

Council

Appointments Board Annual Report 2019–2020

Action:	For discussion.
Issue:	Report to the Council on the work of the Appointments Board during 2019–2020.
Core regulatory function:	Supporting functions.
Strategic priority:	Strategic aim 6: Fit for the future organisation.
Decision required:	None.
Annexes:	None.
Further information:	If you require clarification about any point in the paper or would like further information please contact the author below.

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- Context:**
- 1 The Appointments Board is a committee of the Council. Its remit is to assist the Council in connection with the exercise of any function or process relating to the appointment of panel members and legal assessors to the practice committees.
 - 2 The primary focus of the Board's work is to ensure that effective arrangements are in place for the selection and appointment, training and performance management of practice committee members, legal assessors and Registration Appeal Panel members.
 - 3 The Board's Terms of Reference require it to "report annually to the Council on the Appointments Board's activities, including an assessment of compliance with, and effectiveness of, the policies in place."
 - 4 The Board had four meetings in 2019–2020, and has recently taken two decisions by correspondence; one in May 2020 and one in June 2020. The Board would usually meet in June. However, this year, the meeting was cancelled due to reprioritisation of internal resources as a result of the Covid-19 pandemic. The Board's next meeting is in September 2020.
 - 5 The key issues covered in this report are as follows:
 - 5.1 The Committee's membership and effectiveness
 - 5.2 Three year strategy for delivery high quality panel members
 - 5.3 Redesign of selection and appointments process
 - 5.4 Panel member and legal assessor appointments and reappointments
 - 5.5 Disqualification period for legal assessor appointments
 - 5.6 Legal assessor Standard Agreement and Panel Member Services Agreement.

Four country factors: 6 Same in all four countries.

Discussion: Board membership and effectiveness

- 7 The Board's membership is comprised entirely of non-Council members to ensure an appropriate separation of the Board's work from that of the Council.

- 8 Membership of the Board is currently at full complement (five members including the Chair) and comprises:
- 8.1 Jane Slatter (Chair) (appointed 6 August 2018)
 - 8.2 Robert Allan (appointed 1 October 2018)
 - 8.3 Angie Loveless (appointed 1 March 2018)
 - 8.4 Frederick Psyk (appointed 1 September 2016 and reappointed 1 September 2019)
 - 8.5 Clare Salters (appointed 1 March 2018)
- 9 Ongoing training and development activities have taken place during the year. The Board's annual effectiveness review previously scheduled to take place in June will take place in September 2020.
- 10 KPMG were appointed by the Council to conduct an external Governance Review in 2019. KPMG observed an Appointments Board meeting and held an interview with the Chair. In relation to the Appointments Board, the review concluded that the purpose and role of the Board was clear.

Terms of reference

- 11 The Board reviewed its Terms of Reference and suggested amendments which were considered as part of the external Governance Review. The Board is pleased that its revised Terms of Reference were approved by Council in May 2020, and welcomes the changes which encompass the appointment of registration appeal panel members, and staying informed and connected to the strategic intent and wider work of the Council.

Integration of the Board with the wider work of Council

- 12 The Board is committed to ensuring that its work is aligned with the wider strategic aims of the Council, in particular the new NMC strategy for 2020–2025, the new values and behaviours, and the new strategic approach to Fitness to Practise.
- 13 The Chair of the Board meets quarterly with the Chair of Council and has also met several times outside of Appointments Board meetings with the FtP Director. The Chair has also met informally on a quarterly basis with equivalent Chairs in other regulatory bodies to share best practice.

Training and Development

- 14 Members of the Board have undertaken the following additional activities:
 - 14.1 attendance at Fitness to Practise hearings as observers
 - 14.2 attended a “walk the process” session with FtP teams
 - 14.3 attendance at Open Council meetings as observers
- 15 The Board receives updates at and between meetings on organisational developments, including corporate updates on the FtP Public Support Service, the FtP strategic approach, the new NMC strategy for 2020-2025 and values and behaviours , the organisation’s response to the Covid-19 pandemic, and the organisational restructure. It keeps updated on key themes in the practice committees by receiving the panel member newsletter.

Decisions by correspondence

- 16 The Appointments Board took two decisions by correspondence in response to the Covid-19 pandemic, and the consequent cancellation of the June meeting. Both decisions were authorised by the Chair of Council, on behalf of Council, on the basis of the Board’s recommendations.
 - 16.1 **Panel member second term extensions:** on 16 April 2020 the Appointments Board recommended to Council the retrospective extension of 19 Investigating Committee panel members second terms for a period of 12 months. This was permitted under the Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020 which was implemented in direct response the Covid-19 pandemic. From 23 March 2020, all hearings had to be conducted virtually. As a consequence Interim Order hearings were slower and more panels were required to run each day to hear these emergency cases. Failure to run the usual number of Interim Order hearings posed a risk that the public were not sufficiently protected from registrants whose practice required restriction. The Appointments Board and the Executive acted quickly and collaboratively to recommend these extensions to Council and ensure the public remained protected.

16.2 **Panel member reappointment:** on 22 June 2020 the Board recommended the reappointment of a Fitness to Practise Committee panel member to the Council. This panel member was not eligible for reappointment in December, but after completing all the necessary benchmarks was now eligible.

Panel member and Legal Assessor selection and appointment strategy

17 There was no appointment campaign in 2019-2020, due to sufficient panel member capacity (with the exception of Investigating Committee panellists as a result of the Covid-19 pandemic). The Board has been reviewing and refining the panel member selection and appointment process to ensure that it aligns with best practice.

Three year strategy for delivering high quality panel members

18 The Board agreed a three year strategy for delivering high quality panel members and an accompanying strategic delivery framework. The overall aim of the strategy is to improve the quality of panels by:

18.1 providing a selection and appointment process that delivers members with the right values and skills;

18.2 providing a diverse membership that operates in a way that is inclusive and fair; and

18.3 providing training that ensures members are engaged with the organisation and have the information they need to make high quality decisions.

19 The Board is working to ensure that the diversity strategy is designed to deliver suitable registrant applicants who reflect the diversity of the nursing and midwifery professions and suitable lay applicants who reflected the diversity of the wider UK population.

Selection and appointment process

- 20 The Board reviewed learning and feedback from previous selection campaigns and is committed to incorporating this learning into the next selection campaign to ensure continuous improvement. In particular the Board is committed to building on the success of the 2018 selection and appointment campaign in creating a more diverse practice committee membership.
- 21 The Board supported the redesign of the selection and appointment process and provided input on the revised panel member and panel chair role specifications, to ensure that these are structured around the NMC's new values and behaviours. The Board is working to ensure that the role specifications attract a diverse range of high calibre applicants.
- 22 The Board considered and agreed a revised process for panel Chair selection. The new process includes an element of practical assessment which is linked to the skills and behaviours expected of panel chairs. During the course of this work, the Board trialled a new way of working, with an individual Board member liaising with the Executive on the development of proposals. The Board subsequently adopted this approach for other work (see paragraph 32, policy and procedure in addressing conduct complaints).
- 23 The Board approved the panel member selection and appointment framework and is in the process of reviewing the development of a detailed operating procedure. The Board remains committed to ensuring that future panel member selection and appointment activity is designed to deliver a membership which reflects the diversity of the professions we regulate and the wider UK population.

Panel member and legal assessor appointments, reappointments and termination of appointments

- 24 The Board scrutinises appointments, reappointments and termination of appointments for panel chairs, members and legal assessors. On the Board's recommendation, in 2019–2020 the Council has:
 - 24.1 Suspended a panel member on an interim basis as a precautionary measure following that panel member receiving a fitness to practise referral;
 - 24.2 Reappointed 119 legal assessors;

- 24.3 Reappointed 50 panel members for a second term;
- 24.4 Appointed 37 panel chairs from the existing pool of panel members; and
- 24.5 Extended the second terms of 19 Investigating Committee panel members in response to the Covid-19 pandemic.

Disqualification period for Legal Assessor appointments

- 25 The Board approved the adoption of a five year disqualification period for any former NMC employee being appointed as a legal assessor; this mirrors a similar disqualification period for NMC employees acting as panel members.
- 26 The Board considers that this approach will address the following risks:
 - 26.1 An actual or perceived risk that the legal advice provided is not independent of the NMC.
 - 26.2 A loss of trust and confidence in legal assessors from the public, registrants and those affected by our processes.
 - 26.3 An actual or perceived bias.
 - 26.4 An actual or perceived conflict of interest.

Legal assessor Standard Agreement

- 27 The Board also reviewed and approved the new legal assessor Standard Agreement. In the new Standard Agreement there is a mandatory requirement for every legal assessor to complete a diversity survey. The Board is looking at ways to increase the diversity of the legal assessor pool in the next selection campaign, as the pool is predominately made up of white males.

Panel member training

- 28 The Board is mindful that effective and relevant panel member training ensures panel members have the skills and knowledge to make robust, consistent and proportionate decisions which protect the public and maintain confidence in the nursing and midwifery professions.

- 29 The Board approved the panel member training programme for 2020-2021 which maintains the organisation's commitment to Equality, Diversity and Inclusion, and examines the diversity and inclusion issues that are specific to Fitness to Practise processes. The training programme includes values and behaviours based training to ensure a person centred approach.

Panel member and legal assessor performance

- 30 During the year the Board considered and approved a new panel member performance framework. A panel member peer review system was launched at the start of July 2019, which received an encouraging level of engagement and positive feedback from panel members.

Panel Member Services Agreement

- 31 A review of the Panel Member Services Agreement (PMSA) which includes a Code of Conduct, was due to take place this year. However, due to an ongoing tribunal claim relating to whether panel members and legal assessors should be categorised as employees, the review has been delayed. The outcome of the case may have implications for the Panel Member Services agreement review, and wider implications for the future work of the Board. The Board will be reviewing the PMSA in detail following conclusion of the tribunal claim.
- 32 In the interim period, a member of the Board is liaising, on behalf of the Board, with the Executive on the review of the policy and procedure in addressing conduct complaints against panel members – as set out in the PMSA.

Future focus

- 33 The Board's focus for 2020-2021 is:
- 33.1 reviewing the Panel Member Services Agreement (see paragraphs 31 and 32).
 - 33.2 reviewing the panel member Code of Conduct and policies for Panel Members and Legal Assessors travel arrangements, expenses and allowances.
 - 33.3 ensuring panels are prepared for nursing associate hearings.

33.4 preparation for the 2020-2021 appointment campaign, including enhancing diversity.

33.5 developing its approach to Registration Appeal Panels.

Midwifery implications

34 None arising directly from this report.

Public protection implications:

35 There are no public protection implications arising directly from this report.

Resource implications:

36 None arising directly from this report.

Equality and diversity implications:

37 The Board has approved a three year strategy for delivering high quality panel members which includes the following objectives in relation to equality, diversity and inclusion:

37.1 Ensuring the membership of the practice committees reflects the professions we regulate and the wider UK population.

37.2 Ensuring panel members are equipped with the necessary knowledge and training to ensure equality, diversity and inclusion matters are understood, supported and well managed.

Stakeholder engagement:

38 None.

Risk implications:

39 There are no risk implications arising directly from this report.

Legal implications:

40 None.