Nursing & Midwifery Council

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Annual Fitness to Practise Report 2019–2020

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Foreword

In 2018 we set out a new approach to fitness to practise, with a person-centred approach to regulation. The aim was to promote a culture of openness and learning, giving professionals the chance to remedy concerns.

We are now in the second phase of implementing this approach. Our Public Support Service has continued to play a vital role in making sure people's voices are heard. Over the past year, the team met more than 150 people who needed support.

To further amplify the voice of people using health and social care services, we commissioned research into how we could use experience statements in investigations. This gave us many useful insights and we will start making informed changes this year.

Alongside our work to empower the public, we have done more to support nurses, midwives and nursing associates, including a free and confidential helpline for those who need it. We also strengthened our relationship with employers through our growing Employer Link Service.

This commitment to supporting people in a kind and fair way is part of our new NMC strategy for 2020–2025. This ambitious plan aims to realise our vision of safe, kind and effective nursing and midwifery that improves everyone's health and wellbeing. It outlines our purpose and role, and the values that will shape our work.

Our improvements to fitness to practise and our new strategy were achieved in collaboration with others. This includes people who use services, the professionals on our register, our partners and our colleagues. Thank you to the thousands of people who have engaged with our work and helped us to move forward.

The coronavirus pandemic unfolded as the year drew to a close. While its effects will be felt for a long time, we feel that we are in the best possible shape to respond to the challenges ahead. We look forward to engaging with a diverse range of people and partners over the next year as we continue to become a better NMC.

Philip Graf
Chair
6 July 2020

Andrea Sutcliffe
Chief Executive and Registrar
6 July 2020

Our work and how we protect the public

Our role

We are the professional regulator for nurses and midwives in the UK, and nursing associates in England. Our objectives are set out in the Nursing and Midwifery Order 2001 (as amended).

> The over-arching objective of the Council in exercising its functions is the *protection of the public*.
>
> The pursuit by the Council of its over-arching objective involves the pursuit of the following objectives –
>
> *(a) to protect, promote and maintain the health, safety and wellbeing of the public;*
>
> *(b) to promote and maintain public confidence in the professions regulated under this Order; and*
>
> *(c) to promote and maintain proper professional standards and conduct for members of those professions.*

Our regulatory responsibilities are to:

- **maintain the register** of nurses and midwives who meet the requirements for registration in the UK, and nursing associates who meet the requirements for registration in England
- set the **requirements for the professional education** that supports people to develop the knowledge, skills and behaviours required for entry to, or annotation on, our register
- shape the practice of the professionals on our register by **developing and promoting standards** including our Code, and promoting lifelong learning through revalidation
- **investigate and, if needed, take action** where serious concerns are raised about a nurse, midwife or nursing associate's fitness to practise.

Our governing body is our Council, which is made up of six lay people and six professionals on our register. Our work is overseen by the Professional Standards Authority for Health and Social Care, which reviews the work of regulators of health and care professions. We are accountable to Parliament through the Privy Council. We are also a registered charity and seek to ensure that all our work delivers public benefit.

We ***regulate*** in the public interest, giving people confidence in our professions. We believe that to do this well requires sustained and meaningful public engagement and empowerment.

Our regulatory role is enhanced when we ***support*** the public, our professions and our partners. Providing emotional and practical support to all those involved in our processes delivers better outcomes for all. Providing useful guidance, in collaboration with employers and educators, helps our professions uphold our high professional standards in practice. It helps rebalance our focus towards good practice from poor practice, preventing – not just responding to – harm.

Sharing intelligence from our work, and collaborating with partners to address mutual concerns, will enable us to positively ***influence*** the context for learning and care.

We adopted new values in 2020 which underpin everything we do. They shape how we think and act.

We are fair

We treat everyone fairly. Fairness is at the heart of our role as a trusted, transparent regulator and employer.

We are kind

We act with kindness and in a way that values people, their insights, situations and experiences.

We are collaborative

We value our relationships (both within and outside of the NMC) and recognise that we're at our best when we work well with others.

We are ambitious

We take pride in our work. We're open to new ways of working and always aim to do our best for the professionals on our register, the public we serve and each other.

Our register

At 31 March 2020 there were:

669,854
nurses

37,918
midwives

7,142
dual registered nurses and midwives

1,693
nursing associates

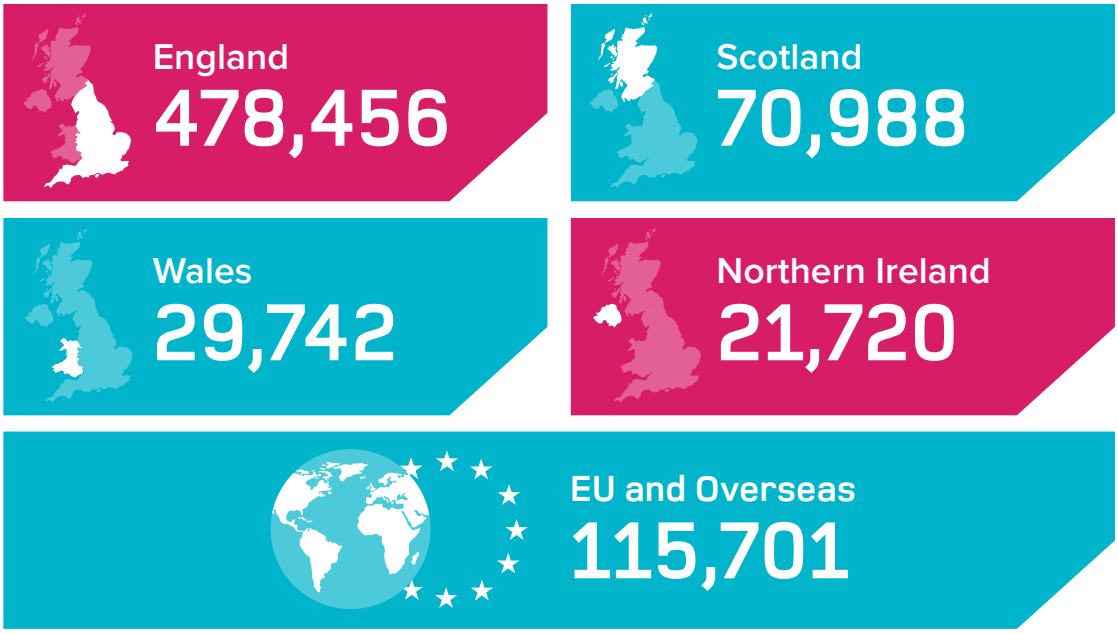
on our register, a total of

716,607

an increase of 18,370 from March 2019 (2018–2019 figure: 698,237)

We maintain a register of nurses, midwives and nursing associates who meet our standards, and we have clear and transparent processes to investigate those who fall short of our standards.

Our register by country of training



If someone registered with us presents a risk to people who use services, the public, or their colleagues we can take action to restrict their practice or remove their right to work as a nurse, midwife or nursing associate.

What is fitness to practise?

If a nurse, midwife or nursing associate has the skills, knowledge, good health and character to deliver safe, high-quality care for their patients and users of health and social care services, then we say that they are fit to practise.

The Code sets out the standards we, and the public, expect nurses, midwives and nursing associates to uphold to be on our register and maintain their registration, in the UK.

Our revalidation process requires every nurse, midwife and nursing associate on the register to demonstrate regularly that they practise safely and live up to the standards set out in the Code.

Sometimes things can go wrong in care which could lead to concerns about a nurse, midwife or nursing associate's fitness to practise. We encourage people to speak first to the employer about their concerns to see if they can be resolved at a local level.

In some cases, where concerns cannot be resolved at a local level, or if someone believes them to be serious enough to require immediate regulatory action from us, they should raise the concerns directly with us. We will then decide if we need to take action to protect the public and, in every case, we try to reach an outcome at the earliest opportunity.

How concerns are raised with us

Anyone is able to tell us if they have concerns about a nurse, midwife or nursing associate's fitness to practise at any time. If we consider it necessary, we can open cases ourselves.

Typically, we receive concerns from:

- a patient or person using the services of a nurse, midwife or nursing associate
- a member of the public
- the employer or manager of the nurse, midwife or nursing associate
- the police
- a nurse, midwife or nursing associate referring themselves
- other health and care regulators.

You can find more information about how to tell us about concerns **on our website**.

Concerns we can and cannot consider

We can only consider concerns if they are about a nurse, midwife or nursing associate on our register. We cannot consider concerns if they are about other health or social care workers, or members of the public. We will, however, refer these concerns on to other regulators, or the police, if it is appropriate.

Our role is to decide whether any concerns about a nurse, midwife or nursing associate's fitness to practise require us to take regulatory action to protect the public. The types of concerns we can consider include:

- misconduct (including clinical misconduct)
- lack of competence
- criminal convictions
- serious ill health
- not having the necessary knowledge of the English language.

We also investigate cases where it appears that someone has gained access to our register fraudulently or incorrectly.

How we deal with concerns that are raised with us

Steps we may take to help us to assess concerns and decide whether any regulatory action is required typically include:

- asking for more information from the person who raised the concern, so we fully understand their concerns
- checking our records to see whether concerns have been raised about the nurse, midwife or nursing associate before
- asking their employer whether they have any other concerns about them
- taking statements from witnesses and gathering other evidence
- asking the nurse, midwife or nursing associate for their response to the concerns and to explain any steps they have taken to put things right.

You can read more about how we handle concerns **on our website**.

Regulatory action we can take to protect the public

If necessary, we can take urgent, temporary action to protect the public while we investigate concerns. We do this by asking an independent panel to consider making an interim order. There are two types of interim order:

- An interim conditions of practice order, which imposes conditions the nurse, midwife or nursing associate must comply with.
- An interim suspension order, which temporarily suspends the nurse, midwife or nursing associate's registration.

More information about interim orders is available **on our website**.

Once we have investigated concerns fully, our Case Examiners can:

- give advice to the nurse, midwife or nursing associate to remind them of the professional standards they are expected to uphold; or
- issue a warning to the nurse, midwife or nursing associate; or
- agree undertakings with the nurse, midwife or nursing associate, which are a series of agreed steps they must take to return to safe and effective practice; or
- refer the case for a hearing or meeting; or
- close the case with no further action if there are no public protection concerns.

To read more about the work of our Case Examiners **visit our website**.

In more serious cases, or where the nurse, midwife or nursing associate does not accept there are concerns about their practice, we will hold a hearing or meeting before an independent panel of the Fitness to Practise Committee. The panel is made up of both lay and registrant members.

More information about the panels can be found **on our website**.

We will only hold a hearing when a nurse, midwife or nursing associate disputes the facts of the case, or if they have asked for their case to be heard at a hearing.

Hearings are normally held in public. At the hearing we explain what our regulatory concerns are and call witnesses to give evidence. The nurse, midwife, or nursing associate can attend and be represented. They, or their representative, explain what their response is to our concerns and call witnesses to give evidence. Hearings can be a stressful experience for those involved, but they are necessary for resolving differences in the evidence between the parties.

Meetings are held in private. The panel carefully considers written evidence that we provide and any written evidence the nurse, midwife, or nursing associate gives us in advance.

You can read more about how we decide whether to send a case to a hearing or meeting **on our website**.

This year we have been working to resolve more cases at meetings as part of our new strategic direction in fitness to practise. You can read more about this in the section of this report called 'Our work in 2019–2020'.

At a hearing or meeting, an independent panel can do one of the following:

- issue a caution order for up to five years
- impose conditions of practice which must be complied with for up to three years
- suspend from the register for up to one year
- strike off the register
- close the case with no further action.

More information about the action our independent panels can take is available **on our website**.

In some cases, and only if we are satisfied that it is in the public interest to do so, we will allow a nurse, midwife or nursing associate to voluntarily remove themselves from our register without the need for a hearing or meeting. We provide the numbers of voluntary removals further on in this report.

Public information about our decisions

Information about what we do and how decisions are taken, including our guidance for decision makers, is published **on our website**.

This year we made some changes to the type of information we publish and the length of time we publish some decisions on our website:

- Striking off orders are now published for five years instead of 60 years.
- Decisions to allow substantive order reviews to expire are published for four months (our previous guidance made no reference as to how long these should be published for).
- All voluntary removal decisions are published for one year (they were not previously published).

When regulatory decisions are made about someone's fitness to practise we explain the reasons to the person who raised the concerns with us and to the nurse, midwife or nursing associate concerned.

- If we decide to take regulatory action to protect the public, we publish information on our website so anyone can see the decisions we have taken and why.
- When a panel imposes an interim order, we publish the outcome and note it on the nurse, midwife or nursing associate's entry on the register.
- When the Case Examiners issue a warning or agree undertakings, an explanation and reasons are published with the nurse, midwife or nursing associate's entry on the register.
- When a panel decides to issue a caution, conditions of practice, suspension, or striking off order, we publish the panel's full reasons and note the outcome on the nurse, midwife or nursing associate's entry on the register.

In cases that relate to an individual's health, or contain other sensitive personal information, we still publish information but usually in less detail. That way we protect the public and respect the individual's privacy. When we decide to close a case with no further action, we do not normally publish information because there is no reason to do so to protect the public and we have a responsibility to protect the privacy of those involved.

Our register of nurses, midwives and nursing associates is **online here**.

Information about forthcoming hearings and recent panel decisions are **on our website**.

Our work in 2019–2020: taking forward our new approach

This year we have focused on being a kinder, more person-centred regulator by giving a voice to people involved in our fitness to practise cases and ensuring that the right support is available to people when they need it.

We have continued with our work to implement the new strategic direction that we set in July 2018. This new approach aims to foster a culture that encourages openness, honesty, responsibility and accountability amongst healthcare professionals and helps them prevent mistakes happening again through learning.

We are doing this by making the following changes to our fitness to practise processes:

- ensuring people are at the heart of the process
- working with employers to deal with concerns at a local level
- incorporating the importance of considering the context of a case into our decision making
- emphasising the need to give nurses, midwives and nursing associates the chance to remedy and address concerns about their practice
- redefining the purpose of hearings.

In implementing this new strategic approach, we have collaborated with other healthcare regulators to develop our thinking and share information and best practice.

Working with employers to deal with concerns at a local level

By working with employers and people who may have experienced poor care, we are trying to ensure concerns are resolved quickly and effectively by employers so that we only investigate where concerns are so serious that they cannot be resolved at a local level or there are issues raising professional regulatory concerns.

In 2019–2020, we developed guidance for employers that sets out what we expect from a referral and the threshold for regulatory intervention. We piloted this guidance throughout last year and found that 50 percent of the cases submitted in the pilot did not reach the threshold. We used the insights provided by stakeholders who took part to make improvements to the guidance. We had planned to launch the final guidance in March 2020 but have postponed this due to the Covid-19 pandemic.

The importance of context in which incidents occur

The nurses, midwives and nursing associates on our register work extremely hard to provide the best standard of care to all of the people they care for and support. But

we know that sometimes mistakes can happen. This can be due to the complex issues of a case or because of the pressures of their working environments.

We want to understand these contextual and environmental factors and apply this understanding consistently as part of our decision making.

In 2019–2020 we:

- developed policy guidance that sets out the relevance of context and how we will take it into account in our decision making
- developed a tool to standardise and help our teams identify context
- shared information about context with employers, other regulators and other key stakeholders.

> We want to hold hearings only in the most serious cases

We started to test our context tool and framework in 2019–2020. Our pilot was due to run until May 2020 but was temporarily paused and relaunched in May 2020 with a revised focus as we reprioritised our fitness to practise activity in light of our response to the Covid-19 pandemic. We continue to develop our training programme for our decision makers so they are able to apply context consistently in 2020–2021.

Helping nurses, midwives and nursing associates remediate their practice

By encouraging nurses, midwives and nursing associates to talk to us about what they have done to put right any mistakes, we will promote a culture of learning, openness and honesty in health and social care. This is called remediation.

This year we have designed information packs, using feedback from our testing in 2018–2019, to help support nurses, midwives and nursing associates understand the purpose of remediation and what it might involve in their case. The pack includes a reflective account form which will help people with the content and structure of their reflection. We have also provided case studies to help people under investigation understand how telling us about how they have remediated can inform our decision making in their case.

In 2019–2020 we launched the remediation guidance and information pack as part of our standard processes. The information is now sent to all nurses, midwives and nursing associates at the earliest stages of our process.

Redefining the purpose of hearings

We want to hold hearings only in the most serious cases and where we have not been able to work with the nurse, midwife or nursing associate to agree where standards of care have fallen short of those expected.

So, where there is no material dispute of the facts, we now expect these cases

to be concluded at a meeting rather than a hearing. We provided training for our panel members on this revised guidance before its launch in June 2019 and held follow-up training between January and March 2020.

We also made changes to information we send to a nurse, midwife or nursing associate to include our position on their case, and allow them to respond. The form also invites the person to provide information about what remediation they have undertaken.

We are reviewing the outcomes of meetings every three months to identify any additional actions to take.

Providing support for people who use services and family members

For people who experience poor care, being involved in a fitness to practise case is often a difficult experience. We know that taking part in the process can be a confusing, upsetting and emotional experience and they may also be having to deal with other investigations or inquiries at the same time.

We set up our Public Support Service (PSS) in 2018 to drive a person-centred approach in our work across all of our teams. This approach allows us to properly support people involved in our cases, making sure we protect those who are vulnerable and give them a voice in the process.

This year the PSS has continued to deliver a number of initiatives to improve the fitness to practise experience for people, including:

- Continued to meet with members of the public who are involved in, or have been affected by, a fitness to practise referral to offer them support for the process. To date, we have met with over 150 people to listen to their concerns, and to explain our role as a regulator and how the fitness to practise process works.
- Launched a new initiative to identify people who may benefit from additional support being in place from the point of concerns being raised with us.
- Launched our public support pathway pilot in December 2019, which will ensure focused public support is in place for people from the point of referral. It will also help us assess the seriousness of concerns raised with us by talking to the person who raised them early on, so we understand their concerns fully. In cases where we cannot take regulatory action, we are helping people understand our reasons and signposting to other organisations that may be able to support or investigate. This pilot will focus on 100 cases, and we will review the pilot once all of these cases have concluded.
- Designed focused person-centred engagement training sessions for all of our new members of staff which we will deliver in 2020–2021.

- Co-managed an emotional support helpline with Victim Support. In 2019–2020, 880 calls were made to the helpline by members of the public, people who use services or family members who were involved in our fitness to practise cases.

Throughout 2019–2020 we worked to strengthen the voice of people using services and their families in the fitness to practise process. We did so by looking at how we can help them give the best evidence in their case, making improvements to our decision making, providing more clarity to people involved, resolving cases earlier and making our process more open and transparent. We will continue to make these changes to our process during 2020–2021.

In July 2019 we became the first regulator of health and care professionals to sign up to NHS England's **Ask Listen Do campaign**. The campaign aims to provide children, young people and adults with a learning disability, autism or both, and their families and their carers, with easier ways to provide feedback, raise concerns or make complaints about education and health and social care. Feedback helps organisations learn from and improve the experiences of people.

We are committed to helping to influence the health and social care sector to improve people's experiences of care. We want to act as a role model to ensure that the way we operate as a regulator is inclusive, and we encourage and learn from feedback about our own processes and actions.

So far, we have made sure that our public-facing information is in an **easy-read format** that clearly explains the fitness to practise process, including information on our website about how to contact us if someone needs additional support, and making sure that we communicate with people in a way that meets their needs.

In 2019–2020 we held three meetings of our Public Support Steering Group to engage with the steering group on our plans, ideas and initiatives for the Public Support Service. The steering group also contributed to development of our **Strategy for 2020–2025**.

We are introducing a needs assessment policy and process to improve how we identify where we need to make adjustments for people we come in to contact with throughout the fitness to practise process. In December 2019, we began trialling a needs assessment form with members of the public who referred concerns to us. We are using the data from this trial to plan how we will gradually introduce the approach to all parts of the fitness to practise process, and expand it to include everyone involved in the process.

We are doing other work to help witnesses and other parties involved in our cases who may be vulnerable. The work includes improving the information available for them on our website and ensuring our training programmes for staff and decision makers include support for vulnerable people.

Case study: The importance and benefit of providing end to end support for members of the public.

An employer raised concerns with us about a nurse's relationship with an extremely vulnerable patient; the employer believed the relationship was inappropriate.

In these sensitive cases, it is critical that we hear directly from the patient involved so that we can carry out our regulatory role properly. This means taking a statement from them at the start of a case and possibly giving live evidence at a hearing. It is a difficult and stressful experience for many people, but especially for those who could be classed as vulnerable.

The patient in this case relied heavily on us for reassurances to enable them to feel that they could participate in the fitness to practise process. We made sure that we gave them enough time to speak to us about all of their concerns about being involved as a witness. We worked through their concerns with them, ensuring we provided information in a way that was accessible to them. When the patient came for their interview, one of our Public Support team accompanied them to provide support.

When the case was referred to a hearing, the patient became very worried about the possibility of having to give evidence and being subjected to cross-examination. We took the time to provide them with the reassurances they needed and talked through support measures we could put in place for them, including potentially giving evidence via video link.

We continued to stay in touch regularly with the patient, and when they became unwell, we took the necessary steps to delay the process so they could fully participate when they recovered. Every time we needed to send them sensitive information, we followed it up with a call to talk through any concerns or questions they had.

Although we provided face to face support at the hearing, it was still a hard and exhausting process for the patient and took longer than anticipated, but we had prepared them as best as we could as to what to expect so they would not be surprised by any aspect of the hearing.

It is unlikely that we would have had the level of participation from the patient in this case if we had not provided this much time, care and support. This could have impacted adversely on the strength of our evidence and the progression of this case.

The conclusion of the hearing was postponed due to our response to the Covid-19 pandemic, but the witness told us how appreciative they were that we were able to support them at the hearing.

Providing support for nurses, midwives and nursing associates

We also want to improve the experience that nurses, midwives and nursing associates have with us if they find themselves the subject of a fitness to practise investigation.

In 2019–2020 we launched a free, confidential careline for registrants who are the subject of a fitness to practise complaint, to provide them with independent, emotional support and practical help. The service is available 365 days a year, 24 hours a day either through a phoneline, live chat service or email. It provides access to counsellors, who are trained in working with personal and sensitive cases and can point people towards specialist organisations and wellbeing services that can help with issues such as debt, addiction or bereavement.

“In 2019–2020 we launched a free, confidential careline for registrants who are the subject of a fitness to practise complaint”

From its launch in October 2019 to 31 March 2020, the careline received 280 calls from nurses, midwives and nursing associates. We have updated our letters to let people know about this service and we promote it at our hearings centres and through our social media channels. We will carry out a review of the service a year after its launch.

We have begun reviewing the information we provide on our public website for people who find themselves under investigation to ensure it is accessible, accurate, clear and understandable. We ran a survey which received approximately 600 responses and we are using this information to help us:

- provide more information for nurses, midwives and nursing associates about the early stages of the fitness to practise process
- explain the importance of engagement in the process and how it can have an impact on the case concluding at an earlier stage, with links to our remediation information
- provide information in an easy-read format
- include information on reasonable adjustments, our careline, **Cavell nurses' trust** and other external support organisations
- remove duplicate information.

We have continued to record cases where we learn that a registrant has sadly taken their own life while our proceedings are ongoing to help us identify any learning to improve our processes. In 2019–2020 there was one recorded instance (2018–2019: four instances).

Strengthening our decision making with clinical advice

We introduced clinical adviser roles into the fitness to practise process. They provide advice on cases about clinical practice to ensure we fully understand the clinical and organisational issues in the case. There are six clinical advisers in the team, made up of five nurses and one midwife.

Case study: Making use of clinical advice

A junior nurse was referred following the death of a very young patient in their care. We sought clinical advice about the care that the nurse had provided to the patient.

The review of the case undertaken by the clinical advice team also identified wider concerns, specifically around the clinical support that the junior nurse had received from senior nurses on the shift with them. This resulted in a second case being opened by the NMC for the nurse who was in charge of the shift that the junior nurse was working.

Both cases remain ongoing.

Employer Link and Regulatory Intelligence

The Employer Link Service (ELS) continues to expand its engagement with employers of nurses, midwives and nursing associates, other regulators and strategic oversight organisations through our network of regulation advisers.

This year, the ELS set out a three-year strategy that included proposals to widen the scope of the service and further develop its engagement with employers and the health and social care sector including:

- Having lead regulation advisers to develop our links with registrants and employers in social care, independent health and mental health and learning disabilities. These areas were identified as key areas of practice where nurses, midwives and nursing associates may be at greater risk of being referred to the fitness to practise process.
- Conducting a survey of employers with whom the ELS had an established relationship to support developing engagement with other employer types and sectors.
- Seeking new opportunities to work with systems regulators to make more effective contributions to the delivery of better, safer care in line with the NHS Long Term Plan. The ambition of the plan is to have an integrated care system across England by 2021.

- Sharing resources with other regulators to build a profile of key stakeholders, groups and networks addressing quality concerns across primary and social care settings across England, with plans to replicate across all of the devolved nations.

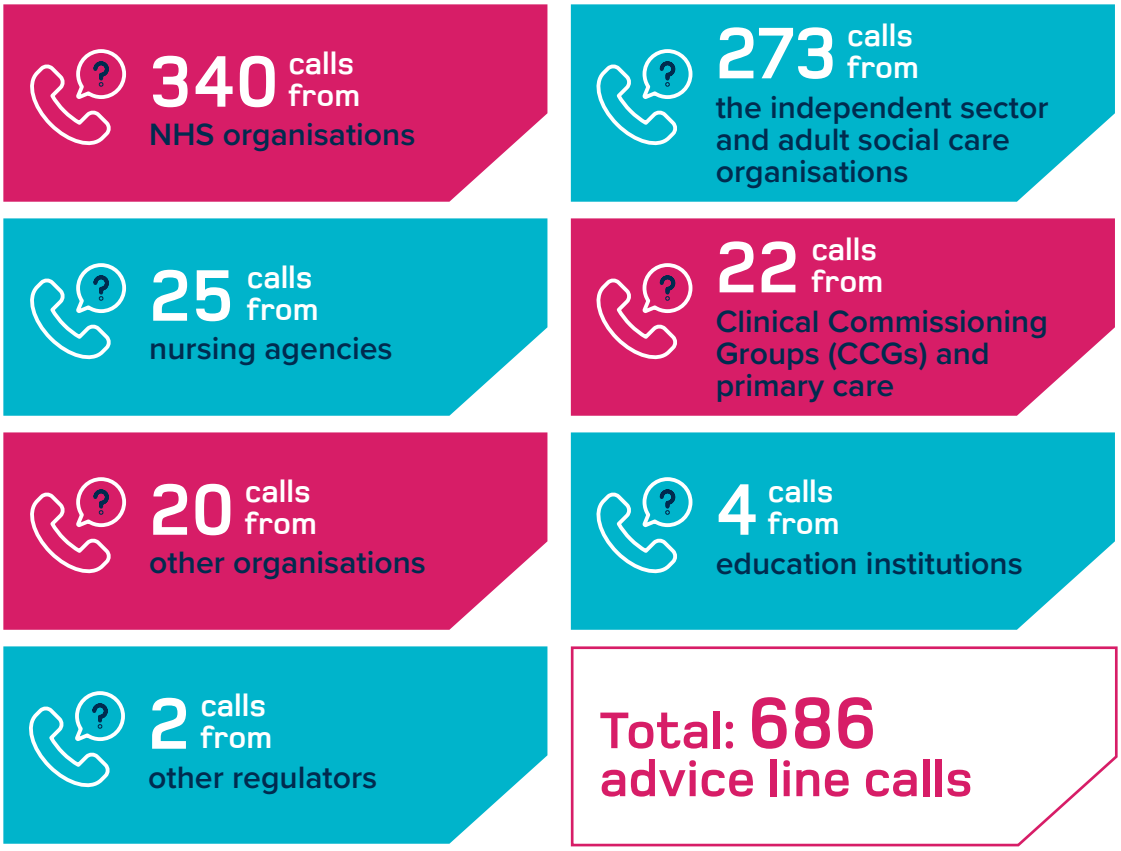
We worked with other regulators to review and improve the ***Emerging concerns protocol*** in England, which allows us to share risk information quickly and take early and co-ordinated action to protect the public. We are discussing the issues we have identified with other regulators and organisations.

In response to intelligence emerging from our internal Intelligence Coordination Group, the ELS was able to begin developing an equivalent protocol in Scotland. This is being developed in collaboration with Scottish and UK healthcare regulators and members of the National Sharing Intelligence for Health and Care Group in Scotland.

If other agencies, such as the police or the coroner, are also investigating cases that have been referred to us, this can cause delays. We take a case by case approach to entering into information sharing agreements with police forces, where we are seeking information from them to enable us to carry out our investigations.

The ELS provides an advice line to employers to support a fair and consistent approach to any concerns employers may have about someone's fitness to practise and whether we need to take any regulatory action.

Advice line calls to the ELS 2019–2020:



Of the calls received by the advice line, 295 callers were advised to make a referral to our fitness to practise teams while 330 were advised not to refer or to manage the issue locally in the first instance.

This year the regulation advisers had 252 meetings with directors of nursing and midwifery services and engaged with groups of employers and stakeholders 301 times.

The Regulatory Intelligence Unit (RIU) has continued to develop tools to improve our ability to analyse our data and external information to help aid our decision making and obtain insights into our regulatory processes.

In 2019–2020, we established two memoranda of understanding and data sharing agreements with regulators and other organisations across the UK.

We share concerns with other regulatory bodies and other organisations where we believe they may need to take action to protect the public. In 2019–2020, we made 176 referrals to other organisations.

Case study: Regulatory Intelligence

We received concerns suggesting a Trust had declared an internal emergency as they were struggling to cope with the number of individuals requiring care.

We carried out an assessment of intelligence and identified that patient safety and patient care could have been compromised due to the high number of patients and the management of patient flow through the location. As a result of this, it was identified that student learning might be affected.

Due to the nature of the concern, this intelligence was shared with our Education and Standards team. The team has been in constant contact with the NMC Approved Education Institution which places nursing and midwifery students at the Trust as part of its education programme. We also shared this intelligence with the General Medical Council so they could consider any impact on doctors and medical students and with the system regulator, the Care Quality Commission.

The Approved Education Institution responded and reported high levels of student satisfaction, but the practice learning setting was then suspended due to the Covid-19 pandemic before any additional work could be done.

Last year we published the most common types of allegations found proved at our hearings and meetings for the first time, and the top three categories have remained the same for 2019–2020.

The top three categories where the most allegations were found proved were patient care, record-keeping and prescribing and medicines management. The most common allegations within each of these categories were:

Allegation Level One (% of total allegations)	Allegation Level Two
Patient care 21%	Diagnosis, observation, assessment
	Inappropriate or delayed response to negative signs, deterioration, or incidents
	Handling patients
Record-keeping 16%	Patient or clinical records
	Drugs or medication records
	Other record-keeping issues
Prescribing and medicines management 16%	Not administering or refusing to administer medication
	Prescribing
	Administered incorrect drug

Level one is the headline allegation category and level two provides more detail about the allegation type.

2019–2020 statistical summary

Our key performance indicators

We want to reach an outcome that best protects the public at the earliest opportunity in every case and we measure this by two key performance indicators.

- Where it is necessary, we aim to impose 80 percent of interim orders within 28 days of receiving the concerns. At the end of this year, our performance was 81 percent (2018–2019: 84 percent).
- We aim to complete 80 percent of our cases within 15 months of receipt. At the end of this year, our performance was 81 percent (2018–2019: 86 percent).

We imposed
81 percent
of interim orders
within 28 days of concerns being raised with us
(2018–2019: 84 percent)

We concluded
81 percent
of our cases
within 15 months
(2018–2019: 86 percent)

Number of concerns

In 2019–2020 we received 5,704 new concerns, a 6 percent increase on last year (2018–2019: 5,373). The number of concerns we received this year represents around 8 referrals for every 1,000 registrants on our register.

In 2019–2020 we received 5,704 new concerns
6%
increase on last year

	2019–20	2018–19	2017–18
Number of concerns received	5,704	5,373	5,509

Source of concerns

We have continued to see a decrease in the proportion of referrals from employers, but have recorded increases in the number of concerns raised by members of the public, including people who use services and their families.

Most referrals from members of the public involve nurses. This is to be expected, as nurses make up a greater percentage of the register, but our analysis has found that midwives are proportionally more likely to be referred to us by members of the public.

We will continue to analyse our data to explore reasons for the greater proportion of referrals about midwives.

In reviewing concerns raised by members of the public between January 2014 and October 2019, we found the most common types of concerns we receive about nurses and midwives are:

- patient care
- communication issues
- dishonesty.

Table 1: Source of concerns referred to us

	2019–20		2018–19	2017–18
Who referred concerns to us	Number of new concerns	Percentage of new concerns	Percentage of new concerns	Percentage of new concerns
Patient/public	1,861	33%	29%	27%
Self-referral	429	8%	8%	10%
Employer	1,798	32%	35%	40%
Opened by the NMC	246	4%	4%	6%
Another registrant	214	4%	4%	3%
Other regulator	57	<1%	<1%	<1%
Referrer unknown	570	10%	7%	4%
Any other informant	529	9%	12%	10%
Total	**5,704**	**100%**	**100%**	**100%**

Concerns where we do not identify a nurse, midwife or nursing associate

In some cases raised with us we are unable to, or do not, identify someone on our register. In 2019–2020 we did not identify someone in 1,429 of the new cases raised with us. Reasons for not identifying someone include:

- The person is not a registered nurse, midwife or nursing associate.
- The concern was received at the end of this reporting period and identification will take place in 2020–2021.
- The concerns raised are not serious enough to meet our regulatory threshold.

When we receive new concerns, we use a four-stage screening process to decide whether a case needs a full investigation. The guidance can be found **on our website**. In 2018, we reviewed how our decision makers were using and applying this guidance and developed a revised approach to decision making and recording, also driven by the Professional Standards Authority's ***Lessons Learned Review***. In many cases, we close a case at the first stage after concluding the concerns are not serious enough to meet our regulatory threshold, and so we do not go on to identify someone on our register.

Concerns by country of registered address

We identified a nurse, midwife or nursing associate in 4,275 cases, broken down below by country of registered address.

 Northern Ireland	149 cases	3% of total concerns	4% of the register
 Scotland	464 cases	11% of total concerns	10% of the register
 England	3,365 cases	79% of total concerns	79% of the register
 Wales	228 cases	5% of total concerns	5% of the register
 EU and Overseas	69 cases	2% of total concerns	2% of the register

Concerns by registration type

An individual can be registered with us as a nurse, as a midwife, as both a nurse and midwife (known as dual registration) or as a nursing associate.

Table 2 shows the number of new referrals broken down by registration type. There has been no material change in the proportion of referrals by registration type compared to 2018–2019.

Table 2: New referrals by registration type

	2019–20		2018–19	2017–18
Registration type	Number of new referrals	Percentage of total referrals (percentage of register)	Percentage of total referrals	Percentage of total referrals
Nurse	4,033	94% (93%)	95%	95%
Midwife	227	5% (5%)	5%	5%
Dual registration	11	<1% (<1%)	<1%	0%
Nursing associate	4	<1% (1%)	0%	N/A
Total	**4,275**	**100%**	**100%**	**100%**

Initial assessment outcomes

In 2019–2020, we decided not to investigate 2,981 cases after initial assessment either because we concluded the concerns did not require regulatory action, or because we were unable to identify a nurse, midwife or nursing associate on our register as outlined earlier in this report.

This equates to 64 percent of referrals, which is broadly in line with closure rates over the last three years. In 2018–2019 we decided not to investigate 63 percent of referrals and in 2017–2018 it was 56 percent.

Although the rate remains in line with previous years, we have seen fewer decisions at our initial stage this year due to reduced capacity within our decision-making team.

Interim orders

In 2019–2020, our panels imposed interim orders to protect the public while our investigations were ongoing in 561 cases (2018–2019: 506 and 2017–2018: 580). Table 3 shows the break down between the two types of interim orders.

Table 3: Interim orders imposed

Interim order decisions	2019–20		2018–19		2017–18	
	Number of interim orders	Percentage of interim orders	Number of interim orders	Percentage of interim orders	Number of interim orders	Percentage of interim orders
Interim conditions of practice	316	56%	268	53%	309	53%
Interim suspension	245	44%	238	47%	271	47%
Total	**561**	**100%**	**506**	**100%**	**580**	**100%**

Table 4 breaks down the number of interim orders imposed by registration type. There has been no material change in the proportion of interim orders imposed by registration type in 2017–2018 and 2018–2019.

Table 4: Interim orders imposed by registration type

Interim order decisions	2019–20				2018–19				2017–18		
	Nurse	Midwife	Nursing Associate	Dual	Nurse	Midwife	Nursing Associate	Dual	Nurse	Midwife	Dual
Interim conditions of practice	303 (56%)	13 (57%)	0	0	251 (53%)	16 (58%)	0	1 (<1%)	284 (52%)	25 (71%)	0
Interim suspension	234 (44%)	10 (43%)	0	1 (100%)	225 (47%)	12 (42%)	0	1 (<1%)	261 (48%)	10 (29%)	0
Total	**537**	**23**	**0**	**1**	**476**	**28**	**0**	**2**	**545**	**35**	**0**

Case Examiner outcomes

In 2019–2020, our Case Examiners took 1,405 decisions (2018–2019: 1,638) at the end of an investigation. This year we saw an improved flow of cases through from our investigation teams to the Case Examiners, but there were fewer Case Examiner decisions. We undertook an analysis and found that the length of our Case Examiner written decisions has increased over time, contributing to the lower number of decisions.

We are providing our decision makers, including Case Examiners, with guidance on what is required in a decision as we recognise that quality decisions do not need to be as long provided that they are clear. The guidance will help ensure that our decision making is consistent. We undertook quality checks on the decisions

made and gave feedback to decision makers, on areas of good practice and areas for development. The approach is still developing and will be strengthened in the coming year by recruiting managers to provide improved oversight and embedding our new Quality of Decision Making team. We are also recruiting additional temporary Case Examiners to support our current team in working through the current backlog of cases.

Table 5 breaks down the Case Examiner decisions by outcome. We saw a significant drop in the number of cases where warnings were being issued this year. This was due to the way the policy principles in our new strategic approach had been applied in practice. We have reviewed our guidance around warnings and have begun to see a small increase in the last months of the year. We do not expect the number of warnings to return to previous levels.

Table 5: Case Examiner outcomes 2019–2020

	2019–20	2018–19	2017–18
Case Examiner decisions	Number of cases	Number of cases	Number of cases
Refer for hearing or meeting	534 (38%)	520 (32%)	819 (37%)
Advice	7 (<1%)	12 (<1%)	24 (1%)
Warning	6 (<1%)	102 (6%)	93 (4%)
Undertaking	46 (3%)	41 (3%)	28 (1%)
No further action	812 (58%)	963 (59%)	1,270 (57%)
Total	**1,405**	**1,638**	**2,234**

Table 6 breaks down the number of Case Examiner decisions by registration type. As in 2018–2019, cases about midwives appear marginally less likely to be closed with no further action and marginally more likely to be closed with a warning or undertaking or referred to a hearing or meeting.

Table 6: Number of decisions by registration type

Case Examiner decision	2019–20			2018–19			2017–18		
	Nurse	Midwife	Dual	Nurse	Midwife	Dual	Nurse	Midwife	Dual
Refer for hearing or meeting	514 (39%)	20 (24%)	0	490 (32%)	30 (37%)	0	770 (37%)	49 (40%)	0
Advice	5 (<1%)	2 (2%)	0	12 (1%)	0	0	22 (1%)	2 (2%)	0
Warning	6 (<1%)	0	0	94 (6%)	7 (9%)	1 (20%)	87 (4%)	6 (5%)	0
Undertaking	41 (3%)	5 (6%)	0	37 (2%)	4 (5%)	0	22 (1%)	6 (5%)	0
No further action	757 (57%)	55 (67%)	0	919 (59%)	40 (49%)	4 (80%)	1,211 (57%)	59 (48%)	0
Totals	**1,323**	**82**	**0**	**1,552**	**81**	**5**	**2,112**	**122**	**0**

There have been no Case Examiner decisions on nursing associate cases since the nursing associate role was introduced in January 2019.

Case Examiners work in pairs. One is a registered nurse or midwife, and one is a lay person. If the Case Examiners are unable to agree on an outcome, they must refer the case to an independent panel of the Investigating Committee for a decision. No cases were referred to the Investigating Committee in 2019–2020 (2018–2019: 0 and 2017–2018: 0).

Hearing and meeting outcomes

In 2019–2020, our panels reached 452 final decisions on cases (2018–2019: 661 and 2017–2018: 1,207) through meetings and hearings. Table 7 breaks down the panel decisions by type. The reduction in the number of hearing and meeting outcomes reflects a lower number of cases being referred by Case Examiners

As part of our new approach to fitness to practise we have worked with nurses, midwives and nursing associates and their representatives to resolve more cases at earlier stages in the fitness to practise process. Where cases are referred onwards by the Case Examiners we are encouraging remediation and engagement to resolve more cases at a meeting.

Table 7: Panel decisions

Panel decision	2019–20 Number	2019–20 Percentage	2018–19 Number	2018–19 Percentage	2017–18 Number	2017–18 Percentage
Strike off	127	28%	162	25%	257	21%
Suspension	142	32%	231	35%	372	31%
Conditions of practice	69	15%	99	15%	165	14%
Caution	42	9%	57	8%	129	11%
FtP impaired – no sanction	0	0%	0	0%	0	0%
Sub-total	**380**	**84%**	**549**	**83%**	**923**	**77%**
Facts not proved	5	1%	17	3%	5	<1%
FtP not impaired	67	15%	95	14%	279	23%
Total panel decisions	**452**	**100%**	**661**	**100%**	**1,207**	**100%**

Table 8 breaks down panel decisions by registration type. We have seen a change in the distribution of sanctions for midwives this year, but given the small numbers we have not drawn any firm conclusions on this.

Table 8: Panel outcomes by registration type

Panel decision	2019–20 Nurse	2019–20 Midwife	2019–20 Nursing Associate	2018–19 Nurse	2018–19 Midwife	2018–19 Nursing Associate	2017–18 Nurse	2017–18 Midwife	2017–18 Dual
Strike off	123 (29%)	4 (14%)	0	155 (25%)	7 (24%)	0	243 (21%)	14 (27%)	0
Suspension	132 (31%)	10 (36%)	0	224 (35%)	7 (24%)	0	355 (31%)	17 (33%)	0
Conditions of practice	62 (15%)	7 (25%)	0	92 (15%)	7 (24%)	0	157 (14%)	8 (16%)	0
Caution	39 (9%)	3 (11%)	0	57 (9%)	0	0	127 (11%)	2 (4%)	0
FtP impaired – no sanction	0	0	0	0	0	0	0 (0%)	0 (0%)	0
Sub-total	**356**	**24**	**0**	**528**	**21**	**0**	**882**	**41**	**0**
Facts not proved	4 (<1%)	3 (11%)	0	16 (2%)	1 (4%)	0	5 (<1%)	0 (0%)	0
FtP not impaired	64 (15%)	1 (3%)	0	88 (14%)	7 (24%)	0	269 (23%)	10 (20%)	0
Totals	**424**	**28**	**0**	**632**	**29**	**0**	**1,156**	**51**	**0**

Fraudulent or incorrect register entries

Our panels consider allegations that a nurse, midwife or nursing associate has been added to the register incorrectly or fraudulently. If they find the allegation proved, the panel can direct the Registrar to remove or amend the entry on the register.

In 2019–2020, our panels directed the Registrar to remove a nurse or midwife from the register in 33 cases (2018–2019: 34 and 2017–2018: 60).

Voluntary removal

After a case has been referred for a hearing or meeting, nurses, midwives and nursing associates may apply to be voluntarily removed from the register. The Registrar will only approve applications where the nurse, midwife or nursing associate accepts the allegations and it is in the public interest for them to be removed from the register immediately. If the application is not accepted, the case will proceed to either a hearing or a meeting to be decided by a panel.

Table 9 shows the number of applications received and granted in the last three years. The figures do not balance in-year because not all applications are decided on within the same year that they are received. As referenced in previous **Fitness to Practise annual reports** the decline in the number of applications is in line with the reduction in the number of cases being referred to a hearing or meeting.

Table 9: Voluntary removal applications

Voluntary removals	2019–20	2018–19	2017–18
Number of applications	50	82	136
Applications granted	31	60	66
Applications rejected	20	41	70

The table below shows the breakdown in this year's voluntary removal decisions by registration type.

Table 10: Voluntary removal decisions by registration type

	2019–20		2018–19		2017–18	
Voluntary removals	Nurse	Midwife	Nurse	Midwife	Nurse	Midwife
Applications granted	30	1	52	8	52	14
Applications rejected	19	1	38	3	60	10
Totals	**49**	**2**	**90**	**11**	**112**	**24**

Reviews and appeals

We have the power to review the Case Examiners' decisions, including advice, warnings and undertakings, and anyone can request that we do so.

Reviewing a decision under this process is done in two stages:

- We decide whether or not to carry out a review.
- If we carry out a review, we can decide either to uphold the original decision or that a new decision is required.

Table 11 shows the number of requests we received and the decisions we took during the year. The figures do not balance in-year because some decisions are reached in the year after the request was received. The number of requests we received represents less than three percent of all Case Examiner decisions.

Learning from reviews is used to inform training and other quality improvement activities for Case Examiners and investigators.

Table 11: Reviews of Case Examiner decisions

Power to review stage	2019–20	2018–19	2017–18
Total requests for review received	37	44	64
First stage: request closed	19	18	35
Second stage: fresh decision required	17	10	20
Second stage: original decision upheld	2	4	17

Of the 17 cases where the Registrar decided a fresh decision was required in 2019–2020, 14 were because there was a material flaw in the original decision, one was because new information became available and two because there was both a material flaw and new information available.

The outcome of the new decisions in these cases were:

- 14 sent for a hearing or meeting
- 1 case had a warning revoked and was closed by the Case Examiners
- 2 cases are still awaiting fresh consideration by the Case Examiners.

A nurse, midwife or nursing associate can appeal against a decision of our panels. They must lodge their appeal within 28 days of the decision to the High Court in England and Wales, or the High Court in Northern Ireland, or the Court of Session in Scotland. The Professional Standards Authority can also refer a case to court if it considers that a panel decision does not protect the public.

Table 12 shows the total number of appeals – not all appeals lodged are concluded in 2019–2020 and outcomes include appeals lodged in previous reporting periods. Learning from appeals is used to inform training for panel members and staff and other quality improvement activities.

Table 12: Outcomes of appeals of panel decisions

Outcome	2019–20	2018–19	2017–18
Total appeals lodged	23	28	32
Appeal upheld	13	18	12
Appeal dismissed	9	9	26

The table below shows the breakdown in this year's appeal of panel decisions by appeal type.

Table 13: Appeal of panel decisions by appeal type

	PSA	Registrant
Appeal upheld	7	6
Appeal dismissed	0	9

Restoration to the register

A nurse or midwife who has been struck off by a panel can apply to be restored to our register after five years. Before they can re-join the register, they have to satisfy a panel that they are fit to practise. If their application is successful, they usually have to undergo a return to practice programme.

Table 14 shows the outcomes of restoration applications in 2019–2020. The totals do not balance in-year because not all applications are decided on within the same year that they are received. We have not identified any trends relating to the fluctuation in number of restoration applications over the last few years.

Table 14: Restoration application outcomes

Outcome	2019–20	2018–19	2017–18
Total applications received	62	47	52
Application accepted	30	16	21
Application rejected	28	10	15

Table 15 shows the breakdown in this year's restoration decisions by registration type.

Table 15: Restoration decisions by registration type

	2019–20 total	Nurse	Midwife
Application accepted	30	30	0
Application rejected	28	28	0

Equality, diversity and inclusion and fitness to practise

Statistics we have published have shown disparities in outcomes by ethnicity and that people from Black, Asian and Minority Ethnic backgrounds are disproportionately referred into our fitness to practise procedures by employers. We aim to support employers in dealing with issues quickly and effectively at a local level, taking better account of the context, including whether colleagues have experienced racial abuse.

We are conducting our own **further research** into how professionals on our register with protected characteristics experience NMC processes and will use that evidence to change and improve our processes and to influence others at a local level.

We have responsibilities as the regulator of nursing and midwifery professionals – to recognise and acknowledge the problems that exist, support our registrants in living the Code and use our influence where we can to bring about change.

Future focus: 2020–2021

In March 2020, we took urgent steps to reprioritise our work due to the Covid-19 pandemic. Our main objective was to ensure we maintained our important role in protecting the public, but we needed to carefully balance the regulatory burden on healthcare professionals and employers during these challenging times. We reviewed all of our fitness to practise activity and identified four essential services that were to be kept running during the pandemic:

- assessing the level of risk as a result of new concerns and information
- applying for and reviewing interim orders in cases where there was an immediate concern for public safety, or a change in risk
- reviewing substantive orders that were due to lapse to maintain public protection
- applying to the high court/court of sessions to extend any interim orders that were due to expire to maintain public protection.

Where risk has reduced or been addressed, we have sought to remove unnecessary restrictions to enable nurses, midwives and nursing associates to practise.

Although we are progressing as much of our other casework as we can, it is inevitable that the pandemic will have a significant and prolonged impact on our operational performance in 2020–2021.

We know that delays to our cases will have a considerable impact on the people who are under investigation, the people who have raised concerns with us, and those waiting to give evidence at our hearings. We remain committed to ensuring everyone receives a kind and person-centred approach from us. We will ensure that the emotional support phone lines for members of the public and nurses, midwives and nursing associates remain available.

We have begun to plan how we might resume more of our activity throughout 2020–2021, including the further implementation of our new approach to fitness to practise. We will incorporate some of the benefits that have emerged from our changes.

We hope to resume activity on some of the planned works we had for 2020–2021 including:

- an advocacy service to help meet the needs of people who may require additional communication support as a reasonable adjustment. We are collaborating with other healthcare regulators on this work
- taking further action to ensure that all nurses, midwives and nursing associates can fully and effectively engage in all stages of our fitness to practise processes whether they are legally represented or not
- enhancing the level of support available to witnesses who may be vulnerable.

Nursing & Midwifery Council

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