

Nursing and Midwifery Council response to the Scottish Government's consultation on ending conversion practices

About Us

- 1 Our vision is safe, effective and kind nursing and midwifery that improves everyone's health and wellbeing. As the professional regulator of more than 808,000 nursing and midwifery professionals, we have an important role to play in making this a reality.
- 2 Our core role is to regulate. First, we promote high education and 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 and nursing associates – something that affects less than one percent of professionals each year. We believe in giving professionals the chance to address concerns, but we'll always take action when needed.
- 3 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're increasing our visibility so people feel engaged and empowered to shape our work.
- 4 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.

Our position

- 5 Our position is that conversion practices have no place in the UK health and social care sector. They are not a valid treatment since sexual orientation and/or gender identity do not need curative treatments, and no one should seek to change them. Conversion practices are inconsistent with the standards that we set for nurses and midwives because the evidence is that they can be harmful.
- 6 As you note in the consultation document, there is evidence that conversion practices are taking place within healthcare settings. The [National LGBT Survey](#) conducted by the Government Equalities Office in 2018 suggested that two percent of the 108,000 respondents had undergone a conversion practice while another five percent had been offered it but did not take it up. These figures are higher for trans people, with 13 percent having undergone or been offered it. Healthcare providers and professionals were the second largest group cited as offering these practices, at 19 percent of the total.

- 7 To help us consistently and fairly regulate our professions and best protect the public, we have been refining our own stance on conversion practices. This sets out the position above and reflects the existing [Memorandum of Understanding](#) produced by a wide range of expert healthcare organisations and which we note has also informed your thinking to date. To help guide our approach to this issue, we have explored how our Code relates to conversion practices, which is set out in the next section.

Our response to the proposals

- 8 We welcome the opportunity to feed back on the Government's proposals for banning conversion practices in Scotland. As a health and care regulator, some of the questions in the consultation are not directly relevant to our regulatory function. However, we have replied to those covering the general principles of the proposals and those that are most applicable to healthcare professionals.

Do you support our approach to defining conversion practices which focuses on behaviour motivated by the intention to change or suppress a person's sexual orientation or gender identity?

- 9 This is an important issue and we support the move to ban practices that meet this definition. As a health and care regulator, we are committed to doing all we can to make sure the professionals we regulate do not participate in any activity or approach that could be considered a conversion practice. We also welcome the steps proposed to restrict their promotion and advertising.
- 10 Nurses and midwives should not be involved in conversion practices that seek to change or suppress a person's sexual orientation or gender identity, nor encourage people to undergo them. Doing so is against the standards set out in our [Code](#) (see paras xx) and risks not only harm to the public, but also damaging public confidence in the professions.

Do you think that legislation should cover acts or courses of behaviour intended to 'suppress' another person's sexual orientation or gender identity?

- 11 While we are clear that our standards already prohibit the professionals on our register from taking part in any activity that could be considered a conversion practice, we welcome the decision to ban conversion practices more widely, including any acts or courses of behaviour intended to suppress sexual orientation or gender identity. We are pleased to see that the proposals include a blanket ban on all forms of conversion practices.

What are your views on the proposal that the offence will address the provision of a service?

- 12 We welcome the commitment set out in the consultation document to ensure that the ban on conversion practices must not result in interference for healthcare staff providing legitimate support for those who may be questioning their gender identity or sexual orientation. Our position is that anyone who is feeling uncertain about their sexual orientation and/or gender identity must not be prevented or

discouraged from approaching qualified professionals for appropriate help and support.

- 13 Health and care professionals have a responsibility to provide support, guidance and signposting to those who wish to discuss their feelings around sexual orientation and/or gender identity, and can play a positive role in supporting these individuals. We agree with the inclusion of the provision of healthcare by healthcare professionals in the avoidance of doubt clauses, and the commitment to the independence of professionals to support people who may be questioning the way they identify, in line with their professional obligations and in a way that upholds equality and human rights.
- 14 [The Code](#) sets out the NMC's professional standards of practice and behaviour for nurses and midwives. The standards within the Code already safeguard against many of the activities or approaches that could be considered a conversion practice. The Code is structured around four key themes, and this section sets out the ways in which each of these can be interpreted in relation to conversion practices.

Prioritise People

- 15 Professionals on our register are required to act in the best interests of people at all times (section 4), ensuring that they avoid any harm, including that which can result from conversion practices. They must respect individuals and uphold their human rights, and must recognise diversity (paragraph 1.5), and must challenge poor practice and discriminatory attitudes (paragraph 3.4).

Practise Effectively

- 16 The Code makes clear that any information or advice given by those on our register must be evidence-based and this includes information relating to using any health and care products or services (paragraph 6.1). Professionals on our register must practise in line with the best available evidence, and any advice or information they provide must be evidence based. As the evidence base shows that conversion practices can be harmful, providing them or supporting information about them would go against this section of the Code. It is the professional duty of our registrants to use their expert judgement to advise patients against potentially harmful actions.

Preserve Safety

- 17 We are aware that some circumstances may lead adults to actively seek conversion practices and to approach healthcare professionals, including those we regulate. However, as set out in this standard, it is incumbent on regulated healthcare workers to protect the health and wellbeing of these individuals and all who are at risk (section 17). As such nurses and midwives must not encourage nor promote any potentially harmful activity. They should also discourage any conversion practice when it is requested, and should help to ensure it does not take place in health and care settings by [raising concerns](#) where they believe this may be the case. Additionally, professionals on our register have a responsibility

to raise concerns immediately if they believe that a person needs extra support and protection (section 17).

Promote Professionalism and Trust

- 18 The Code makes clear that political, religious and moral beliefs must not be expressed or acted upon in an inappropriate way (paragraph 20.7). Any nurse or midwife encouraging, showing support for or directing a member of the public towards conversion practices in line with their own personal views could be in breach of the Code. Conversion practices also contradict this standard because promoting ineffective and/or potentially harmful treatments undermines the integrity of the profession.

Do you agree that there should be no defence of consent for conversion practices?

- 19 We agree with the decision to not include consent as a defence. Conversion practices are unnecessary and the evidence is that they can be harmful and so we do not think they should be permitted even where an adult consents and is aware of the risks involved. This position is reinforced by the standards we expect of professionals on our register who are not able to participate in conversion practices. This is because any involvement in delivering them goes against the principles of our Code and could cause harm to the individual. This will not prevent those on our register discussing conversion practices when asked, although they must ensure that their professional advice reflects the evidence, which is that these treatments do not work and can be harmful.