

Council

Appointments Board annual report to Council 2021–2022

Action:	For discussion.
Issue:	Report to the Council on the work of the Appointments Board during 2020–2021.
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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Chair of Appointments Board:
Jane Slatter

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 and the appointment of Panel Members to the Registration Appeals Panel.
- 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 (Panel 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 2021-2022 was a busy year for the Board. As well as four scheduled meetings, the Board held three special meetings: in April 2021 on the Panel Member selection exercise; in May 2021 to decide Panel Member and Legal Assessor fee changes; and in November 2021 on the Panel Chair selection exercise. The Board also took a decision by correspondence in June 2021 on recommending candidates for appointment as Panel Members.
- 5 All meetings were held virtually, with the exception of the March 2022 meeting, which was the Board's first in person meeting since March 2020, and the July 2022 meeting. The Board was pleased to welcome Tracey MacCormack, Council Associate to its meeting on 23 June 2021 and the Chair of Council to its meeting on 8 September 2021.

Key issues covered in this report

- 6 The Board's anticipated key areas of focus for 2021-2022 were set out in the Board's 2020-2021 Annual report to Council. The Board's progress against these areas is reported as follows:
 - 6.1 Review of the 2021 Panel Member selection and appointment campaign (paragraphs 17 to 19).
 - 6.2 Ensuring that any new Panel Members are properly inducted and trained (paragraphs 21 to 22).
 - 6.3 Approval of the annual Panel Member training programme for 2022-2023 (paragraph 23).

- 6.4 Appointment of Panel Chairs (paragraphs 24 to 26).
- 6.5 Preparation for the selection and appointment of new Legal Assessors (paragraph 27).
- 6.6 Review of the Panel Member Services Agreement (paragraph 29).
- 7 This report also covers:
 - 7.1 The Board's membership and effectiveness (paragraphs 9 to 13).
 - 7.2 The integration of the Board with the wider work of the Council (paragraphs 14 to 16).
 - 7.3 Oversight of complaints about Panel members (paragraph 30).

Four country factors: 8 The Board is mindful that the NMC is a four country regulator and seeks to reflect this in its programme of work.

Discussion: Board membership and effectiveness

- 9 The Board's membership is made up entirely of non-Council (partner) members to ensure an appropriate separation of the Board's work from that of the Council.
- 10 In June 2021 the Chair and a member of the Board were reappointed to serve a second three year term from August and October 2021 respectively. The reappointments were made following a robust process assessing performance and commitment to our values.
- 11 One member of the Board's final term comes to an end on 31 August 2022. The Remuneration Committee has approved an open, competitive selection exercise, to fill the vacancy with a focus on increasing the diversity of the Board.
- 12 Current membership comprises:
 - 12.1 Jane Slatter (Chair) (appointed 6 August 2018, reappointed 6 August 2021)
 - 12.2 Robert Allan (appointed 1 October 2018, reappointed 1 October 2021)

- 12.3 Angie Loveless (appointed 1 March 2018, reappointed 1 March 2021)
 - 12.4 Frederick Psyk (appointed 1 September 2016 and reappointed 1 September 2019)
 - 12.5 Clare Salters (appointed 1 March 2018, reappointed 1 March 2021).
- 13 The Board undertook an annual effectiveness review in July 2022. Actions to improve effectiveness further were agreed including ensuring the Board continues to focus on strategic oversight rather than operational detail; strengthening collaborative working with the Executive; and ensuring that the Board's work programme more closely aligns with its meeting schedule.

Integration with the wider work of Council

- 14 The Board remains committed to ensuring that its work is aligned with the Council's strategic aims, including the corporate plan 2022-2025 and the corporate priority to reduce the fitness to practise caseload.
- 15 Members of the Board have continued to attend Open Council meetings and feed back to the Board at its meetings. The Chair of the Board met regularly with the Chair of Council and also attended a meeting of the Audit Committee.
- 16 The Board continues to receive updates on organisational developments, including: the Fitness to Practise Improvement programme; learning lessons for improving handling of discrimination cases; the Corporate Plan 2021-2022 and the EDI Plan 2021-2025. The Board is also sighted on the indicative timetable for Regulatory Reform and is receiving updates on developments.

Learning from previous selection exercises

- 17 The Board oversaw a selection exercise from January 2021 to June 2021, culminating in the appointment by the Council of 82 Panel Members in July 2021. Approximately 17 percent of candidates appointed are from Black and minority ethnic backgrounds.

- 18 The Board carried out a review to identify any learning for future campaigns and considered an in depth diversity analysis of each stage of the process. Key learning included potential actions to increase the number of applicants from diverse backgrounds; and the need for the Board to have sufficient assurance on the quality of candidates to make a decision on whether to recommend appointment. Learning identified will be used to inform the delivery of future selection processes.
- 19 The Board has also taken into account learning from the internal Panel Chair selection process undertaken in 2021 and from the Serious Event Review of the erroneous appointment of a Panel Member who was not eligible for appointment (having already served two terms). The Council formally revoked the appointment in January 2022.

Equality Diversity and Inclusion monitoring information

- 20 The Board has expressed concerns over the past two years in relation to the NMC's approach to equality, diversity and inclusion monitoring, specifically that it should include reporting on sex, as a protected characteristic under the Equality Act 2010. The Board noted that the Executive is undertaking further work to inform a review of policy in this area and looks forward to an update on the outcome of this work.

Training and induction of Panel Members

- 21 The Board continues to be mindful of the importance of effective training for Panel Members to ensure they have the knowledge and skills to make robust, consistent and proportionate decisions which protect the public and maintain confidence in the nursing and midwifery professions. The Board is committed to ensuring that this encompasses the NMC's values and behaviours and reflects the organisation's commitment to equality, diversity and inclusion.
- 22 The Board has maintained strategic oversight of training for Panel Members, including the induction training programme for the 81 new Panel Members appointed in July 2021 and refresher training for existing Panel Members. The Board continues to monitor training uptake and has taken steps to ensure that Panel Members complete their mandatory annual refresher training. The Board looks forward to hearing the outcome of further work by the Executive to understand drivers in relation to completion/non-completion of e-learning.

- 23 The Board approved the Panel Member training programme for 2022-2023 which includes an enhanced equality, diversity and inclusion training module, following the lessons learned from the review of handling of discrimination cases.

Panel Chair selection processes

- 24 The selection of Panel Chairs has been a major focus for the Board, with the Board overseeing two selection processes – the first open only to existing Panel Members and the second open also to external applicants. The Board reviewed various aspects of both processes, including application; assessment and interviews. At each stage an equality impact assessment has been carried out to ensure no significant negative impact on groups with protected characteristics.
- 25 At its November 2021 meeting, the Council accepted the Board's recommendation to appoint 34 individuals as Panel Chairs, following the selection process from within the existing Panel Member pool. The number of applications was lower than anticipated, with the number of Panel Chairs recommended for appointment falling short of the target of 56.
- 26 The shortfall led to the Board overseeing an external selection exercise for further Panel Chairs, culminating in recommendations for the appointment of 48 Panel Chairs being submitted to Council at this meeting in a separate paper.

Preparation for the selection and appointment of new Legal Assessors

- 27 In line with the NMC's commitment to being a diverse and inclusive regulator, the Board is overseeing work to prepare for a selection process in 2023 for new Legal Assessors to join the existing pool. This has included a diversity analysis of the current pool and an assessment of the challenges and barriers to increasing diversity

Panel Member appointments, transfers and removals

- 28 The Board has made recommendations to Council on the appointment of Panel Members to hear Registration Appeals and transfers between the Practice Committees. Before recommending any appointments or transfers, the Board ensures that Panel Members are meeting performance requirements, undertaking the necessary training, and have no outstanding complaints against them. The Board has also put forward removals from the Practice Committee lists and informed Council of removals from Legal Assessor lists.

Panel Member Services Agreement

- 29 The Panel Member Services Agreement (PSMA) is the contract that governs Panel Member services and includes a Code of Conduct. The Board has completed a light touch review of elements of the PMSA. A fuller review will take place pending further consideration by the Executive of the future relationship with Panel Members.

Complaints against Panel Members

- 30 The Board has a standing item on its agenda at each meeting to ensure that it maintains high level oversight of all open complaints against Panel Members. This allows the Board to monitor the number of Panel Members not being allocated to hearings and the effect on Committee capacity.

Whistleblowing concern

- 31 The Board has continued to monitor an action plan developed by the Executive in response to concerns raised by a Panel Member which were addressed using our Whistleblowing policy. This helped inform a range of work to strengthen our approach to equality, diversity and inclusion.
- 32 The action plan included asking all Panel Members and Legal Assessors to take part in a survey to gather feedback on their experiences. Through this work, several areas for improvement were identified including the need to provide more extensive EDI training and to increase visibility and awareness on how to raise a concern.

Future focus

- 33 The Board's focus for 2022-2023 is:
- 33.1 Continuing to ensure sufficient Panel Chairs and Panel Members are in place to support the reduction of the fitness to practise caseload, making high quality decisions that protect the public.
 - 33.2 Review of progress against the three year strategy for delivering high quality panels (approved by the Board in December 2019) against success measures agreed in September 2020.

- 33.3 Review of the 2022 external Panel Chair selection and appointment campaign and identification of learning for future campaigns, particularly in relation to increasing the diversity of the applicant field.
 - 33.4 Ensuring that any new Panel Chairs are properly inducted and trained to perform their role to a satisfactory standard under the performance monitoring framework.
 - 33.5 Preparation for, and oversight of, the selection and appointment of new Legal Assessors to improve the diversity of the Legal Assessor pool.
 - 33.6 Approval of the annual Panel Member training programme for 2023-2024, including a broader focus on different aspects of equality, diversity and inclusion.
 - 33.7 Regulatory Reform and the potential impact on Panel Members and Legal Assessors.
- Midwifery implications** 34 No direct implications for midwifery. The Panel Member pool includes registered midwives.
- Public protection implications:** 35 Successful implementation of the three year strategy for delivering high quality Panel Members will ensure that Panel Members make high quality decisions that protect the public and maintain public confidence in the NMC.
- Resource implications:** 36 Panel Members are required to make decisions that protect the public. The Board must ensure that we have sufficient Panel Chairs and Members to undertake planned hearings activity.
- Equality and diversity implications:** 37 The approved 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 arising directly from this paper.
Risk implications:	39	If we do not have high quality panels there is a risk that panels will not make decisions which protect the public and maintain public confidence in the effective regulation of the NMC.
	40	The Board has approved a strategic approach to delivering high quality panels which mitigates this risk.
Regulatory reform	41	The Board continues to be sighted on developments in relation to Regulatory Reform, receiving an update from the Director of Strategy and Insight in December 2021 and July 2022.
Legal implications:	42	None.