

## **NMC response to the Scottish Government consultation on ‘Strengthening protection from Female Genital Mutilation’**

### **Introduction**

1. The Nursing and Midwifery Council (NMC) is the independent regulator for nurses and midwives in the UK and for nursing associates in England.
2. We exist to protect the public by regulating nurses and midwives in the UK and nursing associates in England. We do this by setting standards of education, training, practice and behaviour so that nurses, midwives and nursing associates can deliver high quality healthcare throughout their careers.
3. 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. From 28 January 2019, nursing associates trained in England will also be able to apply to join our register.
4. We welcome the opportunity to respond to the Scottish Government’s consultation. We recognise that this is a complex and challenging issue, and wholeheartedly support the Government’s efforts to prevent and eradicate violence against women and girls, including Female Genital Mutilation (FGM).
5. In this response we have focused on the proposals relating to healthcare professionals which have regulatory implications. We are not in a position to comment on those proposals which fall outside our regulatory remit.

### **Duty to notify police of female genital mutilation**

**Question 7: Do you think the Scottish Government should introduce a duty to notify the Police of FGM? Please explain your answer.**

6. The consultation notes that regulated health professionals in England and Wales are required to report cases of FGM in girls under the age of 18 to the police. However, the Scottish Government considers that there are a number of challenges in relation to introducing such a duty to Scotland. In support of this, as illustrated in the consultation document, less than half of the respondents to the Scottish Government’s stakeholder questionnaire were in favour of introducing a mandatory duty.
7. In our [response to the Home Office’s consultation on introducing mandatory reporting for FGM in 2015](#), we highlighted the risks associated with implementing this duty in England and Wales. We outlined a number of reservations including around reporting driven by process rather than focusing on the needs of girls or young women who have undergone FGM. We also highlighted the importance of the need to maintain individual professional discretion, and in particular, the duty to put the interests of patients and service users first. We are therefore supportive of

the Scottish Government's position that services would be better utilised supporting those who have experienced FGM, especially as child protection procedures are already in place for under 18s.

8. We do not have access to data about the number of FGM cases reported to the police by nurses and midwives in England and Wales. However, our fitness to practise data shows that we have not had any cases relating to a failure to report FGM since the duty was introduced in 2015. Care should be taken in linking this data to the effectiveness or otherwise of this duty, but we would suggest that the Scottish Government take into account any available data on the impact of mandatory reporting in England and Wales before taking a decision.
9. If the Scottish Government was minded to introduce such a duty, we would ask that they consider the scope of the duty and the relevant sanctions. In this connection our response to the Home Office consultation made the following points
  - Clarity should be provided on the timescales for reporting. There may be instances where, in the interests of the patient, it is more important for reporting to take place as soon as it is reasonable rather than as promptly as possible.
  - Care should be taken to ensure that mandated professionals are still able to maintain their professional discretion and their duty to put the interests of patients and service users first.
  - Policy makers should consider the relationship between any mandatory reporting duty and statutory guidance and how the two would interact and align in practice.
  - Any sanctions should be proportionate and applied consistently across mandated professionals.
  - Information relating to non-regulatory sanctions should be shared with professional regulators, such as the NMC, so that we can take appropriate regulatory action.
10. More detail on these points can be found in our 2015 response.

## **Guidance about female genital mutilation**

**Question 8: Do you agree that the Scottish Government should issue statutory guidance for professionals in relation to female genital mutilation? Please explain your answer.**

11. Our Code requires our registrants to uphold national standards and therefore this includes existing multi-agency guidelines around FGM. Making these guidelines statutory would reinforce the link with the Code and we believe that this would be preferable to introducing a mandatory reporting duty. We therefore support the Scottish Government's proposal.

## **Other issues – vaginal elongation and cosmetic genital piercings**

**Question 10: Do you consider that additional protections need to be introduced in Scotland in respect of the practice of vaginal elongation?**

**Question 14: Do you have views in relation to the place of cosmetic genital piercings in relation to protections and guidance?**

12. We do not have any particular comments on these questions, save to note that these processes appear to fall under Type 4 of the World Health Organisation (WHO) definition of FGM and therefore we would expect to see them covered in any statutory guidance.