nmc Together in practice

Ambitious for change phase two summary: Research into NMC processes and people's diversity characteristics

2022

Foreword from the Chief Executive and Registrar

As the independent regulator of more than 758,000 nursing and midwifery professionals, we're committed to doing everything we can to eliminate discrimination, tackle inequality, celebrate diversity and promote inclusion.

In this report, you'll find the latest findings of our Ambitious for Change work which aims through qualitative research to find out why some professionals have different experiences of our processes based on who they are.

The findings highlight opportunities for us to improve our regulatory activities, to ensure our processes are fair for everyone. They also highlight where broader systemic issues of inequality are driving disparities in outcomes of our processes.

Recognising the problem

It's essential that we recognise people's experiences of discrimination – and the absolutely devastating impact this can have.

Most of the professionals we spoke to as part of this research felt one or more of their diversity characteristics, such as their ethnicity and/or gender, played a part in their referral from their employer and said an 'insider/outsider' culture left them feeling unsupported.

When we compared our fitness to practise referral rates with workforce diversity data, we found concerning results. For example, some employers refer more professionals who are Black and/or male to fitness to practise compared to the make-up of our register and their own workforce.

We also learned more about how the setting where someone works, and the type of work someone does, can influence a person's experience of revalidation or fitness to practise. Those working in care homes, GP practices or for providers which employ a lot of bank and agency staff are particularly affected. We know that certain groups, such as Black and overseas-trained professionals, are over-represented in these settings. This indicates longstanding, systemic inequalities across health and social care that perpetuate the disparities we're seeing.

We need to work together to create change

Much of what we found echoes the findings of others such as the Workforce Race Equality Survey and the General Medical Council.

When our data, evidence from professionals, and research from our partners all point to the same thing, this isn't a question of whether discrimination and inequality exist. They do. The urgent question is: what are the practical steps we can take to stop them from happening?

We've set out some areas for action for the NMC, which we'll take forward as part of our equality, diversity and inclusion plan so that improvements are embedded throughout our work. But our research tells us that's not enough. Systemic problems need system-wide solutions. We need to work with employers and our partners across the health and care sector – bringing to light what professionals have told us and helping to develop sustainable and effective solutions.

Together we must target these inequalities, which have no place in the working environment of our professionals or the care that people using services receive.

There's also more we need to do to gain insight about some groups who we heard less from in this research. For example, we know that disabled people are among the groups who are less likely to revalidate successfully and more likely to be referred. But we didn't hear about specific challenges disabled professionals face as part of this research, so we need to do more to understand these differences so we can take action to address any unfairness.

I'm very aware that there is a challenging road ahead of us. But that doesn't diminish our resolve, it makes it stronger. You have my commitment that we will keep pushing this work forward, and urge others to do the same.

Best wishes,

Andrea Sutcliffe
Chief Executive and Registrar

Executive Summary

Background

Our vision is safe, effective and kind nursing and midwifery that improves everyone's health and wellbeing. As the independent regulator of more than 758,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

We value the diversity of people on our register and we're committed to ensuring our processes are fair and accessible to them all. In October 2020, we published Ambitious for Change: Research into NMC processes and people's protected characteristics. This examined the impact of our regulatory processes on professionals with different diversity characteristics. It found that sometimes people receive different outcomes from our processes based on who they are. This includes differences in our education, overseas registration, revalidation and fitness to practise processes.

We found that male or disabled professionals were more likely to receive disproportionate outcomes from all of the processes we looked at. Other groups, such as older, bisexual or Black professionals were found to have worse outcomes in some but not all of our processes. For example, people in these groups were less likely to register successfully through our overseas registration process but while older groups were also less likely to revalidate successfully, Black or bisexual professionals were more likely to be referred to us and progress through the stages of our fitness to practise process.

We're committed to becoming a fairer and more inclusive regulator and to supporting and promoting a professional culture that values equality, diversity and inclusion. To be able to take action to address any unfairness we need to understand why these differences are happening and the impact they have on people.

This report

Working with our external advisory group comprising representatives from across the UK with a background in equality and/or research, we launched a second phase of work to help us better understand the differences our data showed. This involved:

- speaking to professionals and employers and hearing their reflections on why they thought there were differences in revalidation rates and referrals to fitness to practise
- looking at the referrals we've received from employers involving male and/or Black professionals to identify any commonalties, themes or trends and to compare them to the size and diversity of each employers' workforce

- improving what we know about where professionals on our register train and work and their diversity characteristics to help us better understand the influence of job role and place of work on professionals' experiences of, and outcomes in, our processes
- monitoring the changes we made to our overseas registration and fitness to practise processes to look at the impact on professionals with different diversity characteristics and to measure progress against what we found in our phase one report
- commissioning an independent review of a sample of our registration appeal and fitness to practise cases to help us understand why cases involving certain groups of professionals progress further through our processes and/or receive more serious outcomes. The review will also help us to ensure that we're consistent in how we deal with such cases and identify improvements we can make to maximise fairness and consistency.

This report presents the findings from the first two pieces of work and reports our progress against the third and fourth pieces of work, which are ongoing.

We've experienced delays in commissioning the independent review of registration and fitness to practise cases because of difficulties identifying suppliers to undertake this work. We now plan to complete this work in 2022–23.

Our approach

We've received expert advice and guidance from an external advisory group throughout this work. The group comprises representatives from across the UK and a broad range of people, organisations and interests (see Annexe 1 of our full report).

We took different approaches to the first and second phase of our work according to what we were trying to find out. More details about our approach are in Annexe 2 of our full report.

The first phase focused on finding out whether professionals with different diversity characteristics received different outcomes from our processes and how much this was due to their diversity characteristics rather than other factors like where they trained or lived. We reviewed external data and research and analysed our own data to understand whether a person's diversity characteristics influence the outcomes they receive in our processes and if so, by how much. We were unable to include nursing associates in our analyses because, at that time, no nursing associates had applied to join our register through our overseas registration process, revalidated or been referred to our fitness to practise process.

The second phase focused on understanding why these differences were happening, what it meant for the professionals involved and what we and others could do to tackle any unfairness. We took a qualitative approach to this to allow us to explore professionals' and employers' perceptions, experiences and attitudes.

We also wanted to look more closely at the referrals we received from employers between April 2016 and March 2019. This involved more detailed analysis of our fitness to practise data and analysing this alongside data about the size and diversity of each employer's workforce.

Summary

There is now clear evidence to show that professionals with certain diversity characteristics revalidate in lower proportions, and are less likely to revalidate successfully, compared to other groups. We receive more referrals of some groups of professionals. Some of these, and others with different diversity characteristics, are more likely to be referred to us, with some more likely to progress further through the different stages in our fitness to practise process and receive more serious sanctions from it.

We heard professionals' and employers' views on why they think these differences are happening – much of which is consistent with research and data from across the sector.

We've got more clarity on how the type of job that a professional does, how they're employed and where they work shapes their experiences at work and their interactions with our regulatory processes.

Professionals working as agency or bank staff or in settings such as care homes or GP practices are adversely affected. Professionals with certain diversity characteristics are more likely to work in these types of roles and settings and are therefore disproportionately more likely to have negative experiences and outcomes in our processes. For example, Black African professionals make up 8 percent of our register but do 14 percent of jobs in care homes and 36 percent of agency jobs.

Professionals told us that a person's job role, employment type and work setting are the key drivers behind differences in revalidation rates, not necessarily a professional's diversity characteristics in isolation.

Professionals and employers differed on why they thought certain groups were more likely to be referred to us. Professionals feel that referrals of particular groups are often driven by perceptions of them as 'different' or an 'outsider'. People described feeling like an 'outsider' in many ways but key factors included being in minority groups when it came to ethnicity, gender, age, sexual orientation, gender identity, nationality or religion as well as a person's type of employment. Many Black and Asian professionals felt they were referred because of their ethnicity.

Most employers that we spoke to disagreed that a professional's diversity characteristics played any part in whether they made a referral to the NMC or not. However, they recognised some disparities for Black and minority ethnic professionals. For example, employers acknowledged that Black and minority ethnic professionals were more likely to be subject to disciplinary action and experience bias from members of the public and people who use services.

Our data and wider external evidence suggests that some employers deal with concerns about male and/or Black professionals differently compared to other groups.

Black professionals report higher rates of harassment, bullying or abuse from managers and colleagues at work and are more likely to enter the formal disciplinary process compared to white staff[1]. Male and/or Black professionals are more likely to be referred compared to women and/or white staff. Employers' referrals of male and/or Black professionals are higher than both the proportions on our register and employers' own workforces. We close more of employers' cases that involve male and/or Black professionals in the early stages of our process compared to all cases referred by employers. This suggests that employers should be addressing more concerns locally rather than referring them to us.

The research also highlighted some issues within our own processes that may exacerbate difficulties for some groups. This includes a lack of clarity about some of our revalidation requirements, the length of time the fitness to practise process can take and communication in our fitness to practise process that can be infrequent and impersonal. Addressing these issues would help to improve all professionals' experience of our processes but on its own is unlikely to make an impact on differences in outcomes.

We invited a diverse pool of professionals to take part in this research. However we found it harder to gain as much insight about some groups compared to others. For example, our data showed that male or disabled professionals were less likely to revalidate successfully, more likely to be referred, more likely to have their case progress to adjudication and be struck off or suspended. However, neither diversity characteristic was mentioned by the professionals we spoke to about revalidation and disability was not brought up in relation to fitness to practise. Our data shows that men are overrepresented in some of the jobs and settings highlighted in our research as being less likely to revalidate successfully. For example, 11 percent of our register are men but they do 20 percent of agency jobs and 15 percent of nursing jobs in care homes. The higher concentrations of men in certain roles and settings may explain their lower revalidation rates.

We're not in a position to say why there are differences for disabled professionals. We heard from more disabled professionals compared to the proportions on our register. Seven of the 18 participants (39 percent) we spoke to about revalidation and five of the 60 (8 percent) people we spoke to about fitness to practise told us they were disabled compared to the 3 percent of our register that have declared that they are disabled. Yet, we didn't hear about the specific challenges faced by disabled professionals in the research itself. Given the number of regulatory processes that affect disabled professionals, we need to do more to build our understanding of the drivers of these differences.

[1] NHS England (2022) NHS Workforce Race Equality Standard: 2021 data analysis report for NHS trusts

From the evidence gathered as part of this research there appear to be three main drivers of the differences for professionals with different diversity characteristics:

Issues within our own processes that affect all professionals but may exacerbate differences for some groups. For example, professionals may not always be clear about what we expect of them, they're subject to unnecessary stress from delays and from changes in NMC personnel dealing with their fitness to practise case, and we don't always communicate with people as well as we should.

Issues with individual employers that mean professionals can be referred inappropriately, don't feel supported going through NMC processes, are not told about concerns that have been raised about them or are readily blamed when things go wrong. Our research suggests that these issues particularly affect those working in organisations such as care homes, GP practices or for providers which employ a lot of bank or agency staff.

Wider systemic issues in both nursing and midwifery and other health professions that perpetuate 'insider' and 'outsider' cultures - defined by an individual's characteristics leading to risk of discrimination, bias and stereotyping. Our research found that this particularly impacts professionals who are male, Black and/or those who trained outside of the UK.

Next steps

To address these root causes, we will take action at three different levels.

1. Improving how we regulate is within our gift and benefits everyone on our register. Actions we will take will include:

    - further training and development for our staff to ensure we provide consistent, clear, helpful advice and guidance to professionals contacting us

    - continue to prioritise reducing our fitness to practise caseload and improving our process as our top corporate priority to ensure that everyone impacted by a fitness to practise referral has a timely, person-centred, streamlined experience

    - work with disability organisations and networks to help us understand why there are differences in revalidation rates and referrals to fitness to practise for disabled professionals

    - commission the delayed review of registration appeal and fitness to practise cases to help us understand why cases involving professionals who are male, disabled or Black, or those who prefer not to tell us their sexual orientation (the groups for which we found disparities) progress further through our processes. The review will also ensure that we're consistent in how we deal with such cases, and help us to continue to improve our processes to maximise fairness and consistency.

2. We will work with individual employers in our fitness to practise process to provide them with more tailored information about the referrals they make to us, the outcomes of these referrals and any trends or patterns in terms of reasons for referral and how this compares to similar organisations.

3. Many of the factors contributing to different outcomes in our processes are the result of wider systemic or societal issues that span across and beyond health and social care. The nature of these issues means we need to work with partners and stakeholders to understand the issues, share insights about what has worked elsewhere, and co-develop new approaches to eliminate bias. Together we need to ensure all professionals are treated fairly and have an equal chance to practise safely and effectively.

We'll be taking this work forward as part of our equality, diversity and inclusion (EDI) plan that was approved by our Council at the end of May 2022 and will be published later this year.

[1] NHS England (2022) NHS Workforce Race Equality Standard: 2021 data analysis report for NHS trusts

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