

## Meeting of the Midwifery Committee

To be held at 10:00 on Wednesday 25 June 2014  
at Atlantic Quay, Glasgow G2 8LU

The meeting will be held from 10:00 to 13:15 and preceded by an induction event for members held by the Registration Directorate at 09:00. The meeting will then be followed at 14:00 by a seminar on the context of the regulation of midwives in Scotland.

### Agenda

Dr Anne Wright  
Chair of the Midwifery Committee

David Gordon  
Secretary to the Committee

- |    |  |         |
|----|--|---------|
| 1. | <b>Welcome and Chair's initial statement</b> | M/14/29 |
| 2. | <b>Apologies for absence</b>                 | M/14/30 |
| 3. | <b>Declarations of interest</b>              | M/14/31 |
| 4. | <b>Minutes of the previous meetings</b>      | M/14/32 |
|    | Chair of the Committee                       |         |
| 5. | <b>Matters arising</b>                       | M/14/33 |
|    | Secretary                                    |         |

### Items for discussion

- |    |  |         |
|----|--|---------|
| 6. | <b>Code review update</b>                              | M/14/34 |
|    | Director of Continued Practice                         |         |
| 7. | <b>Revalidation update</b>                             | M/14/35 |
|    | Director of Continued Practice                         |         |
| 8. | <b>Quarterly quality monitoring report of the LSAs</b> | M/14/36 |
|    | Assistant Director, Education and Quality Assurance    |         |

**Items for information**

- |     |   |               |
|-----|---|---------------|
| 9.  | <b>Midwifery review</b>                             | M/14/37       |
|     | Director of Continued Practice                      | Verbal update |
| 10. | <b>NMC strategy</b>                                 | M/14/38       |
|     | Director of Continued Practice                      | Verbal update |
| 11. | <b>Education Advisory Group report</b>              | M/14/39       |
|     | Assistant Director, Education and Quality Assurance |               |
| 12. | <b>Committee work plan</b>                          | M/14/40       |
|     | Secretary   |               |
| 13. | <b>Any other business</b>                           | M/14/41       |

The next meeting of the Midwifery Committee is scheduled to be held on Tuesday 28 October 2014 at 09.30 at 23 Portland Place, London W1A 1PZ.

Meeting of the Midwifery Committee  
held at 09:00 on 29 April 2014  
at 1 Portland Place, London W1B 1PN

## Minutes

### Present

#### Members:

Anne Wright	Chair
Pradeep Agrawal	Member
Kirsty Darwent	Member
Patricia Gillen	Member
Frances McCartney	Member – by teleconference (until M/14/25)
Marie McDonald	Member
Lorna Tinsley	Member

#### Officers:

Katerina Kolyva	Director of Continued Practice
Anne Trotter	Assistant Director, Education and Quality Assurance
Emma Westcott	Assistant Director, Strategy and Communications
Lucia Owen	Standards Compliance Officer
Jerome Rampersad	Standards Compliance Officer
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 9:03.

## Minutes

### M/14/17 Welcome and Chair's initial statement

1. The Chair reported on her recent meetings. She had attended the Lead Midwives for Education meeting, which had welcomed the recent work of the Midwifery Committee. The Chair would also invite Sue Way to be an observer in her role as a Lead Midwife for Education (LME). The Chair had also attended the NMC's meeting with the LSA MOs, where again she had reported on the work of the Committee.
- 2.

Recent meetings of the Council had decided to put a proposed rise in annual registration fees out to consultation. This would begin in May 2014, with the decision then returning to the Council in October 2014. The Committee would be kept informed on developments regarding fees. In addition, work had started on the recruitment of a new Chair of the Council and the next meeting of the Council would be held in Edinburgh.

**M/14/18 Apologies for absence**

1. Apologies were received from Ann Holmes. Ann had submitted an email with comments to feed into item M/14/26.

**M/14/19 Declarations of interest**

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

**M/14/20 Minutes of the previous meetings**

1. The minutes of the previous meetings were approved as an accurate record.

**M/14/21 Matters arising**

1. In discussion, the following updates were given:
  - (a) Regarding return to practice, the definition of practice and SCPHN registrants, these matters were being taken on through analysis of consultation. They would also form part of the second part of revalidation consultation.
  - (b) Part one of the revalidation consultation had recently been completed, with approximately 10,000 responses. Analysis of this would be discussed by the Revalidation Strategic Advisory Group on 2 May 2014. As well as revalidation and fees, there was also an ongoing consultation relating to Fitness to Practise.
  - (c) Jon Billings had recently commenced his role as Director of Strategy.
  - (d) Data on LSA investigations affected by sick leave was not collected on a numerical basis. However, work was being undertaken on this matter and would be shared with the Committee.

**Action: Share data on the number of occasions on which either the midwife under investigation or the investigating officer was on**

**For:** sick leave  
**Standards Compliance Officer**  
**By:** As appropriate

**M/14/22 Midwifery regulation review**

1. The Committee received an update on the Review of Midwifery Regulation, together with the draft terms of reference for comment. The sensitive nature of the matter required expertise and credibility on the part of the body undertaking the work. On this basis, the King's Fund had been selected and had produced terms of reference for the review.
2. Extensive input had been sought in producing the draft the terms of reference. In addition, the review would include a series of face to face meetings and focus groups. The aim was to hold a targeted and focused review, with the NMC to conduct wider scale research separately.
3. In discussion, the following points were raised:
  - (a) The risk implications of recommendations should be considered. The report would be discussed by relevant bodies prior to publication and a list of specified bodies to be contacted had been compiled.
  - (b) An indicative timetable should be compiled, with information on required Midwifery Committee input included. The possibility of a joint seminar with the Council on the review should also be explored.
  - (c) The review was likely to be completed before the launch of the revalidation process. Co-ordination of the issues would therefore be required and the King's Fund needed to be made aware of the potential link between the outcome of the review and revalidation.
  - (d) It was important to make sure the review process was well understood by both registrants and the public. The terms of reference and any material on the website needed to use language which was accessible and had a logical structure. Focus groups could be used to ensure full four nations and patient / service user input. The potential for conflicts of interest for midwives should also be considered.

**Action: Provide indicative timetable for the review to the Committee**

<b>For:</b>	<b>Assistant Director, Strategy and Communications</b>
<b>By:</b>	<b>25 June 2014</b>
<b>Action:</b>	<b>Explore the possibility of a joint seminar with the Council on the review</b>
<b>For:</b>	<b>Director of Continued Practice</b>
<b>By:</b>	<b>25 June 2014</b>
<b>Action:</b>	<b>Share information on revalidation consultation with the King's Fund</b>
<b>For:</b>	<b>Assistant Director, Strategy and Communications</b>
<b>By:</b>	<b>As appropriate</b>

**M/14/23 NMC strategy**

1. The Committee received a presentation on the outline strategy, including the key pillars of Regulatory Improvement, Collaboration and Communication, and Intelligence and Data. Council would be holding a full discussion on the NMC's future strategy at its meeting in June 2014. The strategy would look beyond 2016. Discussions to date on strategy had suggested that there would be a greater focus on intelligence, with improved use of data in formulating evidence-based policy. Once the strategy had been discussed, it would be published in July 2014 for consultation with the final version completed in April 2015.
2. In discussion, the following points were noted:
  - (a) The NMC was looking to develop a wider range of data inputs. This would involve internal processes (e.g. cross-directorate work) and external organisations (including other healthcare regulators and international data). The Midwifery Committee would be involved in shaping and steering work for the Council on areas within the Committee's remit.
  - (b) The NMC's Education Strategy would be put before the Council on 2 December 2014. Council had agreed that it was imperative to ensure that all aspects of strategy aligned, and also that all intelligence was used appropriately. One key possibility in this context could be using issues highlighted in Fitness to Practise cases to devise education standards which would alleviate problems before they became FtP matters.
  - (c) The Midwifery Committee would be involved in discussions on the NMC strategy, to ensure alignment with key priorities. This would be included in the agenda for June 2014's meeting.

**Action: Include an update on Council discussions on NMC strategy on**

**the agenda for June's meeting**  
**For: Secretary**  
**By: 25 June 2014**

**M/14/24 Quarterly quality monitoring report of the LSAs**

1. The report included more detail as previously requested. In addition, the report on quarter four also involved the work undertaken by Mott MacDonald. However, it should be noted that at the time of the report's completion, telephone calls to LSAs had not been made. In addition, the East of England LSA could not be included in the report due to its failure to submit its report.
2. The themes highlighted in the report had similarities with previous discussions. However, in cases where the 1:15 Supervisor of Midwives (SoMs) to midwives ratio was not being met, the LSAs involved were now specified. Mitigation (other than planned recruitment) was also discussed in reporting. The limitations of strict compliance with the 1:15 ratio as a measure of public protection were also noted.
3. The completion of investigatory reports within 45 days had been highlighted as one difficulty for LSAs. LSAs also raised staffing issues, with the main questions being as to whether midwives were brought in for acute periods or best practice was being properly shared. There was also a general pressure regarding funding and expectations for improved service. This pressure had led to SoMs not using their protected time for supervisory responsibilities; this also was not always being escalated as a concern. A report back on resources and their implications would be made once evaluation had been completed.
4. In discussion, the following points were noted:
  - (a) SoMs were recruited but often not retained, with attrition being a major concern. Northern Ireland had adopted a target ratio of 1:13 in light of this.
  - (b) All LSAs were to submit a spreadsheet and make a statement on impact, mitigation and 'drag factor' as part of reporting. The NMC was looking for peaks, troughs, trends and the impacts on public protection.
  - (c) Investigations were a pressure on LSAs, as they could not be planned in the manner of Intention to Practise discussions and annual reviews. This would continue to be monitored.

**M/14/25 Managing risk and overview of LSA QA review visits**

1. Quality assurance of LSAs was undertaken through the following methods:

- Annual reporting
- Review visit reporting
- Quarterly quality monitoring
- Exceptional reporting

Annual reporting had now been moved to the QA portal. This would be a template, focusing on evaluation rather than process. The deadline for submission was 31 July 2014, and a summary would feature in the NMC Annual Report and Accounts. The LSA and Education Annual Reports would both be discussed by the Committee prior to recommendation to the Council.

2. LSA review visits for 2013 – 14 concluded in March, and had been outsourced for the first time. Early headlines to emerge included service user involvement, annual reviews and Intention to Practise discussions and variable processes used in investigations. There was the possibility that the selection of LSAs for review visits would move to a risk-based approach in 2014 – 15. The current two day schedule may also be extended.

3. There had been four occasions on which exceptional reports had been used. These had been fed into an internal NMC meeting, and in 2014 – 15 would be reported to the Executive Board.

4. The LSA risk register was still being developed, with the issue of allocating responsibility a particular aim of the register. It could potentially be used to inform the NMC Corporate Risk Register. The LSAMO Strategic Reference Group (SRG) would discuss; in particular, the failure to fail student midwives who were not of sufficient calibre to graduate, and the ageing demographic of students had been noted. The role of LMEs was also being discussed with the LME SRG. The LME SRG had noted the age of the standards (published in 2009) and the fact that they were based on normalised situations (rather than service users with health issues) as concerns.

5. In discussion, the following points were noted:

- (a) The actions arising from visits were monitored, with an action plan required where standards were not met.
- (b) Independent midwives were to return records to LSAs. However, the accountability for this was a concern, especially



in cases where midwives were incapacitated or had been struck off. The NMC was seeking advice on this matter.

- (c) Committee members had found the presentation informative and useful, and thanked staff for their input.

#### **M/14/26**

#### **Guidance for midwives: 'Duty of care; understanding the implications for midwives'**

1. The document had been compiled by the LSAMO Forum, which had sought advice from LSAs. The previous version required updating. The guidance did not seek to provide definitive answers and contained case studies to give real life examples of the application of the guidance.
2. In discussion, the following points were noted:
  - (a) An email had been submitted by a member prior to the meeting, which stated that a more robust approach may be required. The document could be condensed, and also that the phrase 'discharge to the community' should be amended to 'transfer to the community'.
  - (b) The possibility of designing a 'decision tree' was also raised. The process of a service user making a request, the midwife communicating any issues arising and the raising of concerns should the service user's safety be compromised by any proposal could be used as a systematic approach.
  - (c) As a result of these discussions, the Committee requested that the guidance should be refined and then taken forward by the LSAMO Forum.
  - (d) The Chair thanked the LSAMO Forum through their Chair Verena Wallace for the hard work that had gone into preparation of the guidance.

#### **M/14/27**

#### **Committee work plan update**

1. The Committee noted the work plan.

#### **M/14/28**

#### **Any other business**

1. Frances McCartney would be relinquishing her role as a Committee member in the light of pressure of commitments. The Chair requested that the minutes record the Committee's thanks to Frances for her extremely valuable input, which would be greatly

missed, and wished her every success for the future.

2. A paper on prescribing medicines was circulated. A review would be taken to the Committee later in 2014.
3. The Chair concluded by thanking the executive for excellent papers and presentations.

The date of the next meeting is to be 25 June 2014 in Glasgow.

The meeting ended at 11:32.

## 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 29 April 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.

Author: David Gordon  
Phone: 020 7681 5757  
[david.gordon@nmc-uk.org](mailto:david.gordon@nmc-uk.org)

Director: Katerina Kolyva  
Phone: 020 7681 5882  
[katerina.kolyva@nmc-uk.org](mailto:katerina.kolyva@nmc-uk.org)

Item 5  
M/14/33  
26 June 2014

## Summary of the actions arising out of the Midwifery Committee meeting on 29 April 2014

Minute	Action	For	Report back to: Date:	Progress
M/14/21	Share data on the number of occasions on which either the midwife under investigation or the investigating officer was on sick leave.	Standards Compliance Officer	Midwifery Committee As appropriate	Secretary to give oral update
M/14/22	Provide indicative timetable for the review to the Committee	Assistant Director, Strategy and Communications	Midwifery Committee 25 June 2014	Secretary to give oral update
	Explore the possibility of a joint seminar with the Council on the review.	Director of Continued Practice	Midwifery Committee 25 June 2014	Secretary to give oral update
	Share information on revalidation consultation with the King's Fund	Assistant Director, Strategy and Communications	Midwifery Committee As appropriate	Secretary to give oral update
M/14/23	Include an update on Council discussions on NMC strategy on the agenda for June's meeting	Secretary	Midwifery Committee 25 June 2014	Included on agenda as item M/14/38

Item 7  
M/14/35  
25 June 2014

## **Midwifery Committee**

### **Part 1 and 2 Consultation and development of the Revalidation model**

This item is to be discussed in private by virtue of paragraph 5.2.5 of the NMC Standing Orders. The paper is therefore not for publication.

## Midwifery Committee

### Quarterly quality monitoring annual report for 1 April 2013 – 31 March 2014

**Action:** For discussion.

**Issue:** This paper discusses the findings arising from quarterly quality monitoring by local supervising authorities (LSAs) across the United Kingdom (UK) for the periods 1 April 2013 – 31 March 2014.

**Core regulatory function:** Registration and 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:** Midwifery Committee is therefore recommended to formally request that NHS England, South East LSA is advised to take all necessary steps to ensure that the data is safely transferred to the LSA.

**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.

Author: Lucia Owen  
Phone: 020 7681 5799  
[lucia.owen@nmc-uk.org](mailto:lucia.owen@nmc-uk.org)

Author: Anne Trotter  
Phone: 020 7681 5779  
[anne.trotter@nmc-uk.org](mailto:anne.trotter@nmc-uk.org)

Director: Katerina Kolyva  
Phone: 020 7681 5882  
[katerina.kolyva@nmc-uk.org](mailto:katerina.kolyva@nmc-uk.org)

- 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 The quarterly quality monitoring tool has been in place for over three years and is considered an effective means of regularly assessing whether LSAs are meeting the required standards for statutory supervision of midwives at timed intervals during the fiscal year.
  - 3 The majority of LSAMOs submitted the reports on time however approaches to completing the template on the new online portal vary.
  - 4 The quarterly monitoring reports were followed up via telephone discussions with the LSAMOs, ensuring that further understanding of local context, risk, actions and outcomes can be assured as part of public protection measures.
  - 5 Quarterly quality monitoring forms part of the annual assurance of the LSAs. Information from quarterly monitoring reports contributed to the NMC's annual report: Supervision, support and safety: NMC quality assurance of the LSAs 2012-2013 which was published earlier this year.
  - 6 Six LSA monitoring visits took place this year. One LSA did not meet Rule 6 so it is necessary for midwifery committee to discuss the implications of this.

**Discussion and options appraisal:**

**Key themes from the quarterly reports**

**Ratio of supervisors of midwives (SoMs) to midwives.**

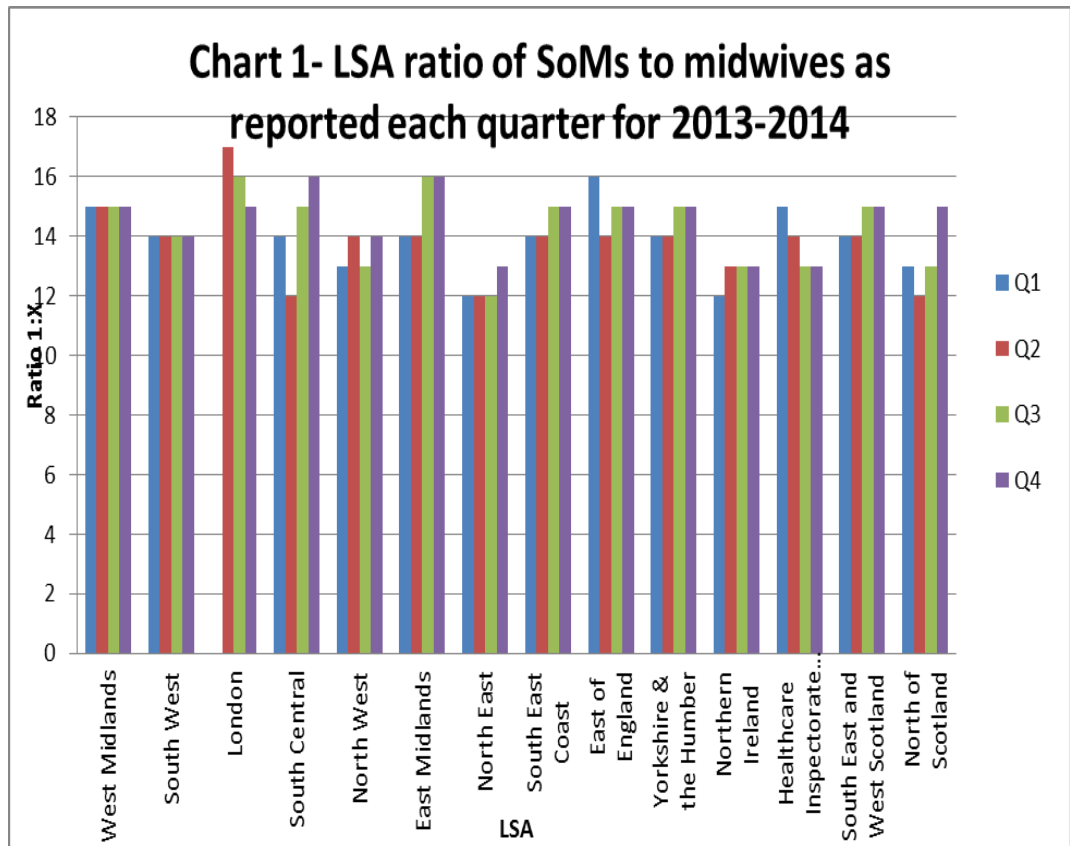
- 7 Midwives Rules and Standards (2012) set the ratio of SoMs to midwives as 1:15 and LSA MOs routinely report on individual LSAs' overall compliance as well as SoM to midwife ratios within individual maternity units.
- 8 Although a significant proportion of maternity units are compliant in relation to SoM to midwife ratios, the majority of LSAs reported supervisor to midwife ratios greater than 1:15 in one or more maternity units with ratios ranging from 1:16 to 1:29 in specific units. The results are as follows:
  - 8.1 Ten LSAs are compliant for the overall LSA average ratios across all four quarters as well as the year average (NHS England regions Yorkshire and Humber, North East, South East Coast, South West, West Midlands; North of Scotland and South East and West Scotland consortiums; Northern

Ireland and Wales.

- 8.2 Three LSA regions of NHS England, East Midlands, East of England and South central are compliant for the overall yearly LSA average ratios but have had one or more quarters that exceeded the 1:15 ratio.
  - 8.3 One LSA region of NHS England was not compliant for the overall LSA average and had one or more quarters that exceeded the 1:15 ratio.
- 9 QQM provides an immediate quantitative indicator of units that are not compliant with the required ratio of midwives to SoMs. Follow up telephone discussions provided background and context into the impact of failure in meeting ratios together with mitigation and outcomes of all additional actions that have been put in place. Equally the LSA MOs provided examples of units where the ratios met the standard however other previously identified concerns were being managed. This indicates that a numerical indicator alone does not provide assurance.
  - 10 The impact of maternity service reconfiguration, retiring SoMs, stepping down SoMs, service delivery pressures and supervising midwives in other roles, for example health visiting, are all impacting negatively the ability to meet and maintain the required ratios.
  - 11 All LSAs continually respond to this challenge and the actions in response to ratios greater than 1:15 include;
    - 11.1 Increasing commissioned numbers for the Preparation of supervisors of midwives programme (PoSoM)
    - 11.2 Increased education commissions which in turn supported need for two intakes per annum of the PoSoM programme (PoSoM).
    - 11.3 Encouraging (SoMs) to proactively identify potential candidates for the PoSoM programme.
    - 11.4 Support from LSA appointed midwives to deliver midwifery supervision, although sustained funding for these roles remains precarious.
    - 11.5 Employing a full time SoM to the SoM team to undertake supervision on a full time basis. This means that a full time SoM in London or East of England LSA regions can be allocated a greater number of midwives to supervise.
    - 11.6 Cross site supervision working to utilise SoMs from neighbouring organisations for investigations, on-call arrangements and objective supervision and supervisory



investigations.



### **Allocation of time for supervisors of midwives to undertake activities**

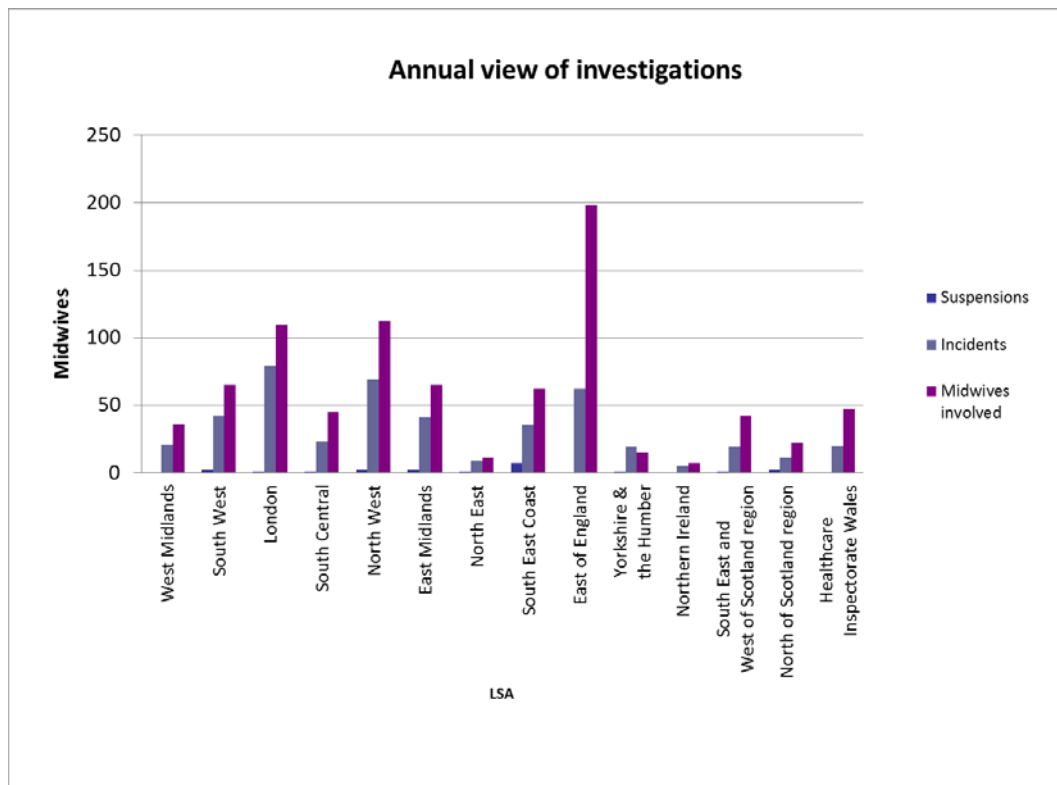
- 12 LSAs continue to report that some SoMs raise concerns about securing time for supervisory activities and the processes adopted to mitigate these situations vary between LSAs. These include; appointment of full time SoMs; an increase in monthly protected time allocations; and appropriate joint working processes with risk and clinical governance managers.
- 13 The use of the LSA database has been encouraged by LSAMOs in order to record individual SoMs interruption to protected time along with their flexibility, if given, to undertake that time on a different date. This information is then shared with clinical governance managers to demonstrate the pattern of interruptions, the flexibility of each SoM, and the need to have a new allocated date for protected time.

### **Incident reporting**

- 14 The table below provides an overview of the LSA suspensions from

practice during each quarter together with the number of investigations and midwives involved in the incidents across the UK.

- 15 The LSAMOs reported that caution is needed when interpreting the number of midwives involved in the investigations as some are peripheral to investigations. This point emphasises the value of the follow up QQM telephone discussion.
- 16 The best practice timeline for completing investigations is 45 days although occasionally this timeframe is exceeded. In Scotland, particular focus has been made on the investigating timelines. The following reasons were highlighted during the QQM telephone calls with LSAMOs in Scotland;
  - 16.1 the low number of available SoMs throughout the country;
  - 16.2 conflicts of interest due to a possible investigating SoM also holding the role of direct line manager;
  - 16.3 the geographical complexities of this country;
  - 16.4 some investigating SoMs take on an investigation despite prearranged annual leave during the 45 day period. Both LSAMOs in Scotland explained that due to the challenges involved in securing investigating SoMs, this arrangement is tolerated.



### **Supervised practice programmes**

- 17 LSAMOs are reporting that some organisations decline to host midwives on LSA supervised practice programmes due to the level of resources required by the host organisation. LSAMOs have even made arrangements outside of their LSA region with the help of other LSAMOs. This has resulted in midwives being relocated from their home LSA region or travelling to the partnering region throughout the programme.
- 18 Additionally when midwives do not complete or are unable to complete a supervised practise programme, referral to FtP occurs.

### **Supervision of midwives who are working as SCPHN - health visitors**

- 19 Although the numbers of midwives who are employed as health visitors in each LSA are statistically small there are resource implications in supervising midwives who work as health visitors.
- 20 The majority of LSAs reported an increase in enquiries and potential challenges for health visitors in meeting requirements for PREP practice hours and in SoMs assessing the appropriateness of the registered midwife's continuing professional development. It is expected that this trend will continue to grow as many midwives have responded to the Department of Health's 'Call to health visiting' campaign.
- 21 All LSAMOs indicated that although the issues have been resolved appropriately this is increasing the workload of SoMs and that some Directors of Nursing are questioning the use of a secondary care employee SoM resource for SCPHN midwife employees requiring supervision.

### **Inter-regulatory information**

- 22 Collaborative working partnerships continue with other professional and healthcare regulators. Specific, relevant evidence submitted during the year has been shared with the GMC, CQC and has formed reporting intelligence for risk summit meetings.

### **Reporting styles**

- 23 Differences in reporting styles were noted with many of the questions being interpreted differently subsequently varied response styles were demonstrated. Confirmation of interpretation and subsequent responses were discussed with all LSAMOs during the

follow up telephone discussions.

- 24 The QQM template was revised following input from the LSAMO forum and was first in use from quarter one of this year, beginning on April 2013. The LSAMO forum was also consulted on the current approach to annual reporting in order to minimise repetition and to maximise evaluative data that is proportionate and addresses risk.
- 25 All finalised reporting mechanisms are in line with the NMC's new Quality Assurance Framework which went live in September 2013 and were shared with Mott MacDonald.

### **Record keeping obligations within the LSAs**

- 26 Midwives must adhere to the Midwives Rules and Standards (2012), NMC Guidance on Record Keeping (YEAR), Data Protection Act ('the Act,' 1998), LSAMO Forum UK Policy and any other legislations, and policies relating to information and record keeping.

#### **Accountability during the terminal illness of an IM**

- 27 Under the Midwives Rules and Standards 2012, the IM must ensure that the records are stored safely or transferred to the relevant LSA. The method for safe storage and transfer, set by the LSAMO Forum UK policy, does not identify which party is to bear the cost and physical task of transferring the records.
- 28 Due to the terminal illness and the complexities of the safeguarding of health records, the LSA may consider providing greater assistance. While the IM may not consider her obligations under the guidance to be of paramount concern due her personal circumstances, the safe storage and safe transfer of those records should be of paramount concern to the LSA.
- 29 Under 'the Act', the Information Commissioner may consider it unfavourable where the LSA did not facilitate a transfer of confidential health records where a terminally ill IM was seeking to transfer them but was unable, or unwilling, to do so in the format required by the LSA.

#### **Accountability when an IM passes away**

- 30 The overriding concern of the LSA should be to secure the confidential medical records and, in the absence of the IM, the responsibility for this must lie with the LSA.

#### **Accountability when an IM cannot comply with the prescribed mechanism for transfer**

- 31 While NHS England in their capacity as the LSA policy concerning data transfer, which it is required to have under the Midwives Rules and Standards 2012, prescribes that data transfer should be done

electronically and in accordance with Department of Health guidelines, the LSA may consider that this approach may not be appropriate in all circumstances.

- 32 The LSA, as a data controller or processor under 'the Act', has an obligation to ensure that the records held are secured in order to protect the rights of the patients. It is therefore advised that the LSA takes all necessary steps to ensure that the data is safely transferred.

### **Accountability when an IM is suspended or no longer registered with the NMC**

- 33 As a suspension relates solely to the nurse or midwife's ability to practise, a suspended individual is still accountable to the NMC and must continue to comply with the NMC's rules.
- 34 Where an individual is no longer registered to practise with the NMC, regardless of the reason, their obligation to comply with the rules and guidance of the NMC or the LSA ceases to exist. An IM however, continues to have obligations under the Data Protection Act in relation to those records, regardless of whether they are practising or entitled to practise. Continuing to hold confidential medical records in relation to a patient or a number of patients may be considered to be a misuse of confidential data or an information security breach.
- 35 In the case of an IM who ceases to be registered with the NMC, the LSA, in accordance with its own guidance should take on the responsibility for the obtaining and secure storage of any health records held by the former IM.

### **Conclusion**

- 36 The Midwives Rules and Standards 2012 appears to place responsibility on the IM to ensure the safe transfer of patient records to the LSA. However, we have been advised that there is also a responsibility on the LSA through its obligations under the Data Protection Act and in the scenarios outlined where it may be suggested that if the IM does not intend to, or otherwise cannot fulfil their obligations under the Midwives Rules and Standards, and the duty to protect the patients whose confidential information may be at risk, lies with the LSA.
- 37 The NMC has considered the implications of the practical application of the LSA's policy and the context of the limitations that some IMs may face. The NMC will liaise directly with the LSA concerned determine, along with the LSA, if the current policy is workable and proportionate in all the circumstances.
- 38 Midwifery Committee is therefore recommended to formally request

that NHS England, South East LSA is advised to take all necessary steps to ensure that the data is safely transferred to the LSA.

39 The NMC will continue to monitor the situation and be prepared to act if the situation is not resolved.

**Public protection implications:**

40 During the year serious concerns were reported together with information regarding all necessary action plans. Progress against action plans are followed up during the next quarter or by exception if necessary.

41 The standards compliance team has contacted the fitness to practise team directly on a number of cases throughout the year to ensure that timely and proportionate reporting between directorates takes place.

42 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:**

43 The operational function of this QA activity is delivered by Mott MacDonald, in line with the new QA framework. They have held this role since September 2013. Follow up QQM telephone conversations continue to be managed by our standards compliance team to ensure understanding of contemporary supervision is achieved.

44 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.

**Equality and diversity implications:**

45 The findings reported via QQM continue to demonstrate compliance with our equality impact assessment screening process. The format does not create a differential impact on individuals or groups on the basis of their age, disability, race, pregnancy, gender reassignment, sex or marital status civil partnership, religion or belief and sexual orientation.

**Stakeholder engagement:**

46 All LSAMOs continue to actively engage with the Standards Compliance team during the follow-up telephone QQM discussions.

47 The LSAMO Strategic Reference Group held on 27 March 2014 provided considerable opportunity to discuss current challenges and to gain their invaluable views and contributions to specific activity. This included the revisions to the annual report template.

48 The Assistant Director of Education and QA has observed one NMC LSA review visits, attended the interview for the North East and Yorkshire and Humber LSA MOs and accompanied the LSA MO for

London on a LSA audit. Other members of the Standard Compliance team have also observed two LSA monitoring visits.

**Risk  
implications:**

- 49 The NMC is continuing to closely work with Mott MacDonald. Intelligence is being shared as well as ongoing software development to allow LSAs clear reporting mechanisms.
- 50 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.

**Legal  
implications:**

- 51 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. *Midwives rules and standards* (NMC, 2012) came into force on 1 January 2013.

## **Midwifery Committee**

### **Education Advisory Group**

This item is to be discussed in private by virtue of paragraphs 5.2.5 of the NMC Standing Orders. The paper is therefore not for publication.



**COUNCIL AND COMMITTEE SCHEDULE OF BUSINESS 2014**

The items highlighted in red are annual items.

<b>COUNCIL: STANDING ITEMS</b>	
<b>OPEN SESSION</b>	<b>CONFIDENTIAL SESSION</b>
<ul style="list-style-type: none"><li>• Minutes and matters arising</li><li>• Chair's report (including Chair's actions)</li><li>• Chief Executive's report</li><li>• Performance and risk report</li><li>• Financial report</li><li>• Committee reports</li><li>• Schedule of business</li><li>• Questions from observers</li></ul>	<ul style="list-style-type: none"><li>• CONFIDENTIAL</li></ul>
<b>MIDWIFERY COMMITTEE: STANDING ITEMS</b>	
<ul style="list-style-type: none"><li>• Minutes and matters arising</li><li>• Quarterly quality monitoring</li><li>• Schedule of business</li></ul>	

**MIDWIFERY COMMITTEE 25/06/14 (Glasgow)**

- Revalidation update
- Review of midwifery regulation
- Monitoring report of the LSAs (including future QA of LSAs)

Induction event: Registration Directorate  
Seminar: Midwifery regulation in Scotland

**MIDWIFERY COMMITTEE 28/10/14**

- Revalidation and Code update
- Review of midwifery regulation
- Education strategy
- **LSA Annual Report**

Seminar: Midwifery regulation in Northern Ireland