binding. It can be terminated without legal consequence in most circumstances.

A SLA focuses solely on measuring performance and quality agreed between both parties. It may be used as a measurement tool as part of a contract or MoU. A SLA would not determine governance arrangements, financial arrangements, contract lengths, etc. Creating a SLA as well as a contract/MoU allows you to revise the SLA without changing the contract. Though the contract may be for five years, the SLA may be reviewed and amended quarterly or yearly.

When to use a MoU?

- MoUs are used when two or more parties wish to collaborate on a project or arrangement but do not want to make the agreement legally binding. Therefore, MoUs are useful when there is a high level of trust between the parties.
- A contract would be used when the relationship between parties needs to be legally binding.
- MoUs are flexible, and can be created and implemented relatively quickly.
- When performing a joint procurement activity, a MoU may be created to define the working relationship between the procuring parties.
- When one party delivers services for another, they may use a MoU if they do not need to create a legally binding contract.

Examples

NHS England and Healthwatch England – describes how the parties will work together to improve health and wellbeing outcomes for consumers, including patients, carers, families and communities:

<https://www.england.nhs.uk/wp-content/uploads/2015/08/hwe-nhe-MoU.pdf>

Lancaster County Council and Lancaster City Council – how both parties intend to work together in partnership with One Connect to establish shared services:

<https://committeeadmin.lancaster.gov.uk/documents/s25421/3.Memorandum%20of%20Understanding%20Appendix%20to%20Cabinet%20Report.pdf>

Bedfordshire Police, Cambridgeshire Constabulary and Hertfordshire Constabulary – outlines the strategic policing alliance between all parties. Details the arrangements and practices that will foster an effective and co-operative working relationship between members:

http://www.cambridgeshire-pcc.gov.uk/wp-content/uploads/2013/12/Beds_Cambs_Herts-MoU-Org-and-Op-Support.pdf

Memorandum of understanding template

The template below is an example of the type of information a MoU contains.

Document history

Version number	Implemented by	Revision date	Approved by	Approval date	Description of change
1.0	<Author name>	<mm/dd/yy>	<Project manager's name>	<mm/dd/yy>	<Description of change>

Purpose

- Describes the MoU's purpose – what does it set out to achieve?
- What is the overarching arrangement?
- What are the benefits of creating the MoU?
- When will the MoU be reviewed to ensure it is still fit for purpose (eg quarterly)?

Introduction of parties in the MoU

- Which organisations have signed the MoU?
- What is the organisation's purpose?
 - X trust provides healthcare services to X sustainability and transformation partnership, etc.
- What is the organisation's role in this MoU?
 - X trust is the host trust for payroll/accounts payable to the trusts in this MoU.

Key principles of the MoU

- What is being agreed; what principles are each organisation signing up to?
- Is the MoU confidential? What parts are/are not confidential? For example, data shared between parties may or may not be confidential to those outside the MoU.
- Financials – will there be monetary exchange between parties, and on what basis? What are the implications?

Accountabilities/responsibilities of parties

- What are the agreed responsibilities of each party in the MoU?
- This section may include a RACI (responsible, accountable, consulted, informed) matrix for each service/party involved.

Scope (shared service delivery specific)

- If the MoU is being created as a reference document for a shared services arrangement between trusts, the MoU should include:
 - a detailed description of the scope of the services being delivered
 - the service levels or performance indicators.

Governance (shared service delivery specific)

- How will decisions be made? Who has decision-making responsibilities?
- How will the parties be governed?
- Issue escalation – if the MoU's lead members cannot resolve issues, will they be escalated elsewhere?

Financials (shared service delivery specific)

- Will there be a monetary transfer? How much, on what grounds, etc?
- Are there financial penalties, eg for missing SLA/key performance indicator targets?

- Will any parties take on financial liabilities? How will these be dealt with?

Termination

- MoU's start date and period covered.
- What happens if a party wants to leave?

Signatures

- Parties sign the agreement.

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