

Dr C J L Swann, Assistant Coroner
Leicester City and South Leicestershire
The Town Hall
Town Hall Square
Leicester
LE1 9BG

20 January 2017

Dear Madam

Benjamin Orrill

Further to your Report to Prevent Future Deaths made under Paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and Regulation 28 and 29 of the Coroners (Investigations) Regulations 2013, I am writing to provide you with our response.

We note the concerns you have raised relating to the regulation of advanced nursing practice. To help explain how we fulfil our statutory objective to protect the public, we have enclosed with this letter a document that summarises our statutory framework and provides background information about advanced practice.

We are aware of the particular concern raised about the registered nurse who reviewed Mr Orrill in the weeks leading up to his death. We are working closely with you in relation to this and are considering the concerns in accordance with our statutory functions.

We will not be taking any further action in relation to the concerns you have raised because, for the reasons we summarise in the enclosed document, we believe that our statutory framework and the process of revalidation are sufficient to protect the public in respect of advanced practice.

I hope that the attached information is helpful. If we can provide any further input on this matter, please do not hesitate to contact me again.

Yours faithfully



Jackie Smith
Chief Executive and Registrar

Enclosure: NMC and advanced practice

The NMC and advanced practice

Our statutory framework

The NMC was created by the Health Act 1999, and is governed by a number of pieces of secondary legislation. The Council's principal functions are set out in Article 3(2) of the Nursing and Midwifery Order 2001 ('the Order'):

"The principal functions of the Council are to establish from time to time standards of education, training, conduct and performance for nurses and midwives and to ensure the maintenance of those standards."

The over-arching objective of the Council in exercising its functions is the protection of the public:

"The pursuit by the Council of its over-arching objective involves the pursuit of the following objectives –

- (a) to protect, promote and maintain the health, safety and wellbeing of the public;
- (b) to promote and maintain public confidence in the professions regulated under this Order
- (c) to promote and maintain proper professional standards and conduct for members of those professions." (Article 3(4A) of the Order)

In addition to establishing and ensuring the maintenance of standards, the Council is required to establish and maintain a register of qualified nurses and midwives (Article 5(1) of the Order).

Our register is divided into parts and sub-parts, with each part having a designated title indicative of different qualifications and different kinds of education or training. An individual is only entitled to use the title corresponding to the part of the register in which he is registered. This is set out in Schedule 1 of the Nurses and Midwives (Parts and Entries in the Register) Order of Council 2004:

<i>Parts and Sub-Parts of the Register</i>	<i>Designated Title</i>
Nurses: Sub-Part 1 Sub-Part 2	Registered nurse: first level Registered nurse: second level
Midwives	Midwife
Specialist Community Public Health Nurse	Specialist community public health nurse

In addition, Article 7 of that order and our standards require that certain, specified qualifications are recorded on our register. These are:

- community practitioner nurse prescriber.
- nurse independent prescriber.
- nurse independent/supplementary prescriber.
- specialist practitioner qualifications in adult, mental health, learning disability, children's, general practice, community mental health, community learning disabilities, community children's and district nursing; and
- lecturer or practice educator.

To obtain any of these qualifications, the nurse or midwife must have met the standards of education and training which are published on our website (www.nmc-uk.org) and (by statutory requirement) are communicated to education providers and other relevant stakeholders.

A person commits an offence, if with intent to deceive (either expressly or by implication), he falsely represents himself to be registered in the register, or a particular part of it, or to be the subject of any entry in the register; or uses a designated title to which he is not entitled, or falsely represents himself to possess qualifications in nursing or midwifery (Article 44 of the Order).

Registration and renewal of registration through revalidation

In order to be registered in a part, or sub-part of the register and use one of the designated titles set out above, an individual has to satisfy a number of statutory registration conditions in Article 9 of the Order:

- holds an approved qualification.
- has appropriate cover under an indemnity arrangement.
- is of sufficiently good character to be capable of safe and effective practice.
- has the necessary knowledge of English.
- has paid the prescribed fee.

Once an individual satisfies these conditions and is entered on the register, they become accountable to the NMC for all of their professional activities. All registered nurses and midwives are required to uphold the professional standards contained within the NMC's *Code of Conduct: Professional standards of practice and behaviour for nurses and midwives* (NMC 2015) (Appendix 1), whether they are providing direct care to individuals, groups or communities, or whether they are in employed or self-employed practice.

This commitment to professional standards is fundamental to being part of the nursing or midwifery profession and failure to abide by *The Code* may result in fitness to practise proceedings being initiated to protect the public (see further below).

As well as upholding the professional standards set out in *The Code*, all registered nurses and midwives are required to renew their registration every three years by meeting the statutory registration conditions in Article 10(2) of the Order:

- has appropriate cover under an indemnity arrangement.
- is of sufficiently good character to be capable of safe and effective practice.
- has met the prescribed requirements for continuing professional development.
- has carried out 450 hours of registered practice in the previous three years, or undertaken additional education, training or experience.
- has paid the prescribed fee.

From April 2016, all nurses and midwives in the UK have been required to complete the Revalidation process in order to maintain their registration with the NMC. This is a continuous process that nurses and midwives must engage with throughout their career in order to demonstrate their continued ability to practise safely and effectively. It requires nurses and midwives to:

- carry out 35 hours of continuous professional development of which 20 hours must be participatory;
- obtain five pieces of practice-related feedback;
- produce five written reflective accounts in relation to a continuing professional development activity/feedback/event or experience in their practice;
- have a reflective discussion with an NMC-registered nurse or midwife;
- declare that they are of sufficiently good character to be capable of safe and effective practice;
- hold evidence to demonstrate they have an appropriate indemnity arrangement in place; and
- demonstrate to an appropriate confirmer that they have complied with the Revalidation requirements.

Revalidation reinforces *The Code* by asking nurses and midwives to use it as the reference point for all the requirements, including their written reflective accounts and reflective discussion. It is designed to highlight *The Code's* central role in the nursing and midwifery professions and encourages nurses and midwives to consider how it applies in their everyday practice.

Fitness to practise proceedings

As set out above, when joining the register and renewing their registration, nurses and midwives commit to upholding the professional standards set out in *The Code*. If a registered nurse or midwife fails to uphold *The Code*, we have statutory powers to take action through our fitness to practise processes under Part V of the Order.

Where a concern is raised about a registered nurse or midwife, the NMC's screening team in our fitness to practise directorate assesses whether it is capable of amounting to an allegation of impaired fitness to practise. If it is, the case is referred to the investigating committee and an investigation is carried out. At the conclusion of the investigation, case examiners decide whether there is a case to answer and, if there is, the case is referred to a practice committee to determine whether it is necessary to take any action against the registrant in order to protect the public. If the practice committee concludes that an allegation of impaired fitness to practise is well founded, then they have the power under Article 29(5) to:

- make a striking-off order, which has the effect of removing a registrant's name from the register and preventing them from applying for restoration for five years;
- make a suspension order for up to one year, which prevents the registrant from practising as a registered nurse or midwife
- make a conditions of practice order with which the registrant must comply for up to three years
- caution the registrant for between one and five years, which results in the register being publicly annotated to show that the registrant has received a caution order.

In addition to the above, at any time until an a case has concluded, we have the power to refer a registrant for an interim order hearing on the grounds that it is necessary for the protection of members of the public, is otherwise in the public interest, or is in the interests of the persons concerned (Article 31 of the Order). If it is considered that it is necessary to restrict a registrant's practice, a Practice Committee can take immediate action by imposing an interim conditions of practice order or interim suspension order on their registration.

Advanced practice

Programmes for additional post-registration training as an ANP have been developed by the professional body for nurses, the Royal College of Nursing, in conjunction with the Royal College of General Practitioners for ANPs in General Practice. These programmes can only be undertaken by registered nurses with an active registration and who have registered independent prescriber qualifications.

In considering its role in relation to such ANP programmes, the NMC had regard to a report published by the Council for Healthcare Regulatory Excellence¹, which is the independent regulator for nine health and social care regulators, including the NMC. The report was entitled *Advanced Practice: Report to the four UK Health Departments* (Appendix 2) and concluded:

"We believe that much of what is often called 'advanced practice' across many of the health professions does not make additional statutory regulation necessary. Often what is termed advanced practice reflects career development within a profession and is appropriately governed by mechanisms other than additional

¹ Currently the Professional Standards Authority

statutory regulation. The existing provisions of the regulatory framework mean that whatever the level or context of a professional's practice, they are always accountable to their regulatory body for their practice. All health professionals have duties from the core Code/Standards document of their respective regulatory body only to practise where they are capable of doing so safely and effectively. The activities professionals are undertaking do not lie beyond the scope of existing regulation" (our emphasis added)

In light of this report and for the reasons set out below, the NMC considered that the existing regulatory framework would adequately protect the public against any risks associated with the development of ANPs.

In order to undertake an ANP programme, an individual must be a registered nurse with a registered independent prescriber qualification. Accordingly, nurses who have the ANP qualification will, as a matter of course, be regulated by the NMC both in terms of their ordinary registration and their prescribing qualification. They must uphold the standards of conduct and performance set out in *The Code*, in the same way as all other registered nurses and midwives.

Certain standards will be of particular relevance to any senior nurse or self-employed registrant, whether or not they have undertaken an ANP programme, when carrying out their particular roles. As has been, a person who has an ANP qualification will necessarily be working at an advanced level, and may include working independently in self-employed practice. However, it is important to note that undertaking an ANP programme is in no way a pre-requisite to working at an advanced level or in self-employed practice, and there will be senior nurses (some of whom may also be working in independent practice), who will not have undertaken an ANP programme.

The following paragraphs of *The Code* are specifically designed to ensure that nurses and midwives at any level do not work beyond their competence. These will be discussed and reflected upon as part of the revalidation process:

All nurses and midwives must:

- recognise and work within the limits of your competence (paragraph 13).
- make a timely and appropriate referral to another practitioner when it is in the best interests of the individual needing any action, care or treatment (13.2).
- ask for help from a suitably qualified and experienced healthcare professional to carry out any action or procedure that is beyond the limits of your competence (13.3).
- complete the necessary training before carrying out a new role (13.5).
- raise and, if necessary, escalate any concerns you may have about patient or public safety, or the level of care people are receiving in your workplace or any other healthcare setting and use the channels available to you in line with our guidance and local working practices (16.1).
- raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection (17).

- advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations (18).
- be aware of, and reduce as far as possible, any potential for harm associated with your practice (19).

If a nurse or midwife, at any level of seniority, fails to uphold any of the standards in *The Code*, we can take action in relation to their fitness to practise, which can include removing them from the register. The practice of the nurse or midwife will be judged against their actual level of expertise and experience, and the standards to be expected in the given context. We would not usually use the ANP qualification as a measure of a nurse's competence, although the fact that she has obtained such a qualification may indicate that she has reached a particular level of seniority (not least because she will have needed to obtain a prescribing qualification in order to undertake the course).

In addition, as registered nurses, nurses with the ANP qualification will also have to go through our robust revalidation process, which is designed to provide regulatory assurance that they are adhering to the standards set out in *The Code* and have reflected on their particular area of practice. It is specifically intended to:

- raise awareness of *The Code* and the professional standards expected of nurses and midwives, whatever their level of seniority;
- provide all nurses and midwives, no matter what their level of seniority, with the opportunity to reflect on the role of *The Code* in their practice and to demonstrate they are 'living' the standards;
- encourage all nurses and midwives, no matter what their level of seniority, to stay up to date in their professional practice by developing new skills and understanding the changing needs of the public and fellow healthcare professionals;
- encourage a culture of sharing, reflection and improvement; and
- encourage all nurses and midwives to engage in professional networks and discussions about their practice, whether they are in employed or self-employed practice.