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| Title of Report | SSSC Response to the NMC Independent Culture Review Report July 2024 |
| Public/Confidential | Public |
| Summary/purpose of report | To draw Council's attention to our assessment of the SSSC's position relative to the issues raised in the report. |
| Recommendations | The Council is asked to endorse the planned management actions. |
| Author and Responsible Officer | Hannah Coleman, Acting Director of Regulation |
| Link to Strategic Plan | The information in this report links to: Outcome 1: Trusted People who use services are protected by a workforce that is fit to practise. Outcome 3: Confident Our work enhances the confidence, competence and wellbeing of the workforce. |
| Link to Risk Register | Risk 1: We fail to ensure that our system of regulation meets the needs of people who use services and workers. Risk 3: We fail to meet corporate governance, external scrutiny and legal obligations. Risk 5: We fail to develop and support SSSC staff appropriately to ensure we have a motivated and skilled workforce. |
| Impact Assessment | An Impact Assessment (IA) was not required. |
| Documents attached | None |
| Background papers | Nursing and Midwifery Council: Independent Culture Review July 2024 |

EXECUTIVE SUMMARY

1. The Nursing and Midwifery Council (NMC) published an Independent Culture Review (the Review) in July 2024. The review was commissioned by the NMC in January 2024 following disclosures made by whistleblowers in 2023. The disclosures suggested that there was a “deep seated toxic culture” resulting in skewed and failed fitness to practise (FTP) investigations. The NMC has previously been the subject of claims critical of its workplace culture.
2. The Review recommends a culture change and makes 36 recommendations to support the NMC to achieve this. The NMC has accepted the recommendations.
3. We have considered the three main areas of concern raised in the report:
 - a. FTP timescales
 - b. FTP decision making
 - c. Organisational culture.

FTP TIMESCALES

4. The Review notes that the NMC has a backlog of almost 6,000 cases and the timescales for concluding cases are lengthy.

| Type of case closed | Median time to close case |
|----------------------------|----------------------------------|
| Case examiner decisions | 22 months |
| Hearing | 35.5 months |

5. The SSSC has no backlog of cases and our investigation timescales compare favourably with other regulators.

| Type of case closed | Median time to close case |
|---|----------------------------------|
| All cases (including screening) | 0.7 months |
| Officer decision after full investigation | 11 months |
| Hearing | 24 months |

FTP DECISION MAKING

6. The NMC report raises concerns about their decision making. It contains detail of cases that were closed inappropriately or where certain types of misconduct, such as sexual misconduct outside of work or racist behaviour, were not taken seriously. There is also criticism made of the experience of those going through the FTP Process.
7. An external legal firm carry out an annual audit of SSSC FTP cases. Previous audits have not identified any concerns. The first phase of this year's audit is complete and has not identified any concerns. A further stage of the audit of cases is ongoing. The audit is focussing on cases closed at screening stage.
8. The SSSC takes sexual misconduct outside of work seriously. Behaviour outside of work is included in our Decisions Guidance. Workers have received serious sanctions for sexual misconduct outside of work. Sexual misconduct is included in our Decision Guidance as behaviour where more serious action may be required. We are currently consulting on our updated Decisions Guidance which further strengthens the guidance relating to sexual misconduct.
9. The SSSC takes racist abuse seriously. Workers have received serious sanctions for expressing racist views. We are strengthening this in our updated Decisions Guidance which brings discrimination into the category of behaviours in which more serious sanctions are likely to be appropriate, particularly where the behaviour involves discrimination with reference to the protected characteristics as set out in the Equality Act 2010.
10. The SSSC has an independent support service available to workers going through the FTP process. This includes telephone support, counselling, and online resources. We have improved our communication and consistency of staff contact with workers whose fitness to practise is being investigated. Workers are provided with support from a hearings officer during their hearing. All of our hearings officers are trained in mental health first aid. We have worked hard to improve access to representation for workers and continue to work to expand this further. We hold regular meetings with our FTP representatives' group which provides a mechanism to identify further improvements required. We will continue to focus on further improvements in this area.

ORGANISATIONAL CULTURE

11. The Review concludes that there are at least two cultures in the NMC, one positive and one "dangerously toxic". It states that claims made by the whistleblower were corroborated by other staff. These included claims of

racism, staff being afraid to speak up and regulated workers being allowed to keep working in the face of serious allegations.

12. Our most recent staff survey/Investors in People review did not identify any issues with culture. There is nothing of concern noted in staff exit interviews and the Union has not identified any issues to us and are reporting that staff are generally happy. Turnover has been decreasing in the FTP department.
13. We recognise that we cannot be complacent. Our staff are our greatest asset and providing a positive workplace is critical. Our annual staff survey will take place at the end of the year, and we will ensure the questions asked of staff focus on the issues raised in the NMC report.
14. Our initial assessment has not identified organisational concerns similar to those experienced by the NMC. We have identified possible opportunities for learning and improvement. We will review these once we have the results of our staff survey and develop an action plan as required.

ANONYMOUS COMPLAINT

15. The SSSC received an anonymous complaint on 10 May 2024. This made allegations similar to some in the NMC report, including staff feeling unable to speak up due to fear and intimidation, delays in hearings taking place, cases being inappropriately closed at screening and issues with poor morale within Fitness to Practise. This complaint has been investigated and a separate report has been prepared detailing the outcome of the investigation, which is on today's agenda. The investigation found no evidence to substantiate any of the allegations within the complaint.

CONSULTATION

16. We have consulted Operational Management Team (OMT) members by inviting them to consider both our current position and possible improvements that may arise from the report and its recommendations. We will ensure our staff survey has a focus on the issues highlighted by the NMC.

RISKS

17. We have a cautious risk appetite to the management of regulatory quality and effective regulatory functions and towards the effective management of our regulatory function. Further, we have an averse appetite towards regulatory and legal compliance. The issues identified in the Review indicate a concern about fulfilment of the statutory public protection function. The recommendations within this report seek to cast a critical eye

over our own position and comply with the requirements of our risk appetite.

IMPLICATIONS

Resourcing

18. There are no resourcing requirements identified as part of this report.

Compliance

19. There are no compliance issues identified as part of this report.

IMPACT ASSESSMENT

20. An Impact Assessment was not required as the recommendations in this report do not require a decision on a policy, procedure, strategy or activity.

CONCLUSION

21. Our initial assessment of the SSSC's position gives us confidence that we are not experiencing similar concerns. Our fitness to practise function has experienced times of pressure and high staff turnover in the past. We are therefore alive to the risks that a poor culture combined with other issues can cause. Our planned management actions are:

- complete audit of case decisions
- direct Investors in People to focus on the cultural issues identified in the Review when carrying out their assessment later this year

the outcomes of which we will report back to Council.

22. Council is asked to endorse this approach.