

NMC response to Scottish Social Services Council's opt-in Hearings Consultation

Introduction

- 1 We are the independent regulator for nurses, midwives and nursing associates. We hold a register of the 690,000 nurses, midwives and nursing associates who can practise in the UK.
- 2 Better and safer care for people is at the heart of what we do, supporting the healthcare professionals on our register to deliver the highest standards of care.
- 3 We make sure nurses, midwives and nursing associates have the skills they need to care for people safely, with integrity, expertise, respect and compassion, from the moment they step into their first job.
- 4 We want to encourage openness and learning among health and care professions to improve care and keep the public safe. On the occasions when something goes wrong and people are at risk, we can step in to investigate and take action, giving people affected, patients and families a voice as we do so.
- 5 Our new approach to fitness to practise builds on improvements we have already made to the way we investigate concerns about the people on our register, which we believe will help us to protect the public in a fairer, more effective, proportionate and consistent way. Alongside a focus on keeping people safe, we are committed to putting patients and families at the heart of everything we do.
- 6 We welcome the opportunity to comment on SSSC's opt-in hearings consultation. In this response we comment specifically on the proposal, and make some general observations about the points made in the consultation document.

Opt-in hearings

- 7 We strongly welcome SSSC's proposals to move to 'opt-in' hearings in fitness to practise. We think that a model where a sanction is imposed unless the professional actively engages with their regulator to say they disagree with the findings of the investigation, or the proposed sanction, will be a positive development in the regulation of health and care professionals across the four countries of the UK.
- 8 As we explain in our [principles for fitness to practise](#), we think that hearings best protect patients and members of the public by resolving central aspects of a case that we and the nurse, midwife or nursing associate don't agree on. Full public hearings aren't always needed to reach the decision that best protects the public.
- 9 The adversarial nature of hearings often has a negative impact on people, and they are slow and resource intensive. We agree with SSSC's wish to avoid witnesses having to come to hearings where there is no disagreement about the outcome of an investigation. We think it's right to point out that giving evidence is a difficult process

for witnesses and that there can be impacts on services, and in the end on people's care, that come with people being released from work to attend fitness to practise hearings.

Transparency

- 10 We think fitness to practise best protects patients and members of the public by making final decisions swiftly, and publishing the reasons openly. We think transparency is crucial to an effective fitness to practise process. All the people involved in a case, including patients, members of the public, and professionals need to understand clearly and as quickly as possible what we have done about the concerns, and the reasons for our decisions.
- 11 We think transparency is effective when the people affected clearly understand all of this, and where appropriate how they can ask for decisions to be reviewed. We think fitness to practise cases can be resolved transparently without a full public hearing.
- 12 For these reasons, we think it's important that SSSC explained clearly how workers, employers and the public will know that decisions to impose a sanction will be made fairly, highlighting the detail of their decision notices that will be shared with workers and employers, and that decisions will continue to be published online.

Quality and safeguards

- 13 SSSC's work to assess the decision making of its Fitness to Practise Department against the outcome of panel hearings where the worker doesn't engage was of particular interest to us.
- 14 We believe this work helps to demonstrate that rigorous fitness to practise decisions, consistent with those made at final hearings, can be made in the earlier stages of the standard process. It shows that quality assurance and scrutiny mechanisms, backed up by rights of appeal, can give the public confidence in the quality of fitness to regulatory decision-making.

Conclusion

- 15 Again, we are grateful for the opportunity to comment on SSSC's proposal for opt-in hearings, alongside our response to the consultation survey. We would be happy to provide any further information on our response that may be helpful.