
Fitness to practise

What to expect when attending a physical hearing

What is fitness to practise?

We describe fitness to practise as a person's suitability to be on our register without restrictions.

It's our job to determine whether their skills, knowledge, education or behaviour fall below the standards needed to deliver safe, effective and kind care.

We believe in giving professionals the chance to address concerns, but we'll always take action when needed. This can include removing people from our register in the most serious cases.

The pre-hearing process explained

Referral

Employers, colleagues, people who use services and other members of the public can make referrals. They might let us know if they have any reason to be concerned about a nurse, midwife or nursing associate's fitness to practise.

If someone wishes to refer an incident to us they must do so in writing.

They must also give their consent for us to show this to the nurse, midwife or nursing associate in question.

In some circumstances, we don't receive an allegation, but think there should be an investigation into the fitness to practise of a nurse, midwife or nursing associate or into their entry in the register. So we may refer the matter to the appropriate person or committee. When this happens our Registrar is the referrer.

Screening

We receive initial complaints and referrals from a wide variety of sources, and with different amounts of information. We use a screening process at the point of referral to make sure we gather the information needed to form an allegation.

If the screening team decide an allegation cannot go further as it does not involve a nurse, midwife or nursing associate's fitness to practise, we'll close the case.

Interim order

The screening team carries out an initial risk assessment on each referral when they receive it. If they find particular risk factors, they may refer the case to an interim order hearing.

We only consider interim orders when it's necessary to protect the public, is in the public interest or in the nurse, midwife or nursing associate's own interest.

These cases can be varied and may include lack of competence, repeated poor clinical practice, serious convictions or imprisonment, or allegations relating to the nurse, midwife or nursing associate's health.

We generally make interim orders at the beginning of the case process, but we can make them at any time if new information becomes available.

The panel can impose the following orders:

- Interim suspension order: the panel suspends the nurse, midwife or nursing associate's registration for up to 18 months
- Interim conditions of practice order: the panel imposes conditions on the nurse, midwife or nursing associate for up to 18 months

The investigation continues while the interim order is in effect. The panel must review interim orders every six months.

Investigation

The investigation team will gather all evidence necessary to take the case further. This includes taking witness statements and liaising directly with the organisation or individual who reported the case.

We aim to complete the investigations stage within twelve months of the referral, but most cases are completed in less than that.

Sometimes they can take longer if we have problems identifying or locating witnesses, or getting the evidence we need.

Case examiners

We employ case examiners. They're made up of registrants and lay people. At the close of the investigation the case examiner considers all the evidence, including evidence from the nurse, midwife or nursing associate who has been referred. The case examiners decide whether or not there's a case to answer and whether to refer the case to the fitness to practise committee (FtPC).

Fitness to practise committee (FtPC)

This committee decides whether or not a nurse, midwife or nursing associate's fitness to practise is impaired and, if so, what's the appropriate sanction required to protect the public.

FtPC hearings are usually held in public to reflect our public accountability.

In some circumstances, the panel may agree to hold part or all of the case in private for example, to keep vulnerable parties anonymous, or if someone discloses sensitive or confidential evidence.

In cases where a nurse, midwife or nursing associate's fitness to practise is alleged to be impaired because of health reasons, we hold the hearings in private and they aren't open to the public. This is because of the confidential nature of the medical evidence the panel are considering.

What to expect when you arrive

When you observe one of our hearings, we want to make sure your experience goes as smoothly as possible. We also hope you'll find it useful and informative. This booklet includes some important information about what to expect and some useful background about the hearing process. We hope you find it helpful.

When you arrive at the hearing centre

You'll be greeted by a member of the reception team or by the hearings coordinator, who will take your details and signpost you to our facilities.

We hold certain hearings completely or partially in private. If a hearing you attend goes into private session, we'll ask you to leave until it resumes in public session. If you don't leave when we ask, we'll exclude you from the hearing.

Entering and exiting hearings

Please enter a hearing room only when one of our hearings support officers or hearings coordinators asks you to. This is because some of our hearings consider private and sensitive information, so we hold them in private.

Waiting times

Observing our cases often requires you to do a lot of waiting. Whenever the panel deliberates, the case will go into private session and you'll be asked to leave the hearing room. It's not uncommon to go in and out of a hearing room many times in one day. During these intervals, we may be able to allocate you to another case.

However, this isn't always possible and you may have to wait, so please be patient.

We can't guarantee there's going to be a hearing to observe

Unfortunately the hearing that you've been booked on may be cancelled at short notice. There may not be another physical hearing for you to attend.

Sometimes, a panel can spend an entire day deliberating and drafting, so even if a physical hearing is in session, you still may have nothing to see.

Food and drinks

You may bring drinks with screw top lids into the hearings room. Food and other drinks are not permitted.

There are no canteen facilities in our hearings centres.

Please let us know if you need food or drink in the hearing room with you because of a medical condition.

Noise and disturbance

While in the hearing room you must keep all verbal and non-verbal communication to a minimum.

Please don't distract the panel members or other parties to the hearings in any way. And be aware that any noise may be unsettling for those involved in giving evidence.

Please make sure you switch your mobile phone off when in the hearing room.

This is to comply with our obligations under the General Data Protection Regulation and helps us to avoid disruption to our hearings.

Recording

Please don't record any part of the hearing from a phone, laptop or other electronic device. You may take handwritten notes of the proceedings.

Fire safety

Please make sure you know where the fire escapes are. In the event of an evacuation, please leave the building immediately.

Guidance for observing a hearing



You must not audio record, film, live screen, photograph, or screenshot any part of the hearing.



You must turn your phone off when the hearing is in session.



You must not attempt to communicate with the hearing parties by any means while the hearing is taking place, including during any breaks.



For hearings in our hearing centres, you must not attend if you have any one of the three key Covid-19 symptoms:

- a high temperature
- a persistent cough
- a change in your sense of taste or smell.

Please **visit our website** for further information or ask a member of our staff at the Hearing Centre.

The hearing process

Most of our hearings taking place physically are substantive hearings. This means that the hearings decide if a registrant is fit to practise. These hearings have three stages.

Facts

The case presenter, who works for the NMC, sets out the factual background to the allegation and calls for witnesses in support of the evidence. The witnesses come into the hearing one by one to give their evidence.

After we've called all of our witnesses, the nurse, midwife or nursing associate in question may present their evidence. This may involve calling further witnesses, or putting documents before the panel. The nurse, midwife or nursing associate does not have to give evidence at any stage, even if they're present at the hearing.

The panel will then retire and use the civil standard of proof to decide if the facts of an allegation are proved. This means the panel will consider a fact proved if they find that it's more likely than not to have happened.

Impairment

If we find that some or all of the facts are proved, the panel will then consider whether the person's fitness to practise is impaired because of the charge that's been proved against them. Fitness to practise might be impaired due to:

- misconduct
- lack of competence
- a conviction or caution
- physical or mental ill health
- not having the necessary knowledge of English
- a finding by any other health or social care regulator or licensing body that a nurse, midwife or nursing associate's fitness to practise is impaired.

The panel will ask themselves if the nurse, midwife or nursing associate in question can remain on our register without restriction. At this stage they're not considering if we should put any specific sanction in place.

The panel has to decide if the person's fitness to practise is impaired on the date of the hearing, not if it was impaired at the time when the event took place. So the panel may need to know more about what has happened since the event happened. We'll close the case if the panel find no impairment.

However, if the panel find the nurse, midwife or nursing associate's fitness to practise to be impaired, they'll go on to consider the appropriate sanction or decision for the case.

Sanction

The panel may hear more evidence about the person's history and personal circumstances at this stage.

The panel uses our sanctions guidance to assist them in deciding which of the available sanctions, if any, is most appropriate. First, the panel must consider whether it's appropriate to take no further action. If the panel decides this option is not appropriate, it can:

- issue a caution order for a period of between one and five years
- impose conditions of practice for a period of up to three years
- suspend the nurse, midwife or nursing associate's registration for up to one year
- strike off the nurse, midwife or nursing associate from our register. (In lack of competence and health cases this option is available only if the nurse, midwife or nursing associate has been continuously suspended or under conditions of practice for the previous two years.)

In considering what sanctions to apply, the panel must take public interest into account, as well as the person's own interests.

Public interest includes protecting members of the public, maintaining public confidence in the professions and the NMC, and declaring and upholding proper standards of conduct and performance.

Who will be in the hearing room?

Panel members	The panel members are independent of the NMC and completely impartial. At least one member of the panel will be a nurse, midwife or nursing associate. There will also be at least one lay member on the panel. This means they are from outside the profession and not on our register. One member of the panel will act as a Chair. The Chair and the panel members are solely responsible for making the decision.
Hearings coordinator	The hearings coordinator is a member of NMC staff. The hearings coordinator helps the panel with the running of the hearing and with the drafting of its decision.
Legal assessor	The legal assessor is independent and will be an experienced barrister or solicitor. The legal assessor advises the panel on the law.
Case presenter	The case presenter is a lawyer who presents the case on our behalf. The case presenter will be calling the witnesses for the NMC.
Nurse, midwife, nursing associate	This is the person the case has been brought against. They may or may not be present at the hearing and they may also be represented.
Witness	We may decide to call witnesses in support of our case. The nurse, midwife or nursing associate (or their representative) and the panel will have the opportunity to put questions to the witnesses, or call witnesses of their own.
Shorthand writer	In some venues, there may be a shorthand writer or logger present throughout the hearing, in both public and private sessions, to record the proceedings.
Observers	If the hearing is open to the public, members of the public and the press may choose to observe.

Feedback

We do hope that you find your hearing observation useful.

We'll always do our best to provide you with a great service and, with that in mind, encourage you to make any feedback or comments on your experience with us.

To do so, please ask a member of the reception staff for a feedback form. We really do look forward to hearing from you.

For further information about how we conduct our hearings and on the NMC more generally, please visit our website at www.nmc.org.uk/hearings

Who we are

Our vision is safe, effective and kind nursing and midwifery practice that improves everyone's health and wellbeing. As the independent regulator of more than 771,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

Our core role is to **regulate**. First, we promote high education and professional standards for nurses and midwives across the UK, and nursing associates in England. Second, we maintain the register of professionals eligible to practise. Third, we investigate concerns about nurses, midwives and nursing associates – something that affects a tiny minority of professionals each year. We believe in giving professionals the chance to address concerns, but we'll always take action when needed.

To regulate well, we **support** our professions and the public. We create resources and guidance that are useful throughout people's careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we're increasing our visibility so people feel engaged and empowered to shape our work.

Regulating and supporting our professions allows us to **influence** health and social care. We share intelligence from our regulatory activities and work with our partners to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.



23 Portland Place,
London W1B 1PZ
+44 20 7637 7181
www.nmc.org.uk

 @nmcnews  @nmcuk