



A memorandum of understanding between the Joint Council for Cosmetic Practitioners (JCCP) and the Nursing and Midwifery Council (NMC)

## **Purpose**

- 1** The purpose of this Memorandum of Understanding is to set out a framework between the Nursing and Midwifery Council (NMC) and the Joint Council for Cosmetic Practitioners (JCCP) to ensure that:
  - effective channels of communication and information sharing are established and maintained between the NMC and the JCCP, to promote patient safety and high quality services for patients receiving non-surgical aesthetic treatments (it should be noted that the JCCP also registers practitioners who deliver Hair Restoration Surgery. The JCCP regards such procedures to be a 'restricted practice' (as defined by the CQC) and only registers GMC appropriately trained and experienced medical practitioners on this part of its Register).
  - where appropriate and necessary, the processes and procedures adopted by the JCCP and the NMC, with regard to matters of 'fitness to practise' for nursing and midwifery professionals involved in the provision of non-surgical aesthetic treatments, are aligned to promote patient safety and public protection.
- 2** This memorandum relates to the areas of interface between the NMC and the JCCP, it clarifies respective roles and responsibilities and outlines mechanisms in place to promote effective liaison.
- 3** The agreement does not affect existing statutory functions or amend any other policies or agreements relating to the activities of the NMC and the JCCP.
- 4** This Memorandum of Understanding does not override the statutory responsibilities and functions of the NMC and is not enforceable in law. However, the NMC and the

JCCP agree to cooperate to deliver and (wherever practicably possible) adhere to the principles set out in this Memorandum of Understanding.

- 5** This Memorandum of Understanding pursues its purpose by setting out a framework to support a productive working relationship between the JCCP and the NMC.

### **Functions of the NMC and the JCCP**

- 6** **The Nursing and Midwifery Council (NMC)** is the statutory regulator for nurses and midwives in England, Wales, Scotland and Northern Ireland and nursing associates in England. The NMC exists to protect the public by setting standards of education, training, conduct and performance so that nurses, midwives and nursing associates can deliver high quality healthcare throughout their careers.
- 7** The NMC maintains a register of nurses and midwives allowed to practise in the UK, and nursing associates in England, and makes sure that they keep their skills and knowledge up to date and uphold the professional standards. The NMC has clear and transparent processes to investigate nurses and midwives who fall short of its standards.
- 8** The NMC is not responsible for:
  - regulating hospitals or other healthcare settings
  - regulating healthcare assistants
  - representing or campaigning on behalf of nurses and midwives
  - setting levels of staffing.
- 9** The Code<sup>1</sup> contains the professional standards that people on our register must uphold, whether they are providing direct care to individuals, groups or communities or bringing their professional knowledge to bear on nursing and midwifery practice in other roles, such as leadership, education or research. While you can interpret the values and principles set out in the Code in a range of different practice settings, they are not negotiable or discretionary.
- 10** **The Joint Council for Cosmetic Practitioners (JCCP)** is a recognised self-regulator of the non-surgical aesthetic industry in the U.K. and acts as a point of access for the public seeking information about this area of practice and, where

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<sup>1</sup> <https://www.nmc.org.uk/standards/code/>

appropriate, for raising issues of concern about practitioners. The JCCP places public protection and patient safety as the focus of its activities.

- 11** JCCP practitioner registrants and associated education and training providers will be accredited and endorsed by the JCCP as meeting the highest standards of quality by ensuring that all parties who have been admitted to the JCCP's Registers have met the agreed industry qualifications and benchmarks and abide by the standards of practice and behaviour as determined by the Cosmetic Practice Standards Authority (CPSA) and the JCCP.
- 12** The JCCP will operate two registers which relate to cosmetic-related practice and education and training. The two registers will consider the following:
  - the accreditation of practitioners who deliver non-surgical aesthetic and hair restoration surgical treatments against an agreed set of national educational, clinical and practice based standards
  - the approval of education and training providers who deliver education and training programmes, accreditation and services for practitioners that accord with JCCP standards.
- 13** These registers are voluntary and not mandatory. The JCCP Practitioner Register has been approved by the Professional Standards Authority (PSA) under its accreditation of registers procedure. JCCP have powers to conduct fitness to practise examinations in respect of their own register.
- 14** In its Standards for Accredited Registers, the PSA expects organisations to recognise decisions regarding professional conduct made by regulatory bodies and other registers accredited by the PSA when deciding whether a person should be admitted, kept on or removed from their register.<sup>2</sup>

### **Principles of cooperation**

- 15** The JCCP and the NMC intend that their working relationship will relate to those registrants who are registered with both the NMC and the JCCP and will be characterized by the following principles:
  - the need to promote patient safety and public protection in the non-surgical treatment sector

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<sup>2</sup> PSA (2016) Standards for Accredited Registers

- respect for each other's independent status
  - the need to maintain public confidence in the NMC and the JCCP
  - openness and transparency between the two organisations as to when cooperation is and is not considered necessary or appropriate
  - the need to use resources effectively and efficiently.
- 16** The JCCP and the NMC are committed to the principles of patient safety and public protection and as such share their commitment to ensure that all aesthetic non-surgical practitioners practise and work at all times to the NMC Code for Nurses and Midwives (2015) and follow also the JCCP and CPSA Guidance for Practitioners Who Provide Cosmetic Interventions (2017).
- 17** The NMC and JCCP are subject to a range of legal duties including those arising from the Data Protection Act 2018, Human Rights Act 1998, the Freedom of Information Act 2000, General Data Protection Regulation and related legislation, and additionally specific information may be subject to the duty of confidentiality. This document sets out the approach to the exchange of information between the two organisations within this legal framework, but the obligation is on the disclosing body to satisfy itself that they have a lawful basis for sharing any information.

### **Confidentiality**

- 18** The NMC has a statutory duty under 22(9) of the Nursing and Midwifery Order, 2001 to publish orders and decisions made by its FtP Practice Committees. It also has the power to share these decisions. However, it has a discretionary power to withhold any information concerning the physical or mental health of a person which it considers to be confidential. The JCCP will align its practices and decisions on fitness to practise with those of the NMC and to recognise the primacy of the NMC on all matters with regard to NMC registered professionals in its capacity as a statutory regulator.

### **Areas of cooperation**

- 19** The working relationship between the JCCP and the NMC involves cooperation in the following areas.

### **Referral of concerns – JCCP to NMC**

- 20** Where the JCCP encounters any concern which it believes falls within the remit of the NMC, they will, at the earliest opportunity, convey the concern and relevant information to a named individual with relevant responsibility at the NMC. In the

interests of patient safety, the referring organisation will not wait to share concerns until its own investigation into registrant-related complaints has concluded.

**21** In particular, the JCCP will refer to the NMC:

- concerns and relevant information about an NMC registered professional which may call into question their fitness to practise in the applied area of non-surgical cosmetic practice.

### **Exchange of information**

**22** The cooperation outlined in paragraphs 15-17 will occasionally require the JCCP to provide information to the NMC. All arrangements for collaboration and exchange of information set out in the Memorandum of Understanding and any supplementary agreements will take account of and comply with the Data Protection Act (2018), the General Data Protection Regulation and other relevant data protection legislation in force. It will also take into account and accommodate any provisions cited in the Health and Social Care Act (2012), the Nursing and Midwifery Order (2001), and work at all times to the NMC Code for Nurses and Midwives (2015), the **JCCP and CPSA Guidance for Practitioners Who Provide Cosmetic Interventions** (2017) and frameworks or other policies relating to confidential personal information.

**23** The JCCP acknowledges that the NMC Code for Nurses and Midwives (2015) must be regarded as the overriding standard for all nurses and midwives registered with the NMC.

**24** Both the NMC and the JCCP are subject to the Freedom of Information Act 2000. They are both responsible for their own FOI requests, however depending on the request one organisation may inform the other.

### **Potential areas of communication**

**25** Communication between the JCCP and the NMC is based on an overriding duty to protect patients while being fair to nursing and midwifery professionals and protecting confidential health information about individual NMC registered professionals. Areas of potential communication between the JCCP and NMC operational leads identified in Annex A include the following (the list is not intended to be exhaustive):

- Pre-referral discussion:
  - ‘in principle’ about how best to manage concerns about an anonymised NMC registered professional and whether or not the NMC would need to be informed on an anonymised basis, or

- discussions about individuals who have been referred to either organisation, where there are concerns about public protection or the safety of patients under the care of the nurse, midwife or nursing associate, on a named person basis.
  - the NMC has Fitness to Practise information handling guidance to inform these discussions.<sup>3</sup>
- Post-referral discussion – to coordinate activity where appropriate.

### **Pre-referral discussions ‘in principle’ or about named NMC registered professionals**

**26** Both the JCCP and the NMC are approached for advice by organisations and members of the public with potential fitness to practise concerns. The purpose of these discussions is to determine whether the organisation should take further steps locally (for example with the registrant professional’s employer), refer to the NMC, or refer to the JCCP. Although in most cases it will be clear what advice should be given to the enquiring organisation or individual member of the public at this stage, it may sometimes be appropriate for the NMC and JCCP to liaise in order to clarify the issues raised. In these cases, the NMC or JCCP may discuss the matters raised by the enquiring organisation or member of the public, but the disclosing body should ensure that any disclosures are in the public interest and comply with relevant data protection legislation and the common law.

### **Post-referral discussions about individual NMC registered professionals**

**27** The NMC and JCCP recognise that there will be times where they both have a case open regarding enquiries relating to the fitness to practise of a named NMC registered professional. In such instances they may work together through the operational contacts identified in Annex A.

### **Resolution of disagreement**

**28** Where any issues arise, which cannot be resolved at an operational level, the matter will be referred to the policy leads identified at Annex A to ensure a satisfactory resolution.

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<sup>3</sup> [https://www.nmc.org.uk/globalassets/sitedocuments/ftp\\_information/ftp-information-handling-guidance.pdf](https://www.nmc.org.uk/globalassets/sitedocuments/ftp_information/ftp-information-handling-guidance.pdf)

## Review and governance arrangements

- 29** This MOU will be effective from the 15<sup>th</sup> January, 2019. It is time limited for one year and will be subject to formal review within the last quarter of that initial year of operation.
- 30** The appendices to this MOU may be reviewed and amended without amendment to this MOU.

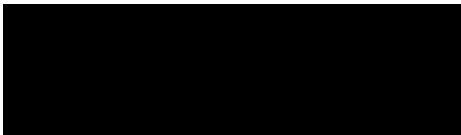
The MOU and its appendices may be reviewed at any time at the request of either party. Additionally, the appendix will be reviewed every six months, to ensure that they remain accurate and relevant. Details of who is responsible for carrying out the review are set out in the key contacts information at Annex A.

### On behalf of NMC

Name: Matthew McClelland

Director of Fitness to Practise

Signature



Date: 15<sup>th</sup> January 2019

### On behalf of JCCP

Name: Professor David Sines

JCCP Chair

Signature



Date 15<sup>th</sup> January 2019