Nursing and Midwifery Council response to *Reviewing Right-touch regulation* consultation – April 2025

1. Our vision is safe, effective and kind nursing and midwifery practice that improves everyone's health and wellbeing. We are the largest healthcare professional regulator in the UK, regulating more than 841,000 nursing and midwifery professionals across three diverse professions which constitute a substantial part of the health and social care workforce across the UK.

Key messages

2. The Professional Standards Authority's (PSA) right-touch regulation methodology is now 10 years old. We welcome proposals to review this approach, considering the significant changes in health and social care and wider society since its development.

3. Right-touch regulation is a useful framework to apply to decisions we make about whether an intervention is required to protect the public, and what sort of intervention it should be.

4. The PSA could usefully clarify the status of right-touch regulation in its hierarchy of regulatory drivers and how it relates to and informs the Standards of Good Regulation. These Standards are currently also being reviewed. The PSA could consider and make explicit how its development of new Standards align with its right-touch approach.

5. We are mindful of the role and remit of the PSA. As the PSA is funded by UK health and social care regulators we believe right-touch regulation should be a resource designed for this constituency. If it is of wider value to other sectors or countries, that is positive.

6. The PSA should evaluate the impact of its focus on right-touch regulation as part of this review. This should include the impact and benefits of this approach in driving change in the sector. This evaluation should inform any updates to the model.

Section 1: Why do we need RTR3?

7. We support the inclusion of all the areas that are intended to feature in the updated version of right-touch regulation. They are all important and deserve consideration. The PSA should be clear about how evidence from these developments is informing its refreshed approach to right-touch regulation.

8. Other areas that could be considered include:

a. **Economic growth.** The relationship between healthcare regulation, its impact on health and well-being and economic growth as well as ensuring regulatory accountability. This is particularly important considering the UK government's agenda.[1]

b. **Pace and volume of change.** Regulators and their professions face an increasing pace and volume of change across the external environment. This can have a significant impact on organisational priorities and lead to rapid redeployment of resources.

c. **Disinformation.** How this impacts health and social care decision-making and engagement with regulators by the public.

Section 2: What is regulation?

9. **Definition.** We support the continued use of the current definition of right-touch regulation.[2] The focus on evaluating risk, proportionality and outcomes is key. However, we are mindful that there are different definitions of regulation, and the PSA should consider if its definition of right-touch regulation is applicable across all forms of regulation and regulatory action.

10. **Principles.** Any update to the right-touch regulation principles needs to be proportionate and focus on what matters most for regulatory decision-making across health and social care in the best interests of public protection.

11. There are six principles at present and there is a risk that over time these may grow to an unwieldy number that will be hard to prioritise, embed and respond to.

12. We support the addition of 'fair' and 'collaborative' as principles. In particular, the PSA should consider how it supports regulators to undertake increased collaboration and deliver joint endeavours.

13. The PSA should consider how the new 'fair' principle would relate to regulators' Public Sector Equality Duty as well as Standard 3 of the Standards of Good Regulation. Furthermore, it should consider how a 'collaborative' principle would relate to our existing duties to co-operate[3] and any new Standard of Good Regulation on collaboration.

14. **The decision-making tree.** The decision-making tree is useful, particularly the 'Use regulation only when necessary' element. Where issues arise, it is appropriate that we consider whether we are best placed to provide a response, and if it is necessary for us to respond, what modes of intervention we should deploy, including our regulatory levers or a sub-regulatory approach.

---

[1] New approach to ensure regulators and regulation support growth (HTML) - GOV.UK

[2] *'Right-touch regulation is based on a proper evaluation of risk, is proportionate and outcome focused; it creates a framework in which professionalism can flourish and organisations can be excellent.'* Right-touch regulation (2015)

[3] NMC Order, 2001, Article 3, 5(b) and 5(A). Additionally, we will have a new duty to co-operate via regulatory reform.

15. Two elements of the decision-making tree ‘Identify the problem before the solution’ and ‘Get as close to the problem as possible’ suggest that regulatory decision-making will always be about responding to problems. Regulators often make preventative or anticipatory decisions or as part of continuous improvement rather than in response to problems and alternative language would be helpful.

16. Furthermore, regulatory decisions are rarely simple and the ‘Keep it simple’ element does not reflect this. It could give a false impression that a simple solution to a complex problem will resolve an issue. It may be better to include an element focused on justifying the rationale of a decision based on evidence in a way that promotes clarity and simplicity.

17. Finally, it may be preferable to include a clearer stage for options development within the decision-making tree rather than the ‘Get as close to the problem as possible’ element.

18. **Use of case studies.** We would welcome the development of updated case studies with practical examples to support the wider implementation of right-touch regulation across UK health and social care professional regulators, including contemporary and specific challenges.

19. This could include trade-offs on how to mitigate risks and reduce regulatory burden; the interplay between systemic issues and individual causation; the boundaries between errors and mistakes versus recklessness and violations; and good practice examples in meeting the Standards of Good Regulation.

20. We would also support new case studies on actions at the limits of jurisdiction; on taking a lighter touch; and supporting regulators to promote fairness and inclusivity.

21. The PSA should consider how the case studies it develops link to the issues outlined in the ‘Why do we need RTR3’ and ‘Getting more out of regulation’ sections of the discussion paper.

22. **What can we now remove from Right-touch regulation?** The discussion paper states that the PSA plans to ‘remove elements that were initially included to justify or explain the [right-touch regulation] approach being set out’ and that ‘we no longer need to show our working’.[4] It is unclear which elements it intends to remove.

23. Right-touch regulation is well-established, and some case studies may benefit from a refresh to reflect any new aspects of the framework. However, we think that to support effective operationalisation by regulators the approach should continue to justify and explain right-touch regulation.

Section 3: Who is RTR3 for?

[4] PSA, 2025, *Reviewing Right-touch Regulation*, p6.

24. We note that the discussion paper states that 'RTR3 will be designed to be a flexible and broadly applicable framework that adds value to regulation in any sector and in any country'.[5]

25. We believe that the focus for right-touch regulation should be health and social care professional regulation, considering the primary role and remit of the PSA. It should support thinking across the ten UK health and social care professional regulators, as well as by individual regulators.

26. We are keen to understand how the intended broad application of right-touch regulation will interact with the work of health and social care systems regulators, the work of regulators outside health and social care, the Regulators Code, the Regulatory Policy Committee, and the new Regulatory Innovation Office (RIO). For example, one of the RIO's immediate priority areas is artificial intelligence (AI) and digital in healthcare.[6] Other organisations are likely better placed to develop regulatory approaches in their sectors, markets and countries.

27. **Setting out the principles that govern all regulation.** There is a wide range of principles and objectives that should inform thinking about good regulation in health and social care professional regulation.

28. This includes the Nolan Principles; the Public Sector Equality Duty; public law principles; the Starmer Government's New approach to ensure regulators and regulation support growth; and the Sunak Government's Smarter regulation: Delivering a regulatory environment for innovation, investment and growth. The PSA should carry out further work to reflect on the relationship between these sources and others[7] and its right-touch regulation principles.

29. **To regulate or not regulate.** Right-touch regulation is helpful for considering whether a role should be regulated or not.

30. We are mindful of the positive impacts of regulation. For example, the regulation of nursing associates enabled the sector to have confidence in this role and therefore be able to deploy nursing associates across the system leading to better care for people.

31. Regulators can be subject to stakeholder pressure to intervene in public protection issues that are beyond their remit, or to impose disproportionate

---

[5] Ibid., p7.

[6] Announcing the Regulatory Innovation Office, Statement made by Peter Kyle MP, Secretary of State for Science, Innovation and Technology (8 October 2024).

[7] Other sources of information include: General Medical Council: Regulatory decision making principles; National Audit Office: Principles of effective regulation; Charity Commission: Charity purposes and rules; Public benefit: running a charity; Making decisions at a charity; Managing charity finances; and Safeguarding and protecting people for charities and trustees; HM Treasury Managing public money; NHS Resolution: Fairness and Proportionality: Principles and framework for healthcare organisations managing performance concerns; & Patient Safety Commissioner for England: Patient Safety Principles.

regulatory measures. It would be helpful if the PSA could do more via right-touch regulation with professional and representative bodies among others to promote the principles and demonstrate why proportionate regulation is in the public interest.

32. **How to regulate well?** The discussion paper highlights that right-touch regulation will serve as a framework for regulators' 'self-assessment, evaluation, and improvement of regulatory performance'. However, the PSA reviews how regulators perform via its Standards of Good Regulation.[8]

33. The PSA should clarify how right-touch regulation will inform the new Standards of Good Regulation and the performance review of health and social care professional regulators.

34. **Decision-making within regulatory processes.** We have previously used the right-touch regulation approach in decision-making across the work of the NMC, for example, our Aims and Principles for Fitness to Practise and our Advanced Practice Review.

35. The design of the revised right-touch regulation approach and products and how easily they can be applied to regulatory decision-making about contemporary challenges will be key to their effective operationalisation by regulators.

Section 4: Who is regulated?

36. **New or different regulatory arrangements.** The right-touch assurance methodology for assessing and assuring occupational risk of harm is helpful for considering if a health and social care professional role needs to be regulated. We extrapolated to use this during our recent Advanced Practice Review, to assess the occupational risk of harm of nurses and midwives working at the advanced level. This tool helped us to refine our thinking and conclude that additional regulation was required for this level of practice.

37. The elements of 'quantifying risk', 'using regulation only when necessary' and 'unintended consequences' were particularly useful. We found, however, that most elements of this model are more helpful for considering the need to regulate new and unregulated roles rather than for changing regulation for already regulated roles.

38. The health and social care workforce continues to evolve, including in relation to digital and AI usage. Brand new roles may be inherently more risky than existing regulated roles developing new levels and scopes of practice. A differential assurance model may therefore be necessary.

39. Within the current occupational assurance model, one of the factors is means of assurance, which includes employment controls. Our professionals operate in highly complex workplace settings amidst a range of different requirements,

[8] PSA, 2025, *Reviewing Right-touch Regulation*, p8.

including clinical governance, professional and systems regulation as well as employer controls, which are necessary for public safety.

40. However, one of the challenges we found was that the variation in employer requirements for advanced level professionals impacted on a standardised understanding of role requirements and wider assurance. It was therefore difficult to consider this as an effective means of assurance in this instance. It may be better to consider the collective and standardised nature of employment controls in any future model.

41. **Who regulates the regulators?** We are committed to being open, transparent and accountable. The accountability of health and social care professional regulators is central to public trust and confidence in professional regulation and enables us to more effectively deliver our role in the interests of public protection.

42. We welcome public scrutiny from the UK Parliament, the legislatures of Northern Ireland, Scotland, and Wales, and the PSA. We operate within a system of annual review process by the PSA as well as annual reporting to the UK Parliament.

43. Following the publication of the Independent Culture Review the PSA established an Independent Oversight Group which also receives regular updates about our culture transformation. The meetings are chaired by the PSA Chief Executive, and we are grateful for the considered support and challenge provided by this Group.

Section 5: What is regulated?

44. The PSA is the oversight body for the ten UK health and social care professional regulators. We note that the discussion paper states that the intention is for right-touch regulation to 'apply widely across different branches of regulation, such as markets, professions, premises, and products'.[9] However, the PSA should focus on supporting the work of the UK regulators and its accredited registers.

45. **Artificial Intelligence.** AI is increasingly being integrated into regulatory functions worldwide, offering significant opportunities to enhance decision-making and operational efficiencies.

46. Some countries are moving faster than others to adopt changes. We note the AI Opportunities Action Plan. This outlines an ambitious roadmap to position the UK as a global leader in AI, emphasising the need for regulators to balance innovation with public trust and safety, with a clear directive for all regulators to report annually on their progress in enabling AI-driven growth.

47. As AI technology continues to evolve, we anticipate its broader adoption. However, the extent of its utilisation in regulatory activity will depend on each regulator's appetite for risk, technological capability, existing data infrastructure and available funding.

[9] Ibid., p10.

48. The potential benefits of AI in regulatory functions are considerable, offering opportunities to enhance efficiency, accuracy and responsiveness; for example, by automating repetitive tasks, such as case triaging, case preparation and quality assurance. This could help reduce backlogs and free up staff to focus on complex decision-making.

49. However, there are multiple risks including diminished human oversight, inability to handle nuance and blurring of accountability between regulators and AI systems. Benefits can only be fully realised if clear ethical guardrails and robust internal policies are established. Without these measures, the risks could compromise the integrity of regulatory decisions and erode public trust.

50. AI is also transforming clinical practice and education environments. AI integration promises to enhance clinical decision-making, improve patient care and complement learning outcomes. However, it presents a double-edged sword. Risks, including data bias, transparency challenges and privacy concerns, could compromise professional practice and public trust if not managed properly.

51. Striking the right regulatory balance is crucial. Regulators must carefully weigh the risks of inaction against the potential downsides of over-regulation. By providing clear, right-touch, flexible guidance that supports the responsible use of AI, regulators can help ensure that this transformative technology augments professional practice and education while safeguarding against its inherent risks.

52. The PSA could work with regulators to help develop thought leadership on AI, innovation in technology and remote delivery of care. More opportunities to bring regulators together to develop collaborative responses would be beneficial.

53. **Regulatory approaches and challenges.** We regulate three professions across four UK nations. Professionals on our register deliver health and social care services in a diverse range of roles and settings.

54. Our focus is on our own regulatory purpose and remit.[10] This is rightly centred on public protection, ensuring professionals on our register meet and maintain our standards and continue to be fit to practise rather than to determine the actions of other actors across the health and social care landscape.

55. We note that right-touch regulation may consider the right balance between consistency and difference, including justifiable and unjustifiable disparities. Where unwarranted variation in regulatory approaches can be minimised, this supports public understanding and public confidence.

56. We value the diversity of the people on our register, our employees and the people and communities we and our professionals serve. It is our responsibility to

[10] Our Order states the "over-arching objective of the Council in exercising its functions is the protection of the public". Pursuant to this over-arching objective are the objectives: "to protect, promote and maintain the health, safety and wellbeing of the public"; "to promote and maintain public confidence in the professions regulated under this Order"; and "to promote and maintain proper professional standards and conduct for members of those professions".

tackle inequality and promote diversity and inclusion in everything we do. That starts with scrutinising our own work as an employer and a regulator. We are committed to removing any disparities in outcomes.

57. For example, we have collaborated with the General Medical Council (GMC) on conducting a comprehensive demographic analysis to assess and mitigate potential disproportionality in registrants being referred by their employers. This analysis examines the distribution of key demographic characteristics - including gender, ethnicity, disability, sexual orientation, religion and training country. We want to identify and understand any systemic factors that contribute to disparities so that we can address them and ensure equity and fairness.

58. Any discussion of disparities should look across regulatory power and responsibilities, including those outside fitness to practise, and consider the impact of differing contextual factors across countries, workplace settings and professions.

59. **Enabling effective collaboration.** We believe the PSA has a central role in convening regulators and supporting increased collaboration across the sector on issues where a collective approach is of positive benefit in terms of desired outcomes.

60. We are committed to working collaboratively with regulators and others to support a more proactive and preventative approach to regulation. The increasing use of multi-disciplinary teams across health and social care has led to a subsequent need for increased convergence in regulatory approaches.

61. We welcome the UK Government's commitment to regulatory reform of health and social care professional regulation. Regulatory reform will enable us to be more right-touch, agile and effective, supporting the workforce, and delivering better, safer regulation for the public. It will also help to deliver greater consistency of underpinning legislation as well as a new duty to co-operate. This will enable increased collaboration between regulators and greater clarity for the public and professions.

62. Collaboration, especially on data sharing, is key to understanding safety risks and supporting improvement. The PSA could convene professional and systems regulators to discuss using the same data indicators across regulators to highlight risk factors in workplace settings and a collective understanding of the level of detail needed to be shared to easily take forward a referral.

Section 6: Regulation in the real world

63. The NMC's purpose is to protect the public and inspire confidence in the professions. It's therefore essential that we understand all our work through the lens of how it affects people and communities. As well as an ethical imperative to work in this way, there are significant benefits for our core regulatory activity.

64. Meaningful engagement with the public helps us to understand people's needs and experiences and develop standards, policies, communications and ways of working that respond appropriately.

65. We have a range of mechanisms to enable engagement and collaboration. This includes our Public Voice Forum (PVF), work with stakeholder organisations and specific activity with affected groups and individuals via research, focus groups and working groups.

66. One example is the 'For every pregnancy' public information campaign to support women and families. This was rooted in evidence from a survey on public experiences of care and external research, with ideas developed in partnership with the PVF and maternity charities, then tested and refined with focus groups of pregnant women and midwives. The campaign had more than 800,000 digital impressions and the accompanying video was viewed 130,000 times.

67. In general, the PSA should consider how the experiences of the public and people who use health and social care services can be better represented and placed at the heart of the right-touch regulation approach.

68. **Harm prevention and local discussion.** Local discussion and decision-making are critical to harm prevention and frustrating the hazards that lead to harms.

69. Our Fitness to Practise principles state that: 'Employers should act first to deal with concerns about a nurse, midwife or nursing associate's practice, unless the risk to people receiving care or the public is so serious that we need to take immediate action.'[11]

70. There are many ways that concerns can be managed locally. Deciding on the best approach will depend on the nature of the concerns, the local context and the available options for managing concerns. We provide guidance on managing concerns locally.

71. Our Employment Link Service provides advice to employers to improve patient safety and ensure higher standards of care. The service aims to encourage robust local investigation where there are concerns relating to nurses, midwives and nursing associates, and to ensure that where these relate to fitness to practise, appropriate and timely referrals are made to the NMC.

72. As regulators we need to have a collective understanding of workplace environments and systemic issues, particularly at employers where risks may not be being managed well. This helps to ensure that we understand the factors that lead professionals to be involved in poor outcomes and that our regulation bridges the gap between 'work as imagined' and 'work as done'.

73. Separately, the concept of 'harm' is central to the right-touch regulation model. However, the current approach doesn't consider how different groups may perceive risk of harm differently – professionals, the public, employers, educators

[11] Aims and principles for fitness to practise - The Nursing and Midwifery Council, Principle 4.

and regulators. It would be useful to consider a more multi-dimensional approach to 'harm', which could include different perspectives on harm, a focus on the immediate and long-term, considering how risk of harm may increase over time and the role of regulatory collaboration between professional and system regulators and other stakeholders in reducing harms.

74. **Right-touch approach to compliance.** The nurse, midwife and nursing associate professions are accountable professions. Our regulation, especially the standards of proficiency and the Code, helps inform individual professionals on how to self-regulate their behaviours and maintain their capabilities. That is why it is critical that it must have the confidence and consent of professionals on our register.

75. Our sub-regulatory approaches are also important in enabling us to help shape actions in workplaces across the health and social care landscape; for example, our Principles of preceptorship and Advanced Practice principles. These frameworks are helpful in shaping behaviours that improve care, reduce hazards and limit harm even when we are not deploying our substantive regulatory levers.

76. **Developing ideas on prevention.** The pursuit of prevention should be inherent to a right-touch approach and issues of managing risk.

77. Upstream regulatory work, including setting standards, education quality assurance, registration and revalidation, supports preventative action and early intervention. It affects all professionals on our register and is as important as our fitness to practise work, which affects a small proportion of professionals.

78. We would welcome the PSA taking on a more visible and vocal role in the sector helping to explain the importance of local decision-making by employers and that not all matters need to be escalated to regulators.

79. There will be an increasing role for AI in preventative regulation; for example, via proactive risk monitoring and trend analysis. AI systems can be employed to detect potential misconduct and identify fraudulent activities. These capabilities will allow regulators to act pre-emptively and enhance public protection.

80. The discussion paper refers to the inclusion of 'crime prevention as a general objective within the Legal Services Act 2007'.[12] However, health and social care professional regulators already have overarching legal duties regarding public protection which are aligned to preventing harm. It would be preferable for the PSA to consider case studies on the further operationalisation of preventative approaches rather than the relevance of new legislative objectives in right-touch regulation, especially when similar objectives already exist. Regulatory reform will also potentially introduce new objectives.

Section 7: Getting more out of regulation

[12] PSA, 2025, *Reviewing Right-touch Regulation*, p13.

81. We support the exploration of all the outlined areas for demonstrating value. This list should be extended to include the impact and value of health and social care professional regulation on economic growth and improving the health and well-being of all people.

Section 8: Next steps

82. We are keen to be involved in ongoing work to support this review of right-touch regulation.

83. This is important work and we would value a regular periodic review of the right-touch regulation approach, with an agile response to updates if there is new Government policy, for example, the previous Government's Smarter Regulation Principles and the current Government's New approach to ensure regulators and regulation support growth.