

NMC response: Welsh Government's White Paper Consultation Document - Services fit for the future: Quality and Governance in health and care in Wales

About us

- 1 The Nursing and Midwifery Council (NMC) is the professional regulator for nurses and midwives practising in the UK. We exist to protect the public by regulating nurses and midwives in the UK. We do this by setting standards of education, training, practice and behaviour so that nurses and midwives can deliver high quality healthcare throughout their careers.
- 2 We maintain a register of nurses and midwives who meet these standards, and we have clear and transparent processes to investigate nurses and midwives who fall short of our standards.
- 3 Our regulatory remit is UK wide, but we are mindful of the differing approaches to healthcare delivery in each of the four countries of the UK. Central to the NMC's approach to regulation is our Code¹, which sets out the professional standards and behaviours that nurses and midwives must uphold in order to become and to remain registered to practice in the UK. It is structured around four themes – prioritise people, practice effectively, preserve safety and promote professionalism and trust.

Our response

- 4 We welcome the opportunity to respond to the consultation on the Welsh Government's White Paper². Our response is provided within the context of our regulatory remit as set out above, and therefore we do not provide views on some areas of the consultation. We have provided comments on:
 - 4.1. Duty of candour (paragraph 49-56 of the consultation document);
 - 4.2. Setting and meeting common standards (paragraph 58-66 of the consultation document);
 - 4.3. Joint investigations into complaints working (paragraph 67-75 of the consultation document); and
 - 4.4. Inspection and regulation (paragraph 103-110 of the consultation document).
- 5 We have not felt it appropriate to comment on the structure and governance of NHS Health Boards and a potential merger of the Healthcare Inspectorate Wales and Care and Social Services Inspectorate Wales into a single body.

¹ <https://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/nmc-code.pdf>

² https://consultations.gov.wales/sites/default/files/consultation_doc_files/170628consultationen.pdf

Duty of candour

- 6 We welcome the Welsh Government's ambition for health and social care organisations and staff to be open when things go wrong. The consultation document highlights that Welsh ministers do not currently have the power to provide for an express statutory duty of candour for health services and that the existing duty for NHS organisations, as set out in the Putting Things Right regulations, need to go further (paragraph 51 of the consultation document).
- 7 We do not have a view on whether legislative changes are appropriate to achieve the Welsh Government's ambition. However, we encourage the Welsh Government to consider how any new requirements could be aligned with professional requirements we set on a UK wide level to provide consistency and clarity for nurses and midwives, and the public.
- 8 Our Code, for example, sets out that nurses and midwives must:
 - 8.1. "Recognise and work within the limits of your competence" (paragraph 13 of The Code);
 - 8.2. "Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place" (paragraph 14 of The Code);
 - 8.3. "Always offer help if an emergency arises in your practice setting or anywhere else" (paragraph 15 of The Code); and
 - 8.4. "Act without delay if you believe that there is a risk to patient safety or public protection" (paragraph 16 of The Code).
- 9 In addition to this the NMC and the General Medical Council have developed joint guidance for nurses, midwives and medical professionals on 'Openness and honesty when things go wrong: the professional duty of candour'³. We would encourage the Welsh Government to take account of this when considering new duty of candour requirements, and how the two can align.

Setting and Meeting Common Standards

- 10 We do not have a view on whether the proposal to introduce a mechanism to set and meet common standards is appropriate to achieve the ambition set out in the White Paper. However, we encourage the Welsh Government to consider how its plans to setting and meeting common standards could be aligned with UK wide professional standards as this would allow for clarity and consistency for health and social care professionals and the public.
- 11 It is important to highlight that as a UK wide professional regulator our regulatory functions are set out in legislation⁴ and reserved to Westminster under the Wales devolution settlement. This means that standards we set apply to all nurses in midwives in the UK, including in Wales.

³ <https://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/openness-and-honesty-professional-duty-of-candour.pdf>

⁴ <https://www.nmc.org.uk/about-us/our-legal-framework/>

12 The standards we set include:

- 12.1. **Standards for pre-registration nursing and midwifery education.** We set standards for pre-registration nursing and midwifery education and approve nursing and midwifery programmes. All students on our approved programmes are required to meet these standards before registration.
- 12.2. **The Code for nurses and midwives.** Our Code sets out the professional standards that nurses and midwives must uphold in order to be registered to practise in the UK;
- 12.3. **Standards of proficiency for specialist community public health nurses (SCPHNs).** The Standards set out what SCPHNs must meet when they qualify and the standards they must maintain consistently throughout their careers.
- 12.4. **Revalidation.** All NMC registrants are required to revalidate with us every three years to renew their registration. Revalidation is about promoting good practice and to raise awareness of the Code and professional standards expected of nurses and midwives. To revalidate with us nurses and midwives must meet our requirements, including for example the required number of practice hours⁵.

13 We encourage the Welsh Government to consider how its proposed common standards could be aligned with the existing UK wide professional standards. This would ensure that there is consistency in the regulatory approach and provide clarity for health and social care professionals regarding what is required of them.

Joint Investigation of Health and Social Care Complaints

- 14 We understand the proposal to mean that there would be a joint process for complaints which cover both health care providers and social care providers, and that the joint process would involve the health and social care providers working together to investigate the complaint.
- 15 We are fully supportive of the Welsh Government's ambition to encourage health and social care professionals and organisations to work together for the benefit of patients and the public. We currently have a Memorandum of Understanding with both Healthcare Inspectorate Wales and Care Council for Wales, outlining how we share information and work together⁶.
- 16 Our core duty is to protect the public, and one way we do this is by investigating and taking action against a nurse or midwife who does not meet our standards for skills, education and professional conduct.
- 17 We have concerns that if the Welsh Government's proposal was wider and involved mandatory joint investigations between health and social care organisations and professional regulators it could have unintended consequences and negatively

⁵ <https://www.nmc.org.uk/standards/additional-standards/>

⁶ <https://www.nmc.org.uk/about-us/who-we-work-with/mous/>

impact on patient safety. For example if any joint working arrangements delayed or prevented the sharing of information with us that we may rely on as part of an ongoing investigation. This consideration is particularly important in the context of our power to take urgent action to restrict or suspend a nurse or midwife's right to practise while our investigation is ongoing, if the risk of harm to patients makes that action necessary.

- 18 While we do support the principle of regulatory bodies working more closely together, we encourage the Welsh Government to consider how the proposal could be designed in a way that does not unintentionally undermine the role of the professional regulators or limits our ability to carry out our regulatory functions.
- 19 The relevant parts of our Code for nurses and midwives relating to raising and acting on concerns are:
 - 19.1. "Keep to and uphold the standards and values set out in the Code" (paragraph 20.1 of the Code);
 - 19.2. "Act without delay if you believe that there is a risk to patient safety or public protection" (paragraph 16 of the Code);
 - 19.3. "Raise and, if necessary, escalate any concerns you may have about patient or public safety, or the level of care people are receiving in your workplace or any other healthcare setting and use the channels available to you in line with our guidance and your local working practices" (paragraph 16.1 of the Code);
 - 19.4. "Tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can" (paragraph 16.3 of the Code); and
 - 19.5. "Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection" (paragraph 17 of the Code).
- 20 In addition to this our Code put in place additional requirements for senior nurses and midwives. These requirements are:
 - 20.1. "Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the healthcare system" (paragraph 25 of the Code);
 - 20.2. "Identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first" (paragraph 25.1 of the Code); and
 - 20.3. "Support any staff you may be responsible for to follow the Code at all times. They must have the knowledge, skills and competence for safe practice; and understand how to raise any concerns linked to any circumstances where the Code has, or could be, broken" (paragraph 25.2 of the Code).

Inspection and Regulation

- 21 We do not have a view on the Welsh Government's proposal of merging the Healthcare Inspectorate Wales and Care and Social Services Inspectorate Wales into a single body (paragraph 103-110 of the consultation document). However, we welcome and encourage the focus on joint working and believe this is an important element of maintaining public protection.