



Government Response to the  
House of Commons Health  
Committee Report of Session  
2013-14: 2013 accountability  
hearing with the Nursing and  
Midwifery Council

Presented to Parliament  
by the Secretary of State for Health  
by Command of Her Majesty

March 2014



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# Government Response to the House of Commons Health Committee Report of Session 2013-14: 2013 accountability hearing with the Nursing and Midwifery Council

## INTRODUCTION

On 18 December 2013, the House of Commons Health Committee (the Committee) published the report: *2013 Accountability Hearing with the Nursing and Midwifery Council* (NMC).

The Department is of the view that such hearings are of great value in strengthening the accountability of the professional regulatory bodies to Parliament and the wider public.

The Department is committed to continuing to work with the NMC, Devolved Administrations and other stakeholders in developing policy affecting regulation of United Kingdom (UK) health professionals.

## DEPARTMENTAL RESPONSE

The Department welcomes this report and we have carefully considered the Committee's recommendations and the issues it raises.

The majority of the report's recommendations are for the NMC. This paper sets out the Government's response to the five recommendations directed to the Department of Health.

These recommendations can be divided into two distinct groups and this response has been organised accordingly. The first group includes three recommendations relating to legislative changes relating to aspects of the NMC's powers in relation to Fitness-to-Practise (FtP) proceedings. The second group

includes two recommendations relating to transposition of the Mutual Recognition of Professional Qualifications (MRPQ) Directive and the NMC's ability to apply appropriate language controls to applicants.

## GROUP ONE – RECOMMENDATIONS RELATING TO LEGISLATIVE CHANGES RELATING TO NMC FtP / SECTION 29 PROCESSES

### **Legislative change to streamline fitness to practise processes**

*Recommendation: The Committee welcomes the willingness of the NMC to commit itself to a 12 month process. It recommends however that the NMC work with the Department to introduce all the necessary legislative changes no later than the end of 2014, and deliver the resulting process improvements no later than the end of 2015. (Paragraph 26)*

*Recommendation: The Committee believes that the difficulties caused to the NMC by the High Court ruling in 2013 need to be addressed as a matter of urgency. If the matter cannot be addressed by appealing against the decision, the Committee recommends that the Government should state clearly and quickly how it intends to address the issue. (Paragraph 30)*

## Section 29 Appeals

*Recommendation: The Committee recommends that the Department of Health work with the NMC and the PSA to close gap in the NMC's legal framework identified by the PSA. (Paragraph 33)*

On 6 February 2013, the final report of the Mid Staffordshire NHS Foundation Trust Public Inquiry was published. This Inquiry, chaired by Robert Francis QC, was established under the Inquiries Act 2005 and the final report made 290 recommendations for improvement based on the role of the commissioning, supervisory and regulatory bodies in the monitoring of the Foundation Trust.

On 28 March 2013, the Government published an initial response to the Inquiry report, *Patients First and Foremost* (CM 8576) followed on 19 November 2013 by, *Hard Truths: The Journey to Putting Patients First* (CM 8777) the Government's further response, which included individual responses to each of the Inquiry's 290 recommendations.

In its responses, the Government noted that professional regulators, including the NMC, are hampered by an outdated legislative framework, and committed to radically overhaul 150 years of complex legislation. To deliver on this commitment the Department is currently working with the Law Commission to review the legislative framework for professional regulation, with the aim of modernising and simplifying the regulatory landscape.

It is expected that the Law Commission will publish the outcome of its review and recommendations for legislative changes later in 2014. In relation to the Committee's recommendation concerning the introduction of legislation to streamline NMC's FtP process, it is worth noting that the regulatory

reform review being undertaken by the Law Commission is specifically looking at the area of FtP. The Department will formally consider taking these recommendations forward, or legislate to achieve the same objectives, when parliamentary time allows. In the meantime, the Department is working with the Law Commission as part of a four country approach on its development of the reforms.

We note the Committee's recommendation concerning the introduction of legislation to prevent registration lapsing in cases where an NMC registrant is subject to a Professional Standards Authority (PSA) section 29 referral. We will consider this recommendation as part of work being taken forward with the Law Commission and following that to make sure our professional regulation system is fit for the future.

In addition, Departmental and NMC officials are currently working together on an order under section 60 of the Health Act 1999 to amend the Nursing and Midwifery Order 2001 and on associated amendments to the NMC's Rules. Some of the proposed amendments included within this section 60 order will address the Committee's recommendations about introducing legislation to allow the NMC to streamline its FtP process and make clear that the NMC is empowered to make a striking-off order on review of a suspension order or a conditions of practice order (including in a health or lack of competence case), in light of the Okeke case ruling. This section 60 order is a work in progress and subject to due parliamentary procedure. However, in the meantime the Department expects the NMC to continue looking at what it can do to streamline its processes in advance of any change of legislation.

## GROUP TWO – RECOMMENDATIONS RELATING TO TRANSPOSITION OF THE MRPQ DIRECTIVE AND THE NMC'S ABILITY TO APPLY APPROPRIATE LANGUAGE CONTROLS TO APPLICANTS

### Language testing

*Recommendation: The issue of appropriate language controls for health professionals is important, and the Committee is concerned that it is not being pursued with sufficient urgency. High quality care requires that staff can communicate effectively with patients. The Department of Health must ensure that EU legislation does not prevent this from happening. (Paragraph 51)*

Ensuring that all healthcare professionals have the necessary knowledge of English remains a key Coalition Government commitment in terms of assuring good quality care and patient safety in the UK. The European Commission's revision of the MRPQ Directive has now been completed and was formally published in the Official Journal of the European Union (EU) on 28 December 2013. As part of the revision, amendments have been made relating to the provisions around language controls for healthcare professionals who are nationals of European Economic Area (EEA) countries or have equivalent rights. These amendments are helpful as they clarify that competent authorities (such as the NMC) are able to apply proportionate language controls following recognition of qualification but before access to the profession.

Given the high priority of this issue, we propose to take forward legislation at the earliest appropriate opportunity.

We are continuing to work with the NMC and the other health and care professional regulatory bodies in the UK to ensure they have the necessary powers to put in place proportionate language controls for EEA nationals which are compliant with EU law.

### Mutual Recognition of Professional Qualifications (MRPQ)

*Recommendation: The NMC has raised further concerns arising from amendments to the EU Directive on the recognition of professional qualifications. We have not examined the detail of these concerns in the limited time available to us, but the evidence presented to us by the NMC suggests that they have potentially serious implications for the NMC's ability to protect the public, and therefore we urge the Department of Health to address these concerns as a priority. (Paragraph 54)*

The Department is aware of the concerns that the NMC has regarding the implementation of the revised MRPQ Directive and takes its concerns around patient safety seriously. The Department is working closely with the NMC to consider the issues it has raised around the EU Professional Card, partial access, the alert mechanism and temporary provision of services. We will continue to work with the NMC as regards the implementation of the revised Directive. The Department plans to go out to consultation, on the proposed changes needed to the UK legislation to transpose the MRPQ Directive in 2014.





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