

Meeting of the Midwifery Committee

To be held at 09:00 on Tuesday 29 April 2014
at 1 Portland Place, London W1B 1PN

The meeting will be held from 9:00 to 11:30 and will be followed at 12:00 by a seminar on the context of supervision of midwives in England and an update from Health Education England.

Agenda

Dr Anne Wright
Chair of the Midwifery Committee

David Gordon
Secretary to the Committee

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| 1. | Welcome and Chair's initial statement | M/14/17 |
| 2. | Apologies for absence | M/14/18 |
| 3. | Declarations of interest | M/14/19 |
| 4. | Minutes of the previous meetings

Chair of the Committee | M/14/20 |
| 5. | Matters arising

Secretary | M/14/21 |

Strategy and policy

- | | | |
|----|---|--------------------------------------|
| 6. | Midwifery regulation review

Assistant Director, Strategy and Communications | M/14/22 |
| 7. | NMC Strategy

Director of Continued Practice | M/14/23

<i>(Presentation)</i> |

Quality Assurance of Local Supervising Authorities

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| 8. | Quarterly quality monitoring report of the LSAs

Assistant Director, Education and Quality Assurance | M/14/24 |
| 9. | Managing risk and overview of LSA QA review visits

Assistant Director, Education and Quality Assurance | M/14/25

<i>(Presentation)</i> |

Standards development

10. **Guidance for midwives: 'Duty of care; understanding the implications for midwives'** M/14/26

Assistant Director, Education and Quality Assurance

Business planning

11. **Committee work plan update** M/14/27

Secretary to the Committee

12. **Any other business** M/14/28

The next meeting of the Midwifery Committee is scheduled to be held on Wednesday 25 June 2014 at 9.30 in Glasgow.

Meeting of the Midwifery Committee
held at 09:30 on 26 February 2014
at 21 Portland Place, London W1B 1PY

Minutes

Present

Members:

Anne Wright	Chair
Pradeep Agrawal	Member
Kirsty Darwent	Member
Patricia Gillen	Member
Ann Holmes	Member
Marie McDonald	Member
Lorna Tinsley	Member

Officers:

Jackie Smith	Chief Executive and Registrar (present until M/14/11)
Katerina Kolyva	Director of Continued Practice
Alison Sansome	Director of Registration
Emma Westcott	Assistant Director, Strategy and Communications (present until M/14/11)
Chris Bell	Standards Development Officer (present from M/14/11)
Karen Dignan	Business Analyst, Revalidation (present from M/14/11)
Jerome Rampersad	Standards Compliance Officer (present from M/14/11)
David Gordon	Council Services Officer (minutes)

Observers:

Zoe Boreland	DHSSPS (NI)
Louise Silvertown	Royal College of Midwives
Verena Wallace	Local Supervising Authority Midwifery Officer (LSAMO)

The meeting started at 9:32

Minutes

M/14/05 Welcome and Chair's initial statement

1. The Chair welcomed Pradeep Agrawal and Patricia Gillen to their first meeting of the Midwifery Committee. The induction event had proved very useful, and the Committee wished to thank the Continued Practice directorate for organising this. Similar events

would be organised, with registration to be the focus of April's induction.

2. The meeting would be followed by a seminar on midwifery in Wales. All four nations would be covered in 2014. All members were also reminded that one to one meetings with the Chair would take place. , Verena Wallace would also be continuing her work as LSAMO chair.

Action:	Co-ordinate an induction activity for members of the Midwifery Committee involving the Registration directorate
For:	Secretary
By:	29 April 2014

M/14/06 Apologies for absence

1. Frances McCartney gave her apologies.

M/14/07 Declarations of interest

1. No declarations were given in relation to the items on the agenda.

M/14/08 Minutes of the previous meetings

1. The minutes of the previous meetings were approved, subject to the following amendments:
 - (a) Minute M/13/48 to be amended from 'LSA Monitoring Officer' to 'LSA Midwifery Officer'.
 - (b) Minute M/13/53 to be amended from 'intention to practise programmes' to 'intention to practise processes'.
 - (c) The minutes of the teleconference on 10 January 2014 to reflect the fact that the two members who gave their apologies submitted comments by email prior to the teleconference.

M/14/09 Matters arising

1. In discussion, the following updates were given:
 - (a) The NMC had now published guidance on indemnity insurance including a statement on 'Good Samaritan' acts. This would be circulated to members.
 - (b) The research tender had been affected by the recent report from the Parliamentary and Health Service Ombudsman (PHSO).

- (c) Return to practise would be considered under phase two of revalidation.
- (d) Conscientious objection was a matter which was now going through an appeals process with the European Union. An update would be given when appropriate.

Action: Circulate the NMC guidance on professional indemnity insurance to members of the Midwifery Committee
For: Secretary
By: 27 February 2014

M/14/10 Review of midwifery regulation

1. The Committee had made recommendations to the Council based on discussions in a teleconference on 10 January 2014. The Council discussed these on 29 January 2014 and agreed to commission an independent review.

The review would be independent and would report to the Council. The terms of reference would be negotiated with the partners set out in the PHSO report, with the addition of UK-wide partners.

2. In discussion, the following points were noted:
 - (a) The two phases of the review may possibly be completed by the same Chair. However, the Chair may also take a view on the separation of the two issues. The Council expressed the desirability of a staged approach; this would need to be discussed with any prospective provider.
3.
 - (b) The views of stakeholders would need to be incorporated within the review, bearing in mind that any changes to the current model of midwifery regulation would also need to be the subject of an NMC consultation.
 - (c) The Department of Health (DH), NHS England and the Professional Standards Authority (PSA) would be consulted for the review. The four nation governmental and NHS bodies would also be involved.
 - (d) The NMC was also contributing to the Kirkup Investigation, the parliamentary investigation into Morecambe Bay (commissioned by DH). A further publication by PHSO on Morecambe Bay was also imminent.

The role of the Midwifery Committee would be to advise and support the Council throughout the review process.

Action:	Provide the members of the Midwifery Committee with a copy of the terms of reference of the review
For:	Assistant Director, Strategy and Communications
By:	As appropriate

M/14/11 Revalidation and code consultation

1. The presentation to the Committee highlighted the level of stakeholder engagement. This covered all four UK nations and also all employers, including the NHS, private healthcare and the independent sector. Reference and advisory groups had been established, and patient and public representatives were also fully included.
2. The Council discussed an options analysis in September 2013 and decided to adopt an approach based on self-confirmation. This would be informed by third party input and random compliance audits.
3. The following stakeholder advisory groups had been established:
 - Revalidation Strategic Advisory Group
 - Task and Finish Group
 - Employer Reference Group
 - Communication Reference Group
4. A series of stakeholder summits had also been organised across the UK, and the omnibus survey for the public would involve 1,000 participants. In total, the NMC had received 4,316 responses on revalidation by the end of week seven of the consultation period.
5. The NMC was undertaking intensive work on assessing the potential impact on the system. Where possible, work would be integrated with the existing appraisal system. The NMC would offer flexibility in the new system.
6. In discussion, the following points were noted:
 - (a) The Registration directorate was working on improving supporting guidance on 'Good Health Good Character' for registrants. This would be completed in time for the launch of revalidation.
 - (b) The definition of the 450 hours of 'practice' was being considered. Areas such as education, policy and management were being assessed for inclusion in the definition. There was an issue regarding registrants who had dual registration but were not active in one of the areas for which they were registered. This matter would need particular consideration in

defining the scope of practice.

- (c) Online systems were to be used for revalidation. A small group was being used to test the ICT infrastructure. However, the levels of competence and confidence of registrants in using ICT would be an issue for consideration.
- (d) Return to practise would be part of revalidation, with a clear threshold for the acceptable level of competencies. Provision would be made for those whose registration had lapsed to return to the register. This would be a competency based assessment.
- (e) Whilst midwives had supervisors as an obvious reviewer, the situation was often less clear for nurses. Knowledge of the work area of the nurse and direct accountability would be required for any reviewers of nurses.
- (f) In addition, direct entry midwives were taking on roles which had not originally been envisaged (e.g. work at in vitro fertilisation clinics) and this required some work for revalidation.

Action:	Respond to members of the Midwifery Committee on return to practice, definition of practice and SCPHN issue
For:	Assistant Director, Revalidation and Standards
By:	29 April 2014

M/14/12 Standards development work plan 2014 – 2017

1. The report set out the NMC's work on standards development for the next three years. The draft business plan had not yet been approved by the Council, but work had already started in the following areas:

- A revised version of The Code.
- New guidance on the duty of candour.
- New standards on medicine management and prescribing.
- A review of all pre- and post-registration education standards.
- A review of other current post-registration standards.

This work was being taken on by a team within the NMC, except the last two points which were being managed by an external provider. The Midwifery Committee would help in this work and would receive drafts when available. In particular, the articulation of risk and their rationale would be discussed as the PSA had expressed an interest in this.

2. In discussion, the following points were noted:

- (a) The issue of 'Good Character' had numerous sensitivities and complexities, especially after the Francis Review. Clarification on the base line at the point of registration could be of assistance, whilst advice to students on the matter was being given.
- (b) The Code contained guidance on confidentiality. However, issues regarding illegal acts, data sharing and the need for patient safety to take priority over confidentiality also needed incorporation. The need for students to evidence their work whilst maintaining confidentiality was also an area to be considered.
- (c) The Quality and Legislation teams were involved in the work, with advice sought elsewhere as necessary. The Fitness to Practise directorate was also engaged in the process.

M/14/13

Midwifery risk register

1. The Council received the risk register as a standing item. The register presented to the Committee at this meeting was more granular and reflected midwifery. Feedback from the LMEs and LSAMOs highlighted the need to consider risks that covered the role of midwives, and the register presented at this meeting was the first attempt to resolve this. In particular, the Committee's input on ownership for the risks was sought.
- In discussion, the following points were noted:
2.
 - (a) As not all risks would be directly applicable to the NMC, a further column indicating implications for the NMC would be useful. Overall, the role of the NMC should be clearly indicated in the risk register.
 - (b) Risks relating to neo-natal care should come to the Midwifery Committee. The relevant issue was direct entry to the register, rather than dual entry. The risks involving registrants who work as health visitors or in similar roles, and therefore see their competencies in midwifery lapse over time, may also require consideration.
 - (c) The risks relating to midwifery education, with many lecturers not qualified as teachers and student / lecturer ratios being high, were also in need of discussion.
 - (d) Risk LSA 1 (insufficient resources and budgets): this was not a risk for the NMC, as risks needed to apply to all four nations

to be the regulator's responsibility. This matter would be picked up with the relevant legislator.

- (e) Risk LSA 2 (Effectiveness of Intention to Practise): this may need to be put on the risk register, but would need to be in a very different form to reflect the NMC's regulatory position.
- (f) Risk LSA 3 (revalidation): this risk belonged with the NMC and was applicable to all four nations. The NMC also needed to discuss the recruitment of midwives as health visitors with Health Education England and DH.
- (g) Risk LME 1 (standards for education): this was already present on the corporate risk register. March 2014 would see discussions between LSAMOs and the NMC which should provide guidance on unexpected situations and link these with revalidation.
- (h) Risk LME 2 (Educational workforce planning): this only applied to England, and therefore should be raised in the same manner as LSA 1.
- (i) Risk LME 3 (Quality assurance of the practice learning environment): this risk belonged with the NMC and needed to be treated accordingly.
- (j) Risk LME 4 (Management of the midwifery student journey): this only applied to England, and therefore should be raised in the same manner as LSA 1.

Members also noted that Susan Aikenhead is leading on the quality of placements for Health Education England .

Action:	Include midwifery risk register on the next agenda of the Midwifery Committee
For:	Secretary
By:	29 April 2014

M/14/14 Education Advisory Group

1. The NMC had established policy and strategy groups under the 2013 governance review. The Education Advisory Group was one of these bodies and would hold six meetings in 2014. The first had taken place on 9 January 2014.
2. Its membership was smaller than the Revalidation Strategic Advisory Group, and included all four nations, Council members, members of

the Patient and Public Forum, the Council of Deans and students. Its focus would be the strategic context of education and the delivery of the Council's education strategy. It was also likely that task and finish groups and reference groups would be commissioned to support its work.

Action: Circulate the minutes of the last Education Advisory Group meeting to the Committee and include on the next agenda of the Midwifery Committee

For: Secretary

By: 29 April 2014

M/14/15 Quarterly quality monitoring report update for quarter 3 (October 2013 – December 2013)

1. The report highlighted the key issues, which were as follows:
 - Maintaining Supervisor of Midwives (SoM) ratios.
 - Awareness of preparation of SoM programme.
 - Supervisory investigation reporting lengths.
 - Awareness of concerns or investigations by any system regulator or serious reviews.
 - Midwives working as Specialist Community Public Health Nurses.

2. In discussion, the following points were noted:
 - (a) Members requested the data on the number of occasions on which either the midwife under investigation or the investigating officer was on sick leave.

 - (b) Members requested further analysis to support the view that full time SoM roles would prove beneficial to the system.

Action: Provide members of the Midwifery Committee with data on the number of occasions on which either the midwife under investigation or the investigating officer was on sick leave broken down per country and LSA

For: Standards Compliance Officer

By: 29 April 2014

Action: Provide members of the Midwifery Committee with further analysis to support the view that full time Supervisor of Midwives roles would prove beneficial to the system

For: Standards Compliance Officer

By: 29 April 2014

M/14/16 Committee work plan update

1. The next meeting of the Council would feature several key items, including a decision on fees for registrants. As a result, the Midwifery Committee would receive an update on this meeting of the Council. The Committee would also benefit from a demonstration of the reporting portal (provided by Mott) when it was ready.
2. The Chair of the Council would end his term of office on 31 December, and a new Chair was being sought by the NMC.

Action: Include 'Council update' on the agenda for the next meeting of the Midwifery Committee

For: Secretary

By: 29 April 2014

Action: Include a demonstration of the reporting portal in the agenda for a future meeting of the Midwifery Committee

For: Secretary

By: As appropriate

The date of the next meeting is to be 29 April 2014.

The meeting ended at 11:57.

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 26 February 2014.
- Core regulatory function:** Supporting functions.
- Corporate objectives:** Corporate objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."
- Decision required:** No decision is required by this report.
- 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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Item 5
M/14/21
29 April 2014

Summary of the actions arising out of the Midwifery Committee meeting on 26 February 2014

Minute	Action	For	Report back to: Date:	Progress
M/14/05	Co-ordinate an induction activity for members of the Midwifery Committee involving the Registration directorate.	Secretary	Midwifery Committee 29 April 2014	Due to amended schedule of day, not possible to organise event for this day. Possibilities involving 25 June 2014 meeting being explored.
M/14/09	Circulate the NMC guidance on professional indemnity insurance to members of the Midwifery Committee.	Secretary	Midwifery Committee 27 February 2014	Guidance circulated by email on 27 February 2014.
M/14/10	Provide the members of the Midwifery Committee with a copy of the terms of reference of the midwifery review.	Assistant Director, Strategy and Communications	Midwifery Committee As appropriate	An update on the midwifery review will be given as part of a paper on the 29 April meeting.
M/14/11	Respond to members of the Midwifery Committee on return to practice, definition of practice and SCPHN issue.	Assistant Director, Revalidation and Standards	Midwifery Committee 29 April 2014	A revised circular was issued on the SCPHN issue in April and has been circulated. A further update will be provided at the meeting.

Item 5
M/14/21
29 April 2014

Minute	Action	For	Report back to: Date:	Progress
M/14/13	Include midwifery risk register on the next agenda of the Midwifery Committee.	Secretary	Midwifery Committee 29 April 2014	Included on agenda as item M/14/26.
M/14/14	Circulate the minutes of the last Education Advisory Group meeting to the Committee and include on the next agenda of the Midwifery Committee.	Secretary	Midwifery Committee 29 April 2014	Minutes circulated by email on 26 March 2014.
M/14/15	Provide members of the Midwifery Committee with data on the number of occasions on which either the midwife under investigation or the investigating officer was on sick leave broken down per country and LSA.	Standards Compliance Officer	Midwifery Committee 29 April 2014	Data not held by the NMC.
M/14/15	Provide members of the Midwifery Committee with further analysis to support the view that full time Supervisor of Midwives roles would prove beneficial to the system.	Standards Compliance Officer	Midwifery Committee 29 April 2014	London LSA are currently evaluating this and have indicated that they will share this information once it becomes available
M/14/16	Include 'Council update' on the agenda for the next meeting of the Midwifery Committee.	Secretary	Midwifery Committee 29 April 2014	Update emailed to members 1 April 2014.

Item 5
M/14/21
29 April 2014

Minute	Action	For	Report back to: Date:	Progress
M/14/16	Include a demonstration of the reporting portal in the agenda for a future meeting of the Midwifery Committee.	Secretary	Midwifery Committee As appropriate	Officers will agree with the Chair of the Committee the most appropriate timing for this

Midwifery Committee

Midwifery regulation review

Action: For information.

Issue: This paper provides the draft terms of reference for the forthcoming review of midwifery regulation commissioned by Council at the end of January 2014.

Core regulatory function: Fitness to Practise, Registrations, Education, Standards.

Corporate objectives: Corporate objective 2: "We will set appropriate standards of education and practice and assure the quality of education programmes and the supervision of midwives so that we can be sure all those on our register are fit to practise as nurses and midwives."

Corporate objective 3: "We will take swift and fair action to deal with individuals whose integrity or ability to provide safe care is questioned, so that the public can have confidence in the quality and standards of care provided by nurses and midwives."

Decision required: None.

Annexes: The following annexe is attached to this paper :

Annexe 1: Draft terms of reference

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:

Background

- 1 The Midwifery Committee had the opportunity to advise the Council on its response to the December 2013 PHSO report *Midwifery supervision and regulation: recommendations for change*.
- 2 The Council agreed to an urgent review of midwifery regulation, to be carried out by a credible external provider, with the involvement of partners as set out in the PHSO report, and with the addition of UK wide involvement. The review is to have regard to the final recommendations of the PHSO and the wider concerns aired in the report by the Ombudsman and, at her invitation, by the PSA.
- 3 The Committee is aware that the NMC has been in discussion with the King's Fund about undertaking this work, and a detailed tender document has been developed. We have also produced some terms of reference for public consumption taking account of the widespread interest in the sector about the conduct of this work. This is attached as **annexe 1**.
- 4 The King's Fund is due to start work formally on 1 May 2014 and complete by the end of the year. There will be a staged report to Council after the King's Fund has completed its initial evidence review and first round of engagement.
- 5 The work will include targeted stakeholder engagement, but it will not involve a full public consultation, as carrying out such a consultation would fall to the NMC in the event of any changes being sought to our standards.
- 6 The Chair and Chief Executive have overseen the development of the draft terms of reference and they are being circulated to partner organisations and the Midwifery Committee for comment.

Public protection implications:

- 7 This work has arisen as a consequence of concerns raised by another regulator about whether an aspect of our regulatory framework is fit for the purpose of protecting the public.

Resource implications:

- 8 The costs of this commission are being finalised and more information should be available at the meeting.

Equality and diversity implications:

- 9 Under the Equality Act 2010, we have a requirement to analyse the effect of our policies and practices and how they further the equality aims.
- 10 The safety of mothers and babies is the starting point of the review and it will have regard to considerations of fairness and equity to

midwives whose fitness to practise is called into question.

- | | | |
|--------------------------------|----|---|
| Stakeholder engagement: | 11 | The terms of reference set out the extent of the targeted stakeholder engagement that will be carried out by the King's Fund, which will be supplemented by some focus group work to which the King's Fund will contribute. Any proposals to change our standards or legislation arising from this review will be the subject of an open public consultation. |
| Risk implications: | 12 | This commission addresses a risk that an aspect of our regulatory framework is not fit for the purpose of public protection. A further risk to be mitigated through partnership is securing any change to our legislation arising from this work. |
| Legal implications: | 13 | The NMC does not currently have the powers to change its regulatory framework and so Council can only identify the change it believes will best protect the public, it cannot bring that change into effect. |

DRAFT

Independent review of midwifery regulation

Terms of reference

Context

In 2013 the Parliamentary and Health Service Ombudsman (PHSO) in England investigated three cases arising from failures in maternity care at Morecambe Bay NHS Foundation Trust. She published her investigation reports in December 2013 along with a thematic report entitled *Midwifery supervision and regulation: recommendations for change*. During the course of her work on Morecambe Bay the Ombudsman explored the operation of the unique additional regulatory framework that pertains to midwifery¹, and had a number of concerns about that framework. She concluded:

I am deeply concerned that the regulations allow potential muddling of the supervisory and regulatory roles of midwives or even the possibility of a perceived conflict [of interest].

The report recommended two principles for the future model of midwifery regulation:

- That midwifery supervision and regulation should be separated.
- That the NMC should be in direct control of regulatory activity.

The PHSO gave the Professional Standards Authority (PSA) the chance to contribute its perspective and in addition to the concerns voiced by the Ombudsman, it added:

- Lack of evidence to suggest that the risks posed by contemporary midwifery require an additional tier of regulation – bringing into question proportionality
- That the imposition of regulatory sanctions or prohibitions by one midwife on another without lay scrutiny is counter to notions about good regulation in the post-Shipman era.

At its meeting on 29 January 2014 Council accepted the Ombudsman's finding that midwifery regulation was structurally flawed as a framework for public protection. It considered the Ombudsman's report and approved an immediate review of midwifery regulation.

The review will be commissioned by the NMC from a credible independent provider, and the NMC will involve partners (hereafter 'the partner group') as specified by the PHSO (DH, NHS England and PSA). In addition to this group, the NMC will ensure UK wide engagement via the health departments, NHS bodies and Ombudsmen in Northern Ireland, Scotland and Wales.

¹ The framework for midwifery regulation is described in more detail in a separate briefing paper.

Remit

The remit of the review is to consider potential models for the future of midwifery regulation, with particular reference to the PHSO's recommendations.

The review should also take account of the wider concerns of the PHSO and the PSA as set out in the PHSO report.

Its recommendations must have regard to:

- public protection
- proportionality
- public confidence in the regulatory model, which, post-Shipman, includes the expectation that regulatory decisions are not taken by professionals in isolation
- the PSA's standards of good regulation
- public assurance about the responsibility and accountability of service providers for the quality of maternity services
- fairness to midwives whose fitness to practise is called into question.

The review should also have regard to the NMC Council's interest in distinguishing two aspects of the review:

'The link between supervision and regulation and...the future of supervision and the supporting infrastructure if it were no longer part of the regulatory framework.'
(Council minutes, 29.1.14)

There will be staged reporting to NMC Council after the initial round of stakeholder engagement and evidence review is completed.

The outcomes of the review will be presented in the form of a report to the NMC.

Out of scope

- Drafting of proposed legislative change
- General public consultation on any changes to midwifery regulation – the NMC's legislation requires it to consult on any changes to its standards

Responsibilities

The responsibilities of the provider will include:

- Conducting a literature review to inform its deliberations
- Defining the terms on which evidence will be sought about the role of midwifery supervision as a tool of regulation

- Calling for evidence and deciding the means by which evidence will be taken
- Engaging key stakeholdersⁱ and understanding elements of consensus and divergence
- Informing and considering the outcomes of focus groups that the NMC will commission to contribute to the review
- Sharing an initial preferred recommendation with the NMC and its partners, with an indication of stakeholder views on that recommendation
- Reporting to the NMC Council and the partner group with a proposed future model for midwifery regulation.

Roles of respective partners

- The Council of the NMC to decide whether to accept the review's recommendations and to request any related legislative changes
- DH to take a view of any implications of the review for the NMC's legislative framework
- PSA to take view on whether the proposed model is proportionate and fit for the purpose of public protection
- UK wide NHS bodies to consider how the outcomes of the review affect the future role of supervision and any associated transitional arrangements.

ⁱ Stakeholder engagement will include:

Government health departments in England, Northern Ireland, Scotland and Wales
Independent Midwives UK
LSAMO Forum
Morecambe Bay families affected by the cases investigated by PHSO
NHS bodies in England, Northern Ireland, Scotland, Wales
Nursing and Midwifery Council
Patient/user representative organisations
Professional Standards Authority
Royal College of Midwives
NHS Employers and a sample of provider chief executives/HR directors/clinical leads
UK Ombudsman

The NMC will commission focus groups of the public and of midwives with the input of the provider to contribute to the review.

Midwifery Committee

Quarterly quality monitoring report update for Quarter 4 (1 January 2014 – 31 March 2014)

Action: For information.

Issue: The paper discusses the findings arising from the quarterly quality monitoring by local supervising authorities (LSAs) across the United Kingdom (UK) for the fourth quarter of the year, 1 January 2014 – 31 March 2014.

Core regulatory function: Education/Setting standards.

Corporate objectives: Strategic objective 2: “We will set appropriate standards for education and practise and assure the quality of education programmes and the supervision of midwives, so that we can be sure that all those on our register are fit to practise as nurses and midwives.”

Decision required: None.

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 authors or the director named below.

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- Context:**
- 1 There are 26 Local Supervising Authorities (LSAs) across the UK. The health boards in Scotland are arranged into two regions encompassing six and eight LSAs each. There is therefore a combined representation of 14 LSAs with 15 appointed LSA Midwifery Officers (LSAMOs) across the United Kingdom (UK).
 - 2 As the regulator, part of our remit is to monitor and quality assure the role and function of each LSA. The previously published quality assurance framework (2008) was used and included a combination of the following:
 - 2.1 The submission of an annual report by the LSA.
 - 2.2 Analysis by the NMC of the LSA annual reports.
 - 2.3 An LSA review cycle that selects LSAs for review visits on the basis of risk.
 - 2.4 Extraordinary reviews.
 - 2.5 Quarterly quality monitoring reporting from each LSA during the reporting year.
 - 3 Mott MacDonald now holds the operational function of the quarterly quality monitoring (QQM) in line with the new QA framework and the QQM is now submitted electronically via the QA Portal that is hosted by Mott MacDonald.
 - 4 The quarterly monitoring reports continue to be followed up by the standards compliance team via telephone discussions with the LSAMOs, ensuring that further understandings of local context, risk, actions and outcomes can be assured as part of public protection measures.
 - 5 One LSA, East of England, had not submitted the fourth quarter report which was due to be submitted on 12 April 2014. The LSA have been sent reminders to submit this report.

Discussion and options appraisal:

Key themes from the quarterly reports for Q4

- 6 **Maintaining Supervisor of Midwives (SoM) ratios:** LSAs are continuing to find it difficult to maintain a ratio of SoMs to midwives below 1:15 for the LSA. Although the majority of maternity units are compliant in relation to SoM to midwife ratios, almost all of the LSAs reported ratios greater than 1:15 in one or more maternity units with ratios ranging from 1:16 to 1:20.
 - 6.1 East Midlands LSA has a higher LSA ratio of 1:16, with most units not currently meeting the 1:15 recommendation. The LSAMO acknowledges that while the ratios may be high, midwifery supervision is in place in line with Midwives Rules

and Standards. One reason for this is a result of the resignation of SoMs occurring before the newly qualified SoMs have been appointed.

- 6.2 London LSA has had success in reducing high ratios in units by appointing full time SoMs and currently has four full time SoMs in post, with five more roles at the recruitment stage, and one area supporting a 0.6 whole time equivalent SoM post.
 - 6.3 Wales LSA have reported a high number of SoMs requesting de-selection from their SoM role in anticipation of the future proofing model that is due to be introduced in May.
 - 6.4 North of Scotland LSA consortium reported a high level of resignations in two health boards which have impacted on the ratios however also indicated that the LSA is striving to meet MRS.
- 7 **Awareness of Preparation of Supervisor of Midwives programme (PoSOM):** LSAs are continuing to encourage and recruit midwives into the PoSOM programme with many students set to complete by the summer or autumn of 2014. This is the most reported approach to managing the ratio of SoM to midwife requirement and the most common mitigating action that LSAs express for managing non-compliance with the stated ratios. This remains a potential risk as PoSoM programmes are between six and twelve months long so resolutions will also take this length of time.
- 8 **Supervisory Investigation reporting lengths:** All LSAs have highlighted the difficulty in completing one or more investigatory reports within 45 days and Northern Ireland LSA reported that having enough time to undertake and complete supervisory investigations is challenging. The majority of the mitigating reasons given are:
- 8.1 Lack of protected time.
 - 8.2 Long term sickness.
 - 8.3 Intermittent sickness of either the midwife under investigation or the investigating SoM.
- 9 **Awareness of concerns or investigations by any system regulator or serious reviews:** Not all LSAs receive direct contact by system regulators and although LSAs hold a general awareness of governance and system regulator risk findings in relation to midwifery practice, LSAs continue to be only minimally aware of non-maternity related concerns. This can have an impact when maternity beds are used for non-maternity patients. Adverse incidents that have been reported within maternity contexts are being followed up

by the LSA and this was reported by London LSA,

- 10 **Midwives working as Specialist Community Public Health Nurse- Heath visitors:** Continual resource implications have been highlighted by some LSAs with high numbers of Health Visitors practicing by virtue of their midwifery registration. Further concerns have been raised in relation to midwives maintaining the requirements for their midwifery registration following immediate entry into health visiting upon initial registration. LSA North East England also reported an increase in requests from SoMs who are undertaking the annual reviews of academic midwives who continue to maintain their midwifery registration and LSA North West England reported a similar issue with those SoMs who are undertaking the annual reviews of midwives who are employed as school nurses
- 11 **Reconfiguration of maternity services, efficiency drives and limited resources:** Unsurprisingly, this area is having an impact on midwives who are also SoMs as maternity services are being encouraged to work efficiently within tight budgets. LSAs all recognise this context and work hard to both understand and support SoMs in their work and are monitoring the impact on agreed protected time for SoM duties with LSA South Central LSA and North of Scotland LSA consortium highlighting that SoMs increasingly carry out their SoM responsibilities in their own time.
- 12 **LSA resources:** several LSAs reported on limited resources to support their function and included London, Northern Ireland, North East and South Central LSAs. Those LSAs in England are waiting for the outcome of the work being done by NHS England in considering the governance and resource structure for the delivery of the single operating model for LSAs.
- Public protection implications:**
- 13 Some serious concerns have been raised and reported together with information regarding all necessary action plans. Progress against action plans are followed up during the next quarter of by exception if necessary.
- 14 All LSAs and LSAMOs are continuing to provide assurance that they are managing their situations safely as part of local action plans in place to support protection of women, babies and their families.
- Resource implications:**
- 15 Since September 2013 the operation function of this QA activity is delivered by Mott MacDonald in line with the new QA framework.
- 16 The standards compliance team is currently overseeing QQM reporting and continues to undertake the follow up telephone calls.
- 17 The production of this report was achieved using resources from the Continued Practice directorate to manage, analyse and report on the

outcomes of the report.

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| Equality and diversity implications: | 18 | As supervision of midwives impacts directly on women using maternity services, it is expected that individual LSAs address equality and diversity in meeting midwives rules and standards (2012) within all reporting to the NMC in their oversight of risk activity. |
| | 19 | A number of external reports have been published recently with regard to appropriate representation by black, minority and ethnic groups (BNE) within midwifery and nursing so it is recommended that midwifery committee have a seminar on this aspect in relation to midwifery supervision and wider midwifery implications later this year. |
| Stakeholder engagement: | 20 | All LSAMOs continue to actively engage with the Standards Compliance team during the follow-up telephone QQM discussions. These will occur in May 2014 for this quarter four reporting period. |
| Risk implications: | 21 | Continuous monitoring with our new QA contractor, Mott MacDonald, remains in place. Currently intelligence is available via the QA portal. It is anticipated that further refinements and ongoing development of the QA portal will continue to enhance the management of LSA QQM information. |
| | 22 | There is a risk to the integrity of our regulatory functions if a clear and consistent approach is not provided within the context and direction of travel articulated within the new Quality Assurance Framework. The first year of the framework will be evaluated in the summer and reported to Midwifery committee in the last meeting of 2014. |
| Legal implications: | 23 | The Nursing and Midwifery Order 2001 (the order) requires the NMC to set rules to regulate the practice of midwifery and the local supervision of midwives. The NMC also establishes standards for the exercise by LSAs of their functions and may give guidance to the LSAs on these matters. <i>Midwives rules and standards</i> (NMC, 2012) came into force on 1 January 2013. |

Midwifery Committee

Guidance for Midwives: 'Duty of care; understanding the implications for Midwives'

Action:	For decision.
Issue:	The LSAMO forum UK is seeking endorsement for this guidance from the Midwifery Committee. To support the NMC (Midwives) Rules 2012 and the Code 2008 this guidance provides a specific response to the dilemmas Midwives face in meeting their Duty of care in relation to home birth and related scenarios.
Core regulatory function:	Setting Standards.
Corporate objectives:	Corporate Objective 2: "We will set appropriate standards of education and practice and assure the quality of education programmes and the supervision of midwives so that we can be sure that all those on our register are fit to practise as nurses and midwives."
Decision required:	The Midwifery Committee is recommended to endorse the guidance 'Duty of Care: understanding the implications for midwives'. The guidance has been submitted and ratified by the LSAMO Forum UK. The Committee's views are also sought on providing a link on the NMC website to the guidance which will be available on the LSAMO Forum UK website.
Annexes:	Annexe 1: 'Duty of care; understanding the implications for midwives'
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.
	Author: Jess Read, LSA MO London LSA
	Director: Dr Katerina Kolyva Phone: 020 7681 5882 katerina.kolyva@nmc-uk.org
	Author: Anne Trotter Phone: 020 7681 5779 anne.trotter@nmc-uk.org

- Context:**
- 1 The LSAMO Forum UK is aware of the pressures that face midwives in practice, especially regarding their 'Duty of care' in complex situations, particularly relating to homebirth scenarios. During 2013 the Forum worked with a number of stakeholders including the RCM, NMC and service users to produce the attached guidance. This guidance has been ratified by the LSAMO Forum UK.
 - 2 Historically the NMC held a 'Homebirth Circular 08-2006' on the website, which was found to be outdated and required review. The Midwifery Committee reviewed this document in 2012 and agreed to remove it from the NMC website and undertake additional work on midwives Duty of Care. The NMC have supported the development of this guidance and agreed to present the guidance to Midwifery Committee.
- Discussion:**
- 3 The aim of this document is to provide midwives with supplementary guidance to the NMC (Midwives, Rules and Standards (2012); and The Code: Standards of conduct, performance and ethics for nurses and midwives (2008), both of which assist them when considering their duty of care when faced with complex situations.
 - 4 There is currently no guidance available to midwives to assist them in understanding the key principles that need to be considered when faced with dilemmas regarding their duty of care.
 - 5 The Midwifery Committee is asked to discuss the guidance attached as Annexe 1.
 - 6 **Recommendation: The Midwifery committee is recommended to endorse the guidance 'Duty of Care: understanding the implications for midwives submitted and ratified by the LSAMO Forum UK; and to consider providing a link on the NMC website to the guidance which will be available on the LSAMO Forum UK website**
- Public protection implications:**
- 7 The guidance further supports public protection by providing midwives with guidance relating to their duty of care and scope of practice.
- Resource implications:**
- 8 The only resource required will be to place a link on the NMC website to the Duty of care document which will be accessible on the LSAMO Forum UK website.
- Equality and diversity implications:**
- 9 An equality analysis is to be undertaken by the LSAMO forum.

- Stakeholder engagement:** 10 The following stakeholders were asked to inform the Guidance:
- The NMC
 - The RCM
 - The LSAMO Forum UK
 - Maternity Service Users
- Risk implications:** 11 None identified.
- Legal implications:** 12 None identified as this has been developed as guidance not policy.



Duty of Care; understanding the implications for midwives



Local Supervising Authority Midwifery Officers Forum UK

Protecting the Public through the Statutory Supervision of Midwives

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1.0 Introduction

A midwife's Duty of Care should be a priority at all times. Midwives are caring for women and families within the demanding context of needing to provide safe, high quality maternity care, respecting women's choice, working as an autonomous practitioner, and adhering to the requirements of the Nursing and Midwifery Council (Midwives) Rules 2012.

The Local Supervising Authority Midwifery Officers Forum UK (LSAMO Forum UK) are aware of the pressures facing maternity services such as the increasing birth rate, reorganisations and reconfigurations and the continual need for cost improvement whilst maintaining high quality care. All of which change the nature of how services are commissioned, organised and managed. As such, these factors, often outside the control of midwives, may affect decision making and midwives ability to continue to provide quality midwifery care to women and their families, and therefore impact on their ability to meet their Duty of Care.

The aim of this document is to provide midwives with an understanding of the key principles which enable them and their Supervisors of Midwives (SoMs) to explore issues or concerns around a midwife's Duty of Care. This document will not answer all the questions that may arise relating to Duty of Care; most cases will require individual consideration, reflection and liaison between Midwives, SoMs and Senior Midwifery management and in some cases, access to appropriate legal advice.

2.0 Definition of Duty of Care

Duty of Care can be defined as the obligation that a healthcare professional has towards those in their care. Every healthcare professional has a Duty of Care; it is not something that can be opted out of.

For a midwife with respect to the women she cares for; Duty of Care is the requirement that she acts in a way that ensures that the needs of the woman and her baby are the primary focus of her practice. This is achieved by working in partnership with the woman and her family providing safe, responsive care in an environment that meets the woman's physical and emotional needs throughout childbirth and is consistent with high standards of practice.

It is expected that a midwife will act in a reasonable and responsible manner whilst adhering to professional standards of care. If a midwife's actions do not meet the professional standard of care her fitness to practise may be found to be impaired.

2.1 A Midwife's Duty of Care in practice

The Nursing and Midwifery Council (Midwives) Rules 2012 and The Code: Standards of conduct, performance and ethics for nurses and midwives (NMC 2008) underpin midwives professional practice. Therefore any challenge relating to a midwife's Duty of Care will be measured against those standards. Each midwife is personally accountable for her/his duty of care and compliance with the Midwives Rules and Standards.

At times of high demand in healthcare organisations midwives may find themselves in situations where their Duty of Care to the woman appears to conflict with what their employer expects of them. Decisions may become confusing for the midwife resulting in professional dilemmas. Best practice regarding what the individual midwife should do to maintain safe high quality care without breaching an employer's expectations is not easy to legislate or mandate for.

Examples include the following:

- 1) An organisation withdraws home birth service provision in periods of high activity; those women booked to have a home birth state that the midwife has a Duty of Care to the woman and must attend her. This places the midwife in a difficult position between her employer and the woman.
- 2) A woman requests a particular pathway of care which falls outside national and local recommendations, she states that the midwife has a Duty of Care to facilitate her care choices despite the care requested being outside that of the scope of the midwife.
- 3) In the above situations any instructions for the employer which prevent a midwife fulfilling her professional obligation to ensure care for the woman should be challenged. (Kline R, Khan S 2013)

'It is reasonable to assume that the midwives rules and standards are implicit within a midwives contract of employment in the same way that the duty of care is. Any instruction by an employer or a service user which requires a midwife to breach their midwives rules and standards and code of professional conduct should be regarded as an unreasonable one. In such circumstances the midwives obligations to their professional standards take precedence over their obligation to obey a conflicting instruction'

UNISON Duty of care Handbook January 2011 p8

The Nursing and Midwifery Council has defined the midwives obligations and scope of practice in Rule 5 of the Midwives Rules and Standards (NMC 2012)

Rule 5:1 You must be capable of meeting the competencies and essential skills clusters set out in standard 17 of the *Standards for pre-registration midwifery education (2009)* that are within your scope of practice.

Rule 5:2 You must make sure the needs of the woman and her baby are the primary focus of your practice and you should work in partnership with the woman and her family, providing safe, responsive, compassionate care in an appropriate environment to facilitate her physical and emotional care throughout childbirth.

Rule 5:3 Except in an emergency, you must not provide care, or undertake any treatment, that you have not been trained to give.

Rule 5:4 In an emergency, or where a deviation from the norm, which is outside of your current sphere of practice, becomes apparent in a woman or baby during childbirth, you must call such health or social care professionals as may reasonably be expected to have the necessary skills and experience to assist you in the provision of care.

Rule 5:5 You must only supply and administer those medicines for which you have received training as to use, dosage and methods of administration and for which you are exempt.

Rule 5:6 Both the title 'Midwife' and the function of a midwife are protected in law. You must not, or permit anyone else to, arrange for anyone to act as a substitute for you, other than another practising midwife or a registered medical practitioner.

A registered midwife is expected to abide by the above standards of care at all times. This will need to be explained to maternity service users who request pathways of care that require the midwife to work outside her scope of practice.

2.2 Healthcare organisations Duty of Care.

Healthcare organisations have a duty to ensure that the providers for which they are responsible employ competent staff and that they are trained to a high professional standard. In addition they must assure the public that the provider adopts systems of work which will protect the lives of service users (Article 2 –Right to life: European Convention on Human Rights).

Healthcare organisations also have a Duty of Care to provide a comprehensive service to women and their families and to demonstrate that, within the available resources, appropriate priorities are made. They must also ensure that midwives providing care are able to do so safely. Choice is an explicit component of healthcare policy but there are

occasions for a variety of reasons when healthcare organisations are unable to provide choices. This does not mean that they have breached their Duty of Care as the “NHS Choices Framework” states that this will depend on whatever is best for the woman and her baby. In addition healthcare organisations are expected to provide a range of choices throughout the maternity pathway but the choices framework is clear that service users do not have any legal right to access a particular choice.

Choices made available according to the choice Framework may also depend on what is available locally. The Health and Social Care Act 2012 establishes new Healthwatch patient organisations locally and nationally to drive patient involvement across the NHS. www.dh.gov/healthandsocialcarebill

3.0 Conflicts with Duty of Care

It is clear from the above that there are many contradictory statements around the concepts of choice and in particular who determines that choice. However the midwife has an overriding responsibility to comply with her professional obligations.

The LSAMO Forum UK has experienced an increase in concerns raised by midwives and service users relating to conflicts that arise in practice from issues surrounding Duty of Care. The case studies attached in the appendices highlight some of those concerns and include discussion and learning points.

4.0 Maintaining and supporting the Duty of Care

4.1 Governance

Healthcare providers have a responsibility to implement robust governance frameworks which support midwives in their Duty of Care in complex situations. By having these frameworks in place midwives can logically work through a decision making process focussing on an outcome that will be safe for the woman and supportive of the midwife enabling her to comply with regulatory standards.

Complex situations can arise very quickly when there is an apparent conflict between the woman’s choice, her safety and that of her unborn baby. This particular dilemma is a difficult one for midwives and it is very important that each specific situation that arises has a considered and measured approach worked through with the woman and her family on an individual case by case basis. It is recognised that the midwife may become anxious in this situation and that anxiety could potentially impact on her decision making, thus influencing the developing situation in a negative way. Appropriate systems for dealing with these

complex situations which are transparent and clear to both midwives and women will be a positive step towards managing potential problems preventing them from escalating into a more urgent situation.

Clinical leadership plays an important role in supporting midwives but, equally, strong leadership from the executive board, midwifery managers, as well as Supervisors of Midwives is vital in maintaining and supporting midwives in their Duty of Care. The Kings Fund Safer Birth programme highlighted that where engagement with the safer births programme involved members of the Executive Board to the ward staff, this made staff feel valued and supported (Kings Fund 2008).

Midwives and managers who are in leadership positions may not always be able to resolve all of the conflicts regarding midwives Duty of Care. They do however have the same responsibilities to midwives *“to follow lawful and reasonable instructions and have a Duty of Care towards those they manage”* (UNISON 2011). With good planning, strong communication and sound protocols in place this will help all parties prepare and make appropriate and reasonable decisions.

4.2 Guidelines and Policies

Evidenced based ‘Place of Birth’ guidelines should be developed as part of the governance framework. These guidelines should contain clear pathways for midwives to follow should a woman make a request regarding her care that falls outside midwifery and/or obstetric advice and recommendations. Supervisors of Midwives and midwifery managers will ensure that all staff have access to and are supported to comply with maternity policies and guidelines in line with the healthcare organisations clinical governance strategy.

4.3 Information, advice and support

Midwives have a responsibility to provide evidence based up to date information and advice regarding local services to women accessing maternity care. Equally women have a responsibility to acknowledge the information and advice they have been given even if they choose not to engage with this advice. Supervisors of Midwives are well placed to provide support and advice to midwives and women in these complex situations. Information should be available in maternity services for women who wish to contact a Supervisor of Midwives.

4.4 Documentation and Record Keeping

A written record must be made of the discussion that has taken place between the woman and the midwife. This documentation in the woman's maternity record should demonstrate that the woman has been fully informed of the risks and benefits identified in relation to both her care choices and any recommendations that have been made to her, and that she understands this information. Clear communication with precise documentation is an essential aspect of a midwife's Duty of Care.

4.5 Strategies in Practice

- Healthcare organisations should develop local guidance that supports all the parties involved in dealing with complex situations that may result in midwives being faced with a dilemma i.e. in conflict between their employing contact and professional responsibilities.
- Communication with the woman and her family should be respectful and seek to maintain an open dialogue. Over emphasis and repetition of risks once understood by the woman, may be unhelpful and create alienation.
- Written plans of care should be made and agreed for multiple eventualities. This should allow for exploration and rehearsal of 'what if' scenarios.
- Rehearsal of such scenarios will allow midwives to explore in advance what their scope of practice is and action to take that will allow them to meet the standards set by the NMC
- Systems of support available to staff delivering care should be put in place
- Communication with the whole multi-disciplinary team will facilitate support for all involved
- The opportunity for debriefing following an incident should be a priority for all involved.

5.0 Duty of Care and Statutory Supervision of Midwives

Every registered midwife in the UK has to have a named Supervisor of Midwives of their choice. The Nursing and Midwifery Council recommend that each Supervisor of Midwives has a caseload of midwives within and not normally exceeding a ratio of 1:15. The Supervisor of Midwives has a Duty of Care to the midwives in her caseload which includes meeting with each midwife annually to review their practice and identify their education needs. This ensures that an assessment is made of each midwife's compliance with the requirements to maintain midwifery registration (NMC 2012).

The Local Supervising Authority must ensure that all practising midwives have 24 hour access to a Supervisor of Midwives whether that is the midwife's named Supervisor or another Supervisor of Midwives. The available Supervisor of Midwives can be accessed for advice and guidance by midwives and by women. If a Supervisor of Midwives provides clinical care she is acting in the capacity of a midwife not as a Supervisor of Midwives.

Should there be concerns about the standard of care given; the role of a Supervisor of Midwives and the Local Supervising Authority in relation to investigating impaired fitness to practise is clearly defined in Rule 10 of the NMC Midwives Rules and Standards 2012.

Supervisors of Midwives have a clear role to play in supporting women who access maternity services:

'The Local Supervising Midwifery Officer should ensure that supervisors of midwives are available to offer guidance and support to women accessing maternity services to women accessing maternity services and that these services respond to the needs of vulnerable women who may find accessing care more challenging'

Nursing and Midwifery Council (Midwives) Rules 2012: Rule 7.4

6.0 Conclusion

This document does not answer all the questions raised in regards to complex cases; it is acknowledged that consideration will need to be given to individual cases in response to particular complexities. We hope that the strategies listed will assist Midwives and Healthcare Organisations to negotiate these complex cases with the aim of achieving the best outcome for women and their families.

References

NMC The Nursing and Midwifery Council (2012) Midwives Rules and Standards.
<http://www.nmc-uk.org/publications/standards/>

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Department of Health (DH): 2012 Health and Social care
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UNISON (2011): UNISON Duty of Care handbook www.unison.org.uk

Kline R, Khan S (2013) The Duty of Care of Healthcare Professionals. Public World,
 London www.thedutyofcare.org

Kings Fund (2008) Safe Births: Everybody's Business www.kingsfund.org.uk/publications

Appendices

1) Case Study

A community midwife was called to the home of a lady with a history of two previous caesarean sections whose experience had been so traumatic that she had chosen a home birth as her birth option.

- The woman and her partner had been advised against this option by the Consultant Obstetrician and Consultant Midwife.
- The woman continued to receive antenatal care at the health care organisation no further discussions were held about her choice of home birth
- A date for elective caesarean section was booked for one week post dates which the woman agreed to.
- The community midwife was called out to the woman`s home as she was on call for home births, she did not have any prior knowledge of this woman.
- The woman wanted every opportunity to have a home birth
- The woman required transfer to an obstetric unit for failure to progress
- The woman resisted transfer to the healthcare organisation initially
- Transfer was eventually initiated and the baby was born by caesarean section and required transfer to the neo natal for two days before being discharged to the Community with the mother.

Discussion

The healthcare organisation had met their Duty of Care to a certain extent by clearly documenting the discussion with the woman about the benefits and risks related to this home birth. However the woman`s choice of homebirth was not followed up and no informed plan of care was made which placed the community midwife in a vulnerable position.

The community midwife has a duty to abide by the Midwives Rules and Standards and work within her scope of practice (Rule 5) which includes working in partnership with the woman and her family to facilitate her physical and emotional care during childbirth.

The woman was pleased that she was given the opportunity to start her labour at home, and her perception was that ultimately she had been listened to regarding her option for place of birth.

Learning points

- There should have been a follow up conversation with the woman regarding her choice of place of birth at 36 weeks gestation with the consultant midwife (or equivalent) and a Supervisor of Midwives to work in partnership with the woman and her family to ensure that their needs are met.
- A formal plan of care should have been documented and agreed with the woman and her family, including the rationale for transfer should this be required and the support midwives who may be called e.g. (Supervisor of Midwives, 2nd community midwife).
- The community midwives needed to be fully informed of women due for home birth, and have access to the plans of care which should explain rationale for escalation and transfer should this be required.
- The community midwife should be given the opportunity to meet the woman antenatally and be involved in the discussions regarding her choice of place of birth.
- A midwife cannot force a woman to be transferred into hospital, maintaining good communication with the woman and keeping accurate documentation is crucial.
- Accessing appropriate support is also important. The Supervisor of Midwives should be kept informed as should the labour ward co-ordinator at the local healthcare organisation.

2) Case Study

The midwife comes to work on the postnatal ward and finds it is extremely busy, labour ward is full but some of the women are ready to be transferred. The escalation policy has been operationalised and everyone is trying to create bed spaces.

- One woman 'A' has had a normal birth of her first baby. She is well and enjoying time with her new baby. The baby is breastfeeding but each feed has been a struggle to get the baby latched on, however it has always been a success and the baby appears well.
- The plan made was for 'A' to stay in another day to help get over the difficulties with the baby latching on which have been slowly getting easier.
- The pressure on labour ward gets worse as there are a number of women in labour waiting for beds.
- There is a multi-disciplinary ward round and 'A' is identified as someone who can go home. All the other women have medical complications that require them to stay in.
- 'A' is distraught but agrees to go home and the midwife discharges her feeling that she has not done the right thing by 'A' or her baby.
- The woman is seen by the community midwives but a week later is bottle feeding her baby as she was unable to overcome the feeding difficulties.
- She sends in a letter of complaint about her inability to breastfeed and the lack of support she received

Discussion

The Healthcare organisation has Duty of Care both to the women in labour and to the postnatal women. The organisation is only able to work with the resources available to it both in terms of bed capacity and staffing, so was appropriately employing the escalation policy. This enables providers to review the demand for services and make decisions about prioritisation of need, which on occasions may be difficult.

The midwife was unhappy with the decision to discharge 'A' and her baby but carried on with the discharge and did not take any other action. In doing so she did not act to advocate for the woman and baby in her care, but was acting to fulfil a request made by the organisation at a time of high demand for services.

Learning points

- If a midwife finds herself in a position where the actions she is required to take by the employer do not appear to be in the best interests of the women in her care she needs to escalate those concerns. Sources of support will include a Supervisors of Midwives.
- The midwife may not have been able to change the decision made as it may have created adverse consequences for other women such as those women in labour. However she should have been able to organise additional support for 'A' and her baby from the community midwives or other means of breast feeding support such as referral to breast feeding specialist.
- It is important that any escalation policy addresses the consequences that may arise from scenarios where demand exceeds capacity such as following women up who may have had had unexpected changes to plans of care.

3) Case Study

A midwife is called to a woman's home to attend a home birth and is denied access to the woman who states that she is happy with the support of her doula and her partner and requests that the midwife wait downstairs just in case they need her.

- The midwife clarifies that this it is the woman's decision to decline midwifery care; her partner confirms this and also states that they are happy with the support they are receiving from the doula.
- The woman requests that the midwife remain in the home just in case she is needed.
- The woman continues to decline any element of midwifery care.
- The midwife explains the importance of midwifery assessment and care and clearly outlines the risks of no midwifery assessment.
- The midwife clearly documents the conversations in the healthcare records and informs the Supervisor of Midwives.
- It is the opinion of the RCM/LSAMO Forum that in certain dilemmas, it is reasonable for the midwife to leave the woman with contact details for the midwifery team should the woman change her mind and require midwifery help or care.

Discussion

In any given situation the midwife cannot undertake any action without the woman's consent. It is therefore an unreasonable expectation that the midwife will stay in the woman's home just in case she is needed.

Learning points

- It is good practice in the antenatal period to convene a meeting with women who request a home birth and her birth partners to discuss expectations and roles of all those present.
- Good communication between the midwife and the woman should be maintained positively during the antenatal period, with involvement in preparing a birth plan and addressing the woman's concerns or fears.
- It is hoped that midwives and women will always work together to try and avoid dilemmas and conflicts with midwives Duty of Care however occasionally this will occur.
- Consideration should be made to offer the woman a de-brief following the birth to

address any underlying reasons or concerns she may have about accepting midwifery care.

Item 11
M/14/27
29 April 2014

COUNCIL and MIDWIFERY COMMITTEE SCHEDULE OF BUSINESS 2014

COUNCIL: 3—4 JUNE 2014 (Edinburgh)
Deadline for receipt of papers: 21 May 2014
Despatch date: 27 May 2014

OPEN SESSION 04/06/14

- **NMC Strategy**
- **Review of Key Performance Indicators**
- **Annual review of Council and Committee effectiveness**
- **Health and safety annual report**
- **Law Commission update**
- **EU Directive on professional indemnity insurance**
- **Annual equality and diversity report 2013 – 14**
- **NMC data strategy**

COMMITTEES OF COUNCIL: 24—25 JUNE 2014**MIDWIFERY COMMITTEE 25/06/14 (Glasgow)**

- **Revalidation update**
- **Review of midwifery regulation**
- **Monitoring report of the LSAs (including future QA of LSAs)**
- **Annual review of Committee effectiveness: summary**

Induction event: Registration Directorate

Seminar: Midwifery in Scotland

COUNCIL: 29—30 JULY 2014
Deadline for receipt of papers: 16 July 2014
Despatch date: 22 July 2014

OPEN SESSION 30/07/14

- **Draft annual report and accounts**
- **Draft fitness to practise annual report**
- **Business assurance framework and quality assurance update**
- **PSA strategic review stock take**
- **Q1 report – Corporate plan**
- **Welsh language scheme annual report**

COUNCIL: 30 SEPTEMBER – 1 OCTOBER 2014
Deadline for receipt of papers: 17 September 2014
Despatch date: 23 September 2014

OPEN SESSION 01/10/14

- **Fees consultation update and decision on annual registration fees**
- **Revalidation progress report**
- **Update on candour**

COMMITTEES OF COUNCIL: 28—29 OCTOBER 2014**MIDWIFERY COMMITTEE 28/10/14**

- **Revalidation update**
- **Review of midwifery regulation**
- **Education strategy**
- **Monitoring report of the LSAs (including future QA of LAs)**
- **LSA Annual Report**

COUNCIL: 3 – 4 DECEMBER 2014
Deadline for receipt of papers: 19 November 2014
Despatch date: 25 November 2014

OPEN SESSION 04/12/14

- **LSA Annual Report**
- **Proposed Code and standards to support revalidation**
- **Q2 report – Corporate plan**
- **Continued Practice - QA framework activity outcomes**
- **Education Annual Report**
- **Education strategy update**