

## **NMC response to the Department of Health consultation; implementation of the Freedom to Speak Up Review recommendations**

- 1 The Nursing and Midwifery Council (NMC) is the professional regulator for nurses and midwives in the UK. We exist to protect the public. We do this by holding and controlling access to the register of qualified nurses and midwives and setting standards of education, training, conduct and performance for nurses and midwives. If an allegation is made that a registered nurse or midwife is not fit to practise, we also have a duty to investigate that allegation and, where necessary, take action to protect the public.
- 2 We welcome the opportunity to respond to the Department's consultation<sup>1</sup> on the proposed way to implement the recommendations of Sir Robert Francis' Freedom to Speak Up Review<sup>2</sup>. Our response to the Review can be found on our website<sup>3</sup>, and our position remains unchanged. We therefore ask the Department to consider that information in their implementation of the Review's recommendations.
- 3 We continue to be committed to playing our part in ensuring that the healthcare sector is transparent, caring and accountable so that the events at Mid Staffordshire NHS Foundation Trust are not repeated.
- 4 Given the remit of the NMC, not all of the Department's consultation questions and proposals set out are for us to provide a view on. We have answered each in turn below.

### **Question 1: Do you have any comments on how best the twenty principles and associated actions set out in the Freedom to Speak Up report should be implemented in an effective, proportionate and affordable way, within local NHS healthcare providers?**

- 5 We have no comments to make on this question.

### **Question 2: Do you have any opinions on the appropriate approach to the new local Freedom to Speak Up Guardian role?**

- 6 We have no comments to make on this question, except to point out that should such an individual be a registered nurse or midwife, they would need to have regard for The Code in the conduct of such a role.

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<sup>1</sup> <https://www.gov.uk/government/consultations/measures-to-help-staff-speak-out-about-patient-safety>

<sup>2</sup> <https://freedomtospeakup.org.uk/>

<sup>3</sup> <http://www.nmc.org.uk/globalassets/sitedocuments/consultations/2014/freedom-to-speak-up-review--response-of-the-nursing-and-midwifery-council.pdf>

**Question 3: How should NHS organisations establish the local Freedom to Speak Up Guardian role in an effective, proportionate and affordable manner?**

7 We have no comments to make on this question.

**Question 4: If you are responding on behalf of an NHS organisation, how will you implement the role of the Freedom to Speak Up Guardian in an affordable, effective and proportionate manner?**

8 We have no comments to make on this question.

**Question 5: What are your views on how training of the local Freedom to Speak Up Guardian role should be taken forward to ensure consistency across NHS organisations?**

9 We have no comments to make on this question.

**Question 6: Should the local Freedom to Speak Up Guardian report directly to the Independent National Officer or the Chief Executive of the NHS organisation that they work for?**

10 We have no comments to make on this question.

**Question 7: What is your view on what the local Freedom to Speak Up Guardian should be called?**

11 We have no comments to make on this question.

**Question 8: Do you agree that the Care Quality Commission is the right national body to host the new role of Independent National Officer, whose functions are set out in principle 15 of the Freedom to Speak up report?**

12 We have no comments to make on this question.

**Question 9: Do you agree that there should be standardised practice set out in professional codes on how to raise concerns?**

13 We firmly believe that those we register, those who use the services of nurses and midwives, and others should be able to raise concerns about the practice of nurses and midwives. To support this, on 31<sup>st</sup> March 2015 our revised Code<sup>4</sup> took effect. The Code sets out the professional standards that nurses and midwives must uphold in order to gain and maintain registration to practice as a nurse or midwife in the UK. Where this is not the case, it may act as grounds for referral to us to consider whether the nurse or midwife's fitness to practise is impaired.

14 To support the Code, we also provide guidance for nurses, midwives, employers and the public on when and how to raise a concern with us, what we are able to consider, what the process is, and what the possible outcomes are. These are available in:

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<sup>4</sup> <http://www.nmc.org.uk/standards/code/>

- 14.1 our publication *Raising concerns: Guidance for nurses and midwives*<sup>5</sup>;
- 14.2 our publication *Social networking guidance*<sup>6</sup>;
- 14.3 our publication *Advice and information for employers of nurses and midwives*<sup>7</sup>; and,
- 14.4 general advice on our web pages<sup>8</sup>.
- 15 We believe the approach we have, a professional code supported by separate guidance on how to raise concerns, is preferable to combining the two. This creates clear definition on expectations of conduct and then what to do if these are not met. Our Code, as well as a tool for holding nurses and midwives to account, is designed to be enabling for nurses and midwives, i.e. to act as a positive professional standard of what good looks like in order to drive the behaviours within the profession. This will be further demonstrated with the introduction of our approach to revalidation<sup>9</sup>; it will have the Code at its heart in order to drive collective learning and improvement within the nursing and midwifery professions.
- 16 We would welcome consistent principles amongst professional regulators in respect of raising concerns in line with the model we have adopted, but standardisation of content may not be appropriate.
- 17 In addition, the above approach and our supporting publications include information on whistleblowing. We are listed as a 'prescribed person' in legislation which means that nurses and midwives can blow the whistle to about matters that relate to our functions, and be protected from employer retribution. We have recently worked closely with the Department to expand this protection to student nurses and student midwives in Great Britain from 6<sup>th</sup> April 2015.
- 18 Our Code includes a section on the duty of candour for nurses and midwives; this can be found in paragraphs 13, 14, 16 and 17 of the Code. This has been supported by working closely with the General Medical Council on joint guidance for professionals on their duty of candour; this is expected to be published this summer.
- 19 We have recently refreshed a number of memoranda of understanding (MoU) with other organisations to enhance our joint working with them in order to protect the public. A number of other MoU's are in the process of being refreshed. As an example of this (and in line with principle 16 of the Freedom to Speak Up Review), between April and September 2014 we made 171 fitness to practise referrals to other regulatory bodies.
- 20 We are also developing an Employer Link Service to engage with employers of nurses and midwives to further support our approach above. It will aim to ensure

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<sup>5</sup> <http://www.nmc.org.uk/standards/guidance/raising-concerns-guidance-for-nurses-and-midwives/>

<sup>6</sup> <http://www.nmc.org.uk/standards/guidance/social-networking-guidance/>

<sup>7</sup> [http://www.nmc.org.uk/globalassets/sitedocuments/ftp\\_information/advice-and-information-for-employers-of-nurses-and-midwives.pdf](http://www.nmc.org.uk/globalassets/sitedocuments/ftp_information/advice-and-information-for-employers-of-nurses-and-midwives.pdf)

<sup>8</sup> <http://www.nmc.org.uk/concerns-nurses-midwives/concerns-complaints-referrals/>

<sup>9</sup> How we will expect nurses and midwives to demonstrate that their skills and practice remains up to date in order to maintain their registration with us - <http://www.nmc.org.uk/standards/revalidation/>

that employer referrals to us are consistent, appropriate and timely, and that fewer appropriate referrals go unreported; this will reinforce the Code.

- 21 In summary, we believe that both clear expectations and easily accessible routes of raising concerns (including the ability to share these concerns with others where necessary) are the key to implementing this recommendation from the Freedom to Speak Up Review. We believe our Code, supported by guidance and an Employer Link Service, is the most appropriate means to achieve this relevant to our remit.