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HEALTH CARE
CHAPLAINS



SSHA SOCIETY OF
SEXUAL HEALTH ADVISERS



Unite the Union Response to:

Department of Health: The Nursing and Midwifery Council – amendments to modernise midwifery regulation and improve the effectiveness and efficiency of fitness to practise processes

This response is submitted by Unite. Unite is the UK's largest trade union with 1.5 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport, local government, education, health and not for profit sectors.

Unite represents in excess of 100,000 health sector workers. This includes eight professional associations - British Veterinary Union (BVU), College of Health Care Chaplains (CHCC), Community Practitioners and Health Visitors' Association (CPHVA), Guild of Healthcare Pharmacists (GHP), Hospital Physicians Association (HPA), Doctors in Unite (formerly MPU), Mental Health Nurses Association (MNHA), Society of Sexual Health Advisors (SSHA).

Unite also represents members in occupations such as allied health professions, healthcare science, applied psychology, counselling and psychotherapy, dental professions, audiology, optometry, building trades, estates, craft and maintenance, administration, ICT, support services and ambulance services.

1. Introduction

- 1.1. Unite welcomes the opportunity to respond to the Consultation on *The Nursing and Midwifery Council – amendments to modernise midwifery regulation and improve the effectiveness and efficiency of fitness to practise processes*. Whilst we understand the benefits of combining changes to the NMC legislation within one Section 60 Order, requiring only one consultation, our midwifery members in particular consider that there is a risk that both issues will not receive due consideration.
- 1.2. As part of this response, Unite has used its ongoing routes throughout the organisation to hear back the views of members regulated by the Nursing and Midwifery Council (NMC).

Consultation questions

2. **Do you agree that this additional tier of statutory supervision for midwives should be removed?**

- 2.1. Our midwife members are concerned about the removal of the statutory nature of supervision for midwives for the following reasons; midwifery is an autonomous, demanding role with midwives responsible, often solely, for providing care during pregnancy, childbirth and the postnatal period. They work in a range of settings both within and without the NHS. As stated in the consultation, supervision is valued by midwives who consider that it provides an opportunity to discuss their clinical practice with an experienced practitioner who understands the demands of the role. In addition supervision contributes to their development as a safe and effective practitioner. Whilst it is proposed that the four country health departments have committed to develop a new system of supervision, our midwife members are concerned that this will not be sustainable and will be susceptible to being discontinued in the context of restricted budgets. In addition they express concern that there will be variation in the model or availability of supervision, potentially leading to unacceptable variation in midwifery practice, or that it will be subsumed into revalidation processes.
- 2.2. Unite suggests that the new system of supervision should be fully embedded prior to the removal statutory supervision.
- 2.3. The proposed changes to midwifery regulation would bring midwives in line with their nursing counterparts, effectively bringing to end the concept of self-regulation by the profession. Unite is of the view that employers rather than individual registrants should meet the costs of regulation.

3. **Do you agree that the current requirement in the NMC's legislation for a statutory Midwifery Committee should be removed?**

- 3.1. Our midwife members are concerned that the removal of a statutory committee, focused on midwifery specific issues may lead to these issues not being addressed by the NMC. Their concern is based on the experience of their Specialist Community Public Health Nurses (SCPHNs) colleagues who find that the NMC does not address their concerns for example around the SCPHN register and out of date standards now there is no longer a requirement in statute to do so. Our members further consider that this has the potential to be detrimental to midwifery regulation and therefore public protection.

4. **Do you agree that, when the Investigating Committee or the Case Examiners determine that there is no case to answer but there are some concerns as to practice or conduct, the Investigating Committee and case examiners should have the power to issue a warning or advice to a nurse or midwife?**

- 4.1. Currently when there is a no case to answer decision by the case examiners that is the end of the matter for the registrant after what has been an extremely stressful time, often over a long period. The issuing of a warning after this period of time that appears against their name on the register for all to see therefore seems to be an unfair development. Indeed, it is not known what effect this may have on their future employment prospects.
- 4.2. However, Unite considers that this concept could be a positive development depending on how it is implemented and the safeguards that are put in place. Where there is no case to answer, issuing a registrant member with a warning is only an advantage if it mitigates the need for them to go to a hearing. Indeed, this would reduce the number of hearings which of course would be welcome. However, Unite considers that there needs to be a time limit placed on the warning. This time period should not exceed the maximum length of already existing sanctions so as not to force registrants down the route of opting for a more serious sanction.
- 4.3. In addition, Unite has concerns about who will determine whether an issue in a registrants' past practice is of concern and considers that guidance and training on implementation, including for panel members, will need to be clear, fair and comprehensive.
- 5. Do you agree that, where the Investigating Committee or the case examiners determine that there is a case to answer in respect of an allegation, the Investigating Committee and the case examiners should have the power to agree undertakings with a nurse or midwife?**
- 5.1. From the information provided this appears to be a positive change as it has the potential for more cases to be closed at the case examiner stage, without the need to progress.
- 5.2. It is not clear however what the process will be to determine whether the registrant has successfully completed the undertaking.
- 6. Do you agree that the Conduct and Competence and Health Committee should be replaced by a single Fitness to Practise Committee which will deal with allegations of impairment of fitness to practise on all grounds?**
- 6.1. Unite considers that this is a positive change as it will remove the requirement for a preliminary hearing.
- 7. Do you agree that the requirement for the NMC to specify in rules the size of its Practice Committees is unnecessary and should be removed?**
- 7.1. Based on the information provided Unite can see no reason why this requirement should not be removed.
- 8. Do you agree that the statutory requirement regarding the location of preliminary meetings and hearings of Practice Committees and hearings of appeals against the Registrar's decisions should be removed providing flexibility to hold these hearings?**
- 8.1. Unite accepts this is a positive change but would stress that the NMC maintains a commitment to arrange locations that are suitable to both parties.
- 9. Do you agree that all interim order reviews, including those where the court has granted an extension, should be held at six month intervals?**
- 9.1. Unite agrees that is a positive change as it will reduce the number of hearings that the registrant must attend and the number of submissions their representatives must make on their behalf.
- 9.2. Unite is reassured by the NMCs assurance that both parties will be able to seek an early review should the need arise.
- 10. Do you agree that the court should have additional powers to replace an interim suspension order with an interim condition of practice order (or vice versa)?**
- 10.1. Based on the information provided, Unite can see no reason why this change should not be implemented.

11. **Do you agree that it is not necessary for the Practice Committee panel to review all conditions of practice or suspension orders but instead should have the discretion to direct whether an order needs to be reviewed before the expiry of that order?**

Based on the information provided, Unite agrees that this is a positive change.

12. **Do you agree that the requirement to notify specified persons, including governments of the four countries, when an allegation is referred to a Practice Committee panel for a hearing should be removed?**

Yes.

13. **Will the proposed changes affect the costs or administrative burden of your organisation or those you represent, by way of:**

A decrease

• **Please explain your answer**

It is hoped that a more streamlined process would reduce both the financial and emotional costs, for all concerned.

14. **Do you think that any of the proposals would help achieve any of the following aims:**

- **eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010?**
- **advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it?**
- **fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?**

**If yes, could the proposals be changed so that they are more effective in doing so?
If not, please explain what effect you think the proposals will have and whether you think the proposals should be changed so that they would help achieve those aims?**

In terms of the changes to midwifery regulation, the proposed new system could be more objective in dealing with concerns re fitness to practice. A local supervisor of midwives who may have known a midwife from another incident, or who might feel some antipathy towards people with any of the protected characteristics, could introduce unconscious (or conscious) bias which then works it's way into the management of issues of public protection.

15. **Do you have any comments on the draft Order?**

No.

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