Inquiry into regulation of care for older people

Nursing and Midwifery Council

On behalf of the Nursing and Midwifery Council, I am very pleased to take the opportunity to provide evidence to the Inquiry into regulation of care for older people. As the regulator for nurses and midwives working in the United Kingdom, our submission reflects our UK-wide role.

We have provided a range of information about the ways in which we safeguard the health and wellbeing of the public. This includes details of some of our standards and guidance for nurses and midwives, our fitness to practise processes and the ways in which we work with other regulators, organisations and public bodies to maximise public safety.

In addressing your specific questions around whether the regulatory system ensures care services for older people are providing good quality and appropriate care, we do have significant concerns about the number of recent reports and inquiries which have highlighted failings in the delivery of health care in organisations across the UK. You may also be aware that the House of Commons Committees recently expressed ‘ongoing concern’ about the care of older people in hospitals and care homes.

To address the concerns, we are exploring and implementing new proactive approaches to regulation.

Our approach includes exercising our powers to act where we become aware of apparent cases of poor care, even if no formal referral to us has been made. We have also been active in agreeing a number of memoranda of understanding with system regulators and other public bodies to enable us to develop robust systems of sharing information where there are concerns about failings in the delivery of care.

Our submission concludes with some details about our recent initiatives aimed at ensuring that our policy development and decision making fully takes account of health care policy, the needs of patients and the public and the diverse work settings of nurses and midwives in Scotland. You will see that a key part of our approach has been the establishment of a senior level post with responsibility for the NMC’s work in Scotland and an office presence in Edinburgh that will help us to engage with our patient and professional stakeholders in Scotland and conduct our fitness to practise work effectively.

NMC evidence to inquiry into the regulation of older people:

The Nursing and Midwifery Council (NMC)

1 The NMC is the regulator of nurses and midwives in the UK and the Islands. We were established by the Parliament of the United Kingdom
of Great Britain and Northern Ireland under the Nursing and Midwifery Order 2001 (the Order).

2 Our purpose is to safeguard the health and well-being of people using or needing the services of nurses and midwives. We do this by:

2.1 Registering all nurses and midwives and ensuring that they are properly qualified and competent to work in the UK. There are currently around 660,000 registered nurses and midwives on the register

2.2 Setting standards of education, training, conduct and performance for nurses and midwives

2.3 Ensuring that nurses and midwives maintain those standards

2.4 Ensuring that midwives are safe to practice by setting rules for their practice and supervision

2.5 Maintaining fair processes for investigation of allegations made against registered nurses and midwives.

3 We are independent from government and are funded by the fees paid by the nurses and midwives on our register.

4 The regulation of health professions, including the nursing and midwifery professions, is a reserved matter under section G2 of Schedule 5 of the Scotland Act 1998.

5 The Scottish Government publishes national minimum standards for care homes for older people under section 5 of the Regulation of Care (Scotland) Act 2001. Where the manager of a care home is a registered nurse, they are registered with the NMC and not the Scottish Social Services Council (SSSC).

Fitness to Practise (FtP)

6 When the conduct or competence of a nurse or midwife is called into question, we are the only authority with the power to prevent them from practising.

7 We receive initial complaints and referrals from a wide variety of sources, and with different amounts of information. We use a screening process at the point of referral to make sure we gather the information needed to form an allegation and these cases are then referred to the Investigating Committee.

8 The Investigating Committee will then decide if, based on the evidence, there is a case to answer. If they believe there is, they will refer the nurse or midwife to the Conduct and Competence Committee or the Health Committee for adjudication.

9 Where the Investigating Committee believes it is warranted, they are able to refer cases to interim orders hearings where the nurse or midwife in question can be suspended from practising for a set period of time while the investigation into their practise continues.

10 Once complete, investigations reach the adjudication stage and are heard by either the Conduct and Competence Committee or the Health Committee. Where a panel finds that a nurse or a midwife’s fitness to practise is impaired, they can choose from a range of actions or sanctions depending on the severity of the case using the Council’s indicative sanctions guidance. Actions range from taking no action to
striking a nurse or midwife’s name from the register of those able to practise.

Proactive regulation

11 The public has increasing expectations of the role of regulator bodies and the standards they expect from health and care services. We are acutely aware of this and indeed our legislation requires us to take a proactive approach to regulation.

12 Article 22.6 of the Order is clear that we must act where we become aware of apparent cases of poor care, even if no formal referral has been made. Since September 2009 we have been exploring ways of applying this part of the legislation to ensure a more robust approach to regulation and protection of the public.

13 A good example of this approach has been our use of media monitoring to alert us to apparent failings in care standards. This has allowed us to open a number of investigations into nurses without having first received a formal referral. Since March 2011, we have pro-actively opened 10 cases in Scotland. It was through this process that we recently opened case files following the closure of Elsie Inglis Nursing Home in Edinburgh. We wrote to all members of the Scottish Parliament about our actions in this case.

14 To further develop our approach to proactive regulation, we commissioned Dame Elizabeth Fradd DBE to help us develop our means to identifying potential systemic failures in health organisations. In September 2010, she recommended that we should establish a critical standards intervention (“CSI”) system to help us identify, assess and act upon systemic failures.

15 We will be setting up a CSI unit within the NMC to implement Dame Elizabeth’s recommendations. As a statutory body, we can only act in a manner permitted or required by the powers and duties provided by legislation. Whilst there are no clear powers allowing us to investigate healthcare organisations, we do have powers to appoint visitors to look at the quality of the education environment within a healthcare organisation, refer concerns to our investigating committee for fitness to practise action and review arrangements to protect the public from practitioners whose fitness to practise is in doubt.

The code

All nurses and midwives are required to work within the NMC code. The code is based on four principles:

- Make the care of people your first concern, treating them as individuals and respecting their dignity
- Work with others to protect and promote the health and wellbeing of those in your care, their families and carers, and the wider community
- Provide a high standard of practice and care at all times
- Be open and honest, act with integrity and uphold the reputation of your profession.
Raising and escalating concerns in relation to poor standards of care

16 Nurses and midwives have always had a professional obligation under the NMC code to raise concerns where they believe someone or something is putting people at risk. Employers have a responsibility to set up systems allowing staff to raise any concerns they may have about patient safety.

17 In November 2010 we sent every single nurse and midwife on the register a document mapping out the steps they should take to raise their concerns appropriately and safely. We did this because we had evidence that nurses and midwives were either not raising concerns appropriately, or not raising them at all.

18 Our guidance was developed in conjunction with Public Concern at Work and a number of trade unions, including the Royal College of Nursing, Royal College of Midwives and UNISON. Since its publication we have experienced a considerable increase in the number of nurses and midwives raising examples of poor care directly with us.

Inter-agency working

19 To ensure we carry out our regulatory responsibilities effectively, we work closely with other regulators, authorities and public bodies. We have an excellent working relationship with the General Medical Council, the UK body responsible for the regulation of doctors and in December 2009 we formalised this working arrangement with the agreement of a Memorandum of Understanding (MoU) covering cooperation between the organisations.

20 In June 2011 we agreed an MoU with the Scottish Public Services Ombudsman. The MoU details the areas of cooperation between our two organisations and identifies named individuals each with a specific remit for ensuring that the spirit of the MoU is effectively embedded throughout each organisation.

21 We agreed an MoU with the Care Commission in February 2011, though that body has now been replaced by Social Care and Social Work Improvement Scotland (SCSWIS). We are meeting with the interim Chief Executive of SCSWIS in August 2011 and will discuss a possible refresh of the MoU.

22 We are meeting the Chief Executive of Healthcare Improvement Scotland in September 2011 to discuss the need for sharing of information about standards of care and to explore how best to formalise this.

23 We are contributing to the work that the Chief Nursing Officer for Scotland has commissioned on ‘Professionalism’ within the Nursing, Midwifery and Allied Health professionals contribution to the Healthcare quality strategy programme.

24 We have met with the Registrar of the Scottish Social Services Council (SSSC) and are exploring methods of formalising the sharing of information where this is required in the interests of public safety.
Guidance for the care of older people

25 The standards of conduct, performance and ethics that registered nurses and midwives are required to follow are set out in our code. In order to help nurses in their work, we have published guidance on care for older people.

26 The guidance was drafted with close consultation with older people and service users and since publication has received praise from a number of national service user organisations, such as Age UK and Action on Elder Abuse.

27 This guidance is supported by a separate document written for the public that sets out the standards of care older people should expect.

The NMC in Scotland

28 As a four country regulator based in London, we appreciate that it is essential for us to be a visible and credible presence in Scotland. NMC policy development and decision making must also fully take account of the needs of patients and the public, the diverse work settings of nurses and midwives practising in Scotland and health and social care policy development in Scotland.

29 To ensure this we recently appointed Cathy Cairns as the Assistant Director for Scotland and Northern Ireland Affairs. An experienced nurse and nurse manager, Cathy joined us from NHS Fife and she is building strong, collaborative relationships with senior level civil servants, nursing and midwifery educators and employers, professional bodies and relevant health and social care organisations in Scotland.

30 We are meeting with NHS board nurse directors, independent sector organisations, nurses working within the Scottish Prison Service (SPS) and others to raise awareness of the role of the NMC and ensure that employers in particular are aware of their responsibilities in relation to nurses and midwives; the standards they should expect and what they need to do if a nurse or midwife’s practice is called into question.

31 We have recently opened offices on George Street in Edinburgh. This office provides a state of the art fitness to practice hearing space in Scotland, including separate facilities for witnesses, registrants and their representatives. The office has full wheelchair access and audio loops are fitted within the hearing room.

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Nursing and Midwifery Council
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