NMC response to the Health and Social Care Committee and Science and Technology Committee inquiry into Coronavirus: lessons learnt

Summary

1 This response outlines the work undertaken by the Nursing and Midwifery Council (NMC) during the Coronavirus pandemic and the lessons we have learnt by undertaking these actions. We highlight the contribution we have made as a professional regulator, building on evidence we have provided to other similar inquiries. In all of this work we sought to demonstrate right-touch regulation and act in a proportionate, consistent, targeted, transparent and accountable way. This included:

a. Creating our temporary register;
b. Adapting our fitness to practise processes; and
c. Worked in collaboration with partners to effectively communicate our response to those who needed to know.

2 Along with their colleagues across health and social care, nurses, midwives and nursing associates have displayed exceptional skill, perseverance and bravery since the outbreak of Coronavirus. As the regulator of these professions, we recognise the extraordinary role our registrants continue to play during this crisis.

About us

3 Our vision is safe, effective and kind nursing and midwifery practice that improves everyone's health and wellbeing. As the professional regulator of more than 700,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

4 Our core role is to **regulate.** First, we promote high professional standards for nurses and midwives across the UK and nursing associates in England. Second, we maintain the register of professionals eligible to practise. Third, we investigate concerns about nurses, midwives or nursing associates – something that affects less than one percent of the professionals on our register each year. We determine whether their knowledge, skills, education or behaviour fall below the standards needed to deliver safe, effective and kind care. We believe in giving professionals the chance to address concerns, but we will always take action when needed.

5 To regulate well, we **support** our professions and the public. We create resources and guidance that are useful throughout people's careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we are increasing our visibility so people feel engaged and empowered to shape our work.

6 Regulating and supporting our professions allows us to **influence** health and social care. We share intelligence from our regulatory activities and work with our partners to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.

What we did: the NMC response the Coronavirus pandemic

7 The wide-ranging changes that we made represent a comprehensive, proportionate and timely response. We increased the number of professionals available to assist with the pandemic by opening our temporary register, reduced demand on health and care providers at the critical time and supported the professionals on our register to provide good quality care, all with the aim of prioritising public protection.

Regulate

8 In terms of how we regulate, our primary focus was to expand the nursing and midwifery workforce in a safe and measured way. The Government introduced legislation that allowed us to **temporarily register** fit, proper and suitably experienced people, so that they could practise if they wanted to and felt able to do so.

9 Launched on 27 March 2020, our temporary registration was open to three groups:

a. those who left the register voluntarily up to three years ago
b. overseas nurses and midwives who were ready to sit their objective structured clinical examination (OSCE) and
c. those who left the register voluntarily, four to five years ago.

Temporary registrants in groups b and c were subject to conditions of practice.

10 At its peak, over 14,000 people had taken up temporary registration. We also developed a removals process to deal with serious concerns about anyone who had temporary registration.

11 To facilitate students supporting the workforce while being appropriately supervised and supported, we developed a set of **emergency education standards** through close and collaborative working across the sector and four countries of the UK. During the first wave of the pandemic around 35,000 students moved into extended placements across the UK to support practice.

12 We extended the implementation date of the **new pre-registration nursing and prescribing standards** from September 2020 to September 2021, and the **new pre-registration midwifery standards** from September 2021 to September 2022, enabling Approved Education Establishments (AEIs) and their practice learning partners to focus on responding and adapting to the pandemic.

13 We introduced **emergency measures on revalidation**, in the form of extensions that allowed registrants:

a. more time to meet their revalidation requirements (up to two 12-week extensions)
b. more time to pay their annual fee, including when their payment failed (six-week extensions).

14 We re-prioritised our **Fitness to Practise (FtP) caseload** to maximise public protection. Prior to the first UK-wide lockdown our caseload had started to build up. When lockdown measures took effect, we made several prioritisation decisions which impacted our ability to progress cases. We had to pause some of our core work and hearings over the spring to comply with lockdown measures and minimise the impact on those providing frontline healthcare services. We have also experienced some resourcing challenges.

15 The FtP caseload priorities focused on:
a. initial risk assessments on all new referrals, and risk assessing new information on existing cases
b. maintaining interim order applications and reviews
c. maintaining substantive order reviews
d. maintaining High Court/Court of Sessions interim order extension applications.

16 We suspended our physical hearings, and did not restart them until September 2020. The hearings required under 15.b and 15.c above were carried out by **virtual technology.**

17 We are also encouraging temporary registrants to consider applying for full registration, and have set up processes to deal with these applications as quickly as possible. Of the 2,624 overseas applicants to whom we gave temporary registration, 2,426 (92 per cent) have now passed the OSCE and have joined the permanent register. Of the 198 who have not yet joined the permanent register, 133 have sat an OSCE and the remaining 65 will sit the OSCE during the next few weeks.

18 These changes above were made in the context of the rapidly unfolding pandemic, when there was a clear sense from Government and sector leaders of a major risk of health and social care services being overwhelmed. The Government set out that the whole sector had a role to play in protecting services, so that they were able to deal with the wave of Coronavirus cases effectively, and prevent people dying. Our approach was to make sure we could undertake our important public protection duties in a way that minimised the burden on services and maximised the availability of professionals to assist with the Coronavirus response.

Support

19 To support the workforce and health and social care sector during the pandemic, we issued four **joint statements** to aid the expansion of the workforce, a joint statement on how we would continue to regulate during the pandemic and a joint statement on how we would continue to support our workforce during the second wave.

20 We emailed the 125,364 **people** who had recently lapsed from the register, asking them to take up temporary registration.

21 We created our **Coronavirus hub** as a one stop shop for all NMC Coronavirus related information. The hub, which received 1.03 million page views in the first month of the pandemic, includes the most up-to-date information on how we are continuing to regulate. It also includes our joint statements with other organisations, information for those on our register, students, employers and the public, as well as information about temporary registration and FAQs.

22 We are **operating our contact centre** from our colleagues' homes, answering 25,931 calls between 20 March and 30 April 2020 in the first month of remote working.

23 We prepared an **information pack** containing all our latest Coronavirus related updates in a single document, which is shared with our partners and political stakeholders fortnightly.

Influence

24 We made **statements** in relation to public policy and practice relevant to the work of nursing and midwifery professionals during the pandemic. These included statements on personal protective equipment (PPE), the disproportionate impact of Coronavirus on people from Black and ethnic minority backgrounds, and Government social care action plan and advanced care planning with the GMC.

25 We have **worked very closely with partners** across the UK, including:

a. UK Government and devolved administrations
b. UK's Chief Nursing Officers and midwifery leads
c. NHS England and Improvement
d. Health Education England, NHS Education for Scotland, Northern Ireland Practice and Education Council and Health Education and Improvement Wales
e. Council of Deans of Health
f. trade unions and professional bodies
g. other health and care regulators.

26 This engagement has been vital for delivering the emergency legislation, standards, joint statements and co-producing guidance and statements necessary to assist in tackling this pandemic.

What we learnt: achieving success

27 We need to continue to work in accordance with our **Strategy and our values**. The speed at which we responded to the pandemic would not have been possible without the strong foundations that we already had in place, including our ambitious Strategy 2020–2025. The Strategy sets out our vision and purpose, our role and the values that underpin our work.

28 **Collaboration and engagement** with external and internal partners is key. This ensures the voice of people who use health and social care services is heard, creating alignment of support and guidance.

29 **Clear and regular communication** has been the foundation of being able to mobilise quickly.

30 We can successfully **deliver activities at great pace**, such as developing the technology solution we used to implement temporary registration, and we should consider adjusting our risk appetite for doing more of this in the future.

31 We can be **adaptable, responsive and flexible**. A 'one NMC' spirit has seen the organisation work together in ways we never have before. Our planning for further waves needs to take account of, and adapt to, the changing nature of how the pandemic is being managed. We need to recognise matters such as the local pressures on services, and the current more local, rather than national, responses.

What we learnt: areas for growth

Deployment

32 When we surveyed people with temporary registration in July 2020, more than half had not yet received an offer of employment.

33 We reflected on whether we could have done more to ensure that more temporary registrants were deployed. We liaised with the devolved administrations and NHS employers on this and shared details of people with temporary registration with them. We have concluded that, as the regulatory body, we have done all we could to facilitate deployment, and it would not have been appropriate for us to move beyond our role of facilitating temporary registration.

34 For future waves of the pandemic, the nature of support needed by the sector may change. We are working with partners to encourage the future deployment of temporary registrants who may not have been deployed so far.

Fitness to Practise (FtP)

35 We have seen an increased FtP caseload which is having an impact across the whole of the FtP process. This means it is taking us longer than usual to process most of our cases. While our caseload has increased, the number of referrals we are receiving has remained similar to previous years.

36 We recognise the significant emotional impact that delays can have on people, including professionals, those affected by poor care and their families and we are sorry for these delays.

37 To ensure we are keeping everyone safe, we are prioritising risk management and taking action where we need to. For example, we are running physical hearings in order to conclude cases where necessary.

38 We are working hard to reduce our caseload over the coming months by putting more resource into our FtP process, continuing to work with employers to resolve cases locally, and looking at other ways to improve our processes.

39 We want to make sure those involved in FtP, whether professionals or the public have the support they need and would encourage people to access the support we have available, including the public support service and Fitness to Practice Careline. Members of the public can also call the emotional support helpline.

Regulatory reform

40 While we will continue to work hard to reduce the number of FtP cases, we also know that there are real problems with our regulatory framework which makes it difficult for us to resolve cases quickly. That is why we need new legislation that will allow us to be more flexible, open and transparent.

41 At the moment, much of our process is set out prescriptively in legislation, either in our Order or our (Privy Council-approved) Rules. We were only able to make the necessary changes to our Rules so quickly at the beginning of the pandemic by working closely with the Department of Health and Social Care, and we are grateful to them for their support with that process. The constrained timetable meant that we were unable to engage with stakeholders on these changes as fully as we would have wished.

42 The Coronavirus emergency has underscored the importance of us having the power to change our own rules without having to go through lengthy and complex legislative processes. Our current legislation is overly prescriptive and difficult to amend. Instead, we would like our legislation to focus on **what** we need to do, with the procedures and processes outlining **how** we would achieve this set out in rules, which we are able to adapt more easily to respond to developments. Our legislation also needs to include a permanent provision for temporary emergency registration. Appropriate regulatory reform would deliver the flexibility that we need and allow us to be a more responsive regulator.

The disproportionate effect of Coronavirus

43 The pandemic has thrown into sharp relief the impact of health inequalities and the barriers and discrimination faced by certain groups, notably through the higher mortality rates for people from ethnic minority backgrounds and people with learning disabilities, and in low income areas.

44 We know from the NHS Workforce Race Equality Standard (WRES) report that proportionately you are much more likely to be in a lower-graded patient facing role if you are from a BME background than if you are from a white background. The numbers of colleagues from overseas and BME communities in care homes, where we know there have been particular risks, is also much higher.

45 In terms of other groups, Public Health England published its report 'Covid-19 deaths of people with learning disabilities' in November 2020. This showed that according to the Learning Disabilities Mortality Review (LeDeR) Programme,

from the start of February to 5 June 2020, the Coronavirus death rate for people with learning disabilities was 3.6 times the rate in the general population.[1] In the same report, NHS England's COVID-19 Patient Notification System (CPNS), which records hospital deaths, reported that up until 5 June 2020, the Coronavirus death rate for adults with learning disabilities was 3.1 times the rate for adults without learning disabilities.[2]

46 This data builds on the insight provided by the CQC in June, which revealed that between 10 April and 15 May 2020, 386 people who were receiving care from services which provide support for people with a learning disability and/or autism died. For the same period last year, 165 people who were receiving care from services which provide support for people with a learning disability and/or autism died. This is a 134 percent increase in the number of death notifications among this group this year.

47 We have continued to look closely at the information we hold about the nursing and midwifery workforce as the situation develops. We have already committed in our new five year strategy to champion the values of equality, diversity and inclusion and will work with others to drive forward positive change.

48 In October, we published 'Ambitious for change: research into NMC processes and people's protected characteristics'. This work is a key part of our research into how a person's protected characteristics, like gender, ethnicity or age, affects their experience of NMC processes. The report gives a baseline to monitor Coronavirus's impact on our nurses, midwives and nursing associates, and on our regulatory processes. We will continue to build on this work to address disparities.

Students

49 Students were enabled to contribute to the initial pandemic response, but we are aware of the longer-term impact of this. We have discussed our future approach towards students with stakeholders. The consensus has been that the priority should be to maintain the normal approach to student learning as far as possible, to avoid potential long-term disruption to student education or the newly qualified pipeline. We have therefore agreed a number of recovery standards to provide ongoing flexibility.

50 To provide clarity as the pandemic has developed, we released a joint statement alongside the four Chief Nursing officers to outline the 'Principles for nursing and midwifery students during the next phase of the Covid-19 pandemic'. At the current time it is not planned to return to the previous emergency standards, so we are maintaining the supernumerary status for all students. This means that students are not being deployed into paid placements as was the case earlier in the year.

51 Each of the four countries will be reviewing how we can support final year students who have completed their programme hours and course requirements

[1] Public Health England, 12 November 2020, *Covid-19 deaths of people with learning disabilities*, Page 5
[2] Public Health England, 12 November 2020, *Covid-19 deaths of people with learning disabilities*, Page 5

to become employed as fully registered nurses and midwives as quickly as possible. We will continue to monitor the situation to determine whether the implementation of further changes may be necessary.

Public engagement

52 Throughout our emergency response our capacity to engage with the public in a way that informed the immediate policy decisions we were making was limited. This was because of the speed at which we were moving and the lack of fully embedded arrangements for public involvement in all our working practices. We are now in the process of developing and embedding a new approach to public involvement and engagement which aims to address this issue and ensure that in future the voice of the public shapes our work, including in times of crisis. We continued to provide support to members of the public involved with fitness to practise cases, through our public support service.

53 The NMC's corporate strategy commits us to deeper and broader engagement and involvement of the public. The crisis has shown how important it is to do this. Our ways of working to engage need to be resilient and fully embedded to ensure that they are central to our response to future crises.