

# performance review 2019/20

## NURSING AND MIDWIFERY COUNCIL





## ABOUT THE PERFORMANCE REVIEW PROCESS

**We aim to protect the public by improving the regulation of people who work in health and care. This includes our oversight of 10 organisations that regulate health and care professionals in the UK. As described in our legislation, we have a statutory duty to report annually to Parliament on the performance of each of these 10 regulators.**

Our performance reviews look at the regulators' performance against our [Standards of Good Regulation](#), which describe the outcomes we expect regulators to achieve. They cover the key areas of the regulators' work, together with the more general expectations about the way in which we would expect the regulators to act.

In carrying out our reviews, we aim to take a proportionate approach based on the information that is available about the regulator. In doing so, we look at concerns and information available to us from other stakeholders and members of the public. The process is overseen by a panel of the Authority's senior staff. We initially assess the information that we have and which is publicly available about the regulator. We then identify matters on which we might require further information in order to determine whether a Standard is met. This further review might involve an audit of cases considered by the regulator or its processes for carrying out any of its activities. Once we have gathered this further information, we decide whether the individual Standards are met and set out any concerns or areas for improvement. [These decisions are published in a report on our website.](#)

Further information about our review process can be found in a [short guide, available on our website](#). We also have a [glossary of terms and abbreviations](#) we use as part of our performance review process available on our website.

### The regulators we oversee are:

General Chiropractic Council • General Dental Council • General Medical Council • General Optical Council • General Osteopathic Council • General Pharmaceutical Council • Health and Care Professions Council • Nursing and Midwifery Council • Pharmaceutical Society of Northern Ireland • Social Work England



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# Nursing and Midwifery Council

## performance review report 2019/20

At the heart  
of everything  
we do is  
one simple  
purpose:  
protection  
of the public  
from harm

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## The Nursing and Midwifery Council

# key facts & stats

The Nursing and Midwifery Council (NMC) regulates the nursing and midwifery professions in the United Kingdom and nursing associates in England.

As at 30 September 2020, the NMC was responsible for a register of:



**724,516 professionals**

**Annual registration fee is: £120**

### The NMC's work includes:

- ▶ setting and maintaining standards of practice and conduct;
- ▶ maintaining a register of qualified professionals;
- ▶ assuring the quality of education and training for nurses, midwives and nursing associates;
- ▶ requiring registrants to keep their skills up to date through continuing professional development; and
- ▶ taking action to restrict or remove from practice registrants who are not considered to be fit to practise.

### Standards of Good Regulation met for 2019/20 performance review

	<b>General Standards</b>	<b>5/5</b>
	<b>Guidance and Standards</b>	<b>2/2</b>
	<b>Education and Training</b>	<b>2/2</b>
	<b>Registration</b>	<b>4/4</b>
	<b>Fitness to Practise</b>	<b>4/5</b>

Meeting, or not meeting, a Standard is not the full story about how a regulator is performing. You can find out more in the full report.

## The Nursing and Midwifery Council

# Executive summary

How the NMC is protecting the public and meeting the Standards of Good Regulation



This report arises from our annual performance review of the Nursing and Midwifery Council (NMC), which is one of 10 health and care professional regulatory organisations in the UK which we oversee. We assessed the NMC's performance against the [Standards of Good Regulation](#) which describe the outcomes we expect regulators to achieve in each of their four core functions. We revised our Standards in 2019; this is the first performance review of the NMC under the new Standards.

To carry out this review, we collated and analysed evidence from the NMC and other interested parties, including Council papers, performance reports and updates, committee reports and meeting minutes, policy, guidance and consultation documents, our statistical performance dataset and third-party feedback. We also utilised information available through our review of final fitness to practise decisions under the Section 29 process<sup>1</sup> and conducted a check of the accuracy of the NMC's register. We used this information to decide the type of performance review we should undertake. Further information about our review process can be found in our [Performance Review Process guide](#), which is available on our website.

## General Standards

When we revised the Standards, we introduced a new set of General Standards. There are five Standards covering a range of areas including: providing accurate, accessible information; clarity of purpose; equality, diversity and inclusion; reporting on performance and addressing organisational concerns; and consultation and engagement with stakeholders to manage risk.

We found that the NMC understands the diversity of its registrants and we saw evidence that it analyses the equality, diversity and inclusion data that it collects and uses the data to develop its understanding of the impact of its policies upon individuals with protected characteristics.

We have seen that the NMC monitors external events, considers the implications of relevant reports and regulatory issues, and takes appropriate action in response. The NMC's response to the Gosport Independent Panel Report involved looking at learning not

## The NMC's performance during 2019/20

We conducted a targeted review of the NMC's performance against Standards 4, 9, 11, 15 and 18. We concluded that Standard 15 was not met.

<sup>1</sup> Each regulator we oversee has a 'fitness to practise' process for handling complaints about health and care professionals. The most serious cases are referred to formal hearings in front of fitness to practise panels. We review every final decision made by the regulators' fitness to practise panels. If we consider that a decision is insufficient to protect the public properly we can refer them to Court to be considered by a judge. Our power to do this comes from Section 29 of the [NHS Reform and Health Care Professions Act 2002 \(as amended\)](#).

just for the NMC but also for the professionals that it regulates, resulting in additional guidance and a learning tool for registrants.

The NMC provides information on its performance and on concerns it has received and how it has dealt with them in a range of public reports. In April 2019 the NMC changed its corporate complaints procedures as part of its wider establishment of a new Enquiries and Complaints function. The NMC plans to review satisfaction levels with the new process and we will report on the outcome of that work.

We have found that the NMC communicates with a variety of stakeholders across the four countries of the UK. The NMC consults with stakeholders about proposed changes to its standards and guidance. We have seen that it values and acts upon external feedback and opinion. We have received very positive feedback about this aspect of the NMC's work from third party organisations.

## **Other key developments and findings**

### **Standards of proficiency for midwives**

The NMC published new standards of proficiency for midwives in November 2019 following an extensive period of consultation. It took into account the views of stakeholders and made changes in response to the feedback received to ensure that the new standards prioritise patient centred care and safety. We consider that there is an explicit link in the standards between the skills required of midwives and outcomes for women and babies. The NMC has committed to a programme of evaluation to establish how the standards are being implemented and what improvements may be needed in the future.

### **The NMC's response to the review of maternity services at the former Cwm Taf University Health Board**

An external review of care provided by the maternity services at the former Cwm Taf Health Board identified a number of serious concerns. The NMC engaged closely with the education provider which placed students at the Health Board to mitigate risks to standards of education and training. Consideration was given to the need to ensure that students could receive the support and learning experiences they need, while allowing time and space for the Health Board to address the very serious concerns identified about the safety of its maternity services.

### **Changes to the NMC's registration processes and requirements**

During this review period the NMC made a number of changes to its registration processes and requirements to increase fairness and flexibility while maintaining public protection. It published new return to practice standards in May 2019 following a public consultation. It launched a new, more streamlined process for overseas registration in October 2019. In November 2019 the NMC made changes to its English language requirements for registration and to the evidence requirements for readmission to the register. In January 2020 the NMC made further changes to its readmission requirements to allow applicants to take the test of competence as an alternative to a return to practice programme.

In making these changes the NMC has been transparent about the rationale behind its approach and the evidence relied upon. We have seen evidence that the NMC has

considered the impact of past alterations to its requirements and whether these led to any increase in fitness to practise referrals when determining whether further changes are proportionate and appropriate for enabling safe practice.

### **Fitness to practise case progression**

Ensuring cases are dealt with as quickly as is consistent with a fair resolution is a key element of Standard 15 of the Standards of Good Regulation. During this review period there was a decline in the NMC's performance on a number of measures of timeliness. This included: increases in the number of older cases across every category that we measure; an increase of 13 weeks in the median time taken from the NMC receiving a complaint to the case examiners reaching a case to answer decision (from 45 weeks in 2018/19 to 58 weeks in 2019/20); and an increase of 10 weeks in the median time from receipt of a complaint to final disposal (from 80 weeks in 2018/19 to 90 weeks in 2019/20). This timeliness data is particularly concerning in light of the further delays that have been caused by the NMC's need to respond to the Covid-19 pandemic, which will also have impacted on the final two weeks of this review period.

The decline in the NMC's performance in this area contributed to our decision that Standard 15 was not met this year.

### **Supporting parties to the fitness to practise process to participate effectively**

During this review period the NMC has continued its work to address the concerns we identified in our Lessons Learned Review<sup>2</sup> in 2018 and to better support parties to the fitness to practise process.

The NMC has put in place resources of support for complainants, witnesses and registrants under investigation and the evidence available indicates that these have been well received. The NMC received very positive feedback from members of the public on the meetings provided by the Public Support Service at the start of the investigation and at the conclusion of the case. The meetings improved communication with members of the public from the outset of the investigation and meant they were kept better informed of progress and had a greater understanding of the process.

While we note that there is more work to do to review the impact of some of the significant changes the NMC has made in this area of its work, we are satisfied that the available evidence demonstrates the effectiveness of the NMC's approach.

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<sup>2</sup> Lessons Learned Review. The Nursing and Midwifery Council's handling of concerns about midwives' fitness to practise at the Furness General Hospital [https://www.professionalstandards.org.uk/docs/default-source/publications/nmc-lessons-learned-review-may-2018.pdf?sfvrsn=ff177220\\_0](https://www.professionalstandards.org.uk/docs/default-source/publications/nmc-lessons-learned-review-may-2018.pdf?sfvrsn=ff177220_0)

# How the Nursing and Midwifery Council has performed against the Standards of Good Regulation

## General Standards

**Standard 1: The regulator provides accurate, fully accessible information about its registrants, regulatory requirements, guidance, processes and decisions.**

- 1.1 The NMC clearly sets out information about its statutory objectives and core functions on its website. Detailed information on the work which the NMC carries out to support its core functions and deliver on its objectives is available through links on its homepage. The website includes an 'Accessibility' link which sets out accessibility features and provides information on how to navigate the website.
- 1.2 The NMC's Code, which sets out the professional standards that nurses, midwives and nursing associates must uphold in order to be registered to practise in the UK, is available to read online or download in English or Welsh. It includes links to additional information to support registrants to apply the Code. Standards of proficiency and of education and training are available in sections dedicated to each profession.
- 1.3 The 'Education' section of the website sets out clearly the NMC's remit in nursing and midwifery education and training. There is comprehensive guidance for those wishing to train in a profession regulated by the NMC, including links to registration requirements, information on different routes to qualification, where to find training programmes and how students can raise concerns about registrants or Approved Education Institutions (AEIs). The website provides detailed information about the NMC's work in quality assurance of education and training, including an annual education quality assurance report.
- 1.4 A register search function features prominently on the NMC's homepage. A registration checking service specifically for known employers is also available. The 'Registration' section of the website contains information for applicants seeking to join the register, including the NMC's evidence requirements for registration and how these differ depending on where and when an applicant trained.
- 1.5 The NMC's website has a dedicated page with information on registration appeals. However, this is limited to a link to the relevant section of the NMC's legislation,<sup>3</sup> the fact that when an appeal panel dismisses a registration appeal the decision and reasons will be published on the website for a period of four months, and a brief description of what happens at an appeal. We consider that the NMC could publish more information on the registration appeals process to assist applicants and to increase the transparency of the process.

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<sup>3</sup> Article 37 of The Nursing and Midwifery Order 2001, which sets out the type of decisions that can be appealed



- 1.6 The NMC has a revalidation microsite with information about its revalidation scheme, including guidance and information sheets, case studies, and short films. The NMC publishes an annual revalidation report which includes summary data on the scheme.
- 1.7 The website includes extensive information about the NMC's work in fitness to practise including how the process works at each stage, the distinction between the responsibilities of the NMC and those of employers in managing concerns about registrants, and details of recent hearings and outcomes. The NMC publishes an annual Fitness to Practise report providing a summary of developments in this aspect of its work and a range of data on concerns raised and how these were managed.
- 1.8 We consider that the NMC has clear policies and processes in place to ensure that it handles and discloses information appropriately across each of its functions.
- 1.9 On 21 October 2019 the NMC made some changes to the information it publishes about registration and fitness to practise decisions.<sup>4</sup> These included reducing the amount of time it will publish a striking-off order from 60 years to five,<sup>5</sup> publishing restoration decisions for a period of four months instead of indefinitely, and publishing all voluntary removal decisions for a period of one year, whereas previously only those made at a hearing were published. We do not have any concerns about these changes. We note that a number of the other professional regulators have set a five-year limit for the publication of striking-off orders. While some of the regulators publish restoration decisions for longer periods, we do not consider that a publication period of four months is unreasonable or insufficiently transparent.
- 1.10 In the final weeks of this review period the NMC established a 'Coronavirus Hub' on its website to provide up to date information about its response to the pandemic, how it would continue to regulate, and specific pages for different audiences with frequently asked questions and answers. There are clearly displayed links to the hub on pages across the NMC's website, including the homepage.
- 1.11 The NMC provides information about its registrants, regulatory requirements, guidance, processes and decisions in a manner which appears to be accurate and accessible. Information about registration appeals is not as comprehensive and accessible as it could be. However, in the context of the other information we have seen, we do not consider that this issue in isolation indicates that the Standard may not be met. We are therefore satisfied that this Standard is met.

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<sup>4</sup> See the NMC's [Guidance on publication of fitness to practise and registration appeal outcomes](#)

<sup>5</sup> After five years the NMC will continue to display the fact that someone has been struck-off on its register, but will only disclose the reasons for the order upon request where it had a lawful basis under data protection legislation.

**Standard 2: The regulator is clear about its purpose and ensures that its policies are applied appropriately across all its functions and that relevant learning from one area is applied to others.**

- 2.1 The Nursing and Midwifery Order 2001 sets out the NMC's objectives and principal functions. Its over-arching objective in exercising its functions is the protection of the public, which involves pursuit of the following objectives:
- To protect, promote and maintain the health, safety and well-being of the public
  - To promote, maintain public confidence in the professions regulated under this Order
  - To promote and maintain proper professional standards and conduct for members of those professions.
- 2.2 Under the Order, the NMC is required to have a system for the declaration and registration of private interests of its members, and to publish these interests. The NMC publishes policies setting out its approach these matters. Individual registers of interests for Council members and the Executive Team can be accessed on the NMC's website. Council members and staff are also required to declare any personal or material interest that they may have in any business being discussed at Council and Committee meetings. We have seen examples of the NMC following this process.
- 2.3 The NMC published its Strategy 2020-25 on 29 April 2020 following a public consultation which was held from July to October 2019. The Strategy 2020-25 sets out the NMC's purpose to promote and uphold the highest professional standards in nursing and midwifery to protect the public and inspire confidence in the professions. It publishes annual corporate plans alongside the strategy, setting out the NMC's focus for the year ahead.
- 2.4 The Strategy 2020-25 sets out the NMC's commitment to proactively support the professions it regulates. The NMC has undertaken work in recent years to improve its relationship with the professions, including its drive under the new fitness to practise strategy to take greater account of context in investigations and to resolve fitness to practise concerns at an earlier stage through a new approach to enabling remediation. We have also seen a number of examples of the NMC commenting publicly on workforce pressures within the professions it regulates. The NMC has reported that various stakeholder groups have expressed a desire for the NMC to have a greater involvement on wider system issues and specifically to contribute to addressing workforce challenges. We note that the strategy for 2020-25 includes a commitment to look at the issue of advanced practice in nursing.
- 2.5 We considered whether work undertaken to support or develop the professions could be in conflict with the NMC's statutory objectives. The NMC told us that it has been very mindful of this when developing both its new corporate strategy and the fitness to practise strategy.
- 2.6 The NMC told us that a number of changes introduced under its fitness to practise strategy were driven by its view that registrants' negative perceptions of the process may have the perverse consequence of inhibiting candour – and thereby, learning – when things go wrong. These measures are therefore aimed at making sure the

fitness to practise process does not undermine the creation of a just culture, which the NMC believes will ultimately protect the public. The NMC said that in this instance it has continued to fulfil its statutory duty to investigate and manage concerns, but has amended how it does so in a way that is more supportive of professionals as well as protecting the public more effectively.

- 2.7 The NMC told us that its commitment to consider the issue of advanced practice in nursing has arisen because there has been a proliferation of advanced nursing roles, and in some other countries advanced practice in nursing is subject to regulation. This has led to calls for the NMC to regulate advanced practice in the UK. The NMC told us that it will consider what the risks of advanced practice might be and apply the principles of *Right touch regulation*<sup>6</sup> in its consideration of this issue. It recognises that there may be interventions other than regulation which will protect the public.
- 2.8 We have not seen any evidence to indicate that the NMC's new strategic approach undermines the delivery of its overarching objective. The NMC has been transparent about the thinking behind its strategy and has sought contributions from stakeholders to inform it. We will continue to monitor the impact of the changes made as the NMC embeds its new fitness to practise strategy as well as the NMC's planned review of advanced nurse practice.
- 2.9 The NMC has logical and thorough processes in place to ensure that policies are successfully embedded and applied appropriately across all its functions, including internal review mechanisms to ensure their continued effectiveness. There are processes in place to share learning across the organisation and the NMC gave us examples of this being done effectively. For instance, an analysis of the common types of fitness to practise referrals made about registrants in their first three years of practice was used to inform the development of new education standards. The NMC also updated its standards of proficiency for registered nurses to clarify the knowledge and skills required relating to the medicines management and administration in response to a consistent level of referrals relating to errors of this nature.
- 2.10 We have also seen evidence that the NMC reviews and acts upon on the learning arising from the Authority's review of its work. We are satisfied that this Standard is met.

**Standard 3: The regulator understands the diversity of its registrants and their patients and service users and of others who interact with the regulator and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people with protected characteristics.**

- 3.1 The NMC sets out its approach to Equality, Diversity and Inclusion (EDI) and how it complies with equalities legislation in a published framework document.<sup>7</sup>
- 3.2 The NMC collects diversity data about its registrants and the processes that affect them, which it publishes and analyses in a number of quarterly and annual reports.

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<sup>6</sup> <https://www.professionalstandards.org.uk/publications/right-touch-regulation>

<sup>7</sup> <https://www.nmc.org.uk/globalassets/sitedocuments/eandd/nmc-edi-framework-2017.pdf>

It also publishes information about the diversity of its key decision makers such as Council members and fitness to practise panel members.

- 3.3 In 2017 the NMC commissioned research<sup>8</sup> which identified disproportionality in fitness to practise referrals, progression through the fitness to practise process and outcomes among black and minority ethnic registrants. In October 2019 the NMC reported that it was undertaking its own research to look at how different groups of people (on the basis of protected characteristic) experience its processes. It originally planned to publish a report of initial findings in Spring 2020, but concerns about the quality of the EDI data meant that this was not achievable. It published the report in October 2020, following a further delay as a result of the Covid-19 pandemic. We will consider this report as part of our next performance review.
- 3.4 The NMC has a governance structure to monitor and report on EDI and it uses tools such as Equality Impact Assessments (EQIAs) to meet its strategic aims, ensure compliance with legislation, and ensure its processes are free from bias.
- 3.5 The NMC has a reasonable adjustments policy. It told us that it has worked for some time to improve its approach to reasonable adjustments, increasing awareness of its policy among customers, increasing its understanding about how to remove barriers, introducing guidelines to ensure consistency, and sharing best practice.
- 3.6 The NMC has told us about actions it has taken to address concerns about its processes, including updating its *Guidance on health and character*<sup>9</sup> in January 2019 to provide greater clarity for registrants with long term health conditions or a disability.<sup>10</sup> Its EQIA for the new meetings that are offered to members of the public raising fitness to practise concerns identified potential barriers to certain groups attending (those living in supported living accommodation, pregnant women and carers). The NMC therefore offers these groups meetings at the person's location, subject to risk assessments. The NMC offers an advocate to support people with mental health or learning difficulties accessing the public support service. It also offers translation/interpreter services for people who may have difficulties speaking English.
- 3.7 Under Standard 11 we discuss actions planned by the NMC to amend its process for conceding registration appeals in order to improve the consistency of decision-making and reduce any potential for conscious or unconscious bias.
- 3.8 The NMC told us that in 2018, as part of the annual self-assessment process undertaken by AEIs, it included a set of thematic questions around EDI. These identified some gaps in EDI compliance and good practice by education providers. The NMC continues to work with institutions to ensure they meet its requirements on EDI, including approving every institution and programme against its new standards for education and training, which include a stronger focus on EDI.

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<sup>8</sup> The Progress and Outcomes of Black and Minority Ethnic (BME) Nurses and Midwives through the Nursing and Midwifery Council's Fitness to Practise Process, University of Greenwich:

<https://www.nmc.org.uk/globalassets/sitedocuments/other-publications/bme-nurses--midwives-ftp-research-report.pdf>

<sup>9</sup> <https://www.nmc.org.uk/registration/joining-the-register/health-and-character/>

<sup>10</sup> The guidance is discussed further under Standard 11 below

- 3.9 We are satisfied that the NMC considers carefully the EDI data it holds when reviewing and updating its processes. It has undertaken a significant amount of work to ensure that its processes do not impose inappropriate barriers or otherwise disadvantage people with protected characteristics. The NMC anticipates that more data will be available in the future to demonstrate the impact of this work with improvements made to its IT systems and embedding of recent changes made to increase the fairness of its processes.
- 3.10 We are satisfied that this Standard is met and will continue to monitor and report on evidence of the impact of the NMC's work in this area.

**Standard 4: The regulator reports on its performance and addresses concerns identified about it and considers the implications for it of findings of public inquiries and other relevant reports about healthcare regulatory issues.**

**Corporate complaints process and learning from complaints**

- 4.1 In April 2019 the NMC changed its corporate complaints procedures as part of its wider establishment of a new Enquiries and Complaints function. The NMC told us that its former multi-stage complaints process was confusing for some customers and could take many months to conclude. It therefore moved to a process involving a single resolution stage.
- 4.2 We wanted to learn more about how the NMC handles cases where a complainant is unhappy with the NMC's response to their concerns under its new process. The NMC told us that it will only reopen a complaint if a customer provides it with new evidence to consider, which is in line with its published complaints process. Where a complainant is unhappy with the NMC's response to their concerns, it may arrange a telephone call or face to face meeting to attempt to resolve their concerns. The NMC noted that its Public Support Service may assist in resolving complex complaints.
- 4.3 We have seen that the NMC is willing to engage with dissatisfied complainants and to address their concerns. It told us that in 2019/20 it met with eight customers with complex and longstanding complaints and agreed an action plan and a way forward to resolve the issues they raised.
- 4.4 The number of complainants who contacted the NMC in 2019/20 to pursue their corporate complaints following an initial response was low. We note that the NMC plans to survey customers to determine their level of satisfaction with the corporate complaints process.
- 4.5 The NMC told us that it shares learning from complaints with relevant managers involved in the case, who then share the information with their teams. Information is also provided to each directorate and to the NMC's continuous improvement team, which uses this information to identify service improvements. The NMC provided examples of improvements it had made to its processes in response to learning from complaints.
- 4.6 The NMC also escalates concerns based on how serious it assesses them to be. The most serious complaints are responded to directly by the NMC's Chief

Executive and Registrar and updates are shared with the Council. This appears appropriate and we have not seen any evidence that serious complaints have not been escalated.

### **Performance reporting**

- 4.7 The NMC produces annual reports with information about its performance, and data on concerns it has received and how it has dealt with them. It presents regular reports about its performance to its Council which appear to be accurate and of an appropriate quality.
- 4.8 Since March 2020, the NMC has provided performance information to its Council on a quarterly basis. Although this is less frequently than was previously the case and therefore this has implications for the speed at which the Council can identify and scrutinise issues arising, we do not consider this to be an unreasonable timeframe. We will monitor how this change works in practice.

### **Action taken in response to external events**

- 4.9 The NMC monitors external events, considers the implications of relevant reports and regulatory issues, and appears to take appropriate action in response. During this review period, the NMC responded to the Gosport Independent Panel Report<sup>11</sup> into concerns raised by families over a number of years about the initial care of their relatives in Gosport War Memorial Hospital and the subsequent investigations into their deaths. The NMC told us that it looked at the learning not just for the NMC but also for the professionals that it regulates. It convened an internal working group and developed an action plan. The NMC's Public Support Service provided advice as to how the NMC could support the families affected, and developed a stakeholder engagement plan to make sure that all key stakeholders were kept aware of the NMC's responses. In December 2019 the NMC published additional guidance and a learning tool for registrants arising from its assessment of the report.

### **Conclusion**

- 4.10 The impact of the NMC's move to a corporate complaints process with a single resolution stage is not yet known. We will monitor and report on the outcomes of the NMC's planned work to review satisfaction levels with its new corporate complaints process and take into account any relevant feedback provided in concerns raised directly with the Authority in future reviews.
- 4.11 There are appropriate processes in place to share information and learning from complaints with staff and decision makers at all levels of the organisation, and we have seen evidence that the NMC acts upon feedback provided in complaints and make changes to its processes where required.
- 4.12 We are satisfied that this Standard is met.

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<sup>11</sup> <https://www.gosportpanel.independent.gov.uk/panel-report/>

**Standard 5: The regulator consults and works with all relevant stakeholders across all its functions to identify and manage risks to the public in respect of its registrants.**

- 5.1 The NMC held two public consultations during this review period. The future midwife consultation, held from February to May 2019, sought views on the NMC's draft standards of proficiency for midwives and draft standards for pre-registration midwifery education. The NMC hosted a series of consultation events across the UK to help people learn about the draft standards, including roundtable discussions, webinars and workshops. The NMC also created a small number of consultation assimilation teams made up of subject matter experts from a range of midwifery and other healthcare backgrounds to consider some of the key issues that had arisen from the consultation and help to inform the NMC's response. The NMC made changes to the final standards where consultation responses showed that some areas needed strengthening or clarification.
- 5.2 The 'shaping the future' consultation ran from July to October 2019. The consultation sought views on what should be the NMC's priorities over the next five years. The NMC used the information obtained to inform its Strategy 2020-25 which was published in March 2020.
- 5.3 The NMC engages with patients and service users and has held patient and public roundtables with a range of people who have personal experience of using health and care services, their carers and families, and organisations that advocate on their behalf. Members of the public also participated in research commissioned by the NMC into the level of trust in professional regulation.<sup>12</sup>
- 5.4 The NMC's Education Quality Assurance Framework requires teams at approval events for all pre-registration programmes to include a lay visitor alongside registrant visitors. During approval events the team also meet with a group of service users/patients to discuss how they have been actively engaged in curriculum design.
- 5.5 The NMC established a public support steering group to provide guidance and direction in the development and implementation of its person-centred approach. The group consists of a mixed group of patients, families and service users, NMC staff and external partners. The NMC told us that the group has provided advice and direction on a number of projects, including the design of the public support service pilots, and had helped the NMC to develop a customer charter that reflects the needs and expectations of those who the NMC comes into contact with throughout the fitness to practise process.
- 5.6 The NMC established its Employer Link Service (ELS) to work in partnership with healthcare providers to improve patient safety and ensure higher standards of care through providing advice on NMC thresholds and revalidation recommendations, improving the quality of fitness to practise referrals, and encouraging robust local investigation, performance management and clinical governance.

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<sup>12</sup> Building trust and confidence. What our audiences say about the key to better, safer care  
<https://www.nmc.org.uk/globalassets/sitedocuments/shaping-the-future/building-trust-and-confidence-research.pdf>

- 5.7 The NMC told us that over the last four years, the ELS has developed relationships with a range of employers and other stakeholders including strategic oversight bodies, across the four countries. To date the main focus of the service has been work with targeted NHS trusts, Health & Social Care Trusts, Health Boards and Scottish Trusts, but the NMC is now planning how it will engage with harder to reach employers and registrants such as adult social care and independent health employers and the high risk environments associated with mental health and learning disability providers.
- 5.8 During this review period the NMC appointed members of its Executive team to lead its engagement in each country of the UK, with project teams established to support each director in their role. Country directors hold meetings with senior stakeholders in each nation, including Chief Nursing Officers and devolved administrations, to ensure that the voice of each country is heard at the highest level within the NMC and also to ensure that the different contexts of each country are fully understood within the organisation.
- 5.9 The NMC has memoranda of understanding with a range of organisations to set out how they will work together and share information where there are concerns about healthcare professionals and providers. The NMC told us that it also shares information with organisations with which it does not hold a memorandum of understanding where it considers this to be in the public interest. The NMC provides guidance and training for its staff to ensure that information is shared appropriately.
- 5.10 The NMC is a signatory to the emerging concerns protocol for England, a joint agreement which aims to make it easier for English regulators to share information about potential risks to patients, families and professionals. It is also a member of the Joint National Strategic Oversight Group, a forum to consider and share escalated, emerging and ongoing risks at Trusts.
- 5.11 The NMC told us that it refers customers to a range of organisations that can provide them support, including Mind, the Samaritans, and charities offering support to those in financial difficulty. Where customers have particular communication difficulties, the NMC engages advocates through its contractual relationship with Re-think. The NMC has created a signposting guide for staff to help signpost members of the public to other organisations where they can raise concerns and access support. The NMC's website also provides information about a range of support and advocacy services in the UK.
- 5.12 It is evident that the NMC communicates with a variety of stakeholders across the four countries of the UK, using a number of different methods. The NMC consults with or seeks the opinion of its stakeholders in regard to proposed changes to its standards and guidance. It recognises the value of external feedback and opinion and it is evident that feedback is considered and fed into subsequent discussions and amendments. We have received very positive feedback about this aspect of the NMC's work from third party organisations.
- 5.13 The evidence we have seen demonstrates that the NMC has robust, documented processes for sharing information about its registrants in order to manage risks to the public. We are satisfied that this Standard is met.



# Guidance and Standards

**Standard 6: The regulator maintains up-to-date standards for registrants which are kept under review and prioritise patient and service user centred care and safety.**

## Standards of proficiency for midwives

- 6.1 As noted above under Standard 5, the NMC ran a consultation on new standards of proficiency for midwives between February and May 2019. It made changes to the draft standards in response to the view of respondents to the consultation that they needed strengthening or clarification, including:
- The role and scope of the midwife and whether there was appropriate prominence on optimising normal physiological processes
  - Whether there was too much emphasis on meeting the additional care needs of women and newborn infants with complications
  - Providing clarity on what the systematic physical examination of the newborn infant entailed.
- 6.2 Other reported refinements to the draft in response to the consultation included:
- Clarification of the role of the midwife in promoting continuity of care across all settings rather than being responsible for decisions about maternity service delivery
  - Greater emphasis added to the midwife's role in working in partnership with women rather than providing care to women
  - Addition of a proficiency that promotes the future midwife's knowledge and understanding of the principles of sustainable healthcare.
- 6.3 The standards outline requirements across six domains, the sixth of which ('The midwife as skilled practitioner') sets out a range of clinical and other skills linked to requirements across the other five domains, including, for example, in relation to monitoring and assessing vital signs, responding to possible complications, and working in partnership with women and with other professionals. There is an explicit link in the standards between the skills required and outcomes for women and babies.
- 6.4 The NMC's Council approved the new standards and related transitional arrangements at its meeting in October 2019. The new standards were published in November 2019. The NMC has committed to a programme of evaluation to establish how all its future standards are being implemented and what improvements may be needed in the future. An advisory group of relevant stakeholders will oversee the outcomes and report into the NMC's Midwifery Panel and Council.

## Post-registration standards

- 6.5 In our 2017/18 performance review we noted feedback that the standards of proficiency for Specialist Community Public Health Nurses (SCPHNs), created in

2004, were out of date and required review. The NMC subsequently commissioned an independent evaluation of both the post-registration standards of proficiency for SCPHNs and Specialist Practice Qualifications (SPQs), which are additional post-registration qualifications which may be recorded as annotations on the NMC register. The key findings of that review were reported to the NMC's Council at its meeting in May 2019.

- 6.6 The NMC then established a post-registration standards steering group (PRSSG) to help develop its approach, with members recruited from across the UK, including representatives from the four Chief Nursing Officer offices, professional bodies, specialist post-registration forums and groups, and social care and advocacy groups.
- 6.7 The NMC set out plans for its ongoing work in this area in January 2020. These included:
- the development of new standards of proficiency for health visiting, school nursing and occupational health nursing fields of SCPHN practice, together with associated education programme standards
  - an initial phase of work to scope standards of proficiency content of a proposed new SPQ for community nursing practice, accompanied by associated education programme standards
  - giving formal notice that signals the NMC's intention to withdraw the current the current SCPHN qualification standards and the nine SPQ standards no later than 2023.
- 6.8 This work was delayed by the Covid-19 pandemic. In December 2020 the NMC reported that it was making changes to its proposals in relation to SPQs in response to feedback from stakeholders. This work is continuing and we will consider its outcome in future reviews.

### Conclusion on this Standard

- 6.9 During this review period the NMC has continued its work to update its standards for registrants. The NMC has made changes in response to feedback received from stakeholders to ensure that the new standards prioritise patient and service user centred care and safety. The NMC has committed to evaluate how all its new standards are being implemented and what improvements may be needed in the future.
- 6.10 The NMC has recognised the need to update its post-registration standards and has sought relevant expertise to determine how this should be done. We will report on the progress of that work in future reviews.
- 6.11 We are satisfied that this Standard is met.

### **Standard 7: The regulator provides guidance to help registrants apply the standards and ensures this guidance is up to date, addresses emerging areas of risk, and prioritises patient and service user centred care and safety.**

- 7.1 We have seen a number of examples of the NMC updating guidance for registrants in response to external events and emerging areas of risk.

- 7.2 In October 2019 the NMC updated its guidance on conscientious objection to reflect changes in the law on abortion in Northern Ireland.
- 7.3 In December 2019 the NMC published additional guidance and a learning tool for registrants arising from its assessment of the Gosport Independent Panel Report.<sup>13</sup> The tool sets out information on the themes of:
- Communication and the importance of listening to those in care and their families
  - Speaking up when things go wrong or they have concerns
  - Accountability for care given and any consequences
  - Clear and consistent record-keeping.
- 7.4 The tool includes activities for registrants in relation to each theme, and the information provided is clearly linked to the NMC's Code and standards of proficiency.
- 7.5 In February 2020 the NMC published a response to the CQC report on promoting sexual safety in adult social care, confirming that nurses supporting people to safely explore and express their sexuality is entirely consistent with the NMC Code and standards which require nurses to show both clinical excellence and a commitment to kindness, compassion and respect, and to provide person-centred care that respects people's diversity.
- 7.6 In March 2020 the NMC published a joint statement with the Royal College of Nursing regarding decisions relating to cardiopulmonary resuscitation (CPR) in light of concerns about a fitness to practise case. The statement made it clear that in particular situations, where a decision is taken not to start CPR in the absence of a prior decision not to attempt resuscitation, the NMC agrees that registrants should use their professional judgement to decide what action should be taken in the best interests of the person in their care. It also refers registrants to the standards in the NMC's Code, which are useful to support decision making.
- 7.7 In March 2020 the NMC also published considerable guidance on the implications for registrants of the Covid-19 pandemic and how the NMC would respond to it. This included a joint statement from statutory regulators of health and care professionals on how they will continue to regulate in light of the pandemic<sup>14</sup> and joint statements with nursing and midwifery leaders on expanding the workforce in the Covid-19 outbreak.<sup>15</sup> We consider that this was a necessary, speedy and helpful response to the extraordinary circumstances of the pandemic.
- 7.8 We are satisfied that this Standard is met.

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<sup>13</sup> <https://www.gosportpanel.independent.gov.uk/panel-report/>

<sup>14</sup> <https://www.nmc.org.uk/news/news-and-updates/how-we-will-continue-to-regulate-in-light-of-novel-coronavirus/>

<sup>15</sup> <https://www.nmc.org.uk/news/news-and-updates/joint-statement-on-expanding-the-midwifery-workforce/>  
<https://www.nmc.org.uk/news/news-and-updates/joint-statement-on-expanding-the-nursing-workforce/>

# Education and Training

**Standard 8: The regulator maintains up-to-date standards for education and training which are kept under review, and prioritise patient and service user centred care and safety.**

## Standards of education and training for midwives

- 8.1 As discussed under Standard 5, the NMC consulted on draft standards for pre-registration midwifery education from February to May 2019. It made changes to the standards following consultation, including the addition of a standard on the need for AEs to appoint a Lead Midwife for Education who will be responsible for midwifery education in the AEI and accountable for signing the supporting declarations of health and character for applicants applying for admission to the register on completion of a programme.
- 8.2 We received positive feedback from a third party organisation about the NMC's responsiveness to stakeholders' views in developing the standards. The organisation expressed the view that the final standards are founded on a strong international evidence base and place women, babies, and families at their heart.
- 8.3 The NMC published the standards on 18 November 2019. In July 2020, it extended the implementation date of the standards from September 2021 to September 2022 in light of the Covid-19 pandemic and to allow appropriate time for AEs and their practice learning partners to develop new curricula and seek approval.

## Post-registration programme standards

- 8.4 Standards for SPQ programmes were developed in 1994 and last published in 2001. As outlined above under Standard 6, the NMC commissioned an independent evaluation of post-registration standards for SCPHN and SPQs and established a steering group to help inform its thinking in this area. It had to delay its planned work around the development of new post-registration programme standards in light of the Covid-19 pandemic. We will report on how this work has progressed in future reviews.

## Changes to the NMC's standards for education and training during the Covid-19 pandemic

- 8.5 The NMC agreed in March 2020 to implement Covid-19 Emergency Education Programme Standards. The standards were designed to enable AEs and their practice learning partners to support all of their nursing and midwifery students in an appropriate way during the emergency period. The NMC engaged with higher education and student representatives to draft the standards.

## Conclusion on this Standard

- 8.6 The NMC progressed its work to update its standards for pre-registration education during this review period. It consulted appropriately on the content of the standards and made changes in response to the feedback received. In considering the feedback, it had regard to the need to prioritise patient safety. The NMC has

committed to a programme of evaluation to establish how all its new standards are being implemented and what improvements may be needed in the future. While some of this work has been delayed because of the pandemic, we consider this to be entirely understandable and do not consider that this has led to any gaps in public protection.

- 8.7 We have seen evidence that the NMC has sought relevant expertise to inform its ongoing work to update its post-registration education programme standards. We will report on the progress of that work in future reviews.
- 8.8 We are satisfied that this Standard is met

**Standard 9: The regulator has a proportionate and transparent mechanism for assuring itself that the educational providers and programmes it oversees are delivering students and trainees that meet the regulator’s requirements for registration, and takes action where its assurance activities identify concerns either about training or wider patient safety concerns.**

#### **Approval and quality assurance of nursing, midwifery, and nursing associate education programmes**

- 9.1 Each year the NMC publishes a report on its quality assurance activity in education and training. The report includes information on its programme approval and monitoring processes and outcomes, as well as details of the concerns it has received about education programmes and how it has responded to them. The most recent report covered the 2018/19 academic year (from 1 September 2018 to 31 August 2019). This was a period during which the NMC began the process of approving education institutions and programmes against its new standards through the new gateways-based approach to approval.<sup>16</sup>
- 9.2 Where it identified themes for rejections at the different stages of the process (or ‘gateways’), the NMC shared lessons learned with the sector through webinars and presentations, as well as developing supporting information which was published on its website.
- 9.3 Where the NMC’s quality assurance processes identify that its standards are not met it can set conditions which must be met before a programme is approved; where significant concerns are raised, it may refuse approval. The number of programmes refused in the 2018/19 academic year was very low, but over 60% of programmes had to meet conditions before approval was granted.
- 9.4 While the proportion of programmes requiring conditions remains high, we note that there has been a reduction since 2017/18, when conditions were issued in respect of 71% of programmes. Some of the areas where conditions were provided appear to be of low risk, such as programmes being required to ensure consistent programme documentation or to provide explicit information on how programmes are run. We have seen no evidence that risks are not being managed.

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<sup>16</sup>Education providers no longer have to first obtain ‘Approved Education Institution’ status before seeking approval of their programmes. This process has now been streamlined into one gateway process, where approval of the institution is granted at the same time as approval of a programme.

- 9.5 We will continue to monitor this issue in future performance reviews to assess whether the NMC's new, more outcome-focussed quality assurance model leads to a further reduction in conditions being issued, and whether there is any evidence that the NMC should be doing more to ensure programmes are in a position to meet its standards before embarking on the approval process.
- 9.6 We have seen that the NMC takes action where its assurance activities identify concerns, including by undertaking extraordinary reviews where the concerns are particularly serious.

### **Review of maternity services at the former Cwm Taf University Health Board**

- 9.7 An external review of care provided by the maternity services at the former Cwm Taf Health Board was carried out in January 2019. The review identified a number of serious concerns which had implications for the safety and quality of services. We sought further information about how the NMC has responded to this issue and ensured that standards of education and training provided by the University of South Wales, which placed midwifery students at the Health Board, were upheld.
- 9.8 It is clear the NMC engaged closely with the University to mitigate risks. The actions taken by the University from which the NMC gained assurance appear proportionate to the risks identified, including removal of students from placement settings where necessary. Consideration was given to the need to ensure that students could receive the support and learning experiences they need, while allowing time and space for the Health Board to address the very serious concerns identified about the safety of its maternity services.
- 9.9 The NMC also sought to gain independent assurance of improvements to the services subject to review through its engagement with government and partner organisations in regulation and education.

### **Protected learning time for nursing associate students**

- 9.10 Last year we noted the NMC's commitment to evaluate its approach to protected time for nursing associate students once there was sufficient evidence available. We sought further information from the NMC on this issue this year.
- 9.11 Since the first cohort of students to experience protected learning time on NMC-approved programmes were half-way through their studies at the time of the NMC's response, it was not in a position to undertake a formal evaluation of the impact of the change. However, the NMC has taken action taken through the programme approval process to address individual concerns about the way in which protected learning time was being managed.
- 9.12 The information provided indicates that the NMC's programme approval process is identifying and appropriately addressing risks related to the way in which protected learning time is being managed. The proportion of programmes where the NMC found concerns this year was low<sup>17</sup> but it was notable that in some cases reviewers identified a lack of a consistent understanding of the concept of protected learning time among both students and staff at placement settings. The NMC told us that it

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<sup>17</sup> Conditions were issued in four of the 42 nursing associate programmes approved, modified or endorsed in the academic year 2019/20. One programme was refused approval as nine conditions were set during the approval process, while the NMC allows a maximum of five conditions for a programme to be approved.

has issued additional guidance to education providers on implementing protected learning time, which may assist them to ensure improved understanding of the concept among these groups.

- 9.13 The NMC intends to undertake a formal evaluation of the impact of the introduction of protected learning time later in 2021. It plans to seek information from education providers on the use of protected learning time as part of the annual self-assessment process between December 2020 and January 2021. We are satisfied that this Standard is met.

## Registration

### **Standard 10: The regulator maintains and publishes an accurate register of those who meet its requirements including any restrictions on their practice.**

- 10.1 The NMC has in place registration, readmission and revalidation processes to ensure only individuals who meet its requirements join or remain on its register. The NMC has published guidance about how it will consider allegations about incorrect and fraudulent entries to the register. We have not seen any information which suggests that the NMC has added anyone to its register who has not met its registration requirements.
- 10.2 On 21 October 2019 the NMC made some changes to its publication and voluntary removal guidance which changed the information that is displayed on the register, including publishing the reasons for a striking off order for five years instead of 60 and publishing all voluntary removal decisions for a period of one year, whereas previously only those made at a hearing were published. As noted under Standard 1, we do not have any concerns about these changes.
- 10.3 We conducted a check of a sample of entries on the NMC register for accuracy. We checked a sample of 50 register entries on 1 April 2020. The registrant entries checked were randomly selected, but all related to registrants who had been subject to a final fitness to practise decision in the relevant period. All entries checked were accurate.
- 10.4 The NMC launched its temporary register on 27 March 2020, following the passing of relevant emergency legislation. The temporary register enabled former registrants and overseas applicants who had completed all parts of the NMC registration process except their final clinical examination to register temporarily to enable them to assist during the Covid-19 pandemic. The temporary register is published on the NMC's website and entries can be searched by name or by NMC reference number. Entries display the temporary registrant's name, whether they are a nurse, midwife or dually registered, their country of residence, and the date on which their temporary registration became active. The NMC's website clearly sets out the conditions of practice which have been imposed on some groups of temporary registrants, and the fact that conditions are in place for a temporary registrant will be displayed on their temporary register entry for the duration of their inclusion on it. We will discuss further the NMC's work on the temporary register as part of next year's review but we note that the work was undertaken very swiftly and

demonstrates that the NMC has taken an agile and flexible approach in the light of the pandemic.

10.5 We are satisfied that this Standard is met.

## **Standard 11: The process for registration, including appeals, operates proportionately, fairly and efficiently, with decisions clearly explained.**

### **Changes to the NMC's registration processes and requirements**

- 11.1 Following a consultation undertaken in the 2018/19 review period, the NMC's new return to practice standards were published in May 2019. Under the new standards, those wanting to re-join the register can choose to take a test of competence to demonstrate that their skills and knowledge are up to date, rather than undertake a course.
- 11.2 The NMC launched its new process for overseas registration on 7 October 2019. Changes include:
- Moving from a paper to an online application system that provides applicants with a personal account to track their progress instantly
  - Streamlined requirements to confirm a candidate's competence – for example, instead of asking for training transcripts, the NMC will confirm applicants hold the qualification that would lead to registration in their home country<sup>18</sup>
  - A redesigned guidance page on the NMC website, including a new pre-application checklist tool that can be shared with employers and recruiters
  - A further reduction in the cost of the computer-based test that overseas applicants must take to work in the UK.
- 11.3 We received positive feedback from a third party organisation about the NMC's engagement with it around these changes and its work to remove barriers to overseas registration.
- 11.4 In November 2019 the NMC made changes to its English language requirements for registration. First, it reduced the required score in the writing element of the Occupational English Test (OET) to bring requirements into line with those of the alternative language test accepted by the NMC, the International English Language Testing System (IELTS). The NMC reported that there had been no evidence of an increase in language issues in fitness to practise cases and no evidence from stakeholders that there had been a negative impact on patient care since the reduction of the minimum required score for the writing element of the IELTS in December 2018. The NMC's decision was supported by independent evidence.<sup>19</sup>

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<sup>18</sup> Applicants provide the NMC with the contact details of their education institution and the NMC contacts the institution to check the information provided by the applicant about their qualification.

<sup>19</sup> A benchmarking study (Occupational English Test and IELTS: A Benchmarking report. Gad S Lim May 2016 updated October 2017) had shown that a score range of 350–440 in OET was equivalent to the required score of 7 in the IELTS, and that a score range of 300–340 in the OET was equivalent to a score of 6.5 in the IELTS. The OET also conducted its own standard setting exercise with a group of senior nurse practitioners and clinical educators which concluded that the required score to enter the register should move



- 11.5 Secondly, the NMC removed the requirement that a pre-registration nursing and/or midwifery qualification that was taught and examined in English must have been gained in the last five years to be accepted as evidence of English language competence. The NMC commissioned independent research which indicated that once English speakers reach a critical level of language competence (for example degree level) their language skills stabilise such that they should not deteriorate below that critical threshold over time. This applied to those whose first language is English as well as those who have learnt English as a second language.
- 11.6 In November 2019, the NMC also made changes to its evidence requirements for readmission to the register. The NMC will now accept a relevant pre-registration nursing and/or midwifery qualification gained in the last five years as evidence of clinical competence for readmission to the register. Under the previous process the NMC had different requirements for admission and readmission. The NMC considered it to be fairer and more consistent to align the two standards, so that people who completed their pre-registration qualification within the last five years could use this as evidence of clinical competence for both admission and readmission.
- 11.7 In January 2020 the NMC made further changes to its readmission requirements to allow applicants to take the test of competence as an alternative to a return to practice programme. This change was made in response to feedback from applicants about the accessibility of return to practice programmes.

### **Health and character guidance**

- 11.8 In January 2019 the NMC published additional guidance on health and character to explain:
- when registrants or applicants need to tell the NMC about any relevant health conditions and character issues (such as police charges, cautions, convictions or conditional discharges)
  - how the NMC assesses and considers health and character declarations.
- 11.9 The guidance also contains advice for students and education providers about how to manage these issues.
- 11.10 We received feedback from a third party organisation that the guidance sets out a common-sense approach to health declarations and makes clear that registrants can declare that they are of good health even when they have a temporary health condition without worrying that they are misleading their regulator, thereby reducing anxiety around the declaration.

### **Processing of registration applications**

- 11.11 The NMC continues to process completed registration applications promptly across all categories of registrants. This year the median time taken for UK and EU/EEA applications was zero days and that for overseas applications was one day.

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from a range of 350–440 to a range of 300–340. The NMC commissioned the University of Bedfordshire Centre for English Language Research and Assessment to advise on the robustness and validity of OET's standard setting exercise.

11.12 The NMC's performance in processing registration appeals dipped in the final quarter of this review period, but this appears to be linked to the postponement of all appeal hearings due to the Covid-19 pandemic, and we note that the annual median was lower than that for 2018/19.

### Concern about potential discrimination in registration appeal decisions

- 11.13 We received a concern in confidence from an individual who considered that the recommendations and decisions made by the Assistant Registrar in respect of registration appeals<sup>20</sup> concerning English language competence may be prejudicial to black and minority ethnic applicants. We advised them to report the matter to the NMC directly. We also sought information from the NMC about these issues and the wider registration appeals process.<sup>21</sup>
- 11.14 The NMC investigated the concern. It shared with us detailed information about its internal investigation, which showed that it took the matter seriously, escalated it appropriately, and investigated it thoroughly. The NMC shared learning from the investigation with staff.
- 11.15 Our review of the information did not identify any concerns that would undermine the NMC investigator's finding that there was no evidence of subjective decision making or differential treatment which could indicate conscious or unconscious bias.
- 11.16 One of the key recommendations from the NMC's investigation was to amend its standard operating procedure for conceding appeals to include specific criteria for when a language appeal should be conceded. This would improve the consistency of decision-making and reduce any potential for conscious or unconscious bias. We agree that this process requires further refinement and that the introduction of specific criteria for conceding language appeals is necessary and will also assist the NMC to review and quality assure such decisions.
- 11.17 We did not have any concerns about the information we received from the NMC in relation to the wider registration appeals process and the role of the Assistant Registrar in it. However, we consider that the relevant guidance could set this out more clearly. The NMC has confirmed that it is reviewing the guidance and we will monitor the outcome of this work.
- 11.18 The NMC told us that there is not currently a process in place for review and quality assurance of Assistant Registrar decisions in respect of registration appeals. Given the significance of the matters for which Assistant Registrars have decision making responsibility, it would be appropriate to have processes to assure their quality and consistency. The NMC plans to develop its work in this area as part of a wider decision-making improvement plan. We will consider the outcome of that work in future performance reviews.

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<sup>20</sup> Appeals are determined by a Registration Appeal Panel which is comprised of three independent panel members, including at least one lay and one registrant member. The Assistant Registrar will make a decision as to whether the appeal should be conceded or resisted, and the panel will be aware of that decision, but the final decision as to whether to allow the appeal rests with the panel.

<sup>21</sup> As noted under Standard 1, we have found that public information on the NMC's registration appeals process is currently limited. We consider that this should be increased to assist applicants and to increase the transparency of the process.

### Conclusion on this Standard

- 11.19 The NMC continues to review and make changes to its registration processes to increase fairness and flexibility while maintaining public protection. It has been transparent about the rationale behind its approach and about the evidence relied upon. We have seen that the NMC has considered the impact of past changes and whether these led to any increase in fitness to practise referrals when determining whether further changes are proportionate. The NMC has confirmed that it will continue to monitor the impact of the changes to its registration requirements to ensure that they are appropriate for enabling safe practice.
- 11.20 The NMC has maintained its performance in processing registration applications and appeals.
- 11.21 We consider that there are some matters in relation to the NMC's registration appeals processes which should be monitored and considered as part of future performance reviews. However, we are satisfied that this Standard is met.

### **Standard 12: Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.**

- 12.1 The protected titles for the professions regulated by the NMC are 'Registered nurse', 'Midwife', 'Nursing associate' and 'Specialist community public health nurse'. 'Nurse' is not a title protected in law.
- 12.2 Last year we reported that the NMC was taking action in respect of those purporting to be on the NMC register when they are not on a case by case basis and working to develop relevant enforcement policies. That work is continuing.
- 12.3 Moreover, in one case where the NMC's Regulatory Intelligence Unit became aware of the unlawful use of the protected title 'Registered Nurse' by the owners of a care home, it referred this to the police.
- 12.4 We have not seen any evidence suggesting concerns about this aspect of the NMC's work. The NMC is working towards formalising its approach and developing consistent, documented policies that are available to the public. We will report on the outcome of that work. We are satisfied that this Standard is met this year.

### **Standard 13: The regulator has proportionate requirements to satisfy itself that registrants continue to be fit to practise.**

#### Evaluation of the revalidation scheme

- 13.1 In June 2019 the NMC published its third annual revalidation report, providing summary data on the scheme for April 2018 to March 2019. The report confirmed continued high rates of revalidation across the four countries of the UK (94%) and provided information about those revalidating by country, registration type, protected characteristic and work setting.

- 13.2 The report considered the reasons for registrants choosing not to revalidate. Most people leaving the register cited retirement as their reason for doing so. However, a small proportion stated that they were not meeting revalidation requirements relating to hours of practice, obtaining practice related feedback, and completing written reflective accounts.
- 13.3 A higher proportion of those working or living outside the UK choose not to revalidate. However, the NMC's view is that its register is for nurses, midwives and nursing associates practising in the UK and that revalidation has highlighted the fact that under the previous scheme it was easier to stay on the register without being able to meet the requirements for continuing safe and effective practice. The independent evaluation of revalidation found that no group is at a significant disadvantage as a result of the introduction of the scheme.
- 13.4 Some potential areas of improvement or development for the scheme were highlighted in the report, including:
- Providing more guidance on how to collect constructive feedback (including feedback from patients, people who use services and their families)
  - Improving understanding of the verification process and how it differs from the confirmation process
  - Consideration of whether a reduction of fitness to practise referrals should continue to be pursued as an objective of revalidation (as had been hoped prior to its introduction), given the lack of evidence that this has been achieved so far.

#### **Applicants requiring additional support to revalidate**

- 13.5 The transitional arrangement ('exceptional circumstances') whereby, for the first three years of the revalidation scheme, those who would not have had sufficient time to gather enough evidence to meet the revalidation requirements were allowed to continue to meet the previous renewal requirements, has now ceased.
- 13.6 The NMC's year three report on revalidation notes that over the last three years the number of people taking advantage of this arrangement reduced from 1% of those revalidating in year 1 to 0.3% in year 3. The largest proportion of people revalidating through the exceptional circumstances process were between the ages of 31 to 40, and 97% were women. The report notes that this is what was expected, as a frequent reason for not having sufficient time in practice is being on maternity leave. Those who used the arrangements were also more likely to declare a disability than those who went through the standard revalidation process. The report noted that reasonable adjustments for those who are experiencing barriers to revalidating will continue to be offered, including additional time or alternatives to submitting online applications.

#### **Changes to revalidation requirements during the Covid-19 pandemic**

- 13.7 In response to the Covid-19 pandemic the NMC made some changes to its revalidation requirements. Those registrants due to revalidate between March and June 2020 were given an automatic 12-week extension to the deadline. Those due to revalidate from July 2020 onwards could request a 12-week extension if they needed more time to complete their revalidation application. The NMC also

produced guidance for registrants and others involved in the process such as employers and confirmers on how to revalidate during the pandemic.

### Conclusion on this Standard

- 13.8 The NMC continues to work to understand how revalidation is working in practice. It has undertaken work to better understand the reasons why people choose not to revalidate and has set out clearly its position that the register is for nurses, midwives and nursing associates practising in the UK who are fit to do so. The NMC has identified potential improvements it could make to the revalidation scheme. We will monitor and report on any changes made.
- 13.9 We consider that the NMC's removal of the option of renewal under the exceptional circumstances process is proportionate at this stage in the implementation of the scheme. Any potential disadvantage caused to particular groups of registrants can be mitigated by the NMC's ongoing use of reasonable adjustments. We are satisfied that this Standard is met.

## Fitness to Practise

### Standard 14: The regulator enables anyone to raise a concern about a registrant.

- 14.1 Through its website the NMC continues to offer comprehensive information for those wishing to raise a concern about a registrant. There is a clear statement on the website that anyone can raise a concern if they feel the safety of patients or the public is at risk. There is advice on how to make a referral, tailored to different groups who may wish to raise a concern. Referral forms are available in different formats and those who need assistance completing the form are invited to contact the NMC to get help.
- 14.2 The NMC's Employer Liaison Service continues to offer services to employers including support to enable them to make a referral, advice on information to include in referrals, and training on FTP thresholds. The NMC is also developing improved guidance for employers on managing concerns about employees.
- 14.3 We are satisfied that this Standard is met

### Standard 15: The regulator's process for examining and investigating cases is fair, proportionate, deals with cases as quickly as is consistent with a fair resolution of the case and ensures that appropriate evidence is available to support decision-makers to reach a fair decision that protects the public at each stage of the process.

#### Timeliness of case progression

- 15.1 During this review period the number of older cases increased across every category that we measure. Comparative data for the last four years is set out below:

Open older cases at year end	2016/17	2017/18	2018/19	2019/20
52-103 weeks	1,170	798	712	1,125
104-155 weeks	294	240	164	318
156 weeks or more	71	71	74	113
Total	1,535	1,109	950	1,556

15.2 The table below sets out the median timeframes for each stage of the FTP process from 2016/17 to 2019/20. There have been significant increases in the median time taken from the NMC receiving a case to the IC or case examiners reaching a case to answer decision and the median time from receipt to final disposal. Other measures remained stable, within one week of the median last year.

Dataset measure	2016/17	2017/18	2018/19	2019/20
Median time from receipt of referral to a decision whether to progress to IC/CE (weeks) <sup>22</sup>	N/A	N/A	4	5
Median time from receipt of referral to IC/CE decision (weeks)	51	41	45	58
Median time from IC/CE decision to final disposal (weeks)	26	26	26	25
Median time from receipt of referral to final disposal (weeks)	87	82	80	90

15.3 We sought further information from the NMC about the reasons for this decline in performance and how it intends to manage the backlog of cases that has developed in the context of the additional pressure on resources caused by the pandemic.

15.4 The NMC explained that staffing issues were a factor in the worsening performance over the review period. In particular, high turnover in the screening team led to a backlog in decisions and increased caseloads. The NMC also identified a need to increase the size of the team handling investigations.

15.5 The NMC told us that its work to improve the quality of decision-making, and the wider move to a more person-centred approach in fitness to practise, meant that cases were taking longer to progress. It is not clear from the evidence available how significant a factor these changes were to the delays we have seen, particularly in the context of the understaffing that the NMC has described. We note that some delays we have observed, such as that between a screening decision and allocation to investigators, have no clear relation to the improvement measures highlighted in the NMC's response.

<sup>22</sup> This data was not requested prior to 2017/18.

- 15.6 We consider that the NMC's response raises the question of whether it introduced improvement measures without allocating sufficient resource to avoid their resulting in delays to case progression. We have seen from the NMC's own performance reporting that its projections for 2019/20 significantly underestimated the increases to its fitness to practise caseload.
- 15.7 We have also seen an increase in the number of case examiner decisions that are adjourned for further investigation. In 2018/19, 23 cases were adjourned out of a total 1,661 decisions (1%). This year 82 cases were adjourned out of a total 1,510 decisions (5%). We consider that the increased rate of adjournments will also have impacted on timeliness at this stage of the process.
- 15.8 The NMC has told us about the measures it has taken to address its worsening performance. These include increasing the size of relevant teams, creating new roles and reallocating responsibilities to make better use of legal expertise, and allocating more cases to external law firms. The NMC is seeking to learn from the increase in adjournments of case examiner decisions by developing a reporting mechanism to identify themes from each case to enable case examiners and investigators to take away learning points that can be applied in future cases.
- 15.9 We will monitor the impact of these measures, recognising that future performance in this area is likely to be significantly affected by the further delays caused by the NMC's need to respond to the Covid-19 pandemic, which will also have impacted on the final two weeks of this review period.

### Concerns identified through our review of final decisions

- 15.10 Last year we reported on our ongoing concerns around the NMC's approach to evidence gathering and presentation, as well as the number of cases we had seen through our Section 29 review where charging amendments were made at final hearings. We continued to observe concerns about the NMC's investigation and management of complaints through our review of final decisions this year. We wanted to understand the NMC's perspective on these issues and how it has worked to address concerns and improve its processes.
- 15.11 We have seen fewer cases this year where there were late amendments to charges. This may indicate that the measures taken by the NMC to improve charge drafting have had some impact. However, we still saw cases where charges did not fully reflect the registrant's alleged misconduct. Although the number of cases affected was small, the matters not charged were potentially serious in some cases and formed part of our grounds for successful appeals of the final decision reached. In our view, the information provided by the NMC does not provide sufficient assurance that action has been taken since the conclusion of these cases that would prevent similar issues arising in the future.
- 15.12 The NMC provided evidence of the training and guidance to staff on its approach to investigations and the evidence required. It set out the various points in its process at which cases are reviewed to ensure that all relevant evidence is obtained and presented. While we do not have any concerns about the guidance and processes described, they have not prevented the failures to investigate or to obtain and present important evidence that we have observed in a small number of cases. The increase in adjournments of case examiner decisions as a result of requests for

additional information further demonstrates ongoing issues with the quality of investigations.

- 15.13 We also identified concerns in a small number of cases in relation to the NMC's decision to hold a meeting rather than a hearing or about the information provided to a panel at a meeting. The NMC's position is that there are no grounds to hold a substantive hearing outside of a request by the registrant or a material dispute. We consider that in certain cases a hearing may be necessary to maintain public confidence, for example where there is a strong public interest element, and that for certain cases it may be more difficult to assess insight outside of a hearing.

### **Complaints about Personal Independence Payment assessments**

- 15.14 We have commented in previous reviews on the NMC's handling of complaints about registrants conducting Personal Independence Payment (PIP) assessments. This year, the NMC told us about the further work it has undertaken to improve decision making at the early stage of its process, including the launch of its screening quality standards, training for staff delivered by an organisation responsible for carrying out PIP assessments, and improved guidance and resources for staff on the PIP assessment process and how investigators should manage these cases.
- 15.15 The new screening quality standards set out clear expectations for how concerns should be managed which, if consistently met, should address the concerns we identified in our audit of cases involving PIP assessments in 2017/18. The standards emphasise the need to fully explore and understand concerns raised by members of the public, and to explain decisions to relevant parties clearly and at the earliest opportunity.
- 15.16 The NMC has engaged with stakeholders to improve its response to complaints about PIP assessments, including the Department for Work and Pensions (DWP), other regulators which receive similar concerns, PIP assessment providers, and disability organisations. This collaboration is a sensible way to ensure that NMC decision makers are appropriately informed.
- 15.17 While we have not reviewed individual cases, partly because of the Covid-19 pandemic, the data we have seen indicates that the NMC is progressing concerns of this nature for further investigation where this is considered necessary. The NMC has in place processes to review and quality assure all decisions to close cases involving PIP assessments and it has told us that learning arising from its review of these cases is shared with relevant staff.

### **Implementation of the NMC's new strategic direction for fitness to practise**

- 15.18 The NMC has made some significant changes to its approach and processes under its new fitness to practise strategy. We sought more information from the NMC about how some of these changes were being implemented.
- 15.19 One aspect of the strategy is the NMC's work to enable registrants to remediate concerns at the earliest opportunity in order to avoid a more lengthy investigation. We consider that, where remediation is possible and is sufficient to protect the public, this may well be a proportionate outcome. However, it is essential that the NMC should assess whether remediation of itself is sufficient to maintain public



confidence and declare and uphold professional standards, as well as address the risk presented by the individual.

- 15.20 The NMC's guidance makes clear that there are some concerns that may be more difficult to remediate, giving the example of conduct relating to attitudes and behaviours which affect the trust people have in the professions. It appears appropriate and we received feedback from a third party organisation that the guidance provides clarity for registrants and enables them to take the steps that they need to take to satisfy the NMC of their fitness to practise.
- 15.21 We have not seen grounds for significant concern about the NMC's current approach to remediation. Key to our assessment of this issue will be how the NMC uses evidence of remediation in practice. The NMC has made clear that no additional weight is given to remediation that is undertaken independent of or prior to its tailored remediation guidance being shared with the registrant. However, its guidance asks decision makers to take into consideration the registrant's openness in raising or responding to concerns about their practice, both at a local level and during the NMC's investigation. The NMC also told us that the timing of remediation might go to decision makers' overall assessment of insight. We will consider evidence of how the NMC takes remediation into account in its investigations and decisions in future performance reviews.
- 15.22 The NMC provided a summary of the outcomes of its second pilot on taking greater account of context in its investigations. From this it is difficult to draw any firm conclusions on the effectiveness of its current approach. There remains a lack of clarity around how any conclusions on context reached by investigators will be used in wider case management decisions and how any assessment of context will be balanced against the need to maintain confidence in the profession and to uphold professional standards. This work is ongoing and the NMC is continuing to review whether further changes are required to its processes and the guidance provided to staff. We will continue to monitor the NMC's implementation of its new approach and report on it in future performance reviews.
- 15.23 In implementing the strategy, the NMC introduced statements of case and evidence matrices which explain its position on the allegations and the evidence relied upon. This appears to have been beneficial in increasing clarity in the way in which the NMC presents its position on the facts of a case and that registrants under investigation are more likely to respond to allegations in advance of a final hearing or meeting.

### **Conclusion on this Standard**

- 15.24 This year has seen a decline in performance on a number of measures of timeliness of case progression through the fitness to practise process. This timeliness data is particularly concerning in light of the further delays that have been caused by the NMC's need to respond to the Covid-19 pandemic. The pandemic will have affected the final two weeks of this review period, but we do not think it contributed significantly to the overall decline in performance during the year.
- 15.25 The NMC has attributed some of the decline in performance on timeliness to its work to improve the quality of decision-making and its engagement with parties to the process. It is not clear from the evidence available how significant a factor these changes were to the delays we have seen, particularly in the context of the

understaffing that the NMC has described. While we welcome many of the changes the NMC has made to improve its approach and processes, the information it has provided raises the question of whether it introduced changes without allocating sufficient resource to avoid their resulting in delays to case progression.

- 15.26 We have also seen evidence to support our continuing concerns about the NMC's drafting of charges and failures to investigate or obtain and present relevant evidence. In some cases we considered that the decision reached was insufficient to protect the public. We have also seen some cases where we considered that the NMC's decision to hold a meeting, rather than a hearing, was inappropriate. While we found these issues in a small number of cases in the context of the NMC's caseload, they have significant implications for the fairness of the process, and some have been highlighted to the NMC over a number of years.
- 15.27 We have seen some positive developments relevant to this Standard, including evidence of improvements to the NMC's handling of complaints relating to PIP assessments and clearer presentation of its case prior to a final meeting or hearing.
- 15.28 However, given the concerns we have identified in relation to the timeliness of case progression, and through our review of final decisions, these positive changes are not sufficient to enable us to say that the Standard is being met. We have determined that this Standard is not met this year.
- 15.29 We have seen that the NMC plans to allocate additional resources to address the backlog of fitness to practise cases that developed during this review period and which was exacerbated by the additional delays caused by the Covid-19 emergency. We will monitor the impact of this work. We are mindful that improving timeliness is likely to be particularly challenging in the context of the ongoing pandemic and we will take this into account in our next performance review.

**Standard 16: The regulator ensures that all decisions are made in accordance with its processes, are proportionate, consistent and fair, take account of the statutory objectives, the regulator's standards and the relevant case law and prioritise patient and service user safety.**

#### Concerns identified through our review of final decisions

- 16.1 During this performance review period, the NMC notified us of 1,357 final decisions. We appealed 10 decisions on the basis that we considered they were insufficient to protect the public.
- 16.2 We discussed concerns identified through our reviews about the NMC's investigation and case presentation under Standard 15 above. The most common issues identified about decisions reached by the Fitness to Practise Committee were:
- The reasons did not fully explain departure from NMC sanctions guidance
  - The panel's assessment of the seriousness of misconduct was inadequate
  - The panel's consideration of the public interest was inadequate
  - The panel's consideration of aggravating/mitigating factors was inadequate
  - There was a lack of clarity in the panel's reasoning.

- 16.3 We identified concerns about the quality of advice issued by legal assessors in a small number of cases, including some decisions that we appealed. The nature of our concerns varied from case to case, but included inaccurate advice to the panel, a lack of guidance to the panel about the weight to attach to the public interest, and a case where we considered that the legal assessor appeared to act as an advocate for the registrant and to sum up evidence with a favourable leaning towards the registrant, which may have influenced the panel's decision.

### **Decisions at the initial stages of the fitness to practise process**

- 16.4 In our audit of closed cases last year we identified some concerns about the quality of decisions reached at the initial stages of the fitness to practise process. In responding to our findings the NMC told us about the work it had undertaken during this review period which it considered will address the concerns identified in the cases we reviewed. This included:
- Amending the documentation used during investigations to ensure that the initial assessment of referrals in screening is completed with reference to the NMC's screening guidance
  - Introducing a monthly quality assurance review group which audits a sample of cases where it has been decided not to investigate further against the screening decision making guidance. The NMC told us that this helps it to identify cases that require further action and capture learning to help improve the quality of decisions
  - Updating the quality assurance framework in screening so it now includes peer review and sessions on drafting screening decisions for decision makers
  - Introducing a decision-makers' forum to enable decision makers to discuss specific cases so as to facilitate a consistent approach to certain issues
  - Introducing a case closure checklist to strengthen the end of case process in screening.
- 16.5 This year the NMC provided further information on its processes to review the quality of decisions, including mechanisms to sample and review outcomes for learning from each stage of the process. Where necessary, the NMC will provide feedback to teams or decision makers. It will escalate outcomes to senior management where it identifies a significant risk.

### **Guidance on warnings**

- 16.6 In our audit last year we found that in some cases it was not clear why the circumstances of the case warranted a warning, or whether the decisions reached were in line with the NMC's legislation, which allows for warnings to be issued only where there is no case to answer. The NMC acknowledged that its guidance could have been clearer on when warnings should be used. It told us that it was working to update the guidance to make it clear that:
- The purpose of warnings is to maintain professional standards and prevent future breaches of the public's trust in nurses, midwives and nursing associates. They are not there to punish registrants for past mistakes but to warn them that repeating similar conduct in the future could raise fundamental questions about

their practice as a registered professional. They also act as a public declaration of the NMC's professional standards

- To impose a warning, the facts must be agreed and the concerns must be serious enough to be capable of impairing the registrant's fitness to practise but, on the evidence available, there is no realistic prospect of the Fitness to Practise Committee making a finding of current impairment. This is likely to occur in cases where the concerns are about issues that call into question the registrant's professionalism or trustworthiness but where the quality of the nurse, midwife or nursing associate's reflection means there is no case to answer on impairment.

16.7 The NMC revised the guidance in January 2020. We consider that it now adequately reflects the points above and will assess its impact in a future review.

#### **Data on fitness to practise decisions**

16.8 This year there was a significant reduction in the number of warnings issued, from 102 in 2018/19 to just six in 2019/20. However, there has been no increase in the proportion of no case to answer decisions, and therefore no indication that the NMC has not taken action in respect of matters which are sufficiently serious to be marked with a warning.

#### **Conclusion on this Standard**

16.9 Through our review of final decisions this year we have identified some failings in the findings and reasoning of the Fitness to Practise Committee, including some decisions we considered to be insufficient to protect the public. We have appealed a small number of decisions. In other cases we have issued learning points, and we have seen that the NMC reviews these and feeds back learning to decision-makers. We will continue to monitor the Committee's decision-making for any patterns of concern.

16.10 This year we have identified concerns about the advice issued by legal assessors in a small number of cases. We consider that the quality and accuracy of the advice provided by legal assessors is essential to effective decision-making by the Fitness to Practise Committee. We have raised our concerns through learning points and will monitor this issue closely over the next review period.

16.11 The NMC has told us about the measures it has taken to improve decision-making at the early stages of its process. While we have not had an opportunity to see the impact of those changes in practice, they appear to be a reasonable response to the concerns highlighted about some cases in our audit findings last year

16.12 We are pleased to note that the NMC has updated its guidance on warnings to clarify its approach. There has been a significant reduction in the number of warnings issued during this review period, but as noted above, we have not seen any evidence that no action was being taken in respect of matters which are sufficiently serious to be marked with a warning.

16.13 For these reasons, we are satisfied that this Standard is met.

## **Standard 17: The regulator identifies and prioritises all cases which suggest a serious risk to the safety of patients or service users and seeks interim orders where appropriate.**

### **Performance data**

- 17.1 Last year we noted that the median time taken for an interim order committee decision to be made from receipt of a complaint, rose from 26 days in 2017/18 to 27 days. This year it rose to 28 days. At present the median measure reported by the NMC includes only new interim orders imposed at the screening stage, whereas if new interim orders imposed at later stages were included, the figure would increase. Furthermore, NMC does not yet measure the time taken from identification of the need for an interim order to the decision on whether to impose an order. This makes it difficult to assess the time it takes the NMC to make an interim order decision once it has identified a need for action.
- 17.2 As noted in previous years, the NMC expects improvements to the data available on interim orders when it moves to a new case management system for fitness to practise information, but this work has been subject to significant delay.
- 17.3 One of the NMC's corporate key performance indicators (KPIs) is that 80% of interim orders are imposed within 28 days of opening a case. During 2019/20 performance against this KPI dipped from quarter 2, though it remained above the target of 80%, with a year average of 81% (2018/19: 84%).
- 17.4 In October 2019 the NMC reported to its Council that a total of 47 interim orders were imposed in August 2019, of which 13 were imposed outside of the 28 day KPI. Of the 13 cases where additional time was taken to impose an interim order, the shortest additional period was 11 days; the median was 67 days; and the longest was 161 days. The NMC's review of the reasons why interim orders were imposed outside the KPI identified opportunities to improve initial risk assessment, identification and targeting of initial lines of inquiry, and case management. The NMC reported that it was providing feedback and additional training in these areas.
- 17.5 The number of interim order extension applications made by the NMC to the relevant court was 407 in 2016/17 and decreased to 285 in 2017/18. Last year there was a further decrease to 238. During this review period the figure increased to 289.

### **Conclusion on this Standard**

- 17.6 The median time taken by the NMC to reach an interim order decision from receipt of a complaint has increased slightly this year. There has also been an increase in the number of interim order extension applications made by the NMC to the relevant court, but not to the level of previous years when we have expressed concern about this issue.
- 17.7 We have seen evidence that the NMC monitors closely the time taken to impose interim orders and reports on this to its Council. We note that the NMC has considered the reasons for failures to meet its internal KPI for interim orders and that it has provided feedback and additional training to staff on the issues identified.
- 17.8 On balance, we consider that the slight worsening of performance data in this area does not mean that this Standard is not met. We will monitor the quarterly dataset and the NMC's own performance reporting on the time taken to impose interim

orders where there is evidence of serious concern. We are satisfied that this Standard is met.

**Standard 18: All parties to a complaint are supported to participate effectively in the process.**

- 18.1 In previous years we have reported on the significant work undertaken by the NMC to address the concerns we identified in our 2018 Lessons Learned Review<sup>23</sup> and to better support parties to the fitness to practise process. Last year we found that much of this work was at an early stage. This year, we sought information about the impact of these changes and to gain assurance that the NMC has addressed the concerns about this aspect of its work.
- 18.2 During this review period the NMC has embedded its new approach, reviewing and refining its processes and policies. This has included consideration of the impact of the changes made, though some of the work planned to review the effectiveness of new processes has been delayed as a result of the Covid-19 pandemic.
- 18.3 Our Lessons Learned Review found a number of cases where the NMC did not fully understand or address the evidence of members of the public, and did not keep them updated about the progress of investigations. The NMC's analysis of the impact of the changes it has made indicates that it is addressing these issues. This included collecting feedback from members of the public on the meetings provided by the Public Support Service (PSS) at the start of the investigation and at the conclusion of the case. The feedback was very positive, with all respondents rating the meetings highly and almost all reporting that they felt that their concerns were understood and that the meetings helped them to understand the role of the NMC, how an investigation works, and what action it can take.
- 18.4 The NMC also undertook an interim review of public support meetings in May 2019 which identified some positive impacts of the approach, supporting the findings of the survey. It found that the meetings improved communication with members of the public from the outset of the investigation and that throughout investigations members of the public were kept better informed of progress and had a greater understanding of the process, resulting in fewer enquiries to NMC staff. The NMC also found that the meetings enabled it to provide signposting to other organisations, which members of the public found helpful.
- 18.5 The NMC told us that the interim review also identified areas requiring improvement and explained how it addressed these. We think the NMC has taken appropriate action in response to these findings, including sharing learning with staff, following this up with checks to ensure that standards for communication were being met, and updating its guidance on fitness to practise information handling.
- 18.6 We have also seen that the NMC has introduced new screening quality standards which set out clear expectations for how to manage concerns. The standards emphasise the need to fully explore and understand concerns raised by members of

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<sup>23</sup> [https://www.professionalstandards.org.uk/docs/default-source/publications/nmc-lessons-learned-review-may-2018.pdf?sfvrsn=ff177220\\_0](https://www.professionalstandards.org.uk/docs/default-source/publications/nmc-lessons-learned-review-may-2018.pdf?sfvrsn=ff177220_0)

the public, and to explain decisions to relevant parties clearly and at the earliest opportunity.

- 18.7 The NMC has put in place resources of support for complainants, witnesses and registrants under investigation. There is evidence that these have been well received. For example, the independent emotional support helpline for parties to the fitness to practise process set up in February 2019 received 880 calls in 2019/20 with a large number of calls made outside of office hours, indicating that those users of the service were able to obtain support at a time when they would not previously have had access to it.
- 18.8 Following a successful pilot, the NMC now provides an independent support helpline for registrants under investigation (the FTP Careline). Counsellors operating the line can also be contacted by text, Live Chat, email or Skype. The NMC told us that it had received positive feedback from its staff indicating that the service was of benefit to registrants in need of additional support.
- 18.9 Our Lessons Learned Review also found a lack of transparency in the NMC's communication with parties to the process who were not satisfied with their experience. The NMC has sought to improve its approach through its creation of a new enquiries and complaints function. While it remains to be seen how effective this is, we consider that the NMC's improved processes for communication with, and support for, parties to fitness to practise complaints should result in fewer complaints about this aspect of its work. We have seen that the NMC is willing to engage with complainants whose concerns are complex and longstanding to resolve the issues they raise. We also received positive feedback from a third party about the NMC's approach in actively seeking to improve the experience of those involved in the process.
- 18.10 In a further move towards greater transparency, the NMC is now sharing registrants' responses with complainants, where appropriate. We welcome this change and note that the NMC's guidance includes relevant safeguards. It makes clear that care will be taken when sharing information with anyone who may need to be a witness at a hearing, and that information of a personal or confidential nature that is not relevant to the case, such as health information, will not be shared.
- 18.11 The measures described above are part of the NMC's wider cultural change programme and its work to embed new values and behaviours. It is clear that as part of this work the NMC has considered the need to demonstrate empathy and understanding for parties to the fitness to practise process.
- 18.12 In conclusion, while we note that there is more work to do to review the impact of some of the significant changes the NMC has made to its processes, we are satisfied that the available evidence demonstrates the effectiveness of its approach. We will continue to monitor and report on the NMC's ongoing work to review and refine its policies as it embeds its fitness to practise strategy and its wider cultural change programme. We are satisfied that this Standard is met.

## Useful information

The nature of our work means that we often use acronyms and abbreviations. We also use technical language and terminology related to legislation or regulatory processes. We have compiled a glossary, spelling out abbreviations, but also adding some explanations. [You can find it on our website.](#)

You will also find some helpful links below where you can find out more about our work with the 10 health and care regulators.

### Useful links

Find out more about:

- [the 10 regulators we oversee](#)
- [the evidence framework we use as part of our performance review process](#)
- [the most recent performance review reports published](#)
- [our scrutiny of the regulators' fitness to practise processes, including latest appeals](#)



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