

Written evidence submitted by Nuffield Council on Bioethics [MISS0065]

Dear Ms Nokes,

Thank you for inviting me, on behalf of the Nuffield Council on Bioethics, to give evidence to the Committee's inquiry on body image on 23 September.

At the end of this evidence session, Elliot Colburn MP asked the Nuffield Council on Bioethics to write to the Committee to set out the 27 recommendations we made in our 2017 report *Cosmetic procedures: ethical issues*.

Attached to this letter is a list of these recommendations, along with a brief update on what has happened with respect to each recommendation since our report was published.

We also endorsed all Keogh's recommendations, and argued that they should be implemented in full. The failure to act on many of these - in particular statutory regulation of practitioners providing invasive non-surgical treatments, and the creation of prescription-only status for dermal fillers - continues to put those using these treatments at unacceptable risk.

We would be delighted to provide the Committee with further information on our work in this area, should that be useful to your inquiry.

Yours sincerely,



Professor Clare Chambers
Member, Nuffield Council on Bioethics

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Recommendations and updates

Recommendation 1

We recommend that the Advertising Standards Authority and the Committee of Advertising Practice follow the example of Transport for London in prohibiting advertising that is likely to create body confidence issues, or cause pressure to conform to an unrealistic or unhealthy body shape.

- The ASA have not taken the same approach of TfL. It has not prohibited advertising likely to create the pressures indicated by this recommendation.

Recommendation 2

We recommend that the Advertising Standards Authority and the Committee of Advertising Practice revise their guidance to industry to make clear that the following practices are not acceptable in advertisements:

- claiming, or strongly implying, that there is a likely link between cosmetic procedures and emotional benefit;
 - using post-production techniques in circumstances where they can potentially contribute to discriminatory attitudes, unrealistic appearance ideals, or appearance-related anxiety.
- ASA and CAP have not revised their guidance in line with this recommendation.
 - However, some of their rulings suggest that they are taking action against advertisements that link cosmetic procedures and emotional benefit. This can be seen in its [ruling](#) on an advert for cosmetic procedures which focused on new mothers and was found to exploit their body insecurities.

Recommendation 3

We further recommend that the Advertising Standards Authority works proactively to monitor compliance with such standards, in line with its recent commitments to devote more resources to proactive review of advertisements and its ongoing work on body image.

- Although the ASA indicates that it “proactively monitor(s) ads across different sectors and media to make sure standards are being maintained”, it does not seem to be taking a further step in approaching advertisers to give advice preemptively. They do have a [copy advice team](#), however, which offers personal advice if advertisers approach the ASA.

Recommendation 4

We recommend that the social media industry (including Facebook / Instagram,

Snapchat, Twitter and YouTube) collaborate to establish and fund an independent programme of work, in order to understand better how social media contributes to appearance anxiety, and how this can be minimised; and to take action accordingly.

- As far as we are aware, social media companies have not yet stepped up to collaborate and fund research on these areas.

Recommendation 5

We recommend that Ofcom review the available evidence and consider whether specific guidance to accompany its Broadcasting Code is warranted with respect to the tacit messages about body image and appearance ideals that may be conveyed by makeover shows involving invasive cosmetic procedures.

- We are not aware of any tangible update regarding this recommendation.

Recommendation 6

We recommend that the Equality and Human Rights Commission:

- develop and publish specific guidance on disfigurement and appearance-related discrimination, founded on the requirements of existing equality legislation; and
- take discrimination related to appearance into account when monitoring discrimination relating to areas such as age, race, gender and disability.

- The Nuffield Council has discussed this recommendation with the Commission, and urged it to have, and keep, on its radar the subtle ways in which 'appearance ideals' can be discriminatory – particularly regarding sex, age, race, and disability,.

Recommendation 7

We recommend that the Department for Education act to ensure that all children and young people have access to evidence-based resources on body image, whether through PSHE (personal, social, health and economic education) lessons or through other (compulsory) elements of the curriculum.

- There have been significant developments with this recommendation, as we highlighted to the Committee at its evidence session on 23 September. We recommend that body image be included in the primary school curriculum.

Recommendation 8

We recommend to the European Commission that the 'common specifications' for the clinical assessment of cosmetic devices, to be developed under the Medical Devices Regulation 2017, should be based on the need proactively to demonstrate

both safety and effectiveness with respect to their claimed benefits through clinical trial data and robust outcome measures. CE marking should also be dependent on commitments to collect and publish long-term outcome data.

- EU work on common specifications appears to be still at the ‘in planning’ stage. The implementation of the Medical Devices Regulation has been postponed beyond the end of the UK’s transition period with the EU. The MHRA has [stated](#): “We are taking steps to plan for after the end of the transition period. We will provide guidance on this in due course in light of Government decisions required on the future of UK regulation.”

Recommendation 9

We recommend that the Department of Health and the Medicines and Healthcare products Regulatory Agency, in the lead up to Brexit, develop a UK approach to the regulation of cosmetic devices based on the need proactively to demonstrate both safety and effectiveness with respect to their claimed benefits through clinical trial data and robust outcome measures. Marketing authorisation should be dependent on commitments to collect and publish long-term outcome data.

- See previous comment. In the same linked statement, the MHRA [notes](#): “All decisions on regulations will be taken with a view to prioritising patient safety and ensuring patient access for medical devices.”

Recommendation 10

We recommend that the Department of Health bring forward stand-alone legislation to make all dermal fillers prescription-only.

- Standalone legislation has not been brought forward.

Recommendation 11

We recommend that, until new standards relating to safety and effectiveness of cosmetic devices are in place, insurers of cosmetic practitioners (including the medical and dental defence organisations who provide indemnity cover as a benefit of membership) should, as a matter of good practice, restrict indemnity to procedures using dermal fillers approved under the US regulatory system by the FDA.

- There are some indications that insurers have begun to provide indemnity cover that accords with this recommendation. For example, in August 2018, the Dental Defence Union (stated: “We only indemnify members performing treatments with dermal fillers approved for use by the [FDA].” Such an approach is also in place at the Medical Defence Union (DDU is a division of MDU).

Recommendation 12

We recommend that the Royal College of Obstetricians and Gynaecologists should review its guidance to its members on female genital cosmetic surgery and emphasise the need for evidence, demonstrating safety and effectiveness with respect to claimed outcomes, before procedures are offered outside a research setting.

- We are not aware of the Royal College of Obstetrics and Gynaecologists reviewing its guidance on this issue.

Recommendation 13

We recommend that the Home Office should clarify the circumstances in which procedures offered as ‘female genital cosmetic surgery’ do, or do not, fall within the ambit of the FGM Act, in the light of ongoing concerns as to their legality.

- In February 2020, the Home Office provided a ‘[resource pack](#)’ on FGM. Although the guidance highlights the work of the charity [Oxford Against Cutting](#) – including its focus on female cosmetic genital surgery – it does not provide clarity on which procedures offered as FGCS fall within the FGM Act.
- The [Crown Prosecution Service](#), however, provided guidance on this issue in October 2019.

Recommendation 14

We recommend that the Royal College of Surgeons require, and enable, all members of the College who practise cosmetic surgery to participate in its certification scheme.

- The Royal College of Surgeons (RCS) enables its members to participate in its [certification scheme](#), but, at present, it does not *require* its members who practise cosmetic surgery to take part in the scheme.

Recommendation 15

We recommend that the Royal College of Surgeons work with the other surgical Royal Colleges, the major private providers of cosmetic surgery, and professional bodies representing surgeons working in the cosmetic sector, to ensure that those wishing to specialise in cosmetic surgery are able to access the training that they need to achieve the necessary standards.

- The Nuffield Council hosted a roundtable on this issue in February 2018.
- The Royal College of Surgeons indicated its intention to continue to raise awareness of its certification scheme, both with surgeons and in the public domain, and to work with the GMC over the feasibility of a cosmetic surgery

'credential'. The RCS will also consider how future surgeons can be supported in order to obtain that credential. The GMC also signalled that it will examine the question of how training outside the NHS might be better facilitated and recognised.

Recommendation 16

We recommend that the General Medical Council and the medical defence associations work together to ensure that surgeons who are performing cosmetic surgery must meet these requirements in order to be indemnified when performing such surgery. One possible approach would be through the proposed 'credentialing' scheme currently being developed by the General Medical Council.

- No meetings between the GMC and medical defence associations on this issue have been publicly reported / identified.

Recommendation 17

We recommend that other regulatory bodies whose registrants provide cosmetic procedures, in particular the General Dental Council and the Nursing and Midwifery Council, develop specific guidance on cosmetic practice for their own registrants, to complement the guidance issued by the General Medical Council and the Royal College of Surgeons.

- There has been some progress with this recommendation, including a [short guide](#) for nursing staff involved in cosmetic procedures, which was published by the Royal College of Nurses July 2020.

Recommendation 18

We recommend that, once the Joint Council for Cosmetic Practitioners has achieved accreditation with the Professional Standards Authority, Public Health England and its counterparts in the other countries of the UK should initiate a public awareness campaign to publicise the existence of the quality mark, alongside other sources of user advice, once available. Such a campaign should also draw attention to the lack of regulatory controls on practitioners not covered by the quality mark.

- In May 2019, the Department of Health and Social Care launched a campaign on being 'clued up' on cosmetic procedures. The [NHS website](#) now includes a [section](#) which helps people who are considering having a procedure to identify suitable practitioners (including via the JCCP).

Recommendation 19

We recommend that the Department of Health act to extend the role of the Care Quality Commission (CQC) to all premises where invasive non-surgical procedures are provided.

- The Department of Health and Social Care has not extended the CQC's role to include all premises where invasive non-surgical procedures are provided.

Recommendation 20

We recommend that the CQC review its registration and inspection criteria for providers of cosmetic procedures so that, as a minimum providers are held responsible for:

- ensuring that surgeons providing services under contract to them are certified under the Royal College of Surgeons' scheme, once fully in force;
- ensuring that any practitioners providing non-surgical procedures under their name are registered with a body accredited by the Professional Standards Authority (when non-surgical procedures are brought within the CQC's remit); and
- taking the lead in responding to any complaints and litigation in connection with care provided under their name, regardless of the employment status of the practitioner concerned.

- No review of the CQC's registration and inspection criteria for providers of cosmetic procedures on these specific points has been identified.

Recommendation 21

We recommend that the UK departments of health should work with the Royal College of Surgeons, the Joint Council for Cosmetic Practitioners, the Private Healthcare Information Network, and the Care Quality Commission to find ways to close the significant gaps in data collection that currently remain.

- Nadine Dorries MP – Minister for Patient Safety, Suicide Prevention and Mental Health – [answered](#) a Parliamentary Question on this matter on 21 September 2020: "Neither the Department nor its arm's length bodies hold or collect data on non-surgical aesthetic treatments. Officials continue to work with stakeholders to explore the options for enhanced data collection and reporting mechanisms in this area."

Recommendation 22

We further recommend that the clinical codes used by the NHS to record and classify patient information should be adjusted to enable the NHS to record accurate information about any complications of cosmetic practice that require follow-up treatment in the NHS.

- Some complications arising from cosmetic procedures are now covered by classifications under [SNOMED-CT](#).

Recommendation 23

We recommend that the UK departments of health work with the relevant health regulators, Royal Colleges, professional associations, and major provider organisations to ensure that children and young people under the age of 18 are not able to access cosmetic procedures, other than in the context of multidisciplinary healthcare.

- After discussions with Department of Health and Social Care officials, the Minister wrote to us in March 2019 to tell us they were exploring the prospect of a handout bill to legislate in this area. A [Bill](#) on this matter, sponsored by Laura Trott MP, has received its first reading. Its second reading will take place on 16 October.

Recommendation 24

We recommend that the major providers of cosmetic procedures collaborate with both the relevant professional bodies, and users of cosmetic procedures, to fund the independent development, regular updating, and wide dissemination of detailed information for users about both surgical and non-surgical procedures.

- Collaboration between major providers of cosmetic surgical procedures and the relevant professional bodies was encouraged through a roundtable discussion organised by the Nuffield Council, which took place in February 2018.

Recommendation 25

We recommend that the major providers of cosmetic procedures jointly develop a code of best practice to which they, and all practitioners working in their name, should adhere. Such a code should include:

- Recognition of the importance of clear distinctions between sales staff and practitioners, with 'consultations' and 'advice' only offered by appropriately qualified staff.
- Commitment to shared decision-making and a two-part consent process, with no financial commitments asked of users before the end of this process.
- Recognition of the limits of one's experience as a practitioner, and commitment to multidisciplinary practice.
- Commitment to obtaining information where necessary from the user's GP, as a default position.

- No joint code of practice between major providers of cosmetic procedures has, as yet, been drawn up.

Recommendation 26

We recommend that the UK Research Councils and other major research funders should actively encourage high quality interdisciplinary research proposals that aim to fill the significant gaps in the evidence base identified in this report with respect to

the provision and use of cosmetic procedures. Such research is essential in order to promote more ethical practice in the sector. In addition to the recommendations already made with respect to much improved data collection, we highlight the need for research:

- to improve understanding of the factors associated with poor outcomes after cosmetic procedures, and the development of practical tools to help practitioners identify and support prospective users who are more likely to have such outcomes; and
- to improve the evidence base with respect to the long-term physical and psychological outcomes, both positive and negative, of different cosmetic procedures.

- We are not as yet aware of any steps to actively encourage research proposals to fill gaps in the evidence base around cosmetic procedures.

Recommendation 27

We recommend that the Care Quality Commission should require all providers within its remit to guarantee access to an independent arbitration service, in cases where complaints cannot be resolved to patients' / users' satisfaction at provider level.

- There are no developments to indicate that this guarantee has been secured.

September 2020