NMC response to the PSA consultation on its approach to reviewing the regulators (follow-up consultation)

1 Our vision is safe, effective and kind nursing and midwifery that improves everyone's health and wellbeing. As the professional regulator of almost 745,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

Our position

2 We would like to thank the PSA for the opportunity to give further feedback on proposals to change the Performance Review Process (PRP). We are pleased to see the PSA adopting a reflective and iterative approach to its engagement on this issue, and would therefore also like to thank the PSA for taking on board a large proportion of our previous feedback.

3 In our previous response we advocated for a PRP approach which is smart and proportionate, efficient and transparent in terms of cost and regulatory burden, and effective in its outcomes and impacts. In responding to this iteration of the proposals, we would like to emphasise that our positions from the previous round of consultation have not changed:

3.1 We are not in favour of thematic reviews

3.2 We would prefer an annual PRP cycle

3.3 We strongly oppose the introduction of any work that might result in fee increases being passed on to registered professionals, which in our view should be explicitly ruled out as the current proposals develop.

4 We welcome several of the broad principles visible in the refined proposals. It is welcome that the PSA recognises the need to resource informal day-to-day relationships with regulators, proposes to implement a new monitoring process between reporting, has acknowledged the need for greater risk-based targeting of its work in the PRP, and recognises the impact of regulatory burden.

5 We would be pleased to further share any relevant comments or information as the PSA refines the proposals and look forward to their finalisation.

Refining the proposals

Getting the reporting cycle right

6 The review process must be efficient, avoid adding financial costs, and add value by identifying shortcomings and improvements.

7 In our response to the recent PSA fee consultation, we said that the PSA should "be efficient, operating in a way that minimises its own costs and the cost impact it

has on regulators". We would like to see the PSA formally adopt an assumption that there should be no increase in regulatory burden or cost as part of this process.

8 We feel that regulators should expect regular scrutiny in the interests of public protection and to maintain the confidence of the public and the professions. In response to Question 6, we favour an annual reporting cycle in principle, because we are concerned that a longer cycle will impact the timeliness and therefore efficacy of recommendations where the PSA has identified a missed standard or an adverse trend.

9 A 'utility gap' can also exist in the field of sharing learning or best practice when there are large time gaps between input and output. The further a report is issued following an event or decision, the less it can be expected to positively impact learning and improvement. In this example, business as usual dialogue and facilitation of cross-regulatory discussion might have been more useful.

10 It is our view that the PSA should not consider extending the period even further. By the end of a five year cycle, there are likely to have been changes in a regulator's strategy, policies, and internal organisation.

11 Whilst we do not support a longer cycle, in response to Question 2, we do welcome the increased emphasis on business as usual and risk-based monitoring, and commitments from the PSA to report these back at 1.11-1.13 of the renewed consultation document.

12 We would like to see further developments in this direction. Should the proposal for a three year cycle go ahead, we can foresee circumstances where either the regulator or the PSA may feel the need for a formal interim report on during the monitoring period. Examples include where a particular standard had not been met in the previous round of reporting, where a systematic risk is identified with a particular service area, or where thematic or system trends are identified in the wider sector around either concerns or good practice.

13 Any final proposal which introduces a three year cycle should outline a mechanism to initiate interim action that can be requested or triggered by a regulator as well as the PSA itself. We feel that this would add to the proposal by providing an actionable output that can be scaled appropriately. Where this takes place, the rationale for further review should be clear, evidence based, and transparent.

14 We welcome the PSA's intention of reducing the regulatory burden of the PRP and we feel that evidence will be key to bearing this out in practice. We remain convinced that a full regulatory impact assessment should be carried out in advance of a new overall process being finalised, and in advance of any subsequent changes. This means a deeper conversation between the PSA and regulators on this specific issue, with a tighter remit than the present consultation.

Effectiveness in monitoring and audit

15 Identifying and reducing regulatory burden is an important consideration across the whole PRP. However we would like to see particular attention paid to ensuring

relevance, proportionality and cost-effectiveness in the methodology and operations behind the monitoring and audit processes.

16 Transparency in the factors that the PSA takes into account when monitoring or requesting information, the outcomes this then produces, and the rationale behind setting period lengths for targeted reporting would ideally be key considerations in ensuring proportionality, effectiveness, and confidence in the sector.

17 It will be important to consider the potential operational impacts for regulators when planning audits. Regulators should be closely involved in planning audit work in order to mitigate any negative impacts on operational performance.

18 In our previous submission we spoke about the value of a stronger informal business-as-usual relationship between the PSA and operational teams within the regulators. We still feel that this is a cornerstone of proportionate and effective oversight, provided this is balanced with our shared need for the PSA to maintain its independence.

19 The ability of regulators to contribute and give feedback on which factors are useful to take into account is important, especially where detailed questions come into consideration. We welcome the PSA's broad recognition of the principles behind this point, and would encourage it to formally set out mechanisms to ensure that they are embedded in its practise.

Areas requiring clarity

20 There are several outstanding areas where we feel that the PSA should offer greater clarity, either through its final proposal, or in communication with the regulators.

Meeting the Standards of Good Regulation

21 We supported the PSA's initial proposal to move beyond the binary 'met/not met' classifications for assessment of the Standards of Good Regulation (SOGR). We continue to feel that greater nuance would be more useful to regulators in addressing concerns around the SOGR, and provide a more accurate picture to the public.

22 It would be helpful to see greater prominence given to 'direction of travel' in PSA materials as regulators respond to PRP findings. To know whether we are improving or not is important both for regulators and with wider public.

Sharing learning and best practice

23 We do not support formal thematic reviews, for reasons of regulatory burden and cost. In our view it is essential that the PSA should explicitly rule out any increase in costs or regulatory burden arising from the future model.

24 The PSA might still wish to further consider its potential future role as a coordinator and holder of insight when it comes to sharing good practice in the sector. It is likely that there are less formal ways to do this than thematic reviews, with considerably less regulatory burden involved. We would welcome further

thinking from the PSA around this, provided that it can be done without fee increases.

The consultation process

25 We feel that it is important for the PSA to clearly delineate its oversight role from the governance structures of independent regulators. This requires greater clarity in language on audit around process concerns, referred to at 3.12 and 4.8 of the consultation. Further iterations of the proposals should ensure they do not duplicate or conflict with the functions either of regulators' governance arrangements, or other regulators and oversight bodies such as the Charity Commission, the Equality & Human Rights Commission, and the Information Commissioner's Office.

26 We champion the values of equality, diversity and inclusion, and we value the diversity of the people on our register, those they care for and our NMC staff. We believe that equality and inclusion are essential for people to do their jobs well, and as such, we are pleased to have been asked about potential equality impacts via Question 12.

27 The cost burden of the PSA's activity ultimately falls to registered professionals who pay fees to regulators. We know that particular groups who hold one or more protected characteristics are overrepresented on our register compared to the UK population as a whole, for example, 89.2% of the professionals on our register are female, compared to 51% of the general population in the 2011 census. We are concerned that any increase in fees may have a disproportionate impact on these groups, and as such would strongly recommend the PSA conduct a thorough equality impact assessment on this decision. Our equality, diversity and inclusion (EDI) data tables outline the diversity data we hold on the people on our register and we hope these would be useful in supporting the undertaking of such an equality impact assessment.

28 In addition to these points on equalities impacts, we would like a clearer idea of the general process for refining the proposals and announcing a renewed PRP. We would appreciate further communication from the PSA on the way forward from this point.

Next steps

29 We thank the PSA for the opportunity to comment and for the level of openness and responsiveness it has aspired to during this process. We feel that previous submissions from ourselves and the wider sector have received genuine engagement and consideration, for which we are grateful.

30 Further dialogue on some of the issues we have raised above would be greatly appreciated, and in that spirit we would be very happy to share our own data, experiences or ideas if this helps to refine the proposal. We hope in particular that some of the questions we have raised can be clarified in the near future, either through refined proposals, commentary, or direct communication. Please do not hesitate to get in touch if there is further information available, or if we can be of assistance.