

## **NMC response: Care Quality Commission's consultation 2 - our next phase of regulation**

### **Introduction**

- 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 practice, we have a duty to investigate that allegation and, where necessary, take action to protect the public.
- 2 Central to our regulatory approach is the Code<sup>1</sup>, which sets out the professional standards that nurses and midwives must uphold in order to be registered to practice in the UK. It is structured around four themes – prioritise people, practise effectively, preserve safety and promote professionalism and trust.
- 3 We welcome the opportunity to respond to this consultation. Our response, given our regulatory remit, focuses on the importance of sharing information and working together, and the proposed changes in approach to the fit and proper persons requirements (part three of the consultation). This follows on from our response to the CQC's first consultation on the next phase of regulation<sup>2</sup>.

### **Our response**

#### **Sharing information**

- 4 The NMC and CQC gather data from different aspects of care delivery. Whereas the CQC collects data at the service and systematic level, we primarily gather information and data at the individual practitioner level. Triangulating this data helps to build up a detailed picture of care and draws attention to where improvements and direct action is needed. Looking at the data collectively can prove to be especially important in areas which are difficult to quantify, such as treating people with dignity and compassion (which both the NMC and CQC regulatory approaches address).
- 5 We have a memorandum of understanding and a joint working protocol with the CQC which outlines the process and circumstances where information will be shared. In order to protect the public and improve services it is vital that regulators continue to conduct investigations at the individual and service level and share this data appropriately.
- 6 The NMC has a strong working relationship with the CQC and we hold regular meetings to review our work and share intelligence. We are keen to continue to

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<sup>1</sup> <https://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/nmc-code.pdf>

<sup>2</sup> <https://www.nmc.org.uk/globalassets/sitedocuments/consultations/nmc-responses/2017/nmc-response-to-the-care-quality-commission-consultation-on-the-next-pha....pdf>

work closely with the CQC and will continue to improve the capture and sharing of data at the systematic and individual practitioner level.

### **Fit and proper persons requirements**

- 7 Page 55 of the consultation document highlights that it is not the CQC's role to regulate individuals or to assure that any individual is fit or proper. However, the CQC does have a role in relation to the fit and proper persons requirement in Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. This includes how the CQC will share information with providers when they receive information of concern from a third party.
- 8 The CQC also provide additional guidance for providers on interpreting "serious misconduct and serious mismanagement". We therefore believe it is important for CQC's regulatory approach to this role to have alignment with professional regulation requirements.
- 9 Consistency in the regulatory approaches will bring benefit to the public, professions and systems providers. Sharing concerns about registered professionals with professional regulators found during the course of CQC's work will help us to take any appropriate action. Similarly, where we find information relevant to the CQC in our work then we will share it with CQC. We therefore encourage CQC to ensure that any future approach to regulation, including in the fit and proper person requirements, builds on these principles and the work we have done together so far.
- 10 In terms of alignment, the Code (for example) places additional requirements on senior nurses and midwives, such as directors of nursing. These requirements are that senior nurses and midwives must:
  - 10.1 "Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the healthcare system" (paragraph 25 of The Code);
  - 10.2 "Identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first, and" (paragraph 25.1 of The Code); and
  - 10.3 "Support any staff you may be responsible for to follow the Code at all times. They must have the knowledge, skills and competence for safe practice; and understand how to raise any concerns linked to any circumstances where the Code has, or could be, broken" (paragraph 25.2 of The Code).
- 11 In practice, this means that directors or equivalents who are registered nurses or midwives could potentially be subject to both the fit and proper persons requirements and the professional requirements above set out in our Code.