

NMC response to the Home Office's 'Preventing and tackling forced marriage: a consultation'

Introduction

1. We're the independent regulator of the UK's 690,000 registered nurses, midwives and nursing associates.
2. Better and safer care for people is at the heart of what we do, supporting all the professionals on our register to strive for the highest standards.
3. We set the qualifications students must achieve to step into their first job with the right skills and knowledge to look after patients, mothers, and the public with kindness, skill, respect and compassion.
4. Learning does not stop the day nurses, midwives and nursing associates qualify. To promote public trust, we require professionals to demonstrate throughout their career that they are committed to learning and developing to improve as practitioners.
5. We want to encourage openness and learning among the professions to improve care and keep the public safe. But on the rare occasions when something goes wrong, we can step in to investigate, giving patients and families a voice.
6. We welcome the opportunity to respond to the Home Office's consultation on preventing and tackling forced marriage. We recognise that this is a complex and challenging issue, and wholeheartedly support the Government's efforts and want to work with the Government to address the practice of forced marriage.
7. In this response we have focused on the proposals relating to healthcare professionals which have regulatory implications.

General Comments

8. We welcome the Government's work to prevent the practise of forced marriage in the UK. We acknowledge that this proposal is part of efforts to increase the number of referrals for forced marriages, to close the gap between estimated prevalence and current referral numbers, however introducing mandatory reporting requirements for healthcare professionals is a significant step and will have profound implications.
9. Our Code¹, which sets out the professional standards that nurses, midwives and nursing associates must uphold in order to practice in the UK, requires our registrants to uphold national standards. These national standards include the Government's multi-agency statutory guidance on forced marriage and the multi-agency practice guidelines, alongside other statutory guidance for the safeguarding of children and young people.

¹ <https://www.nmc.org.uk/standards/code/>

10. We are aware that the Government has recently introduced mandatory reporting of female genital mutilation (FGM), however this is more overtly a health related issue and easier for healthcare professionals to identify.
11. If the proposed mandatory duty is introduced, we feel that there is an opportunity to learn from the introduction of mandatory reporting for FGM, which has been in place since 2015. For example, this introduced an England wide FGM information system which holds information about girls with a family history of FGM. A similar national system for forced marriage could potentially increase the efficacy of reporting and reduce the problem of multiple referrals being made for the same individual.

Scope of proposed duty

12. While in their professional positions nurses, midwives and nursing associates may potentially be well placed to identify forced marriage, we do have concerns around the introduction of mandatory reporting.
13. As noted in the consultation, there are significant risks associated with implementing such a system, particularly if reporting is applied to 'suspected' and/or 'at risk' cases. We would ask for further clarification from the Government on how these risks could be mitigated.
14. If the Government is minded to introduce such a duty, care will be needed to ensure that nurses, midwives, nursing associates and other mandated professionals are able to maintain their professional discretion so that they can take account of individual circumstances. It is vital that any reporting duty does not inhibit an individual's professional discretion and in particular their duty to put the interest of their patients and service users first.

Timings of referrals

15. Should mandatory reporting be introduced we believe that consideration should be given to the time period for when a referral is made. Given the nature of nurses, midwives and nursing associates professional roles, there may be instances where, in the interest of the patient that reporting is not undertaken within a specific timeframe – for example if reporting may impact on the ability of a patient to access services and timely care.
16. We suggest that any reporting duty includes the discretion to defer reporting so as to take account of any circumstances of individual cases and as such reporting should be made as soon as is possible rather than as promptly as possible.

Failing to report

17. It is important to consider any proposals for sanctions to be imposed in the event of failing to report. Our existing powers and the statutory guidance that is in place, means that mechanisms already exist to deal with professionals that fail to report in cases of forced marriage.
18. Nurses, midwives and nursing associates are required under the Code to put the care of people in their care first. There is also a requirement for nurses and midwives to uphold other national standards as well in the Code. Where it is evident that there has been a failure to act in line with the standards set out in the Code on the part of a registered nurse,

midwife or Nursing Associate, the NMC can pursue an investigation through our fitness to practice proceedings, which can result in restrictions on practice, suspensions and being struck off and unable to practise in the future.

19. Should the duty be applied to nurses, midwives and nursing associates, we believe that any sanction should be considered by ourselves as the regulator of the professions. The nine existing regulators have a broadly comparable set of sanctions that can be imposed as a result of fitness to practice proceedings. Any sanctions should be proportionate and applied consistently across the mandated professions.
20. It is important that the possibility of a high number of inappropriate referrals is reduced so as to not overwhelm those responsible for enforcing the duty. The proposed duty will have implications for the NMC and in particular our fitness to practice proceedings, as we may respond to a higher number of allegations. Mandatory reporting, and the publicity associated with its introduction, has the potential to increase awareness, both within mandated professional groups and within the wider public, but the test of any new duty will be in the quality of any allegations that come to the regulator's attention.