

NMC response to the Scottish Government’s Social Care: Independent Review of Inspection, Scrutiny and Regulation in Scotland – call for evidence

Introduction

- 1 Thank you for the opportunity to respond to this [call for evidence on Social Care: Independent Review of Inspection, Scrutiny and Regulation](#) (IRISR).
- 2 We are the UK’s independent, statutory regulator of the nursing and midwifery professions. We regulate more than [771,000](#) nursing and midwifery professionals, including over [72,000](#) nursing and midwifery professionals in Scotland. Our purpose is to promote and uphold the highest professional standards in order to protect the public and inspire confidence in the professions.
- 3 We welcome the focus of your review on people – including people receiving social care services, their families, and the workforce. The nursing and midwifery professionals that we regulate will play a key part in realising the vision for social care services in Scotland, as they plan, commission, and deliver social care. A person-centred approach is central to all of our regulatory activity, as we emphasise in [our strategy](#). It’s important to recognise how we can take action together for better, safer care.
- 4 We play a key role in the regulation of health and social care in Scotland. We would value the opportunity to directly share our insight and experiences with the IRISR Chair, Dame Sue Bruce and the IRISR Vice Chair, Mr Stuart Currie, to help the delivery of this crucial review.
- 5 We are answering the questions that are directly relevant to our regulatory remit.

Theme 1: A person-centred approach

Question 1: How can we ensure that people with lived and living experience of care and support services are able/supported to contribute to inspection, scrutiny and regulation processes?

- 6 We would advocate that the principle of co-production is imperative in designing, planning, and evaluating care and support services to ensure people with lived and living experience contribute to inspection, scrutiny, and regulation processes. Regulators and professionals have an important part to play in co-production, as it will lead to better outcomes for all.
- 7 We are committed to ensuring people are at the heart of everything we do and have the opportunity to contribute to our regulatory processes. Some examples include our recently established Public Voice Forum where we seek views from the public to shape our regulatory work, and members of the public acting as lay visitors as part of our quality assurance of nursing and midwifery education.

- 8 Active listening is a key element of our [Code](#). We would recommend a multi-layered approach to engagement with people with lived and living experience, including seeking their views on the development of the strategic intent of regulation of social care provision in Scotland. Ensuring their feedback is critical to the inspection of social care providers and that they are routinely involved in the review and operational monitoring of social care provision in Scotland. The views of our professionals should also play a key role in the inspection, scrutiny and regulation of services.

Theme 2: What needs to be inspected, scrutinised, and regulated?

Question 2: Do you feel there are services that are not currently subject to inspection, scrutiny and regulation that should be? If yes, please tell us: a) which type of services? b) why you think they should be inspected/scrutinised/regulated? c) who should be responsible for this?

- 9 To answer this question, we first need to understand the complete landscape. Our core regulatory role is to ensure safe, effective and kind nursing and midwifery. This is important in social care services, as nurses contribute to the sector in diverse ways. The Care Inspectorate (CI) regulates social care services in Scotland and requires registered managers to be professionals registered with either the NMC or the Scottish Social Services Council (SSSC). There are also nurses working in care services who are not registered managers and who we regulate.
- 10 There is a need for a gap analysis to see where there are unregulated professionals and how everyone can work more collaboratively in the future.
- 11 Our [standards of proficiency for community nursing specialist practice qualifications](#) (SPQ) are highly relevant for nurses and registered managers working in care settings in Scotland. We have recently reviewed and relaunched our SPQ for community nursing. Our new standards clearly define the additional knowledge and skills that nurses need to provide specialist care and support for people in their own homes and communities. They are designed to enable professionals to meet the diverse needs of people of all ages, in their home, in settings close to home and in the community. Any changes to services should enable professionals on our register, including those with additional qualifications to deliver services across the breadth of their knowledge and skills for the benefit of the public.
- 12 It's a complex landscape and this means that it's important there is greater clarity on the role and remit of each organisation within the care and support system in Scotland. This would help ensure people that they engage with the relevant organisation as soon as possible, and that the highest standards are upheld for people accessing services.
- 13 The future regulatory model needs to avoid duplication wherever possible, both for registered professionals and regulated services as well as for the benefit for the public. Similarly, it will be important to ensure that change does not result in fragmentation of services, and a more complex landscape for people to navigate, either in accessing services or raising concerns.

- 14 A Bill to introduce a Patient Safety Commissioner is currently progressing through the Scottish Parliament. In exercising the Commissioner's general functions, the Commissioner may promote co-ordination among health care providers. We [responded](#) to the call for views to the Patient Safety Commissioner Bill. We would like to know how this role will interact with the social care sector, particularly in the context of the introduction of the National Care Service (Scotland) Bill to Parliament, and this current call for evidence.

Theme 3: How should inspection scrutiny and regulation be carried out?

Question 5: How can we ensure that regulation and inspection processes are underpinned by a commitment to improving services?

- 15 We would recommend that regulation and inspection processes are underpinned by a commitment to improving services, by cross-sector collaboration including intelligence-sharing among regulators, the sharing of best practice amongst professionals and listening to people receiving services.
- 16 We work closely with the CI, SCCC and Healthcare Improvement Scotland (HIS). The use of evidence and intelligence enables a specific focus on a commitment to improving services, by identifying any areas of concern at an early stage and sharing best practice among regulators to deliver improvements for people working in the sector and accessing health and care services.

Question 9: How do we make sure regulatory bodies are doing a good job?

- 17 To make sure regulatory bodies are doing a good job, it will be important for you to facilitate close collaboration and engagement. This will be particularly important in shaping the plans for the sector, to strengthen the positive outcomes of the new proposed National Care Service (NCS) in Scotland. We welcome working more closely with other professional and system regulators to further our ambitions to drive improvements in the sector and to work with partners to shape its design. Nursing and midwifery professions will play a key part in realising the vision for the NCS, as they plan, commission, and deliver social care services. They should be involved at every stage of its development, delivery, and ongoing monitoring.
- 18 We recommended in [our response](#) on the NCS Bill, a requirement for each care board to include a member who is a registered nurse. We also recommended strengthening the Bill to support the workforce to make an obligation to provide:
- 18.1 Support for newly qualified nurses and midwives in line with our preceptorship guidance, to encourage people to join and stay in the sector.
- 18.2 Training for nurses and midwives to develop professional competencies in line with our revalidation requirements, to ensure that they maintain their skills and knowledge in a changing landscape.
- 19 The co-production of the Bill and the future National Care Service with professionals, regulators and the public is key to ensuring a system that delivers the best outcomes.

Theme 4: How will we know systems are working?

Question 12: How we can make data collection and sharing better?

- 20 Data collection and sharing can be made better by agreeing together the data that would be helpful to collect, how this will be collected and enhancing mechanisms for intelligence-sharing, in line with data regulations and laws. Intelligence-sharing helps providers and stakeholders to understand whether the regulatory system is working as effectively as possible. We have information-sharing agreements with CI and HIS to enable sharing of intelligence at an early stage where concerns emerge relating to our respective remits. We share relevant information with SSSC, where there is dual registration of professionals.
- 21 We are also involved in intelligence sharing in Scotland via a new framework, with the [Sharing Intelligence for Health & Care Group](#) (SIHCG) including Audit Scotland, CI, HIS, Mental Welfare Commission for Scotland, NHS Education for Scotland, Public Health Scotland, the Scottish Public Services Ombudsman. We are signatories to this [framework for sharing intelligence with health and care regulators in Scotland](#), developed by the SIHCG and professional regulators in Scotland. It supports sharing of concerns at an early stage, identifying links between concerns and a wider system view, together with taking forward any further actions.
- 22 These relationships allow us to take effective regulatory intervention as soon as possible and such initiatives should continue in any future model of social care regulation in Scotland.

Question 13: How do we make sure regulation, inspection and scrutiny supports good practice for people accessing care and support?

- 23 It is really important that members of the public can easily understand our role and access our services (particularly for raising concerns) and we have launched [our new public support line](#) that the Scottish Government might want to look at.
- 24 It will be important to identify any barriers that individuals may face in becoming aware in accessing services and raising concerns, including people who may be seldom heard and at increased risk of harm. [Section 17 of our Code](#) requires nursing and midwifery professionals to raise concerns immediately where they believe a person is vulnerable or at risk and needs extra protection. They must take all reasonable steps to protect people and share in line with the laws relating to the disclosure of information. Community health nurses can provide specialist care and support for people in their own homes and communities. If you are interested in understanding more, please see our recently revised [post-registration standards](#).

Question 14: How do we make sure regulation, inspection and scrutiny supports good practice for people working in care and support?

- 25 To make sure regulation, inspection and scrutiny supports good practice for people working in care and support, this can include a range of mechanisms:

- 25.1 Collecting better data and understanding on the social care workforce.
- 25.2 Investing in education, training, and development of professionals.
- 25.3 Developing and supporting quality practice placements in social care settings to encourage nursing graduates to such settings once qualified.

26 We know that there are extreme pressures on the sector across the UK with recruitment and retention. It is vital that we are aware of the environment in which our professionals are working including the continued impact of Covid-19 and the cost-of-living crisis. As regulators local knowledge and factors are key to informing proportionate and targeted regulatory interventions. For example, in our fitness to practise principles we take into account [context](#).

Question 15: How do we make sure regulation, inspection and scrutiny supports good practice for providers delivering care and support?

- 27 We welcome working closely with providers and we would be happy to share our experiences of developing resources to support employers as well as the work of our [Employer Link Service](#).
- 28 As an example, we have developed a resource to identify best practice on [managing concerns](#), by collaborating with employers, professionals, regulatory partners and gaining understanding of the lived experiences of people who use services. It provides principles for employers to consider where they manage concerns locally and supports employers to act valuing fairness and kindness, with regulatory involvement only where necessary. We have experienced a positive impact through this initiative. Since the launch, there has been a gradual decrease in referrals, and we have also found improvements in the quality of referrals that we receive from employers.
- 29 We offer an [employer advice line](#) for employers to speak with our Regulation Advisers before raising a concern with us.

Theme 5: How will systems of inspection scrutiny and regulation support the workforce?

Question 16: How do we ensure there is compliance and consistency with workforce registration requirements?

- 30 We would recommend that the future inspection regime should be closely aligned to our Code, standards of proficiency and education, revalidation requirements, and our preceptorship principles. This will ensure our standards are fully embedded within care services, professionals are supported to develop in line with our new standards and provided good support at the start of their careers.
- 31 Strong professional leadership for people working in care homes is key, because some nurses may be quite isolated working in small employers which can pose safety risks. Employers, supported by the system regulator, have an important role to play in supporting professionals in these contexts. The current oversight

link between care services and the Executive Nurse Directors of health boards is important.

- 32 Care services need to be equipped to deal fairly and safely with professional conduct and competence issues. Our Employer Link Service and guidance for employers can help to support employers. Good links between regulators and employers are important to ensure compliance and consistency with registration requirements.
- 33 Employers having a robust HR system will help them to know when the revalidation of professionals on our register working for them is due. Nurses and midwives must have access to continuous professional development that enables them to meet our standards, demonstrating learning and reflections. We seek such assurance of professionals to continue to be register, via our [revalidation](#) process.

Question 17: How can we ensure that people who work in care and support services are able to contribute to inspection, scrutiny and regulation processes?

- 34 To ensure people who work in care and services can contribute to inspection, scrutiny and regulation processes, requires active engagement, while understanding the workforce pressures and environment that they operate in. We can help to facilitate sector-wide discussions with professionals on our register. Professionals on our register have valuable insights to contribute to the regulation of social care services and have a key role in ensuring better safer care.
- 35 We encourage and require professionals on our register to contribute to inspection, scrutiny and regulation processes. Professionals on our register must cooperate with all investigations and audits and provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system (sections 23 and 25 of our [Code](#)). It is important that professionals are encouraged to be open and honest on the occasions when things go wrong. We recently launched refreshed [Duty of Candour guidance](#). This guidance is designed to make clear the responsibilities of professionals on our register to protect the public. It helps to ensure people who use services receive the care they deserve and have a right to expect.