

GPhC response to the NMC consultation: *Ensuring patient safety, enabling professionalism*

Introduction

1. The General Pharmaceutical Council (GPhC) is the independent regulator for pharmacists, pharmacy technicians and pharmacy premises in Great Britain. It is our job to protect, promote and maintain the health, safety and wellbeing of members of the public by upholding standards and public trust in pharmacy.
2. We welcome the opportunity to respond to the Nursing and Midwifery Council's (NMC) consultation on proposed changes to its fitness to practise function. We agree, in principle, with the strategic policy principles as set out in the consultation document and broadly support the objectives that the consultation is seeking to achieve. These proposals represent a marked change in approach, which we welcome, and they go some way in addressing the challenges faced in modern healthcare regulation.
3. As a regulator of healthcare professions, we believe that regulators should be given the flexibility to develop their own approaches for managing concerns, which they consider appropriate for ensuring safe and effective care and which retains patient safety at its core. This needs to be balanced with improved transparency and accountability so that patients, families and members of the professions can understand the reasons for regulatory decisions and test and challenge them when necessary.
4. Regulators face the current dual challenge of effectively managing the increasing number of concerns they receive while ensuring they learn from, and improve on, the established processes. It is clear that this is no longer sustainable and a fresh approach and more fundamental change is required. This in itself is no insignificant challenge for regulators. Whilst improved efficiency ought to be a *consequence* of reform of fitness to practise procedures, the main *objective* of reform is to make regulation more effective so that the public are better protected and standards are maintained and improved.

Regulatory outcomes

5. The regulatory landscape has changed over time, the approach to fitness to practise, and more generally how regulators manage concerns, has arguably not kept pace. The work of the Law Commissions and, more recently, the UK-wide government consultation on regulatory reform and the proposals set out in this consultation indicate that there is an appetite for regulatory-wide change. As a result, we believe that now is the right time for us, as regulators, to think more radically about how we manage concerns in the future, with one aspect or regulatory outcome being fitness to practise proceedings.

Public perception

6. We agree that the future of fitness to practise should be about managing the risk that a registrant poses to patients or members of the public, rather than punishing people for past events. But this is only one part of it. Using all available regulatory tools to incorporate a more supportive and remedial approach where appropriate, will allow for the development of a balanced, proportionate and flexible fitness to practise process. In order to achieve this, we believe that a change in culture is required.
7. Recent changes to the law, such as the decriminalisation of inadvertent dispensing errors in a pharmacy context, may encourage registrants to speak up about poor practice. But we know that more can be done to instil a culture where registrants are given the opportunity to learn, reflect and engage with the fitness to practise process in a positive way. Changing how we view fitness to practise and developing the shift towards a change in culture, can help to ensure that public confidence is maintained. But any changes that are made should take place in a supportive and open environment. A fitness to practise process that values equality, diversity and inclusion, as outlined by the NMC, is a step in the right direction.

Operational change

8. We note that the NMC have put forward a number of changes to its operational function, designed to ensure that its fitness to practise process remains robust and responsive. Whilst we agree that regulators should be given the flexibility to develop their own approaches to regulation we would urge caution, particularly in the development of a prescriptive approach to case resolution where context can play a significant role.
9. Broadly speaking, we agree with the NMC that in some cases there may be no public interest or need for a full public hearing to reach a decision that protects the public. However, we believe

that any operational change should be fully considered before being implemented and must be balanced with transparency and accountability. That being said, we believe that measures such as consensual disposal have the potential to be simpler, faster and more flexible for all parties concerned, particularly for registrants, depending on how they are implemented.

10. We do question whether the jargon of 'consensual disposal' is helpful in the long run. It serves a useful short-term purpose by marking a shift away from historic practice. At the same time it risks focusing attention on securing agreement to close cases, which may not sit well with the strategic principles the NMC has outlined and which, broadly, we support.
11. We understand that there is a need to look more closely at how concerns are reported and escalated in the first instance to help shape, develop and promote a learning and inclusive culture. We support the NMC in their plans to recognise how employers deal with concerns at a local level to understand the context in which fitness to practise reforms can take place more widely. We believe that this will ensure that the right concerns are referred for fitness to practise consideration and that the overall approach remains efficient and effective and has patient safety as its primary focus.
12. We look forward to hearing the outcome of the consultation and in learning more from the NMC as their proposals in this area develop further.