

## **Behaviours outside of professional practice**

### **Public Voice Forum 6 September 2023**

#### **Introduction**

At the Public Voice Forum meeting on 6 September 2023, colleagues from the policy and legislation teams led a presentation and discussion session on behaviours occurring outside of professional practice which concern the NMC.

Forum members were asked to share their views on how the NMC, as a regulator, should treat concerns which arise outside of a professional's practice. Following an introductory presentation, the forum split into smaller discussion groups of four to six people. Each group looked at one or two scenarios and shared their views.

The group was invited to consider how the NMC responds to the following behaviours when they occur outside of professional practice:

- concerns about sexual misconduct
- concerns about domestic abuse
- safeguarding concerns, including abuse and neglect of children and vulnerable adults

#### **Current NMC approach**

In concerns arising outside of professional practice, the NMC considers regulatory action:

- Where there is an underlying criminal conviction involving either
  - A clear risk of harm to patients or the public,
  - A sentence of imprisonment, and/or
  - A 'specified offence' - these are serious offences, including murder, hate crimes, serious drug offences and sexual offences.
- In the absence of a criminal conviction, where the behaviour
  - raises fundamental questions about a professional's trustworthiness, or
  - suggests a deep-seated attitudinal issue such as displaying discriminatory views and behaviours.

Our guidance specifies that we will take discrimination seriously wherever it occurs and regardless of third-party decisions. It does not, however, single out sexual misconduct, domestic abuse or safeguarding issues in the same way.

Please note: We are clear that any of these concerns involving patients or occurring within professional practice will be taken very seriously. Our [Code](#) requires that professionals on our Register always maintain clear professional boundaries with those

in their care. A professional forming a sexual or romantic relationship with a patient would be a matter of serious regulatory concern. Our focus in this session was on concerns arising outside of professional practice.

## **What we heard**

Public Voice Forum members engaged fully with the topic and had lively and valuable discussions. Key themes included:

### **1. Caution about when the NMC should investigate**

- While there was a range of views, there was a reluctance from several forum members for the NMC to investigate the scenarios considered, with a focus on whether or not there was police involvement or a criminal conviction, and questions about the extent of the NMC's remit.
- However, others felt that it was appropriate for the NMC to look into such concerns, citing the need to err on the side of caution to protect people in the professionals' care.
- People highlighted the importance of context and thought they needed more details about the incidents to fully respond.
- In one of the groups the facilitator highlighted the exceptionally low criminal conviction rates in cases of sexual misconduct and domestic abuse, and the fact that a substantial proportion of people don't report such incidents to the police at all.
- Some members also discussed the different and sometimes negative motivations that might sit behind referrals, including in circumstances such as relationship breakdown.

### **2. Professional wellbeing**

- While the focus of any potential action should be to protect people receiving care, members also considered the scenarios from the professionals' point of view and the impact any investigation would have on them.
- Some members mentioned lack of context – they thought the scenarios could indicate life stressors, challenging times or unaddressed mental and emotional health needs experienced by the professional. They felt that the NMC should seek more understanding of whether incidents such as those set out in the case studies represented a pattern of behaviour.

### **3. Diverging views and concerns about behaviours**

- There were differences of opinion between and within groups. In one group of four people there were opposing views – two participants were reluctant to recommend an investigation; two others felt strongly that the behaviours

highlighted in the group's case study should be investigated. Concerns about behaviours were raised in other groups too, with some people arguing that behaviours occurring outside of work shouldn't be dismissed as they can be important.

- Some members reflected on their own likely reactions in the context of the scenarios, saying that they wouldn't like the individual to look after a child or family member of theirs, and feeling that the NMC therefore shouldn't ignore these types of behaviours and should seek more information.
- One person said that by virtue of the responsibilities professionals have in caring for potentially vulnerable people, a restriction on some elements of freedom and privacy was part of the career path they'd chosen – they have an exceptionally important job so behaviours outside of professional practice do matter.
- Some individuals wanted to know how third parties and other organisations/bodies would get involved in any NMC investigation.

### **Next steps**

- We will shortly be speaking to senior nurses and midwives and representative bodies for the professions we regulate.
- In November we hope to update the group on our initial position and how we have used your input.
- We hope to complete our drafting by the end of the year and publish new guidance in February 2024.

### **Message from David Abrahams - Head of Policy & Legislation**

I am very grateful to all members of the Public Voice Forum for their contribution to the discussion on 6 September. Your contributions highlighted for me the importance of finding the right balance between our statutory obligations to protect the public and uphold public confidence in the professions we regulate and the need to treat professionals on our register fairly and not intrude unnecessarily into issues that are not within our remit.

Some of the key messages that came across for me are:

- the need to base our decisions on the best possible evidence and a full understanding of the allegations that are being brought to our attention
- the need to work collaboratively with other organisations (for example the police and social services) to ensure that any steps we decide to take are consistent with our remit and are based on a full understanding of the approach taken by other relevant stakeholders

The discussions were really helpful for me in focusing on our overall policy goal – that whenever we become aware of serious allegations relating to the conduct of people on our register, we need to be confident that we have done everything we should consistently with our overarching duty to protect the public and maintain confidence in the professions we regulate.