

Meeting of the Midwifery Committee

to be held between 11:00 and 13:00 on 29 April 2015
in the Blue Room, 23 Portland Place, London W1B 1PZ

Agenda

Dr Anne Wright
Chair of the Midwifery Committee

Paul Johnston
Secretary to the Committee

Preliminary items

- | | | | |
|---|---|---------|-------|
| 1 | Welcome from the Chair

Chair | M/15/20 | 11:00 |
| 2 | Apologies for absence

Secretary | M/15/21 | |
| 3 | Declarations of interest

All | M/15/22 | |
| 4 | Minutes of the last meeting

Chair | M/15/23 | |
| 5 | Summary of actions

Secretary | M/15/24 | |

Matters for discussion

- | | | | |
|---|---|---------|-------|
| 6 | Changes to midwifery regulation

Chief Executive and Registrar | M/15/25 | 11:10 |
| 7 | Review of pre-registration standards for midwifery education

Director of Continued Practice | M/15/26 | 11:35 |

8	Objectives for the Midwifery Committee (annexe not published) Chair of the Committee	M/15/27	12:25
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Matters for information

9	Any other business Chair	M/15/28 (oral)	12:55
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The next meeting of the Midwifery Committee will be held on Wednesday 24 June 2015 at 11:00 at 23 Portland Place, London.

Meeting of the Midwifery Committee
Held at 11:00 on 25 February 2015
at 23 Portland Place, London W1B 1PZ

Minutes

Present

Members:

Dr Anne Wright	Chair
Pradeep Agrawal	Member
Yvonne Bronsky	Member
Dr Patricia Gillen	Member
Dr Tina Harris	Member
Farrah Pradhan	Member
Susanne Roff	Member
Lorna Tinsley	Member

NMC officers:

Jackie Smith (item M/15/09 to M/15/14 only)	Chief Executive and Registrar
Alison Sansome	Director of Registration
Anne Trotter	Assistant Director, Education and QA
Paul Johnston	Secretary to the Committee

Observers:

Laura Allen	NMC
Aditi Chowdhury-Gandhi	NMC
Jess Christensen	Department of Health
Jess Read	LSAMO Forum
Louise Silverton	Royal College of Midwives
Sue Way	LME Forum

The Chair agreed that a confidential update would be provided by the Chief Executive and Registrar prior to the start of the Committee in public session. The minutes reflect the order of the Committee's discussions.

Minutes**M/15/20 Update from the Chief Executive and Registrar (confidential)**

1 The Committee received a confidential update NOT FOR PUBLICATION

2 There being no further confidential business, the Committee resolved to convene in public session.

M/15/09 Welcome from the Chair

1 The Chair welcomed members of the Committee, NMC staff and observers to the meeting.

M15/10 Apologies for absence

1 Apologies for absence were received from Ann Holmes and Katerina Kolyva.

M/15/11 Declarations of Interest

1 All registrant members declared an interest in substantive items on the agenda by virtue of being registered midwives.

2 Dr Tina Harris declared an interest in items M/15/17 and M/15/18 by virtue of being a Lead Midwife for Education at De Montfort University.

3 The Chair of the Committee noted the interests declared and determined that all members would be permitted to participate in all discussions.

M/15/12 Minutes of previous meetings

1. The minutes of the private and open sessions of the Midwifery

Committee held on 21 January 2015 were confirmed as a correct record.

M/15/13 Summary of actions

- 1 The Committee noted that there were no outstanding actions arising from previous meetings of the Committee. The Committee's objectives were on the agenda for discussion under item M/15/16.

M/15/14 Changes to midwifery regulation

- 1 The Chair of the Committee introduced the item, noting the Council's discussions and decision on 28 January 2015 arising from the King's Fund review of midwifery regulation. The Council had noted that Chief Nursing Officers in each of the four UK nations had agreed to take a leadership role in transitional arrangements.
- 2 The Chief Executive and Registrar noted that, following the Council's decision, the NMC had written to the Parliamentary Under Secretary of State at the Department of Health to request clarification on possible timescales for legislative change, which would be secured either through the Law Commission Bill or section 60 arrangements. The NMC would continue to take a proactive role with partners in delivering change. Further, an internal programme board had been formed to consider the regulatory implications of changes to the current supervisory framework. It would be important to consider the reporting mechanism from this board to the Midwifery Committee, which retained its role in advising the Council on progress.
- 3 In discussions by the Committee, the following points were noted:
- a) It would be important to ensure that patient and public views continued to be gathered and reflected in future work on amendments to the supervisory framework. Any changes to standards or legislation would be subject to public consultation and the NMC would continue to engage with a wide range of stakeholders to ensure that the patient and public voice was reflected.
 - b) While there was not to be any immediate change to the supervisory framework, the NMC had an important role in managing communications with registrants and supervisors and maintaining confidence in the current framework.
 - c) The Committee would wish to keep a view of potential disengagement from the profession with the existing supervisory framework, given inherent uncertainties arising from the Council's decision; the Committee therefore agreed to emphasise to the Council the need to assess the risks arising both within the NMC and more widely to the system. The Committee would similarly need to consider risks at future

meetings.

4 The following points were noted by observers:

- a) The Royal College of Midwives had commissioned an options appraisal on retaining the supportive function of supervision.
- b) The LSAMO Forum had compiled a list of risks that would require management; and continued to engage with Chief Nursing Officers and service users.

5 The Committee agreed to receive a standing update at each meeting on the changes to the midwifery supervisory framework; and that future reporting consider risks and the management of those risks; and details of NMC engagement with stakeholders and wider external activity.

Action: Include “changes to midwifery regulation” as a standing item on the Midwifery Committee schedule of business
For: Secretary
By: 29 April 2015

M/15/15 **Evaluation of pre-registration education standards for nursing and midwifery**

1 The Committee discussed the report, which set out an update on the NMC’s evaluation of its pre-registration education standards for nursing and midwifery. The evaluation of pre-registration education standards was a public commitment in response to the Francis Inquiry report.

2 In discussion, the following points were noted:

- a) IFF Research had been commissioned as the external evaluator. The evaluation consisted of a quantitative and qualitative research phase; the quantitative phase had concluded in December 2014 and had focussed on establishing views from members of the public and the student population. There was an ongoing need to establish a more sizable and reliable set of views from newly qualified midwifery students.
- b) The ongoing work by Health Education England on values based recruitment was noted. This was an England-only initiative and, while the evaluation of pre-registration education standards would focus on a number of aspects of the student journey, the focus would remain on the NMC education standards and competencies.

3 The Committee noted progress as set out within the report and agreed that it would receive an update at its next meeting.

Action: Provide an update on pre-registration education standards for nursing and midwifery at the next Committee meeting
For: Director of Continued Practice
By: 29 April 2015

M/15/16 Midwifery Committee objectives

- 1 The Committee discussed the report, which set out draft objectives for the Committee.
- 2 In discussion, the following points were noted:
 - a) The objectives had been drafted on the basis of the developing NMC Strategy for 2015 – 2020 and the Committee’s terms of reference. The organisational strategy would be approved by the Council in March 2015; it was therefore proposed that the Committee review the objectives further at its April 2015 meeting once the strategy had been made public and approved.
 - b) The objectives were welcomed by the Committee. The objectives were useful both in terms of determining the Committee’s priorities and future business, in terms of the information requirements of the Committee, and in providing evidence of the important role that the Committee played.
 - c) The objectives would need to be further refined to take into account internal and external interdependencies, resourcing requirements and risks to achieving those objectives.
- 3 The Committee agreed to receive refined objectives at its next meeting; and agreed that the Secretary circulate the NMC Strategy 2015 – 2020 to members, once published.

Action: Circulate the NMC Strategy 2015 – 2020 to members of the Committee, once published.
For: Secretary
By: 18 March 2015

M/15/17 QA annual report 2013 – 14

- 1 The Committee discussed the report, which set out the NMC’s quality assurance of Approved Education Institutions (AEIs) and Local Supervising Authorities (LSAs) for the reporting year 2013 – 14.
- 2 It was noted that the appended annual report was not for publication at this time. The Council would formally approve the annual reports at its March 2015 meeting; the Committee would wish to endorse the process used in compiling the report and raise any particular findings to inform the Council’s deliberations.

3 The Committee noted that the NMC was moving toward a model of risk-based review, whereby institutions which were considered more high-risk would be subject to more frequent review. Risks were identified partly on the basis of external sources and on the basis of the quality of self-reporting.

4 In discussion, the following points were noted:

- a) No AEI had failed to meet requirements, but a small number of institutions were deemed as needing to make improvements in certain areas.
- b) Good practice was shared through individual QA reports being made available on the NMC website; it was proposed that learning on good practice be compiled in one area on the website in the future.
- c) One LSA was not meeting Rule 6 on records; an action plan was still in place with the relevant LSA.
- d) Observers noted the QA annual report would benefit from further information on commendable practice in Local Supervising Authorities.

5 The Committee agreed to endorse the report to the Council.

M/15/18 Quarterly quality monitoring report update for Q2 and Q3

1 The Committee noted the report, which set out findings arising from quarterly quality monitoring by Local Supervising Authorities across UK for the second and third quarters of 2014 / 15.

2 The Committee noted that, further to discussions under item M/15/14 on the midwifery regulatory framework, quarterly quality monitoring would be a useful tool in flagging early warnings in any 'decay' in the current supervisory function.

3 The Committee further noted from observers that a number of education institutions were ceasing to provide Supervisor of Midwife preparation courses. The Committee noted that this area could be monitored by the NMC's Education Advisory Group.

M/15/19 Any other business

1 The Committee noted that Sue Way was no longer chair of the LME Forum; Nicky Clark had recently taken up the role. The Committee thanked Sue for her attendance at, and contributions to, the Committee and looked forward to Nicky attending future meetings of the Committee.

The date of the next meeting is to be 29 April 2015.

The meeting ended at 13:12.

Confirmed by the Committee as a correct record and signed by the Chair:

SIGNATURE: *DRAFT*

DATE: *DRAFT*

Midwifery Committee

Summary of actions

Action: For discussion.

Issue: A summary of the progress on completing actions agreed by the meeting of Midwifery Committee held on 25 February 2015.

Core regulatory function: Supporting functions.

Strategic priority: Strategic priority 4: An effective organisation.

Decision required: To note the progress on completing the actions agreed by the Midwifery Committee at previous meetings.

Annexes: There are no annexes attached to this paper.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Summary of the actions arising out of the Midwifery Committee meeting on 25 February 2015

Minute	Action	For	Report back to: Date:	Progress
M/15/14	Include “changes to midwifery regulation” as a standing item on the Midwifery Committee schedule of business	Secretary	Midwifery Committee 29 April 2015	Completed. The schedule of business, which will reflect discussions on the Committee’s objectives, will be presented as a standing item from June 2015 onwards.
M/15/15	Provide an update on pre-registration education standards for nursing and midwifery at the next Committee meeting	Director of Continued Practice	Midwifery Committee 29 April 2015	The Committee will have the opportunity to discuss the context for the upcoming review of the standards for pre-registration midwifery education with the aim of generating discussion and early inputs for the scoping of this project (Item 7 on the agenda)
M/15/16	Circulate the NMC Strategy 2015 – 2020 to members of the Committee, once published	Secretary	Midwifery Committee 29 April 2015	Completed. The draft Strategy was circulated to members of the Committee on 18 March 2015.

Midwifery Committee

Changes to midwifery regulation

Action: For discussion.

Issue: We are proposing to amend the standards and guidance in our publication '*Midwives rules and standards 2012*'¹ as an interim measure to increase control of the regulatory investigation and sanction of midwives, pending wider legislative change to remove midwifery supervision from our legislation. This paper sets out our proposals.

Core regulatory function: Fitness to Practise / Setting standards

Strategic priorities: Strategic priority 1: Effective regulation

Decision required: The Committee is invited to reviews our proposals for interim amendments to midwives standards and guidance, and considers whether it wishes to provide any advice to Council on this matter (as per paragraph 13 of this report).

Annexes: The following annexe is attached to this paper:

- Annexe 1: Draft consultation document: '*Proposed changes to the midwives standards and guidance*'.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the Director named below.

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¹ [http://www.nmc-uk.org/Documents/NMC-Publications/Midwives%20Rules%20and%20Standards%20\(Plain\)%20FINAL.pdf](http://www.nmc-uk.org/Documents/NMC-Publications/Midwives%20Rules%20and%20Standards%20(Plain)%20FINAL.pdf)

- Context:**
- 1 In response to critical commentary on midwifery regulation from the Parliamentary and Health Service Ombudsman in England, the Council commissioned the King's Fund to carry out an independent review of current arrangements in January 2014.
 - 2 In January 2015, the Council accepted the King's Fund's recommendations that midwifery supervision should be removed from regulatory legislation and that the NMC should be in direct control of regulatory activity relating to midwives. This will require legislative change that is expected to take at least 18 months to achieve, whether through a s.60 Order followed by a Rules Order of the Council, or through a wider regulatory bill based on the Law Commission Bill.
 - 3 For this reason, the Council authorised the Executive to explore interim measures to mitigate where possible the key risks to public protection in the current arrangements and to develop proposals accordingly.
 - 4 The Committee will also receive an oral update at the meeting on 29 April 2015 on wider developments in this area, including the publication of the Kirkup report, from members of the NMC Executive.

Discussion and options appraisal:

Scope

- 5 We have explored options for how we could amend the standards and guidance that support the Midwives Rules 2012² to mitigate risks associated with regulatory decisions and action being taken without the oversight and control of the regulator. These are the conduct of investigations by LSAs (Local Supervising Authorities) and the imposition of sanctions in response to investigations by LSAs.
- 6 The current arrangements for midwifery supervision are provided for in our Order and Rules, and we cannot change those without legislation change. We can change the standards and guidance that sit below the Rules and that is what we propose to do in the short term. However, we cannot make changes to the standards and guidance that fundamentally undermine the intention of the Rule below which they sit.
- 7 Our proposed amendments aim to channel concerns about a midwife's fitness to practise, that meet the relevant threshold, through our fitness to practise process. We propose to achieve this by making revisions to the standards and guidance that accompany Rules 9, 10 and 14 of the Midwives Rules 2012.

² <http://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/midwives-rules-and-standards-plain-final.pdf>

Our proposals for changes to the midwives standards and guidance

- 8 The ways we propose to mitigate concerns identified above are set out in our draft consultation document (attached as **Annexe 1**). In summary, these are:
- 8.1 To require LSAs to keep a record of any incident, complaint or concern about midwifery practice or an individual midwife in the LSA's area of responsibility.
 - 8.2 To require the LSA to ensure that all matters that may equate to an allegation of impaired fitness to practise are referred to the NMC immediately, who will be responsible for regulatory investigation and any appropriate sanction.
 - 8.3 To require a LSA to consult with the NMC at least 48 hours before they plan to suspend a midwife.
- 9 External legal advice has confirmed that these proposals are sound. Our consultation sets out other approaches considered, in line with good practice on policy development and consultations.

Expected outcomes

- 10 The net result of these proposals will be to give the NMC greater control of regulatory investigation and sanction, and in doing so create clearer separation between regulatory and supervisory actions. Our consultation has no bearing on the existing wider supervisory role, which would continue in its current form pending future legislative change and any new non-statutory framework for supervision.
- 11 These are interim measures targeted on mitigating risk and do not fulfil the range of outcomes implicit in the Council's call for more comprehensive legislative change.

Next steps

- 12 We propose to run a 12 week public consultation after the general election with the intention of taking stock and bringing recommendations to Council, provisionally in October 2015.
- 13 **Recommendation: The Committee is invited to review our proposals for interim amendments to midwives standards and guidance, and considers whether it wishes to provide any advice to Council on this matter.**

Public protection implications:

- 14 These are set out in Annexe 1.

- Resource implications:** 15 An initial impact assessment has been undertaken; should the Council agree to consult on our proposals, consultation responses would be reviewed and used to inform and revise the impact assessment.
- 16 Our initial assessment shows a largely negligible impact on the NMC and stakeholders in terms of cost and administrative burden, with the exception of an FtP referral rate increase. An increased referral rate of an estimated 600 allegations per year (in 2012-13 the LSA's collectively undertook c. 640 investigations³ into the fitness to practise of midwives) could result in an additional 228 full hearings at a cost to the NMC of approximately £300,000 per year. Each full hearing currently costs the NMC an average of c.£13,000.
- Equality and diversity implications:** 17 An initial equality impact assessment has been undertaken; should the Council agree to consult on our proposals, consultation responses would be reviewed and used to inform and revise the equality impact assessment. We believe that the proposals are objectively justified and proportionate to achieve the legitimate aim of enabling us to protect the public by taking appropriate regulatory action.
- Stakeholder engagement:** 18 A stakeholder assessment matrix and communication plan have been drafted for the consultation to identify key stakeholders and appropriate means to engage with them for their feedback.
- Risk implications:** 19 Risks identified include an increase in fitness to practise referrals, which features in our risk assessment, and reputational risks associated with failing to act in response to identified risks. Our proposals should help to mitigate current core risks around public protection that exist within the existing framework.
- Legal implications:** 20 Our proposals do not involve legislative change and do not undermine the case for legislative change. They have been reviewed by external lawyers.

³ Chart 4, Page 45 - <http://www.nmc-uk.org/Documents/Midwifery-LSA-reports/LSA%20report%2029%20Nov.pdf>

DRAFT - Consultation on
proposed changes to the
midwives standards and
guidance

June 2015

Consultation on proposed changes to the midwives standards and guidance

Who we are and what we do

- 1 The Nursing and Midwifery Council (NMC) is the professional regulator for nurses and midwives in the UK. We exist to protect the public. We do this by holding and controlling access to the register of qualified nurses and midwives and setting standards of education, training, conduct and performance for nurses and midwives. If an allegation is made that a registered nurse or midwife is not fit to practise, we also have a duty to investigate that allegation and, where necessary, take action to protect the public.

Aims of this consultation

- 2 We are proposing to amend the standards and guidance in our publication '*Midwives rules and standards 2012*'¹, so that we are in more direct control of the regulation of midwives. These will be interim changes while we wait for wider legislative change. The proposals aim to reduce the risk to public protection in the midwifery regulation framework arising from an overlap between our role, and that of supervisors of midwives, when investigating and responding to serious concerns about practice. We propose to make targeted changes to ensure that any concerns about midwives, that meet our threshold for looking at their fitness to practise, are always investigated by us.
- 3 We are seeking views on our proposed changes to ensure they will achieve this aim.

Context and the case for change

- 4 In late 2013, the Parliamentary Health Service Ombudsman for England published a thematic report entitled '*Midwifery supervision and regulation: recommendations for change*'². This came in response to the insight the Ombudsman gained into midwifery regulation from investigating failings at Morecambe Bay University Hospitals NHS Foundation Trust. In response we commissioned the King's Fund to undertake an independent review of midwifery regulation and make recommendations for the future³.
- 5 The King's Fund review concluded that it was inappropriate for supervision, much of which is supportive and developmental in nature, to be linked to regulation. It agreed with the Ombudsman that investigating allegations of serious poor practice and taking regulatory action in response were matters that should be reserved for the regulator.

¹ <http://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/midwives-rules-and-standards-plain-final.pdf>

² http://www.ombudsman.org.uk/_data/assets/pdf_file/0003/23484/Midwifery-supervision-and-regulation-recommendations-for-change.pdf

³ <http://www.nmc.org.uk/globalassets/sitedocuments/councilpapersanddocuments/council-2015/nmc1506-item-6---review-of-midwifery-regulation.pdf>

Consultation on proposed changes to the midwives standards and guidance

- 6 The King's Fund recommended that the unique layer of midwifery regulation in our legislation⁴ is removed. In January 2015 our Council agreed with this recommendation and called on the Department of Health to secure the legislative change that will be required to deliver it. This will take time and is being pursued separately. We are also working with Chief Nursing Officers and other stakeholders to explore future arrangements for midwifery supervision outside our legislation. However, current arrangements will continue until legislative change can be delivered.
- 7 Under the current arrangements, regulatory investigation and sanction of midwives who have had concerns raised about them can be carried out by the Local Supervising Authorities (LSAs) and supervisors, beyond the direct control of the NMC. This may result in confusion or delay, and means cases can be decided outside our procedures which include, for example, lay involvement in the oversight of professionals.
- 8 We cannot remove the extra layer of regulation or supervision without legislative change. However, we can go some way towards addressing this weakness in public protection by changing the standards and guidance which set out how our legislation should be complied with. This will allow us to make some improvements to our control of regulatory investigation and sanction of midwives. It is these proposed changes to our standards and guidance that are the subject of this consultation.
- 9 For further information on how our current midwifery regulation framework works, please see our factsheet on midwifery⁵, the '*Midwives rules and standards 2012*', and other supporting information set out on our consultation web page before responding to this consultation.

Our proposals for change

Requiring referrals to the NMC

- 10 Currently, the standards and guidance under the Midwives Rules 2012 allow for concerns over a midwife's fitness to practise to be investigated by the LSA. This investigation may result in no action, a locally imposed response or a referral to the NMC. The LSA can also impose sanctions on midwives within its own geographical area. This potentially duplicates our Fitness to Practise process, means regulatory investigation takes place beyond our direct control, and means that we may not be informed of all concerns that we should be.
- 11 Our Fitness to Practise data suggests that the concerns that are ultimately referred to us via this route are no more or less likely to result in us taking regulatory action. This suggests this duplicate process has not been of notable benefit to public protection. Events at Morecambe Bay, and then in Guernsey⁶, have

⁴ Part VIII of the Nursing and Midwifery Order 2001 (as amended), and the Nursing and Midwifery Council (Midwives) Rules Order of Council 2012 (as amended); The Nursing and Midwifery Council (Midwives) Rules Order of Council 2012 - <http://www.nmc.org.uk/about-us/our-legal-framework/our-order-and-rules/>

⁵ <http://www.nmc.org.uk/globalassets/sitedocuments/factsheets/nmc-factsheet--supervision-of-midwives.pdf>

⁶ <http://www.nmc.org.uk/about-us/policy/position-statements/midwifery-in-guernsey/>

Consultation on proposed changes to the midwives standards and guidance

highlighted significant risks associated with poor local action and a lack of independent investigation in response to failings in midwifery care over which we, as the regulator, can have little influence.

- 12 We propose to specify an additional requirement that an LSA must keep a record of any incident, complaint or concern about midwifery practice or an individual midwife in the LSA's area of responsibility. The record should show the person(s) involved, the allegation, the action taken and the rationale for the action taken. This would require the LSA to work with midwives and their employers. We propose that the NMC would be able to request sight of those records at any time, which must be provided without delay.
- 13 Where a concern may, on the face of it, equate to an allegation of impaired fitness to practise⁷, we propose that it is the LSA's responsibility to ensure that the concern must be referred to the NMC without delay. Any representations received which relate to a concern that has been referred to the NMC must also be passed on to us without delay. We would be responsible for investigating the concern and applying our Fitness to Practise process.
- 14 These proposals would be achieved by making the following changes to standards and guidance⁸ (please also see annex B):
 - amending standard 1.5 of the existing standards for Rule 9⁹ to remove the requirement for a supervisor to assess a midwife's suitability to maintain registration;
 - retaining standard 1 of the existing standards for Rule 10¹⁰;
 - replacing the remaining standards and guidance for Rule 10 with the above proposal as a new set of standards, which must be published as the LSAs procedure; and,
 - moving the guidance on LSA practice programmes from under Rule 10 to sit under rule 9. This is not to be removed as it is out of scope for the aim set out above and we believe it would sit better under Rule 9.
- 15 These are targeted and proportionate proposals that address the most risky aspects of the current regulatory arrangements: regulatory investigations and sanctions carried out without our oversight. The expected result is to channel concerns that appear to meet our thresholds for referral through our Fitness to Practise process. We expect to see more parity between how concerns over the professionals we regulate are dealt with and that there will be less scope for cases to go unnoticed by the NMC. The public should therefore be better protected whilst legislative change is progressed.

⁷ As defined in Articles 21 and 22 of the Nursing and Midwifery Order 2001 (as amended) - <http://www.nmc.org.uk/about-us/our-legal-framework/our-order-and-rules/>. Further information on raising concerns can be found in our publication '*Raising Concerns*'

<http://www.nmc.org.uk/standards/guidance/raising-concerns-guidance-for-nurses-and-midwives/> and information on the grounds for impairment include non-compliance with the Code <http://www.nmc.org.uk/standards/code/>

⁸ <http://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/midwives-rules-and-standards-plain-final.pdf>

⁹ Rule 9 – LSA responsibilities for the supervision of midwives

¹⁰ Rule 10 – Publication of LSA procedures

Consultation on proposed changes to the midwives standards and guidance

Other options considered:

- 16 The other options that we considered and felt were not appropriate were to do nothing until legislative change was secured, or to remove all of the current standards and guidance.
- 17 Waiting for legislative change before taking action would mean we will be continuing to use a regulatory framework for at least the next 18 months that has been identified as bearing public protection risks. It could lend itself to potential repeats of events in Morecambe Bay, such as in Guernsey. Doing nothing is therefore not a viable option in terms of public protection. Alternatively, simply removing all of the standards and guidance would mean the LSA would effectively be free to interpret their obligations under legislation. This would likely lead to confusion, inconsistency, and a further lack of control by the NMC. This would arguably increase public protection risks. Removing all of the standards and guidance is therefore not a viable option.

LSA suspension of midwives

- 18 Currently, the standards and guidance under the Midwives Rules 2012 allow for an LSA to suspend a midwife from practice following an investigation that is outside our direct control (as set out above). This has the potential to lead to cases where sanctions are unaligned between the NMC and LSA. No other area of professional healthcare regulation allows regulatory sanction to be taken against registrants without any lay oversight. In addition, any LSA suspension will only be applicable in the LSA's area of responsibility, whilst NMC sanctions apply across the UK.
- 19 We cannot remove the LSA's power to suspend a midwife from practise through changes to standards and guidance because it is provided for in legislation. We propose to require the LSA to consult with us at least 48 hours before they plan to suspend a midwife. This would still allow the LSA the legal power to suspend specified in legislation, but when combined with the proposals set out above would, in practice, limit the ability to do so to exceptional circumstances. The ability of the LSA to suspend a midwife hinges on the ability to undertake investigations, consider representations and prepare to refer an allegation of impaired fitness to practise to the NMC. It is therefore intended as an interim measure until we take control of the case.
- 20 Under the proposals above, the majority of allegations would already be with the NMC for investigation and any appropriate regulatory action. Where this was not the case, we may, under this proposal, regard the consultation with the LSA on the suspension of a midwife as a referral. This would ensure we are in control of regulatory investigation and sanction, but allow the LSA to suspend in exceptional circumstances.

Consultation on proposed changes to the midwives standards and guidance

- 21 These proposals would be achieved by making the following changes to standards and guidance¹¹ (please also see annex B):
- Replacing the current standards that support Rule 14¹² with a requirement for the LSA to consult with the NMC at least 48 hours before they plan to suspend a midwife.
- 22 By implementing this proposal, the LSA would retain the power to suspend a midwife, but in practice would rarely have the opportunity to exercise it. We would increase our control of regulatory investigations and sanctions, helping to mitigate core concerns within the existing approach and therefore better protect the public.

Other options considered:

- 23 The other options that we considered and felt were not appropriate were to do nothing until legislative change was secured, remove all of the current standards, require the LSA to seek the NMC's approval to suspend a midwife, or require that suspension of a midwife by an LSA must be in line with any regulatory action we take.
- 24 Taking no action or removing all of the existing standards would be undesirable for the same reasons as set out above. We believe that the other options may be unlawful as our legislation allows a specific power for the LSA to suspend which would be frustrated by being required to gain our approval or to be aligned with our action.

Conclusion

- 25 In summary, we propose to introduce requirements in the standards and guidance that support the Midwives Rules 2012 to ensure that matters that may equate to an allegation of impaired fitness to practise are referred to the NMC immediately for investigation. We propose to require an LSA to consult with us prior to exercising their power to suspend a midwife. The net result of these proposals will be to channel concerns about a midwife's fitness to practise through our Fitness to Practise process. This would place us in more direct control of regulatory investigations and sanctions by ensuring concerns are identified, independently assessed and that appropriate action is taken where necessary. These interim measures do not address the wider need for reform but they mitigate the principle public protection risks inherent in the current framework until legislative change can be delivered.

Next steps and how to respond

- 26 This consultation will run from **xxxx** until midday on **xxxx**.
- 27 To respond, please read the consultation document and supporting information set out on our consultations web page¹³ in full, and then **complete our online survey** by following this link: **xxxx**

¹¹ <http://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/midwives-rules-and-standards-plain-final.pdf>

¹² Rule 14 – Suspension from practice by a local supervising authority

Consultation on proposed changes to the midwives standards and guidance

- | 28 Alternatively, you may e-mail us your response using the [template found on our website](#) if you would prefer: consultations@nmc-uk.org
- 29 We will assess your responses to help inform our final proposal. We will then present this to our Council for a decision later in the year. Subject to the consultation, your responses and Council approval, we aim to introduce the changes to midwives standards and guidance by the end of 2015.

Comment [CS1]: Hyperlink when page is done

DRAFT

¹³ [insert link here when the page is built](#)

Consultation on proposed changes to the midwives standards and guidance

Annex A: Consultation questions

To be inserted.

Annex B: proposed amendments to the midwives standards and guidance contained in 'Midwives Rules and Standards 2012'

To be inserted.

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Midwifery Committee

Review of pre-registration standards for midwifery education

Action: For discussion.

Issue: The paper is designed to facilitate a discussion and get feedback on the Standards for pre-registration midwifery education and specific aspects of the Standards to support learning and assessment in practice.

Core regulatory function: Education / setting standards.

Strategic priority: Strategic priority 1: Effective regulation.

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 or the director named below.

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- Context:**
- 1 The current standards for pre-registration midwifery education were introduced in September 2009 after replacing the 2004 version. These were drafted following an extensive two part consultation with wide ranging stakeholder groups.
 - 2 We are currently working to a five-year cycle of review¹ for our standards so that they remain up to date, relevant and reflect not only the current law but also current thinking in nursing and midwifery. We retain a flexible approach in standards development to be agile and responsive to legislative changes or any public inquiry reports that impact our work as a regulator.
 - 3 In March 2015, the Council agreed to a review of the Standards for pre-registration midwifery education (SPME) in 2015-16 as part of the standards development programme.²
 - 4 We are currently evaluating our pre-registration education standards and the pre-registration components of the Standards to support learning and assessment in practice (SLAiP, 2008), as part of our formal response to the Francis report recommendations. The findings from this evaluation will contribute to the evidence for a review of the Standards for pre-registration midwifery education.
 - 5 This paper sets out the context for the upcoming review of the Standards for pre-registration midwifery education with the aim of generating discussion and early inputs for the scoping of this project.
- Discussion:**
- 6 Some important points to consider about the current standards:
 - 6.1 The focus on normal birth which determines the scope of practice experience midwifery students receive and how it drives the competence achievement (technical and soft skills).
 - 6.2 The split between theory and practice components and how these work together for ensuring that students are fit for autonomous practice at the point of registration.
 - 6.3 The significance for practice placements in ensuring that students have adequate exposure to wide ranging issues/contexts in midwifery (post natal care, antenatal and postnatal care including maternal mental health).
 - 6.4 Mentorship in midwifery and how it is delivered in comparison to nursing mentorship and the factors that influence mentorship.

¹ On the basis of the methodology for the development of standards (Trim 2556001) and the standards evaluation methodology (Trim 2559455) that set out the principles for the review and evaluation of our standards.

² NMC Council meeting papers (March 2015)

<http://www.nmc.org.uk/globalassets/sitedocuments/councilpapersanddocuments/council-2015/council-pdf-20150325-final.pdf>

- 6.5 Preparedness for midwifery practice and meeting the expectations of employers as well as what women and their families expect from the midwife.
 - 6.6 Preceptorship and the role it plays in the transition from being a student to a professional midwife.
 - 6.7 Role of service users in the delivery of midwifery education and how it is distinct to the role of service users in nursing education.
 - 6.8 The language, tone, vocabulary, clarity of the standards (SPME, SLAiP) and the role they play in ensuring midwifery education is consistent and effective across the four countries.
 - 6.9 The need to ensure that the standards are aligned to the EU directives and competencies as well as any relevant UK legislation.
- 7 With the introduction of revalidation for midwives and nurses in October 2015 there will be a greater emphasis on professionalism and the need for keeping user/patient needs at the core of all practice and learning.
 - 8 The standards need to be aligned to MRPQ – EU Directives.
 - 9 Since the time the SPME were drafted in 2009, and the SLAiP in 2008, there have been a number of changes in healthcare in general, including some specific issues related to midwifery in the UK.
 - 10 There were a number of high profile reports in 2013-2014 that have an impact on midwifery regulation and delivery of midwifery care. The recommendations from these reports are important to consider when we review the standards:
 - 10.1 Francis report (Feb 2013)
 - 10.2 Guernsey extraordinary review (Oct 2014)
 - 10.3 King's fund review of midwifery regulation (Jan 2015)
 - 10.4 NICE safe staffing guidelines for maternity (Feb 2015)
 - 10.5 Kirkup report (March 2015)
 - 11 Other factors that are equally important:
 - 11.1 The emphasis on normality and its interplay with patient safety and medico ethical issues
 - 11.2 Changing demographics have meant that mothers today are older, often with pre-existing health conditions such as obesity

or diabetes. The socio-cultural context of midwifery has also changed with a diverse ethnic population in UK.

- 11.3 The role of the midwife and the student midwife as a competent member of a multi-agency, inter-professional team. The expectation of role flexibility and agility and what that means for being a midwife/student midwife.
- 11.4 Preparing for a midwifery workforce to be able to manage the current and future needs and expectations of a changing population.
- 11.5 The delivery of care and the need for integrated services against the financial challenges facing the NHS and how these will be managed politically following the upcoming elections.

Public protection implications:

- 12 The standards for pre-registration midwifery education have a crucial role to play in ensuring appropriate entry to the midwifery profession. Therefore the standards can potentially impact not just current issues in the midwifery profession but future midwifery care as well.

Resource implications:

- 13 Review of the SPME standards has been included in business planning for 2015-16 and it is one of the key priorities for the Continued Practice directorate. The costs for undertaking this review within this timeframe have therefore been budgeted for.

Equality and diversity implications:

- 14 We are committed to the public sector equality duty in this project as in all our work. The review will need to include an analysis of the effect on equality. We will also encourage and facilitate participation from all individuals and groups who wish to contribute to this review. Where relevant there will be provisions made for Welsh versions of any documentation for stakeholders, as needed.

Stakeholder engagement:

- 15 All standards review projects are subject to public consultation and engagement with key stakeholders across all four nations of UK. The current discussion forms a part of this early engagement with the Midwifery Committee which is a high priority stakeholder group for this project. We will keep all our stakeholders informed and engage with them at key points of the review.

Risk implications:

- 16 The review of standards for pre-registration midwifery education is a high priority for the NMC in 2015-16 therefore it is important that we deliver it effectively. This project has potential implications for NMC's reputation and role in public protection.

Legal implications:

- 17 The review of the standards for pre-registration midwifery education would need to be conducted to ensure that the standards accurately reflect all relevant UK and EU legislation.

Midwifery Committee

Objectives for the Midwifery Committee

Action: For discussion.

Issue: The Committee is invited to endorse draft objectives for the Committee.

Core regulatory function: Education / Setting standards / Supporting functions.

Strategic priorities: This paper relates to all strategic priorities.

Decision required: The Committee is invited to endorse the draft objectives for the Committee (as attached at annexe 1).

Annexes: The following annexe is attached to this paper

- Annexe 1: (Draft) Midwifery Committee objectives

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

Secretary: Paul Johnston
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Context: 1 Members of the Midwifery Committee have asked that short-term and longer term objectives be designed for the Committee; and an initial discussion was held by the Committee on those objectives at the meeting on 25 February 2015.

Discussion and options appraisal:

(Draft) Committee objectives

- 2 The objectives, in their extant iteration, were broadly welcomed by the Committee in February 2015. The objectives were considered to be useful both in terms of determining the Committee's priorities and future business, in terms of the information requirements of the Committee, and in providing evidence of the important role that the Committee played.
- 3 The Committee agreed that it would consider, for endorsement, revised objectives at the April 2015 meeting to take into account internal and external interdependencies, resourcing requirements and risks to achieving those objectives.
- 4 The (draft) Committee objectives have therefore been revised in accordance with the Committee's points and are attached for discussion at **annexe 1**.
- 5 The Committee also agreed at its February 2015 meeting to consider the risks relating to midwifery and maternity services that fall within the NMC's remit, with some wider consideration of the wider system risks. This discussion is scheduled for the June 2015 Committee meeting.
- 6 It is important however to emphasise that the revised objectives presented to this meeting reflect that risks relating to the successful delivery of the Committee's objectives, and the current and proposed mitigating actions to those risks, are largely already reflected within the NMC corporate risk register.
- 7 Should the Committee endorse the draft objectives as currently framed, these will in turn play an important part in shaping future agenda and future reporting content.
- 8 In terms of assessing performance against the objectives, this would ordinarily be ascertained primarily through the annual Committee effectiveness review. The objectives can also be embedded within the annual appraisal process for members through assessing each member's contribution to meeting the objectives.
- 9 It is also proposed that objectives be reviewed and, if required, refreshed periodically as the internal and external strategic context evolves.
- 10 **Recommendation: The Committee is invited to endorse the draft objectives for the Committee (as attached at annexe 1).**

Public protection implications:	11	There are no direct public protection implications from this paper but clearly the objectives are designed to directly or indirectly enhance the Midwifery Committee's, and the NMC's role in ensuring public protection.
Resource implications:	12	No resource implications arising directly from this paper. The objectives take into account current strategic priorities, which are to be supported with existing staffing and financial resources.
Equality and diversity implications:	13	There are no equality and diversity implications arising directly from this paper.
Stakeholder engagement:	14	The paper, and objectives, detail proposals in respect of engagement between the Midwifery Committee and external stakeholders.
Risk implications:	15	Risk implications, and current and planned mitigating actions to risks, are considered within Annexe 1 .
Legal implications:	16	There are no legal implications arising directly from this paper.

