TRUST-WIDE CLINICAL GUIDANCE DOCUMENT

GUIDELINES FOR REFERRAL TO NURSING AND MIDWIFERY COUNCIL (NMC)

<table>
<thead>
<tr>
<th>Policy Number:</th>
<th>HR-G3</th>
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<tbody>
<tr>
<td>Scope of this Document:</td>
<td>All Staff</td>
</tr>
<tr>
<td>Recommending Committee:</td>
<td>Senior Nurse Leadership Meeting</td>
</tr>
<tr>
<td>Approving Committee:</td>
<td>Executive Committee</td>
</tr>
<tr>
<td>Date Ratified:</td>
<td>July 2016</td>
</tr>
<tr>
<td>Next Review Date (by):</td>
<td>July 2018</td>
</tr>
<tr>
<td>Version Number:</td>
<td>Version 2</td>
</tr>
<tr>
<td>Lead Executive Director:</td>
<td>Executive Director of Nursing</td>
</tr>
<tr>
<td>Lead Author(s):</td>
<td>Deputy Director of Nursing</td>
</tr>
</tbody>
</table>

TRUST-WIDE CLINICAL GUIDANCE DOCUMENT

Version 2

Quality, recovery and wellbeing at the heart of everything we do

HR-G3 Guidelines for Referral to Nursing and Midwifery Council (NMC)
Further information about this document:

<table>
<thead>
<tr>
<th>Document name</th>
<th>HR-G3 GUIDELINES FOR REFERRAL TO NURSING AND MIDWIFERY COUNCIL (NMC)</th>
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</thead>
<tbody>
<tr>
<td>Document summary</td>
<td>The aim of these guidelines is to provide guidelines in relation to the process for referral to the NMC</td>
</tr>
</tbody>
</table>
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| Contact(s) for further information about this document | |
| Published by | Mersey Care NHS Trust  
V7 Building  
Kings Business Park  
Prescot  
Merseyside  
L34 1PJ |
| Copies of this document are available from the Author(s) and via the trust’s website | Your Space Extranet: http://nww.portal.merseycare.nhs.uk  
Trust’s Website: www.merseycare.nhs.uk |
| To be read in conjunction with | Disciplinary procedures (HR01)  
Capability Policy and Procedure (HR11)  
Corporate Policy and Procedure on the Prevention and Management of Workplace Stressors (HR13)  
NMC Code of Conduct  
| This document can be made available in a range of alternative formats including various languages, large print and braille etc | |
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Version Control:

<table>
<thead>
<tr>
<th>Version</th>
<th>Version History</th>
</tr>
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</table>
| Version 1 | Approved  
March 2015 |
| Version 2 | Minor amendments  
July 2016 |
SUPPORTING STATEMENTS

this document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY’S BUSINESS

All Mersey Care NHS Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, Safeguarding Ambassadors or the trust’s safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Trust policy and procedures and professional guidelines.

Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;

- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the protected characteristics of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy/maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of Fairness, Respect, Equality Dignity, and Autonomy
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Appendix A - Flowchart for Referral to Nursing and Midwifery Council (NMC)

Appendix B - Equality and Human Rights Analysis
1 PURPOSE AND RATIONALE

1.1 The aim of these guidelines is to provide a framework for the process of referral to the Nursing and Midwifery Council (NMC). This is to ensure that all staff are aware of the process.

1.2 These guidelines should be read in conjunction with the guidance review by the NMC web site: www.nmc-uk.org/

1.3 The Code (NMC 2015) for Professional Standards of Practise and Behaviour for Nurses and Midwives outlines the standards that all registered nurses are required to maintain. www.nmc.org.uk/standards/code/

2 SCOPE

2.1 These guidelines apply to all registered clinical nurses employed by Mersey Care Trust.

3 DEFINITIONS

3.1 Table 1: Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>NMC</td>
<td>Nursing and Midwifery Council.</td>
</tr>
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</table>

4 DUTIES

4.1 Board / Lead Committee

The Senior Nurse Leadership Team and HR Team will be responsible for the development, review, consultation, implementation, monitoring and approval of the NMC guidelines.

4.2 Chief Executive

The Chief Executive has delegated the responsibility to the Executive Director of Nursing.

4.3 Executive director of Nursing

The Executive Director of Nursing has strategic responsibility for ensuring there is compliance with the NMC guidelines and that it is applied in a fair and consistent manner. The Director will cascade and communicate to all Executive Directors, Directors, Managers, Human Recourses staff, Staff Side representatives and staff so that they are fully aware of the NMC referred guidelines.

4.4 Deputy Director of Nursing

The Deputy Director of Nursing is responsible for ensuring that Nurses act in accordance with this policy, for processing all Trust referrals to the NMC and for providing feedback to the HR team.
4.5 **Managers**

Managers are responsible for supporting staff in relation to referrals to the NMC and to support the well being and protection of service users.

4.6 **Human Resources**

The Human Resources, following disciplinary proceeding or capability policy, are responsible for informing the executive director of nursing of any cases that require consideration for referral to NMC.

The Human Resources Department will support Mersey Care staff at all levels in the application of this policy and procedure.

4.7 **Staff Support**

The Human Resources will provide a confidential Counselling Service for staff.

4.8 **Registered Nurses**

Registered nurses are accountable for adhering to standards in relation to the NMC code (2015).

5 **PROCESS / PROCEDURE**

5.1 **Introduction to Nursing and Midwifery Council (NMC)**

5.1.1 The NMC is the UK regulator for the nursing and midwifery professions. They exist to safeguard the health and wellbeing of the public.

5.1.2 Every day, employers and managers deal with situations concerning the misconduct, lack of competence, bad character or poor health of nurses and midwives. Most of this can be managed locally through internal disciplinary and capability procedures and does not give rise to wider concerns about the public’s health and wellbeing.

5.1.3 The Director of Nursing needs to be assured that there are processes in place for when a nurse should be referred to the NMC for investigation or if it is sufficient for the matter to be dealt with through our own internal processes.

5.1.4 In practice most matters will be dealt with by the Trust and not referred to the NMC. In some circumstances it will be appropriate for the matter to be both referred to the NMC and dealt with by the Trust.

5.1.5 A referral to the NMC should not delay the length of time it may take to conclude any internal Trust disciplinary processes.

5.2 **When to involve the NMC**

5.2.1 All disciplinary matters relating to Registered Nurses must be referred to the Deputy Director of Nursing’s office so that a consistent approach can be taken as to when the matter under investigation warrants a referral to the NMC.

5.2.2 Many matters are best dealt with by the Trust, for example, there may be an instance of minor wrongdoing where no real harm has been caused, and the
matter is not so serious that there is a need to consider a referral to the NMC. In these circumstances the Trust might need to discipline a nurse or provide them with further training and support. Most matters will be dealt with internally and will not warrant referral to the NMC.

5.2.3 All referrals to the NMC are coordinated from the Director of Nursing’s office. The reasons for the referral to NMC are outlined. The flowchart outlining the steps to be undertaken is outlined in Appendix 1.

5.3 Nursing and Midwifery Council Categories of Referral

5.3.1 There are 4 broad areas that may warrant referral to the NMC:
   a) Misconduct
   b) Lack of competence
   c) Bad character
   d) Serious ill health

5.4 Urgent Referrals and Interim Orders

5.4.1 As an employer we have the power to suspend or dismiss a member of staff, but this will not prevent them from working elsewhere as a nurse if registered accordingly.

5.4.2 The NMC are the only organisation with the powers to prevent nurses from practicing if they present a risk to patient safety. In very serious cases it will therefore be appropriate to refer a nurse at an early stage, even before we conduct our own internal investigation.

5.4.3 This allows for the possibility of the NMC issuing an interim suspension or restricting the practice of the nurse concerned until the case has been thoroughly investigated.

5.4.4 Examples of reasons for interim suspension orders being issued by the NMC include:
   - Theft of medication
   - Assault of patient
   - Possession of drugs with intent to supply
   - Aggressive behavior toward a colleague
   - Allegation of sleeping on duty
   - Persistent failings in the registrant’s standard of practice over a 2 year period
   - Serious allegations of patient neglect and theft from patients
   - Multiple medication errors (two) failure to administer a dose of soluble paracetamol to a resident and the administration of 10 mg Temazepam to a resident who had this medication stopped.

5.5 Misconduct

5.5.1 Misconduct is behavior which falls short of that which can be reasonably expected of a nurse.

5.5.2 The code: Standards of conduct, performance and ethics for nurses and midwives (the code) is the foundation of good nursing and midwifery practice, and is a key tool in safeguarding the health and wellbeing of the public. If nurses and midwives
don’t follow the code, they may be guilty of misconduct and therefore might not be fit to practice.

5.5.3 The most common examples of misconduct include:

a) Physical or verbal abuse of colleagues or members of the public
b) Theft
c) Significant failure to deliver adequate care
d) Significant failure to keep proper records.

5.6 **Lack of competence**

5.6.1 Lack of competence is a lack of knowledge, skill or judgment of such a nature that the nurse is unfit to practice safely. They should demonstrate a commitment to keeping those skills up to date, and should deliver a service that is capable, safe, knowledgeable, understanding and completely focused on the needs of the people in their care.

5.7 **Examples of lack of competence**

5.7.1 Over a prolonged period of time a nurse or midwife makes continuing errors or demonstrates poor practice which involves, for example:

a) Lack of skill or knowledge
b) Poor judgment
c) Inability to work as part of a team
d) Difficulty in communicating with colleagues or people in their care.

5.8 **Bad Character**

5.8.1 Cases concerning bad character nearly always involve some form of criminal behaviour that has resulted in a serious legal conviction or caution.

5.8.2 Only serious criminal convictions or cautions should be referred to the NMC. A minor fixed penalty traffic offence, for example a speeding fine or parking ticket, is unlikely to be a case for us.

5.8.3 **Examples of behavior that indicate bad character**

a) A caution or conviction – for example, involving theft, fraud, violence, sexual offences, drug dealing, dishonesty.

b) Accessing illegal material from the internet

5.9 **Serious Ill Health**

5.9.1 Good health is necessary to undertake practice as a nurse or midwife. Good health means that a person must be capable of safe and effective practice without supervision. It does not mean the absence of any disability or health condition. Many disabled people and those with long-term health conditions are able to practice with or without adjustments to support their practice.

5.9.2 The NMC are particularly concerned about long-term, untreated or unacknowledged physical or mental health conditions that impair someone’s ability to practice without supervision.

5.9.3 **Examples of serious ill health;**

a) Long-term, untreated alcohol or drug dependence.

b) Unmanaged serious mental illness.
5.9.4 The Occupational Health Department will refer to the Director of Nursing’s Office cases where they have concerns about the long-term, untreated or unacknowledged physical or mental health conditions that impair someone’s ability to practice without supervision. The Director of Nursing Office will make a decision as to whether or not the matter warrants referral to the NMC.

6 CONSULTATION

6.1 The following staff / groups were consulted with in the development of this policy document:
   a) Senior Nurse Leadership Team
   b) HR Team Forum
   c) HR Policy Group

7 MONITORING

7.1 The guidelines are monitored by the Deputy Director of Nursing in conjunction with the Senior Nurse Leadership team on an annual basis. Six monthly reports will be presented at the HR Team meeting and the Senior Nurses Leadership Team Meeting.

8 SUPPORTING DOCUMENTS

Further Information

8.1 NMC Web Site – www.nmc-uk.org/


8.3 The Referral Decision Tree – https://www.nmc.org.uk/search/?q=decision+tree

8.4 Mersey Care disciplinary procedure (HR01)
FLOWCHART FOR REFERRAL TO NURSING AND MIDWIFERY COUNCIL (NMC)

Registered nurses undergoing disciplinary/suspension (HR Team to inform Deputy DoN)

Monthly NMC Meeting with Divisional lead nurses to discuss with Deputy DoN

Discuss with NMC adviser

Decision to refer/send referral form to NMC

Deputy DoN send letter to staff member informing them of referral. cc: commissioning manager and Investigation Team

Letter to witnesses informing them of referral. Deputy DoN

HR team to provide update of conclusion of investigation and actions to monthly NMC meeting

Feedback to Divisional lead Nurses and investigation team on updates from NMC and cc: any correspondence received from NMC relating to case

Discuss at monthly Director of Nursing Senior Leadership Team meeting

Six monthly update to HR team meeting and Senior Leadership Team Meeting
### Equality and Human Rights Analysis

<table>
<thead>
<tr>
<th>Title: Guidelines for Referral to Nursing and Midwifery Council (NMC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area covered: Trust wide</td>
</tr>
</tbody>
</table>

#### What are the intended outcomes of this work?
To ensure all registered nurses and managers are aware of the process for referral to the NMC.

#### Who will be affected?
All nurses employed by Mersey Care Trust.

### Evidence

#### What evidence have you considered?
NMC guidance.

**Disability including learning disability**
Not applicable.

**Sex**
Not applicable.

**Race**
Not applicable.

**Age**
Not applicable.

**Gender reassignment (including transgender)**
Not applicable.

**Sexual orientation.**
Not applicable.

**Religion or belief**
Not applicable.

**Pregnancy and maternity.**
Not applicable.

**Carers**
<table>
<thead>
<tr>
<th>Human Rights</th>
<th>Is there an impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right to life (Article 2)</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Right of freedom from inhuman and degrading treatment (Article 3)</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Right to liberty (Article 5)</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Right to a fair trial (Article 6)</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Right to private and family life (Article 8)</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Right of freedom of religion or belief (Article 9)</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Right to freedom of expression</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Note: this does not include insulting language such as racism (Article 10)</td>
<td></td>
</tr>
<tr>
<td>Right freedom from discrimination (Article 14)</td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>

**Engagement and involvement**

Senior Nurse Leadership Team and HR Team
### Summary of Analysis

Guidelines relevant to all registered nurses employed by Mersey Care Trust.

#### Eliminate discrimination, harassment and victimisation

#### Advance equality of opportunity

#### Promote good relations between groups

### What is the overall impact?

### Addressing the impact on equalities

### Action planning for improvement

Attached.
**For the record**

**Name of persons who carried out this assessment:**
Helena McCourt  
Kellie Anders

**Date assessment completed:**  
16 May 2016

**Name of responsible Director/Director General:**  
Ray Walker

**Date assessment was signed:**
**Action plan template**

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

<table>
<thead>
<tr>
<th>Category</th>
<th>Actions</th>
<th>Target date</th>
<th>Person responsible and their Directorate</th>
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<tbody>
<tr>
<td>Awareness raising</td>
<td>Present guidelines to Senior Leadership Nursing Team/HR Team.</td>
<td>July 2016</td>
<td>Helena McCourt, Deputy Director of Nursing</td>
</tr>
<tr>
<td></td>
<td>Provide six monthly report to Senior Leadership Nursing Team/HR Team.</td>
<td>September 2016 and March 2017</td>
<td>Helena McCourt, Deputy Director of Nursing</td>
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</table>