

## **Memorandum of Understanding**

### **NHS Education for Scotland and the Nursing & Midwifery Council**

#### **1. Introduction**

- 1.1 This memorandum of understanding (MoU) outlines the basis of co-operation between NHS Education for Scotland (NES) and the Nursing & Midwifery Council (NMC).
- 1.2 The purpose of the MoU is to ensure that NES and the NMC (“the organisations”) complement and strengthen each other’s respective roles and functions in ensuring effective patient care and public safety through quality assurance of educational standards and promotion of professional development.
- 1.3 This MoU is not intended to be a contract in law and does not give rise to contractual rights or liabilities. It does not override the organisations’ statutory responsibilities or functions, nor infringe their autonomy and accountability. However, the organisations agree to act in accordance with the terms and conditions specified herein.

#### **2. Format of the MoU**

This MoU is agreed between NES and all the relevant Health and Care Professional Regulators. It contains a general section and specific clauses relevant to each Regulator which are set out in the appendices detailed below. In the interest of transparency all documents are shared between all the Regulators.

Appendix 1 – The Nursing and Midwifery Council

#### **3. Roles and responsibilities**

##### **NES**

- a. NES is a special health board established pursuant to the National Health Service (Scotland) Act 1978, and constituted by the NHS Education for Scotland Order 2002 (Scottish SI 2002 No. 103)<sup>1</sup>, and is responsible for supporting NHS services in Scotland by developing and delivering education and training for those who work in NHS Scotland.
- b. The responsibility of NES is to help provide better patient care by designing, commissioning, quality assuring and, where appropriate, providing education, training and lifelong learning for the NHS workforce in Scotland.

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<sup>1</sup> [http://www.legislation.gov.uk/ssi/2002/103/pdfs/ssi\\_20020103\\_en.pdf](http://www.legislation.gov.uk/ssi/2002/103/pdfs/ssi_20020103_en.pdf)

- c. The detailed responsibilities of NES for education and training in respect of each professional group are set out in the relevant appendix.

#### **4. Principles of co-operation**

NES and the NMC intend that their working relationship will be characterised by the following principles:

- a. Making decisions that promote patient and public safety
- b. Ensuring the provision of high quality education and training
- c. Maintaining public confidence in the organisations.
- d. Co-operating openly and transparently.
- e. Respecting each other's independent status.
- f. Using resources effectively and efficiently.
- g. Addressing overlaps and gaps in activity or information gathering.
- h. Using information to best enhance the quality of training and ensure patient and public safety.

NES and the NMC are also committed to a regulatory system for health in Scotland which is transparent, accountable, proportionate, consistent, and targeted (the principles of better regulation)<sup>2,3</sup>.

#### **5. Collaborative working and information sharing arrangements**

- a. The working relationship between NES and the NMC will be characterised by regular contact and open exchange of information gathered in the course of their normal business, through both formal and informal meetings at all levels.
- b. Details of key contacts within NES and the NMC are contained in the relevant Appendices.
- c. NES and the NMC will collaborate and exchange such information as is necessary to fulfil their statutory functions, to protect patients and the public and to improve the quality of healthcare through raising standards and enhancing professional development.

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<sup>2</sup> <http://www.scotland.gov.uk/Topics/Business-Industry/support/better-regulation>

<sup>3</sup> CHRE (2010) *Right-touch regulation*. London, Council for Healthcare Regulatory Excellence

- d. NES and the NMC will establish formal systems to share information on the quality of the learning environment with each other and with other Health and Care Regulators including the Care Quality Commission, Monitor, the Professional Standards Authority and Healthcare Improvement Scotland (HIS).
- e. It is understood by NES and the NMC that statutory and other constraints on the exchange of information will be fully respected, including requirements under the Data Protection Act 1998, the Human Rights Act 1998, the Freedom of Information (Scotland) Act 2002 (for NES) and the Freedom of Information Act 2000 (for the regulators). The common law duty of confidentiality will also be maintained.
- f. Each organisation will take appropriate steps to protect the confidential nature of documents and information that the other may provide.
- g. Examples of how NES and the NMC will collaborate and exchange information to include;
  - I. Sharing information on strategic and policy developments which may impact on each other's work, including, for example, developments or changes in education and training policy and procedures, regulatory standards or fitness to practise criteria.
  - II. Sharing information about trends, data, approaches and initiatives which may be of interest to the other organisation.
  - III. Notifying each other of specific concerns relevant to mutual responsibilities- including concerns about students, trainees, trainers, education and training programmes or local education providers (LEPs).
  - IV. Exchange of information regarding the delivery of appraisal and revalidation.
  - V. Collaborating on relevant external communications.

## **6. Referrals relating to individual practitioners**

- a. In addition to the ongoing routine sharing of information detailed in paragraph 5, each organisation will notify the other of specific concerns relevant to their responsibilities at the earliest opportunity.
- b. The principles of openness and candour, upon which this MoU is based, also extends to all NES's stakeholders. Therefore, in most circumstances where NES is seeking to share information with the NMC, NES will also have notified the organisation/individual, to which the information refers, of our findings and of our intention to share these with the NMC. We anticipate that this will prompt

a more proactive self-reporting culture between these organisations/ individuals and the NMC, coupled with a more structured planning and review process with regard to any subsequent action and/or remediation.

- c. NES and the NMC will be guided by the following principles when making any referral;
  - i. The need to ensure patient and public safety
  - ii. The public interest
  - iii. That referral is appropriate to the situation
- d. Disclosure of information between NES and the NMC will be considered on a case by case basis. In each case, the party holding the information will decide whether or not to disclose after careful consideration of relevant legislation and common law duty of confidentiality referred to in paragraph 5(e).
- e. In general terms and subject to case law, confidential or personal information will only be disclosed if there is an overriding necessity: for example a legal obligation or a patient or public safety reason. Personal data will be disclosed only to the appropriate staff member of the other party responsible for dealing with the issue to which such personal data relates.
- f. Where NES or the NMC encounter specific concerns that may impact on the work of the other, they will at the earliest opportunity convey the concerns and supporting information to a named individual with relevant responsibility at the other organisation as set out in the relevant appendix.
- l. NES will inform the NMC of any information gathered in the course of its normal business that raises concern about a registrant's fitness to practise. The information could relate but is not limited to complaints; death or injury to patients; alleged or suspected professional misconduct or health issue affecting an individual's capability; serious service failures; failure to supervise trainees; or adverse incidents or events.
- g. The NMC will, in accordance with its referral policies, inform NES if it is investigating concerns about the following where there may be implications for an individual's education/training;
  - i. the health, character, or competence of a student/trainee
  - ii. The fitness to practise of a registrant who is known or is likely to hold an educational role such as supervisor.
- h. If a staff member from either organisation is in doubt as to whether information should be referred, they will seek guidance from the relevant persons specified in the relevant appendix.
- i. Where either organisation has taken independent enforcement action, the outcome of which is relevant to the other organisation, details will be shared at the earliest opportunity.

- j. Working together, NES and the NMC will liaise with other relevant organisations that may regulate or scrutinise Local Education Providers (LEPs), such as Healthcare Improvement Scotland (HIS), where there are matters of concern relevant to those organisation's responsibilities.

## **7. Communication**

- a. NES and the NMC will collaborate on relevant external communications. This will include for example;
  - i. Sharing and working together, as appropriate, on relevant drafts, including sections of reports and guidance, in order to ensure factual accuracy, to benefit from each other's knowledge and expertise, and to promote consistency of advice.
  - ii. Involving each other as appropriate, in conferences and other public discussion.
  - iii. Assisting each other's activities to disseminate information about matters of mutual interest.
  - iv. Involving each other, as appropriate, in working groups, meetings and discussions between organisations on matters of mutual relevance.

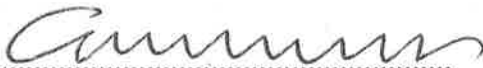
## **8. Dispute resolution**

- a. Any dispute between NES and the NMC will normally be resolved at working level. If this is not possible, it may be referred to the key officers mentioned in the relevant appendix who will try to resolve the issues within 14 days of the matter being referred to them.
- b. Unresolved disputes may be referred upwards through those responsible for operating this MoU, up to and including the Chief Executives of each organisation, who will be jointly responsible for endeavouring to ensure a mutually satisfactory resolution.

## **9. Duration and review**

- a. This MoU takes effect from the last date of signing, is not time limited and will remain in force until it is terminated or superseded by a revised document.
- b. Either party may terminate this MoU by writing to the other and giving 28 days' notice.

This MoU may be reviewed at any time at the request of either party.



**Caroline Lamb**  
Acting Chief Executive  
Signed on behalf of NES



**Jackie Smith**  
Chief Executive/Registrar  
Signed on behalf of NMC

## **The Nursing and Midwifery Council**

### **Roles and Responsibilities**

#### **NES**

The responsibility of NES to help provide better patient care by designing, commissioning, quality assuring and, where appropriate, providing education, training and lifelong learning for the NHS workforce in Scotland.

The Nursing and Midwifery function is integrated within the wider Nursing, Midwifery and Allied Health Professions (NMAHP) Directorate. Our aims are to contribute to the delivery of safe, effective and person-centred care by:

- facilitating, developing and delivering sustainable education for nurses, midwives and their support workers across the NHS Career Framework
- promoting excellence in pre-registration preparation of nurses and midwives through robust performance management and continuous quality enhancement
- leading and promoting the development and delivery of post-registration education and continuing professional development for nurses and midwives
- leading and supporting innovative educational developments to meet changing service needs and new models of care
- Continuing to build and develop educational infrastructure in the workplace.

The NES NMAHP Directorate works nationally and at a UK level within a multi-professional and multiagency context, engaging closely with NHS Boards, the Scottish Government, Scotland's colleges and universities, social care and many other cross-sectoral partners and stakeholders.

Alongside our professionally specific role, the NES NMAHP Directorate is also involved in the development of effective and efficient multi-professional education as well as promoting and participating in research and development. This includes workforce development, capacity and capability work for the profession in Scotland, UK-wide and with the Scottish Government.

#### **NMC**

The NMC is the nursing and midwifery regulator for England, Wales, Scotland and Northern Ireland. The responsibilities and functions of the NMC are set out primarily in the Nursing and Midwifery Order 2001.

The NMC:

- Exists to protect the health and wellbeing of the public.

- Sets the standards of education, training and conduct and performance so that nurses and midwives can deliver high quality healthcare consistently throughout their careers.
- Make sure that nurses and midwives keep their skills and knowledge up to date and uphold our professional standards.
- Have clear and transparent processes to investigate nurses and midwives who fall short of our standards.

## **Appendix A-Key Points of Contact**

### **NES**

Dr Colette Ferguson, Director NMAHP, NHS Education for Scotland

Email: Colette.Ferguson@nes.scot.nhs.uk

Tel: 0131 656 3370

Mr Mike Sabin, Associate Director, NMAHP, NHS Education for Scotland

Email: Mike.Sabin@nes.scot.nhs.uk

Tel: 0141 223 1493

### **NMC**

#### **Nursing and Midwifery Council**

23 Portland Place, London W1B 1PZ

Telephone: 020 7637 7181

Named contacts between NES and the NMC are as follows:

#### **Chief Executive (internal escalating policies should be followed before referral to Chief Executives)**

Jackie Smith, Chief Executive

Email: Jackie.smith@nmc-uk.org

#### **MoU management**

Emma Westcott, Assistant Director, Strategy

Email: emma.westcott@nmc-uk.org

Telephone: 020 7637 5797

#### **Education Contact**

Anne Trotter, Assistant Director, Education and QA

Email: anne.trotter@nmc-uk.org

Telephone: 020 7637 5779