2. Do you agree or disagree that regulators should have an objective to be transparent when carrying out their functions and these related duties? Please give a reason for your answer.

Transparency is critical to building confidence and maintaining trust amongst both registrants and members of the public. We strongly support the proposal for regulators to have an objective to be transparent. One concern we do have relates to public access to hearings in situations where the hearing is being held virtually. We are concerned that members of the public may take steps to record (either audio or video) the hearing and sharing the content online. This would expose both registrants and witnesses to potential harm. We therefore ask for safeguards to be made to prevent this from happening. Some regulators allow members of the public to attend screenings of the hearings, and these screenings are monitored by staff to ensure recordings are not being made.

3. Do you agree or disagree that regulators should be required to assess the impact of proposed changes to their rules, processes, and systems before they are introduced? Please give a reason for your answer

We agree that regulators should undertake an impact assessment on any proposed changes before they are introduced. We do not believe it is acceptable for changes to be made without understanding the economic impact, operational considerations and system wide practice changes. In the past, we have seen where the failure to undertake an economic impact assessment has meant that the financial burden was transferred to organisations without due consideration of how this might be mitigated and managed.

It is vital that a transparent evaluation and risk assessment process is undertaken with partners before and during the implementation of any planned change. It is important that the change is subject to a proportionate assessment of cost and benefit on how the regulator functions, and that it does not have a disproportionate impact on registrants or result in unintended consequences. We recognise that during the pandemic this was not always possible however, we appreciate the steps the NMC took to consult on new powers following the initial emergency period.

Our view is that this explicit duty should also require regulators to assess the impact of changes upon people with protected characteristics. We know that registrants from BAME backgrounds are more likely to be involved in fitness to practice hearings and as such, it is vital that they and other groups are explicitly considered before changes are made. This will help to identify any factors which contribute to an over-representation of specific groups.

4. Do you agree or disagree with the proposal for the constitution on appointment arrangements to the Board of the regulators? Please give a reason for your answer.

We generally agree with the broad principle of the proposal to strengthen the governance arrangements and modernise the structure that is standardised for all professional regulators. We acknowledge the importance and value of lay representation as part of a transparent governance process to ensure the regulator is effectively discharging it functions. However, we strongly disagree that the appointment of registrants to the Board should be seen as optional. We believe that it is essential to have members of the profession on the Board to be able to contextualise the contributions and ensure the professional perspective is heard.

We would want to see the Board structure included at least two registrant that is current in practice with up-to-date experience of the regulated profession.

5. Do you agree or disagree that regulators should be able to set their own fees in rules without Privy Council approval? Please give a reason for your answer

We agree in principle that regulators should be able to set their fees without parliamentary approval. With this new freedom, the regulators must provide a clear strategy that sets out an approach to their fees. This would provide a greater level of transparency, help with forward planning, and manage the expectations of registrants around their fees.

It is imperative that safeguards are put in place and a requirement for meaningful consultation to be undertaken before any changes are made.

6. Do you agree or disagree that regulators should be able to set a longer-term approach to fees? Please give a reason for your answer.

Response as above

7. Do you agree or disagree that regulators should be able to establish their own committees rather than this being set out in legislation? Please give a reason for your answer.

We agree with this in principle as it would allow regulators to configure their committee in a more relevant and effective way that reflect their various functions and meets the needs of their registrants and the public. In establishing any committee, we believe the regulator need to clearly set out where it aligns in their mandate and consider whether some committee functions may be better placed with the Royal College.

We do however think that there should be some shared standards between all of the regulators to ensure that the levels of governance, transparency, oversight and scrutiny are broadly consistent for registrants of all profession.

8. Do you agree or disagree that regulators should be able to charge for services undertaken on a cost recovery basis, and that this should extend to services undertaken outside of the geographical region in which they normally operate? Please give a reason for your answers.

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10. Do you agree or disagree that regulators should be able to require data from and share data with those groups listed above? Please give a reason for your answer.

While we are supportive of the principle of data sharing and transparency between organisations, we have some concerns about the practical requirements. There is a need for further detail on these proposals before we can fully support. Further detail

As a Royal College with access to a large group of nursing members, we are able to bring substantial intelligence to the table from our student, practice assessors and supervisor membership as well as members from our education forum.

17. Do you agree that:

- education and training providers should have the right to appeal approval decisions;
- that this appeal right should not apply when conditions are attached to an approval;
- that regulators should be required to set out the grounds for appeals and appeals processes in rules?

Please provide a reason for your answer.

Transparency and parity in the approach is important to help maintain confidence in the process. It is essential that the process of appeal is standardised across healthcare regulators. It is also important that information is shared between professional and system regulators and any difference in approach highlighted so that steps to a more standardised approach can be explored. This could be an area to

24. Do you agree or disagree that the regulators should hold a single register which can be divided into parts for each profession they regulate? Please give a reason for your answer.

We agree that individual professional regulators should hold a single register relevant to their registrant demography that can be divided into the relevant parts. This should provide a clear understanding of entry and standards of proficiency that has been achieved by registrants to enable admission to the different parts of the register and to remain on the register.

All regulators should use a standardised format in which they hold and publish their register of the professionals they regulate.

- 25. Do you agree or disagree that all regulators should be required to publish the following information about their registrants?
 - Name
 - Profession
 - Qualification (this will only be published if the regulator holds this information. For historical reasons not all regulators hold this information about all of their registrants)
 - Registration number or personal identification number (PIN)
 - Registration status (any measures in relation to fitn 3in hold this information

26. Do you agree or disagree that all regulators, in line with their statutory objectives, should be given a power allowing them to collect, hold and process data? Please give a reason for your answer.

The data that regulators collect, and hold should only be that which is in line with their objective of patient safety and public protection. It is our expectation that regulators comply with good data protection standards.

A duty must be placed on regulators to ensure that those on their register are informed of the data they require, the measures that will be taken to collect it and how the information will be used. This would support the ambition to achieve greater transparency. Any data breaches should be publicly declared.

27. Should they be given a discretionary power allowing them to publish specific data about their registrants? Please give a reason for your answer.

As indicated in the previous response, we are supportive of this proposal if it is in line with the regulators objective of protecting the public.

It is important that the human rights of professionals are fully upheld when considering the information that should be available on registers. Personal information relating to health, contact details or any unfound allegations against them should remain confidential and not appear on the register.

28. Do you agree or disagree that all regulators should be able to annotate their register and that annotations should only be made where they are necessary for the purpose of public protection? Please give a reason for your answer.

We are supportive of this rule for regulators to be given the power to annotate their register to ensure its public and patient safety function. This would allow regulators to adapt more rapidly to the changing health and social care landscape. The increased powers would also allow any developments to easily and proportionately be reflected on a regulator register. We are of the view that regulators must be required to make explicit the use of annotations through their policy documents.

While we agree to the regulator making annotations to the register, we oppose the idea that regulators should be able to charge for making them. The fundamental principle should be that annotations are made where they are necessary to protect the

a regulator should be able to charge a fee for making annotations to a register entry.

32. Do you agree or disagree with our proposal that regulators should be able to appoint a deputy registrar and/or assistant registrar, where this power does not already exist? Please give a reason for your answer.

We support this proposal as a way of enhancing the governance and ensuring the operational delivery of statutory duties are maintained at all times. We are aware that the NMC already have the power to appoint a deputy registrar.

33. Do you agree or disagree with our proposal that regulators should be able to set out their registration processes in rules and guidance? Please give a reason for your answer.

We agree that the registration requirements need to be made explicit in the regulators rules and communicated in a way that is easily understood and not open to different interpretations. This is particularly pertinent to our overseas or internationally trained professionals. By allowing the registration process to be set out in rules and guidance we think this would provide the regulators with greater flexibility to update the process in response to any changes.

Where possible we would like to see all regulators following a similar format, subject to the specific details that may be required for their register. This would help to reduce variability and ensure a consistent and transparent approach is adopted by all regulators irrespective of the professional group.

We would expect any proposal to be consulted upon, particularly with the royal colleges; and that there would be absolute protection of nursing at degree level.

34. Should all registrars be given a discretion to turn down an applicant for registration or should applicants be only turned down because they have failed to meet the new criteria for registration? Please give a reason for your answer.

35. practise should be removed from primary legislation and that any requirements to hold a licence to practise and the procedure for granting or refusing a licence to practise should instead be set out in rules and guidance? Please give a reason for your answer.

The RCN has no comments to make on this question.

36. Do you agree or disagree that in specific circumstances regulators should be able to suspend registrants from their registers rather than remove them? Please give a reason for your answer.

We agree in principle that suspension in specific circumstances would be preferable to removal.

Regulators clearly have the right to suspend registrants where there are concerns about public safety and protection. It is unclear how the suspension process would work in some of the specific circumstances highlighted, particularly if the issue that led to the suspension is remedied at an early stage.

We are supportive of an easy process that can be applied for registrants that may have made a simple administrative error, to return to the register promptly. To achieve this there would need to be a mechanism in place that would be workable by the regulator and not overly bureaucratic.

We are aware that there has been a rise in the level of poverty for many of our members, and this has led to increased struggles with payment of fees. We would not want to see them prevented from earning and driven into greater hardship through a suspension if this could be avoided. We believe that any decision to suspend must be proportionate and should only occur after all other efforts and steps have been made and exhausted. Suspensions should be seen as the absolute last resort and registrants should have a right to appeal.

37. Do you agree or disagree that the regulators should be able to set out their removal and readmittance processes to the register for administrative reasons in be able to

However, as indicated in the previous response, the decisions for removal need to be proportionate, particularly in relation to the administrative reasons of failure to pay fees and maintain contact details. The rules should make clear the threshold that would need to be met to trigger the decision for removal. We are supportive of the readmission process being made easier for these administrative reasons and for the rules to be consistent across all the regulators.

38. Do you think any additional appealable decisions should be included within legislation? Please give a reason for your answer.

The RCN has nothing further to add.

39. Do you agree or disagree that regulators should set out their registration appeals procedures in rules or should these be set out in their governing legislation? Please give a reason for your answer.

We are supportive of this proposal. In line with the approach of providing regulators with greater autonomy to set out their operating processes around registration in rules, this should also include the appeals procedure as an integral part. This must be consistent across all regulators.

40. Do you agree or disagree with our proposal that the regulators should not have discretionary powers to establish student registers? Please give a reason for your answer.

We agree that regulators should not be given the power to establish student registers as it would fail to comply with the purpose of having a register and by that nature with no real purpose.

Registration denotes a list of professionals that the regulators are satisfied are appropriately trained and qualified with the necessary knowledge and skills to enable safe and effective practice. As such, the regulator is able to meet its core objective of patient safety and public protection.

Establishing a student register, by its very nature, mean those that are on it would not meet the regulators registration requirements and assurance of safe practice that ultimately meet their fundamental role of patient safety and public protection.

In addition, we think that the power to establish a student register would be at odds with the proposal to reduce multiple registers and is likely to be an administrative burden and unnecessary cost to the regulator.

granted flexibility and the full control for appropriately assessing who can and should join the nursing register, without interference.

- 43. Do you agree or disagree with our proposal that regulators should be given powers to operate a three-step fitness to practise process, covering:
 - 1: initial assessment
 - 2: case examiner stage
 - 3: fitness to practise panel stage?

Please give a reason for your answer.

We support the principle that regulators are encouraged to establish rules that permit more effective use of the early stages of the process to resolve cases quickly and fairly. We would want to see consistency between the regulators so that all cases for every regulator can be dealt with as swiftly as possible. At the NMC, following the

More recently, health cases have also had misconduct charges heard at the same time. We have seen this as a loss as it is difficult for someone who is unwell to defend themselves against misconduct allegations. Sometimes the case must be adjourned until the registrant is well enough to defend the misconduct charges. This loses an opportunity to manage the health condition and provide the registrant with a demonstration that the role of the regulator is to support them in returning to their best practice, rather than assuming a punitive role.

45. Do you agree or disagree that:

- all measures (warnings, conditions, suspension orders and removal orders) should be made available to both Case Examiners and Fitness to Practise panels; and
- automatic removal orders should be made available to a regulator following conviction for a listed offence?

Please give a reason for your answers.

We agree that giving the same measures to Case examiners to make decisions about cases is a forward-looking and promising strategy to resolve cases more quickly. This will reduce the distress, inconvenience and expense of protracted proceedings, for all concerned. It will allow registrants to return to the workforce more quickly. A less adversarial process and engaged process will enhance learning and reduce the blame culture.

We support automatic removal in principle, to improve efficiency and we do not c

of an appeal to the High Court, but are aware that on occasion, cases may occur in which a judicial hearing is appropriate in order to consider lesser sanction than removal. The case of Wright (R(on the application of Wright and others) v Secretary of State for Health [2009] UKHL 3) found that the right to work is an Article 8 human right, so a less serious conviction from the guideline list from Schedule 3 of the Social Work Regulations, such as sexual assault which can amount to touching outside clothing might be capable of providing a finding of less than a removal. There should be a mechanism for checking this before a removal takes place. The example offence can attract a criminal sentence at its lowest, of a medium level community order.

46. Do you agree or disagree with the proposed powers for reviewing measures? Please give a reason for your answer.

Regulators should have powers to review a measure at any point before its expiry and should be able to set out in rules a clear process to follow when reviewing a measure. This power should be available to both case examiners and FtP panels. The rules must make clear that any change to a measure is proportionate and fair, and there will be a fair process.

We agree that it is important that registrants have a right to seek an early review of a measure before its expiry, so that changes in circumstance can be accommodated.

47. Do you agree or disagree with our proposal on notification provisions, including the duty to keep the person(s) who raised the concern informed at key points during the fitness to practise process? Please give a reason for your answer.

There must be rules enabling the registrant to be notified about key stages and their right to be represented, and also potential consequences if they fail to participate. There should also be clarity provided about when they do not have to respond (e.g. when the allegations are unclear, or the asks made of them are not fair). Our concern is that in an effort to encourage engagement early (which we fully support), registrants will feel obliged to admit to allegations when they should not (e.g. because there were system failures etc) and they need to be able to ask for the time to reflect properly and gather evidence.

Whilst advising about the seriousness and the consequences is important, the language used could be intimidating, particularly for the unrepresented. There should be a requirement for regulators to consult on language used in letters and guidance documents with registrants and those representing them to avoid unintended consequences of this type.

In relation to keeping the complainant informed, regulators should be mindful about

We would like to see regulators have the power to investigate a FtP concern at any stage, and be able to require information from a third party. We think that this can be a powerful tool to reach decisions based on evidence at an early stage. We would like more information about the power to require information from a registrant. How would this be enforced? Thought should be given to the safeguards so that registrants are not required to provide evidence that might incriminate them. The rules here could be registrants

Adverse inference can also play a part, but again, should only be resorted to when concerns or charges have been properly articulated.

51. Do you agree or disagree with our proposed approach for onward referral of a case at the end of the initial assessment stage? Please give a reason for your answer.

55. Do you agree or disagree that regulators should be able to determine in rules the details of how the Fitness to Practise panel stage operates? Please give a reason for your answer.

We agree that regulators should be allowed to determine in rules the details of how the Fitness to Practise panel stage operates. However, we do have some concerns that we would want the legislation to address:

In the past there has been criticism that different healthcare regulators have generated different outcomes, or at the least, different experiences of the process, for the professionals on their registers, simply as a consequence of their different rules.

In the past we have seen harsher outcomes and more drawn out procedures for nurses compared to doctors who have been involved in the same circumstances and against whom the allegations were largely the same. This has been unfair in itself and undermines trust in healthcare regulation. We would like to see a mechanism whereby this is avoided as the regulators draft and consult upon their rules, and once the rules are in place, by benchmarking. Consistency will be key to the success of the new regime.

In this consultation document there is limited detail about what requirements the legislation will stipulate for the rules that are to be drafted by the regulators. We suggest that there should be expectations of principles like fairness and proportionality, a

governing body can measure the performance of the new rules. A regulator which is

56. Do you agree or disagree that a registrant should have a right of appeal against a decision by a case examiner, Fitness to Practise panel or Interim Measures panel? Please give a reason for your answer.

We agree that a registrant should have a right of appeal against decisions by a case examiner, Fitness to Practise panel or Interim Measures panel so that regulators can be held accountable to a common standard.

57. Should this be a right of appeal to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland? Please give a reason for your answer.

We agree that the right of appeal should be to the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland.

58. Do you agree or disagree that regulators should be able to set out in Rules their own restoration to the register processes in relation to fitness to practise cases? Please give a reason for your answer.

We agree that regulators should be able to set out in Rules their own restoration to the register processes in relation to fitness to practise cases. We would want to see a mechanism to ensure consistency of these rules between regulators.

59. Do you agree or disagree that a registrant should have a further onward right of appeal against a decision not to p the

managed by the registrar review process and a legalistic process would be inappropriate.

If the registrant is accepting an outcome, but it can then be appealed, there is potential unfairness. The registrant will have accepted the outcome and made concessions in the expectation that this will bring the proceedings to a close. We face a similar issue in the current post-substantive PSA process whereby the registrant has a shorter time period in which to lodge an appeal than the PSA and may decide not to appeal due to cost/ uncertainty/ desire to end the process. They can then find themselves facing a PSA appeal, having lost the opportunity to challenge aspects of the outcome with which they disagreed.

Registrants who have accepted an outcome in good faith may find themselves in the same difficult position as those facing an appeal following a substantive hearing in other ways. Although they are facing an appeal due to a criticism being made of the -making, they can face drawn out proceedings and a bill for the nd. Some registrants may consider that it is preferable to proceed to a hearing before a panel than take this risk.

PSA appeals are costly, involving the legal costs of the PSA, the NMC and the urses, and complex processes should be reserved for exceptional cases where there is a clear risk to public protection.

We note that the PSA can request the Registrar Review process, so it has the opportunity to draw attention to any perceived outcomes of concern. We would expect that a regulator facing a query from the PSA would take such concerns seriously. Any rules and guidance subsequently produced must ensure that the processes are sufficiently robust and transparent to maintain public confidence that there is independent oversight.

63. Do you have any further comments on our proposed model for fitness to practise?

When anticipating rule-setting by regulators, there is concern that separate sets of rules might exacerbate inconsistencies between regulators, and we encourage measures that reduce this risk.

At the NMC, the backlog of cases is creating difficulty for registrants and all those involved in casework. We hope that the new processes will reduce backlog, and we ask that consideration is given at every stage to enabling the prompt g0 gfluinon r tases

There have been some concerns within our organisation that by not giving the PSA the right to a

mechanism to evaluate the impact of registrar reviews, to ensure that they are part of a process that maintains public confidence in independent oversight.

When nursing staff are working, they are responsible for delivering safe and effective care for all their patients. However, we know in some cases they will not have everything they need to deliver safe and effective care for all patients. We also know that when this happens, nursing staff are highly likely to keep working regardless so they can care for their patients as best they can.

It is vital that nursing staff have a simple, accessible and formal route to not only raise these concerns but make clear they are continuing to work despite not having everything they require to do so properly. This mechanism must then be utilised to inform fitness to practice cases as to whether or not the staff member(s) in question had everything (e.g. resource, capacity, learning and equipment) they required, and how this impacted on their ability to deliver safe and effective care.

64. Do you agree or disagree with the proposed approach to the regulation of PAs and AAs? Please give a reason for your answer.

We are supportive of PAs and AAs being regulated through the approach outlined and because they are associated with medicine, it is appropriate that this is with the GMC. However, we would want to be included and recognised as a stakeholder in any discussions on changes/development of the role and that which relate to the scheme of delegation.

The RCN has long advocated for the regulation of all healthcare support workers. With the current direction of healthcare policy that points to the increase and extension of non-registered roles in the delivery of health care, concerns around public protection, accountability and standards continue to be raised. We believe the reforms provides an opportunity for an appropriate regulatory model for the wider cohort of nursing support workers to be considered in addition to these roles that are more aligned to medicine.

65. In relation to PAs and AAs, do you agree or disagree that the GMC should be given a power to approve high level curricula and set and administer exams? Please give a reason for your answer.

The RCN has no comment to make on this question.

70.	Do you think any of the proposals in this consultation could impact (positively or negatively) on any persons with protected characteristics covered by the general