

## **Nursing and Midwifery Council (NMC) Statutory Supervision and Fitness-to-practise Section 60 Order**

### **Department of Health**

#### **RPC rating: fit for purpose**

The IA is now fit for purpose as a result of the Department's response to the RPC's initial review. As first submitted, the IA was not fit for purpose.

#### **Description of proposal**

The Department has identified the following two issues in the current system of regulation for the Nursing and Midwifery Council (NMC) and the midwifery profession:

- midwives are the only regulated clinical profession where registrants subjected to a fitness-to-practise complaint can be investigated by their peers – a process that raises issues of conflict of interest; and
- current regulations constrain the scope for the NMC to make efficiency savings and increase the flexibility of their fitness-to-practise procedures.

As a result, the Department proposes to:

- 1) remove investigation by peers from the complaints procedure, enabling the NMC to take direct responsibility and sole accountability for the core functions of regulation of midwives; and
- 2) introduce secondary legislation to enable the NMC to make changes to the administrative proceedings of their fitness-to-practise activities. In particular, the NMC plans to introduce case examiners with the power to agree warnings and undertakings with registrants. The Department expects this specific change to result in savings to the NMC, which will be passed through to registrants.

#### **Impacts of proposal**

The Department expects the proposals to lead to a net reduction in costs to the NMC. The Department assumes that the NMC will pass on all of these savings to registrants, because the principal source of the NMC funds is registration and renewal fees paid by registrants. This is consistent with assumptions used in other IAs by the Department relating to regulation for healthcare professions. The Department estimates that 17% of the 611,325 NMC registrants are employed in the

private sector (either as private health care employees or self-employed). As the impact falls on individual registrants via NMC fees, the Department explains that there would be no direct impacts on private sector healthcare providers. The Department estimates that 0.2% of the NMC's registrants (1485 registrants) are self-employed. The impacts of the proposal on this group are included in the EANDCB.

### Costs

Based on discussions with the NMC, the Department expects the first part of the proposal to result in a short-run increase in fitness-to-practise referrals to the NMC. These cases would previously have been dealt with by Local Supervising Authorities (LSAs). This is expected to amount to 52 more cases per annum, leading to an annual cost to the NMC of £155,000 to be passed through to registrants.

### Benefits

Following discussions with the NMC, the Department expects that the second part of the proposal to improve the fitness-to-practise procedures will reduce costs. The Department notes that uncertainty as to the future model of midwifery supervision has made it difficult to quantify some of the expected impacts. However, the main expected impacts have been quantified.

The principal expected benefit comes from the introduction of a power for case examiners to agree undertakings and issue warnings to registrants. This should result in more proportionate fitness-to-practise investigations, avoiding costly full hearings for cases that can be resolved at an earlier stage. The Department estimates that this will save £2.5 million in year one, rising to £5.6 million in each year thereafter. The full impact will not be realised in the first year as a result of the time taken for cases to reach a hearing.

Other key benefits include:

- An extension of the time limit for holding first and subsequent reviews of interim orders, which will reduce unnecessary interim order reviews. This is expected to save the NMC £420,000 per year;
- Making reviews of substantive orders discretionary instead of mandatory, which will reduce the number of unnecessary reviews; and
- The removal of the statutory requirement for two separate fitness-to-practise panels will allow the NMC to create a single, more cost-effective panel. The NMC expects this to save £150,000 in year one and £100,000 in all subsequent years.

The RPC verifies the estimated equivalent annual net direct benefit to business (EANDCB) of zero. This will be a qualifying regulatory provision that will score under the Business Impact Target.

## Quality of submission

As initially submitted, the IA included three issues that meant that the RPC did not consider it fit for purpose. Following the RPC's initial review, the Department has submitted a revised IA, which adequately addresses the issues as follows:

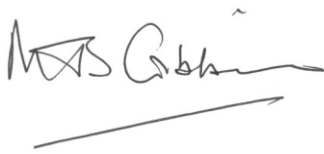
- The Department has explained that the fees to the NMC are paid by nurses and midwives as professionals, and that costs to private health care providers are therefore indirect. They have now been excluded from the EANDCB resulting in a change from -£1.2 million to £0 million.
- The Department has provided additional reasoning for the assumption that all of the costs and savings experienced by the NMC as a result of the proposed change in regulatory activity will be passed on from the NMC to registrants. In particular, the Department has explained that this is based on the fact that the principal source of the NMC's funds is registration and renewal fees paid by registrants. These assumptions are consistent with those used in other IAs relating to healthcare professionals.
- The Department has provided additional information about the expected transition costs for LSAs' planned supervisory role, which are expected to total £240,000. The IA would benefit from further explanation on any costs attributed to the current regulatory role performed by the LSAs. No transition costs to individual registrants are expected from implementing the new process.

## Departmental assessment

Classification	Qualifying regulatory provision (OUT)
Equivalent annual net direct cost to business (EANDCB)	-£1.2 million (initial estimate) £0 million (final estimate)
Business net present value	£0.1 million
Societal net present value	£59.7 million

## RPC assessment

Classification	Qualifying regulatory provision (OUT)
EANDCB – RPC validated <sup>1</sup>	£0 million
Business Impact Target (BIT) Score <sup>1</sup>	£0 million
Small and micro business assessment	Not required (deregulatory)
RPC rating (of initial submission)	Not fit for purpose



**Michael Gibbons CBE**, Chairman

---

<sup>1</sup> For reporting purposes, the RPC validates EANDCB and BIT score figures to the nearest £100,000.