Nursing & Midwifery Council

Annual Fitness to Practise Report 2021–2022

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Presented to Parliament pursuant to
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by the Nursing and Midwifery (Amendment) Order 2008

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Foreword

This annual report provides an account of our work investigating concerns raised with us about nurses, midwives and nursing associates. 2021–2022 was the second year in which we have all continued to face the challenges of the coronavirus pandemic. As we ended the year, the final Covid-19 restrictions were being lifted across the UK but we know our health and care services remain under incredible pressure.

In our fitness to practise work in particular, the pandemic continued to hamper our efforts to tackle an already high caseload. Disappointingly, we did not make the progress we wanted in reducing that caseload, though we did manage to stabilise it. We are sorry that this has added to the distress and additional delay experienced by all those affected including members of the public raising concerns, employers or the professionals whose careers are under scrutiny. We are determined to deliver changes in the coming year, to reduce the time that people wait for a decision.

We are continuing to focus on encouraging professionals involved to reflect and engage with us at an early stage. If we are satisfied that a professional has insight and has strengthened their practice since an incident happened, we can be more confident it will not happen again or pose a future risk to the public. This helps us to conclude cases sooner.

The overwhelming majority of professionals on our register do practise safely and effectively; less than one percent of the 758,000 professionals have concerns raised about them. The number who we ultimately remove from our register is even smaller, just 109 people in 2021–2022. As long as professionals remain true to our Code in all they do, they need not fear regulation.

We must, at the same time, always be conscious that those who have not had safe or effective care or who have concerns about a colleague must be able to raise concerns with us easily. We have made significant improvements to the information we provide online, so that people can find the information they need as quickly as possible. We are also offering more bespoke support for people who need extra help to navigate our complex processes, work we have led with other regulators.

As with all our activity, we are committed to advancing equality, valuing diversity and promoting inclusion in the way we exercise our regulatory powers. During the year, a decision arising from our fitness to practise process in a case involving racist conduct was not sufficient to protect the public. We were rightly challenged by our partners to look carefully at what happened. We learned a lot from our review of that case which enabled us to make improvements to how we work, as we describe in this report.

We are extremely grateful for the support and constructive challenge we receive from all our partners, and to our colleagues for all their hard work as we strive to safely reduce the caseload and deliver significant improvements to our fitness to practise functions to protect the public and promote confidence in our professions.

Sir David Warren
Chair
8 July 2022

Andrea Sutcliffe
Chief Executive and Registrar
8 July 2022

01

Our **role**

We are the independent regulator for nurses and midwives in the UK and nursing associates in England.
Our objectives are set out in the Nursing and Midwifery Order 2001 (as amended).

The overarching aim of the Council is the protection of the public by:

a. protecting, promoting and maintaining the health, safety and wellbeing of the public

b. promoting and maintaining public confidence in the professions regulated under the Order

c. promoting and maintaining proper professional standards and conduct for members of those professions.

Our regulatory responsibilities are to:

- **maintain the register** of nurses and midwives who meet the requirements for registration in the UK, and nursing associates who meet the requirements for registration in England
- set the **requirements for the professional education** that supports people to develop the knowledge, skills and behaviours required for entry to, or annotation on, our register
- shape the practice of the professionals on our register by **developing and promoting standards** including our Code, and promoting lifelong learning through revalidation
- **investigate and, if needed, take action** where serious concerns are raised about a nurse, midwife or nursing associate's fitness to practise.

Our governing body is our Council, which is made up of six lay people and six professionals on our register. Our work is overseen by the Professional Standards Authority for Health and Social Care, which reviews the work of regulators of health and care professions. We are accountable to Parliament through the Privy Council. We are also a registered charity and seek to ensure that all our work delivers public benefit.

Our vision is safe, effective and kind nursing and midwifery that improves everyone's health and wellbeing. As the independent regulator of more than 758,000 nursing and midwifery professionals, we have an important role to play in making this a reality.

Our core role is to **regulate**. First, we promote high professional standards for nurses and midwives across the UK, and nursing associates in England. Second, we maintain the register of professionals eligible to practise. Third, we investigate concerns about nurses, midwives and nursing associates – something that affects a tiny minority of professionals each year – taking action where necessary. We believe in taking account of the context in which incidents occur and giving professionals the chance to address concerns, but we will always take action when needed.

To regulate well, we **support** our professions and the public. We create resources and guidance that are useful throughout people's careers, helping them to deliver our standards in practice and address new challenges. We also support people involved in our investigations, and we are increasing our visibility so people feel engaged and empowered to shape our work.

Regulating and supporting our professions allows us to **influence** health and social care. We share intelligence from our regulatory activities and work with our partners to support workforce planning and sector-wide decision making. We use our voice to speak up for a healthy and inclusive working environment for our professions.

This report covers one aspect of our core role of regulating nursing and midwifery professionals: investigating concerns about their fitness to practise.

In this report, we explain what we do when we hear about concerns and we summarise our performance during 2021–2022 in carrying out this role. Statistics are provided to illustrate our activity. This report should be read together with our NMC Annual Report and Accounts, which is a wider look at our work.

Our values underpin everything we do. They shape how we think and act.

We are fair

We treat everyone fairly. Fairness is at the heart of our role as a trusted, transparent regulator and employer.

We are kind

We act with kindness and in a way that values people, their insights, situations and experiences.

We are collaborative

We value our relationships (both within and outside of the NMC) and recognise that we're at our best when we work well with others.

We are ambitious

We take pride in our work. We're open to new ways of working and always aim to do our best for the professionals on our register, the public we serve and each other.

02

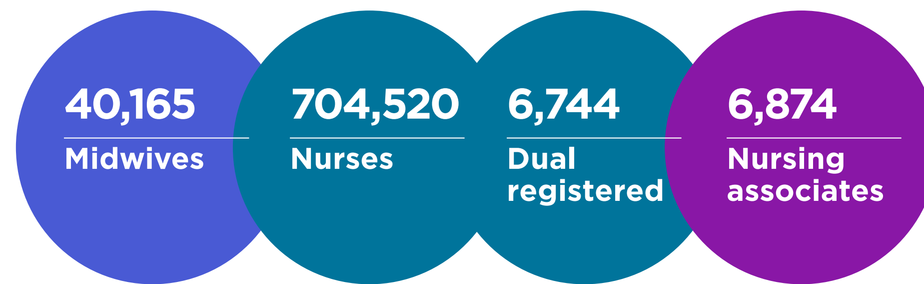
Our **register**

We maintain a register of nurses, midwives and nursing associates who meet our standards, and we have clear and transparent processes to investigate those who fall short of them.

On 31 March 2022, there were 758,303 professionals on our permanent register – an increase of 26,403 from March 2021 (2020–2021 figure: 731,900). In last year's Fitness to Practise Annual Report 2020–2021, we incorrectly reported the figure for 2021–2022 as 731,918.

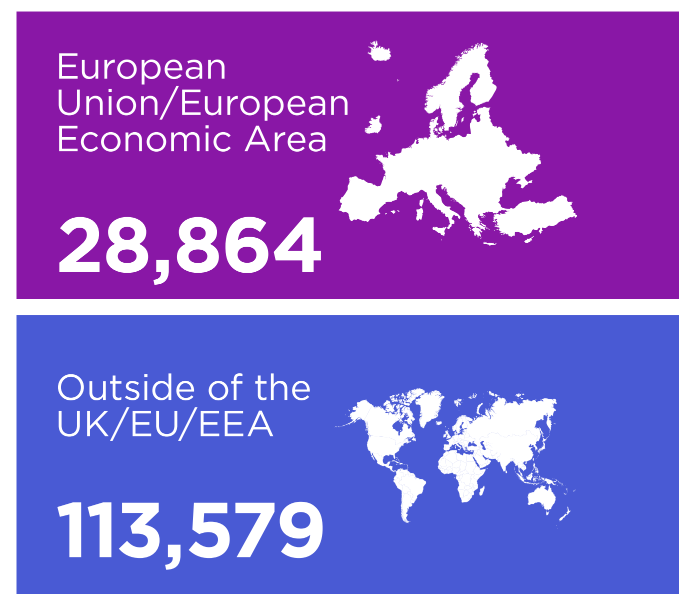
The inaccuracy happened because we counted a small number of records produced to test the system and some duplicate entries from when nurses had incorrectly used a nursing associate application and then re-applied as a nurse. The figure reported here is a correction.

Our permanent register by registration type at 31 March 2022



Total register **758,303**

Numbers of professionals by country or region of initial registration:



03

What is **'fitness to practise'?**

A nurse, midwife or nursing associate is fit to practise if they have the skills, knowledge, good health and character to deliver safe, effective, and kind care for their patients and people who need or use health and social care services.

The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates sets out the standards we, and the public, expect nursing and midwifery professionals to uphold to be on our register and maintain their registration in the UK.

Every nurse, midwife and nursing associate on the register must show every three years that they practise safely and live up to the standards in the Code: this is called revalidation.

If there are concerns about a nurse, midwife or nursing associate's fitness to practise, we encourage people to speak first to the employer about their concerns to see if they can be resolved at a local level.

Where concerns cannot be resolved locally, or if someone believes them to be serious enough to require immediate regulatory action from us, they should raise the concerns directly with us. We will then decide if we need to take action to protect the public and in every case, we try to reach an outcome at the earliest opportunity.

If we find that someone registered with us presents a risk to people who use services, the public or their colleagues, we can restrict their practice or remove their right to work as a nurse, midwife or nursing associate.

How people raise concerns with us

Anyone can tell us if they have concerns about a nurse, midwife or nursing associate's fitness to practise at any time. Or, if we consider it necessary, we are able to open cases ourselves.

Typically, we receive concerns from:

- a patient or person receiving the services of a nurse, midwife or nursing associate
- a member of the public
- the employer or manager of the nurse, midwife or nursing associate
- the police
- a nurse, midwife or nursing associate referring themselves
- other health and social care regulators.

You can find more information about how to raise concerns on **our website.**

Concerns we can and cannot consider

We can only consider concerns if they are about a nurse, midwife or nursing associate on our register. If the concerns are about other health or social care workers, we will refer them to the relevant regulator or the police, if appropriate.

Our role is to decide whether any concerns about a nurse, midwife or nursing associate's fitness to practise require us to take action to protect the public. **We can look at several types of concern, including:**

- misconduct (including clinical misconduct)
- lack of competence
- criminal convictions
- serious ill-health
- not having the necessary knowledge of the English language.

We also investigate cases where it appears that someone has gained access to our register fraudulently or incorrectly.

Concerns about those with temporary registration

We were given the power to set up a temporary register to support the national response to the Covid-19 pandemic. You can find full details in our **Annual Report and Accounts 2020–2021.**

As temporary registration is at the Registrar's discretion, our normal fitness to practise processes do not apply. Where concerns are raised about anyone holding temporary registration, we undertake a basic review and investigation and if necessary, remove the individual from the temporary register.

During 2021–2022, seven concerns were raised about people on the temporary register (2020–2021: 38).

- One case was closed upon receipt as the individual had already left the temporary register (2020–2021: 11).
- One individual was allowed to remain on the temporary register (2020–2021: seven).
- Three individuals were removed from the temporary register (2020–2021: eight). On average, we took 37 days to review and take action on these cases (2020–2021: 18 days).
- Two cases continue to be considered during 2022–2023 (2020–2021: three).

How we deal with concerns raised with us

When someone raises a fitness to practise concern with us (also known as making a referral), we will look at this in more detail and decide whether any regulatory action is required. This is the first stage of our fitness to practise process, which is known as screening.

Steps we may take to help us to assess concerns and decide whether any regulatory action is required can include:

- considering the information we have received to understand if the concerns raised would merit regulatory action
- asking for more information from the person who got in touch so we fully understand their concerns
- checking our records to see whether concerns have been raised before about the nurse, midwife or nursing associate
- gathering information from their employer
- taking statements from others who may have witnessed events and gathering other evidence such as notes, reports or records
- asking the nurse, midwife or nursing associate for their response to the concerns and what action they have taken to strengthen or change their practice since any event occurred.

You can read more about how we handle concerns on **our website.**

Regulatory action we can take to protect the public

We decide whether the concern is serious enough to take regulatory action using the information mentioned. This decision takes into account the risks that may arise if the professional does not address or put the concern right and any actions that have already been taken, for example relevant re-training.

As reported later, in most cases we receive, we decide that there is no need to carry out an investigation into the concerns raised (78 percent of referrals we made decisions about in 2021–2022 were closed).

However, where necessary, we can take urgent, temporary action to protect the public while we investigate concerns. We do this by asking an independent panel to consider making an interim order. **There are two types of interim order:**

1. An interim conditions of practice order, which imposes conditions that the nurse, midwife or nursing associate must comply with.
2. An interim suspension order that temporarily suspends the nurse, midwife or nursing associate's registration.

More information about interim orders is on **our website.**

Once we have investigated concerns thoroughly, our case examiners can:

- close the case with no further action if there are no public protection concerns
- give advice to the nurse, midwife or nursing associate to remind them of the professional standards they must uphold
- issue a warning to the nurse, midwife or nursing associate
- agree undertakings with the nurse, midwife or nursing associate, which are a series of steps they must take to return to safe and effective practice
- refer the case for a hearing or meeting.

To read more about the work of our case examiners, visit **our website.**

In more serious cases where we consider there is a need to impose a sanction to protect the public or where the nurse, midwife or nursing associate does not accept there are concerns about their practice, we will hold a hearing or meeting before an independent panel of the Fitness to Practise Committee. Panels are made up of professionals on the register (known as registrant members) and lay members. Usually, three panel members will decide on any case with at least one lay and one registrant member. You can find more information about the panels on **our website.**

If the nurse, midwife or nursing associate does not dispute the facts of the case or does not want to attend a hearing, we can hold a meeting to find an agreed outcome. Meetings are held in private. The panel carefully considers written evidence that we provide and any written evidence the nurse, midwife, or nursing associate gives us in advance.

If the nurse, midwife, or nursing associate does not accept the facts of the case, or if they request a hearing, or a meeting is otherwise not deemed appropriate, we will hold a hearing to consider the case. Hearings are normally held in public. At the hearing we explain what our regulatory concerns are and call witnesses to give evidence. The nurse, midwife, or nursing associate can attend and be represented. They, or their representative, explain what their response is to our concerns and call witnesses to give evidence. Hearings can be a stressful experience for those involved, but they are sometime required for resolving differences in the evidence between the parties.

You can read more about how we decide whether to send a case to a hearing or a meeting on **our website.**

At a hearing or meeting, an independent panel can do one of the following:

- issue a caution order for up to five years
- impose conditions of practice which must be complied with for up to three years
- suspend from the register for up to one year
- strike off the register
- close the case with no further action.

More information about the action our independent panels can take is available on **our website.**

Occasionally, we will allow a nurse, midwife or nursing associate to voluntarily remove themselves from our register without the need for a hearing or meeting if we are satisfied that it is in the public interest to do so. We provide the numbers of voluntary removals further on in this report. More information about voluntary removal is on **our website.**

Public information about our decisions

Information about forthcoming hearings and recent panel decisions is on **our website.**

When regulatory decisions are made about someone's fitness to practise, we explain the reasons to the person who raised the concerns with us and to the nurse, midwife or nursing associate concerned.

- If we decide to take regulatory action to protect the public, we publish information on our website so anyone can see the decisions we have taken and why.
- When a panel imposes an interim order, we publish the outcome and note it on the nurse, midwife or nursing associate's entry on the register.
- When case examiners issue a warning or agree undertakings, an explanation and reasons are published with the nurse, midwife or nursing associate's entry on the register.
- When a panel decides to issue a caution, conditions of practice, suspension, or striking off order, we publish the panel's full reasons and note the outcome on the nurse, midwife or nursing associate's entry on the register.

In cases that relate to an individual's health or have other sensitive personal information, we still publish information, usually in less detail. That way, we protect the public and respect the individual's privacy. When we decide to close a case with no further action, we do not normally publish information because there is no reason to do so to protect the public and we have a responsibility to protect the privacy of those involved. More information on our publication guidance is available on **our website.**

Our register of nurses, midwives and nursing associates is **online.**

04

Fitness to practise: **Our work** in **2021–2022**

Reducing our fitness to practise caseload was our top priority in 2021–2022 and will continue being so for 2022–2023. We are sorry that too many people have to wait too long for us to conclude cases, as we know delays can significantly affect all involved. We have made some improvements, but there is still much to do.

Our plans to improve

Our caseload had been growing since early 2019 and was exacerbated by the pandemic which significantly affected our operations. The growth has not been caused by more concerns being raised with us: referrals have been falling year on year.

Our caseload at the end of March 2021 was 6,357, up significantly from 4,506 in March 2020. In 2021–2022, we stabilised the rapid growth and ended March 2022 with a caseload of 6,469. Despite this progress, we did not achieve our aim of reducing the caseload to 5,250 cases.

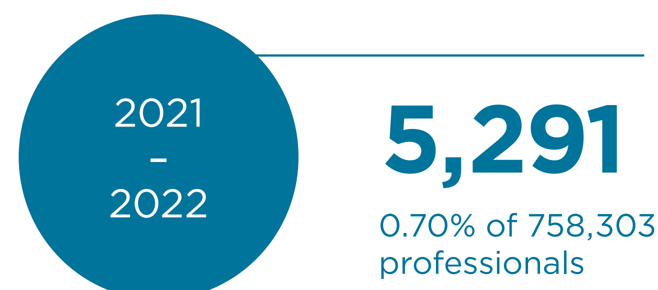
The following section summarises our progress against our improvement plan's four key aims.

Focusing on the cases we need to see

Many concerns raised with us either relate to individuals or to matters that we are not able to consider through our fitness to practise processes. In addition, we know that sometimes people need support to clearly set out their concerns. **To address this we:**

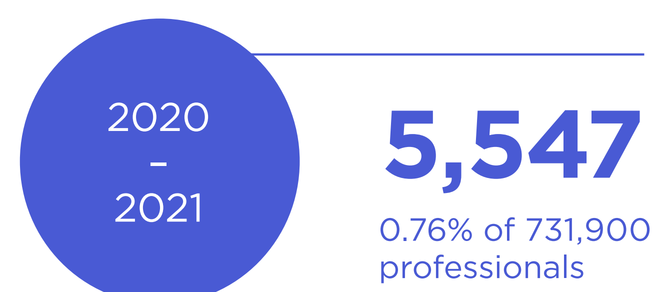
- made a number of changes to our website so that those thinking of raising a concern were able to get clear information about what we are able to consider and the types of information we find useful
- launched and have continued to promote a resource to support employers in dealing with concerns at a local level rather than raising concerns with us.

Overall, the total number of referrals made to us in 2021–2022 was lower than in previous years.



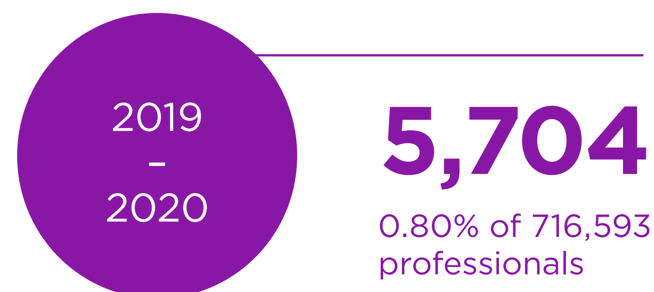
5,291

0.70% of 758,303 professionals



5,547

0.76% of 731,900 professionals



5,704

0.80% of 716,593 professionals

Making the right decisions at the right time

We aim to make clear and well-evidenced decisions at the earliest possible opportunity to provide a better service for those involved and minimise the impact of cases progressing further than is required. **To support early decision-making, we:**

- produced new screening guidance to simplify our decision-making approach
- worked to embed our approach to taking account of context so that we could more fully understand the concerns raised
- relaunched our approach to remediation so that individuals could tell us at an early stage what they had done to strengthen their practice.

Engagement by professionals and their representatives with our new approaches gives us a fuller picture of concerns and informed the decisions we needed to make.

In 2021–2022, 78 percent of cases we made decisions about at the first stage of our process (screening) were closed.

Making full use of resources

We made progress in two key areas:

- We have steadily improved our output at the case examiner stage of the process because of both process improvements and the increased use of flexible decision-making resources.
- We have steadily increased the number of adjudication events that we can hold each day and concluded more cases without the need for a fully contested hearing.

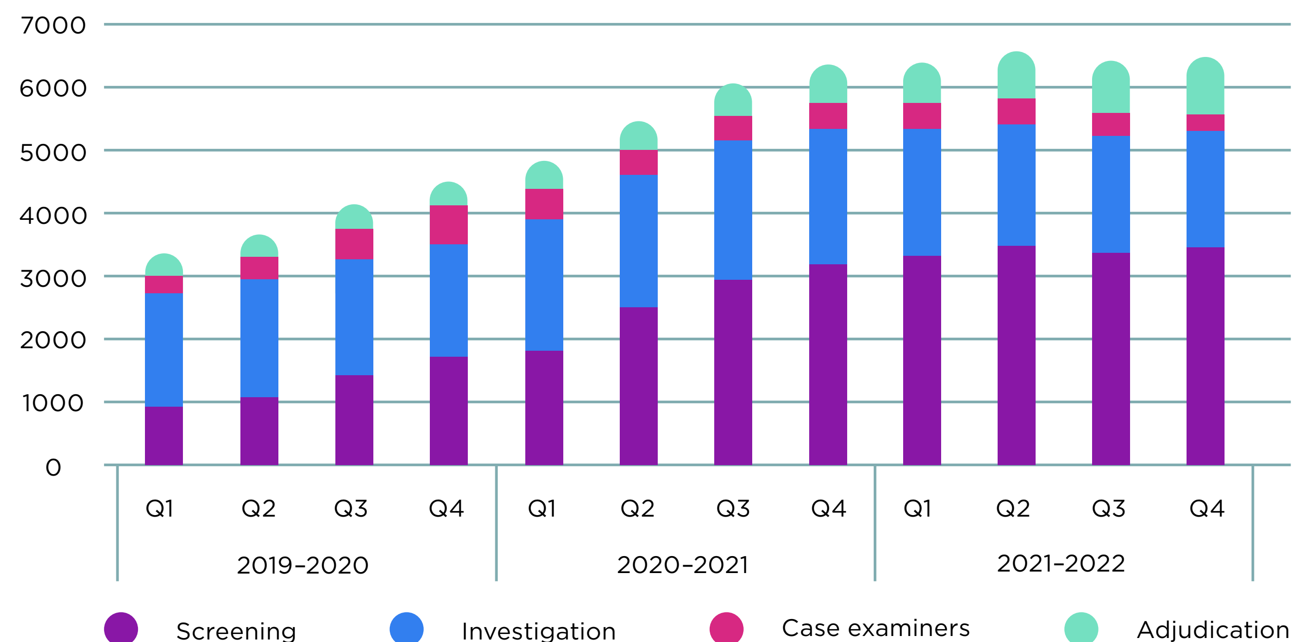
Vacancy and capacity challenges, including gaps in senior operational leadership, at the early stages of the process have had a significant impact on our ability to reduce the caseload. Resolving these issues remains a key priority and during the first part of 2022–2023 we will continue to focus on recruiting to key roles and addressing our leadership gaps.

Efficiency and effectiveness

Throughout the year, we made several changes to our team-level processes to remove duplication and unnecessary checking of work. Unfortunately, this yielded limited benefits. We will take a more structured approach to process review in the future.

The overarching caseload picture

The chart below shows the caseload stabilisation we achieved in 2021–2022. We now aim to reduce our caseload to fewer than 5,000 cases during 2022–2023.



Continuing use of our emergency rules

Changes to our rules granted by the Secretary of State for Health and Social Care in 2020 have enabled us to:

- hold panel meetings and hearings virtually, where all parties join using videoconferencing software
- send notices of a hearing or meeting by email rather than recorded post
- extend the terms of panel members on their second term so that we continue to have a readily available pool of panel members without undertaking extra recruitment.

The amended rules also included the power to hold hearings with Fitness to Practise panels of two members or without a registrant panel member. We have not used this power and have no plans to do so.

We undertook a full public consultation on these powers and agreed in March 2021 to continue to use the powers established by the rules after the end of the emergency period. The Coronavirus Act 2020 ended on 24 March 2022 and the Secretary of State has indicated the national emergency period will end in September 2022. In 2022–2023 we will review the use of our powers again.

Promoting equality, diversity and inclusion

As a regulator and an employer, we have a responsibility to do everything we can to tackle discrimination and promote diversity and inclusion. In 2021–2022 we made further progress toward meeting these commitments. We published a refreshed equality, diversity and inclusion (EDI) framework, developed detailed action plans, and built internal capacity. You can find further detail on this work in our Annual Report and Accounts.

Our Ambitious for Change research aims to assess the impact our regulatory processes have on different groups of nurses, midwives and nursing associates. The second phase of research is focused on understanding why some people are disproportionately referred to us or receive different outcomes from our processes, what this means for the professionals involved and what we, in collaboration with others, can do to tackle unfairness. **During 2021–2022:**

- we spoke to professionals and employers to understand differences in referrals to fitness to practise
- we analysed employer referrals to fitness to practise to understand how referrals compare to organisations' workforces.

We will publish the findings from this work in the summer of 2022. Meanwhile, we are working with our external advisory group to identify actions we, and others, can take to tackle unfairness and strengthen support for professionals and employers.

We planned to commission an independent review of our cases to understand why some groups experience differences in how far they progress through our fitness to practise process, the outcome they receive, and whether our decision-making is fair and consistent. We could not secure a supplier to do this work in 2021–2022 and aim to complete this review in 2022–2023 instead.

In 2021, we received significant concerns about a decision made by a Fitness to Practise panel. The case concerned discriminatory and racist behaviour, and there was concern that the six-month suspension imposed by the panel was not sufficient. We reviewed the decision and decided to refer the case to the Professional Standards Authority (PSA). The PSA exercised its power to appeal to the High Court on the grounds that the panel's decision might not be sufficient to protect the public. The Court supported the PSA's challenge and approved a consent order agreed by all the parties. The nurse was struck off the register.

We reviewed our processes to identify learning. **As a result, we have:**

- strengthened our fitness to practise guidance so that we are consistent in what we mean by discrimination, bullying, victimisation and harassment, and how seriously these allegations need to be taken
- delivered enhanced EDI training to Fitness to Practise panel members, and we will introduce a new training package for fitness to practise colleagues in 2022–2023.

The Council considered the full report in its open meeting in November 2021 and the report was published on our **our website**. In 2022–2023, we will evaluate the impact of the actions taken.

Supporting people

Investigations can have an emotional impact on those involved, including professionals and the people and their families affected by concerns raised. A range of existing resources – our emotional support helpline for the public and a Fitness to Practise Careline for professionals – are there to provide individual help and support. We encourage people to use these if needed.

Our Public Support Service (PSS) listens to people who raise concerns and helps them understand how we can respond. People can ask our public support officers about anything they are unsure about. We will also meet them directly if it helps.

Support for those who raise concerns with us

We continued to develop and expand our PSS during 2021–2022.

- The PSS team extended its support to more members of the public and also provided more advice and guidance to NMC colleagues, at all stages of the fitness to practise process.
- The PSS helped with more than 350 requests for support for people.
- The PSS expanded its specialist support for people with complex additional needs, now providing more support starting at the first stage of our process. The support enables people to participate more effectively with our processes.
- Our independent, 24-hour emotional support telephone line provided free, independent, confidential and non-judgemental support on 218 occasions.
- We launched an independent advocacy service in collaboration with other health and social care regulators. It aims to help people who need additional support to navigate our processes and interact successfully with us. Five people have accessed this service since it launched in December 2021, in line with our expectations.

Our website provides further information about our work to support people who use services and families.

Support for witnesses

Some witnesses have told us about negative experiences, including not being adequately supported during a hearing they attended. As a result, we have improved our processes, guidance, and training for hearings managers and panel members to better manage different scenarios, such as those involving a person with specific support needs. In addition, witnesses can seek emotional support from our independent emotional support phone line.

Support for employers

Our Employer Link Service (ELS) works closely with employers to provide tailored support and learning regarding our fitness to practise processes. **It does so by:**

- providing up-to-date information to the employer on the progress of cases they have referred
- using employer referral data to support employers in reducing unnecessary referrals
- delivering learning programmes tailored to needs. For example, a newly developed Maternity Matters programme which provides a more in-depth understanding of the standards we expect of midwives and how we take context into account
- keeping employers updated on key regulatory developments. We use their views and learning to update the frequently asked questions section of our website
- providing an Employer Advice Line for specialist advice and guidance when considering making a referral to us. We received 744 calls to our advice line in 2021–2022 (1,044 in 2020–2021). We advised 50 percent to make a referral (2020–2021: 52 percent). Consistent with last year, 48 percent were advised at the time not to refer or to manage the issue locally. Two percent of the calls related to nursing or midwifery staff who had lapsed.

Further information about our support for employers is available on **our website.**

Supporting and safeguarding professionals

Our Safeguarding and Protecting People from Harm policy supports colleagues to identify and manage any safeguarding concerns. We provide guidance and training to ensure colleagues know how to recognise and respond to a safeguarding concern.

Our independent Fitness to Practise Careline offers confidential emotional and practical advice and help to nurses, midwives and nursing associates. Find more information **here.**

Our Risk of Suicide and Self-Harm protocol guides teams on what to do where individuals appear to be at risk of self-harm. We record cases where we learn that a professional has sadly taken their own life while our proceedings are ongoing to help us identify any learning to improve our processes. In 2021–2022, there were three recorded instances (2020–2021: no instances; 2019–2020: one instance).

Through learning we identified during the year, we have introduced additional enhanced measures to help manage cases and support people where there is a risk of suicide and self-harm. We have also developed a guide that colleagues can use to signpost people to organisations that provide financial and other advice and support.

Regulatory Intelligence Unit

The Regulatory Intelligence Unit (RIU) has continued to develop our analytical capability, producing a range of insight reports to aid decision-making and gain insight into our regulatory processes. Some of the work undertaken in 2021–2022 included analysing fitness to practise referrals relating to personal independence payments (PIP), midwifery care and referrals from members of the public. This work has helped us improve our fitness to practise process.

The RIU also collaborated with three partners to explore the use of artificial intelligence in regulatory decision-making. Together, as a research project, we developed software that could identify and assess low-risk regulatory cases. To evaluate the tool, we used historical data. Although there were some accuracy concerns with the tool – with some low risk cases being miscategorised as high risk – it was able to predict low risk cases with 71 percent accuracy. *The Journal of Nursing Regulation* published the findings in October 2021.

We continue to use our analytical and research expertise to highlight emerging issues or concerns by scanning a wide range of sources, including coroners' reports, system regulator reports, and media and patient feedback.

Maternity safety

In March 2022, the final report of the Ockenden review into failings in maternity care at Shrewsbury and Telford Hospital NHS Trust was published. Throughout the investigation, we have liaised closely with the review team to establish whether there are any fitness to practise concerns which we may need to address. We have continually engaged with the Trust to ensure they are aware of their responsibilities to refer concerns to us. In total, since 2014 we have received 23 cases connected to maternity services at Shrewsbury and Telford Hospital NHS Trust. Eighteen have concluded and five remain open. Now that the Ockenden review has concluded, we are reviewing its findings carefully to determine whether further fitness to practise action is needed.

There has been heightened concern across England about the safety of maternity services. Our employer link service has engaged with regional perinatal oversight groups to share intelligence and support improvement. We have piloted, with the General Medical Council, a version of the Professional Behaviours and Patient Safety programme for maternity units to support cultural change where needed. We plan to deliver this across the UK in 2022–2023.

There has been a slight proportional increase in the number of referrals about midwives from five percent to six percent of total referrals. Looking at referral patterns over the last five years for both nurses and midwives, this appears to be in the normal range. We have not identified any particular trend associated with it.

Regulatory reform

Regulatory reform is a once in a generation opportunity to change the legislation that governs our work. We want to use this opportunity to establish modern, flexible legislation that ensures we can always act quickly and effectively.

Throughout 2021–2022, we have been working with our key stakeholders to identify what we think our legislation should look like. One of the main areas of focus is fitness to practise.

Through regulatory reform, we want to support meaningful engagement throughout our fitness to practise processes and enable fair decisions at the earliest possible opportunity.

To help deliver this legislation, we responded to the Department of Health and Social Care's consultation in June 2021 and since then have worked with the Department to shape draft legislation. There remains some uncertainty about the Government's timetable for reforming our legislation, which we are seeking to mitigate through our plans.

05

Statistical summary 2021–2022

Our key performance indicators

In 2021–2022 we continued to concentrate our efforts on reducing the fitness to practise caseload, which grew notably during 2020–2021 as a result of steps we took in our response to the Covid-19 pandemic.

Our overall strategic aim has remained the same: we want to reach an outcome that best protects the public at the earliest opportunity in every case. We measure this by two key performance indicators. With the caseload level above 6,000 at the start of the year, we knew that reducing the caseload to a more optimal level of under 4,000 would take time and anticipated that our KPI performance in 2021–2022 would be affected. We publicly reported on two main KPIs which are set out below and did not achieve the targets.

Interim orders imposed

Where it is necessary, we aim to impose 80 percent of interim orders within 28 days of receiving the concerns.

We imposed 77 percent of interim orders within 28 days of receiving concerns (2020–2021: 78 percent).

Concluded cases

We aim to complete 80 percent of our cases within 15 months of receiving concerns.

We completed 62 percent of cases within 15 months of receiving concerns (2020–2021: 72 percent).

Number of concerns

In 2021–2022 we received 5,291 new concerns, a decrease (4.6 percent) from last year (2020–2021: 5,547).

This is set against a backdrop of a growing register, so the proportion of registered professionals being referred to us is even smaller this year.

	2021–2022	2020–2021	2019–2020
Number of concerns received	5,291	5,547	5,704
Percentage of the register	0.70%	0.76%	0.80%

Source of concerns

Table 1 shows a breakdown of the sources of concerns we received in 2021–2022. We have seen an increase compared to last year in the number of concerns raised by members of the public, including people who use services and their families. The number of referrals received from employers is still on a downward trend. Our improvement work in 2022–2023 will continue to see us engaging with employers to support them in deciding whether a concern should be referred to us.

Table 1

Source of concerns referred to us

	2021–2022		2020–2021	2019–2020
Who referred concerns to us	**Number of new concerns**	**Percentage of new concerns**	**Percentage of new concerns**	**Percentage of new concerns**
Patient/public	2,027	38%	35%	33%
Self-referral	353	7%	7%	8%
Employer	1,263	24%	25%	32%
Opened by the NMC	194	4%	3%	4%
Another registrant	316	6%	5%	4%
Other regulator	15	<1%	1%	<1%
Referrer unknown	679	13%	14%	10%
Any other informant	444	8%	10%	9%
Total	**5,291**	**100%**	**100%**	**100%**

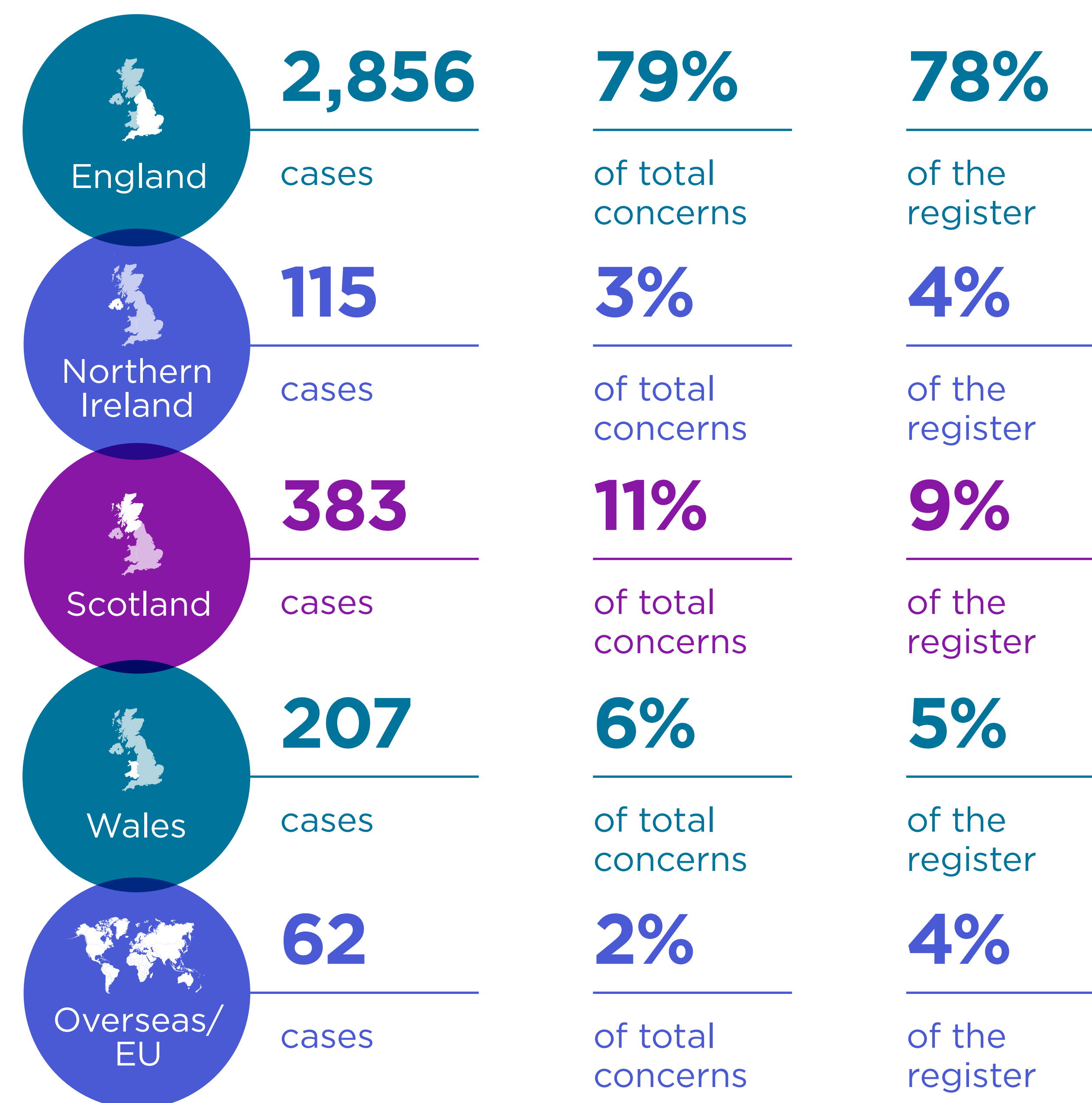
Concerns where we do not identify a nurse, midwife or nursing associate

In some cases we are unable to, or do not, identify the person of concern as someone on our register. In 2021–2022 we did not proceed with 1,207 cases as we did not identify a nurse, midwife or nursing associate. Out of those, 909 cases were cases we received in 2021–2022.

When we receive new concerns we use a three-stage screening process to decide whether a case needs a full investigation. For more information on what happens when we receive a concern, visit **our website.**

Concerns by country of registered address

The following diagram is a breakdown of the country of registered address in the 3,623 cases where we could identify a nurse, midwife or nursing associate. The diagram includes the four-country breakdown of new concerns, compared to the proportions of people on the register living in those countries.



Concerns by registration type

An individual can be registered with us as a nurse or a midwife, as both a nurse and midwife (known as dual registration) or as a nursing associate.

Table 2 shows the number of new referrals broken down by registration type. There has been no material change in the proportion of referrals by registration type compared to the previous two years, except for a slight increase in the proportion of midwives being referred compared to 2020–2021. As previously noted, looking at the referral patterns for both nurses and midwives over the last five years, we consider this increase to be within the normal range.

Table 2

New referrals by registration type

	2021–2022		2020–2021	2019–2020
Registration type	**Number of new referrals**	**Percentage of total referrals (percentage of professionals on the register)**	**Percentage of total referrals**	**Percentage of total referrals**
Nurse	3,389	94% (93%)	95%	94%
Midwife	212	6% (5%)	5%	5%
Dual registration	4	<1% (<1%)	<1%	<1%
Nursing associate	18	<1% (<1%)	<1%	<1%
Total	**3,623**	**100%**	**100%**	**100%**

Initial assessment outcomes

In 2021–2022, we decided not to investigate 3,843 cases after initial assessment either because we concluded the concerns did not require regulatory action, or because we were unable to identify a nurse, midwife or nursing associate on our register as outlined earlier in this report.

This equates to 78 percent initial outcome assessments being that no further investigation is required (closure), which is a notable increase on rates over the last three years, continuing an upward trend. In 2020–2021 we decided not to investigate 68 percent and in 2019–2020, it was 64 percent. One of the aims of our improvement work to reduce the caseload, has been to make final decisions on cases at the earliest possible stage and we appear to be making progress on this.

We referred 283 concerns to another regulatory body.

Interim orders

In 2021–2022, our panels imposed interim orders to protect the public while our investigations were ongoing in 504 cases (2020–2021: 549 and 2019–2020: 561). Table 3 shows the breakdown between the two types of interim orders. There has been a downward trend in the number of interim orders imposed over the last three years.

Table 3

Interim orders imposed

	2021–2022		2020–2021		2019–2020	
Interim order decisions	**Number of interim orders**	**Percentage of interim orders**	**Number of interim orders**	**Percentage of interim orders**	**Number of interim orders**	**Percentage of interim orders**
Interim conditions of practice	264	52%	309	56%	316	56%
Interim suspension	240	48%	240	44%	245	44%
Total	**504**	**100%**	**549**	**100%**	**561**	**100%**

Table 4 breaks down the number of interim orders imposed by registration type. There has been a slight increase in the proportion of nurses receiving an interim suspension order compared to previous years.

Table 4
Interim orders imposed by registration type

Interim order decisions	2021–2022				2020–2021				2019–2020			
	Nurse	Midwife	Nursing associate	Dual	Nurse	Midwife	Nursing associate	Dual	Nurse	Midwife	Nursing associate	Dual
Interim conditions of practice	249 (52%)	15 (68%)	0	0	293 (56%)	15 (68%)	0	1 (25%)	303 (56%)	13 (57%)	0	0
Interim suspension	231 (48%)	7 (32%)	0	2 (100%)	230 (44%)	7 (32%)	0	3 (75%)	234 (44%)	10 (43%)	0	1 (100%)
Total	**480**	**22**	**0**	**2**	**523**	**22**	**0**	**4**	**537**	**23**	**0**	**1**

Case examiner outcomes

In 2021–2022, our case examiners took 1,582 decisions (2020–2019: 1,083) at the end of an investigation.

We provide our decision-makers, including case examiners, with clear guidance on what is required in a decision. The guidance helps to ensure that our decision-making is consistent when we have recruited more case examiners to work through the current backlog of cases.

Table 5 breaks down the case examiners' decisions by outcome. In 2021–2022 the proportion of cases where no further action was to be taken fell compared to previous years and we have seen more cases being referred to a hearing or meeting. This would be consistent with the higher closure rate of cases at the first stage of our process.

Table 5
Case examiner outcomes

Case examiner decisions	2021–2022 Number of cases	2020–2021 Number of cases	2019–2020 Number of cases
Refer for hearing or meeting	741 (47%)	435 (40%)	534 (38%)
Advice	14 (<1%)	9 (<1%)	7 (<1%)
Warning	65 (4%)	38 (4%)	6 (<1%)
Undertaking	23 (1%)	26 (2%)	46 (3%)
No further action	739 (47%)	575 (53%)	812 (58%)
Total	**1,582**	**1,083**	**1,405**

Table 6 breaks down the number of case examiner decisions by registration type.

Table 6
Number of decisions by registration type

Case examiner decision	2021–2022			2020–2021			2019–2020		
	Nurse	Midwife	Dual	Nurse	Midwife	Dual	Nurse	Midwife	Dual
Refer for hearing or meeting	709 (47%)	30 (46%)	2 (67%)	410 (40%)	22 (43%)	3 (43%)	514 (39%)	20 (24%)	0
Advice	14 (<1%)	0 (0%)	0	9 (<1%)	0 (0%)	0	5 (<1%)	2 (2%)	0
Warning	63 (4%)	2 (3%)	0	35 (3%)	3 (6%)	0	6 (<1%)	0	0
Undertaking	20 (1%)	3 (5%)	0	25 (2%)	1 (2%)	0	41 (3%)	5 (6%)	0
No further action	708 (47%)	30 (46%)	1 (33%)	546 (53%)	25 (49%)	4 (57%)	757 (57%)	55 (67%)	0
Total	**1,514**	**65**	**3**	**1,025**	**51**	**7**	**1,323**	**82**	**0**

There have been no case examiner decisions on nursing associate cases since the nursing associate role was introduced in January 2019.

Case examiners work in pairs. One is a registered nurse or midwife and one is a lay person. If the case examiners are unable to agree on an outcome, they must refer the case to an independent panel of the Investigating Committee for a decision. No cases have been referred to the Investigating Committee in the last three years.

Hearing and meeting outcomes

In 2021–2022, our panels reached 414 final decisions on cases (2020–2021: 208 and 2019–2020: 452) through meetings and hearings. Table 7 breaks down the panel decisions by type. The number of hearing and meeting outcomes during 2020–2021 reduced, which reflects the decision to pause casework in response to Covid-19. In 2021–2022 we saw outcome levels increase, in line with our caseload recovery work.

We continue to work with nurses, midwives and nursing associates and their representatives to resolve more cases at earlier stages in the fitness to practise process. Where case examiners refer cases onward, we aim to resolve the case in the most effective way possible. Around 34 percent of decisions were made without the need for a contested hearing.

Table 7
Panel decisions

Panel decision	2021–2022		2020–2021		2019–2020	
	Number	Percentage	Number	Percentage	Number	Percentage
Strike off	109	26%	56	27%	127	28%
Suspension	124	30%	86	41%	142	32%
Conditions of practice	61	15%	27	13%	69	15%
Caution	37	9%	14	7%	42	9%
Sub-total	**331**	**80%**	**183**	**88%**	**380**	**84%**
Facts not proved	22	5%	6	3%	5	1%
FtP not impaired	61	15%	19	9%	67	15%
Total panel decisions	**414**	**100%**	**208**	**100%**	**452**	**100%**

Table 8
Panel outcomes by registration type

Panel decision	2021–2022			2020–2021			2019–2020		
	Nurse	Midwife	Dual	Nurse	Midwife	Dual	Nurse	Midwife	Dual
Strike off	99 (26%)	7 (30%)	3 (100%)	55 (28%)	1 (9%)	0	123 (29%)	4 (14%)	0
Suspension	123 (32%)	1 (4%)	0	80 (41%)	5 (46%)	1 (50%)	132 (31%)	10 (36%)	0
Conditions of practice	57 (15%)	4 (17%)	0	25 (13%)	2 (18%)	0	62 (15%)	7 (25%)	0
Caution	32 (8%)	5 (22%)	0	14 (7%)	0	0	39 (9%)	3 (11%)	0
Sub-total	**311**	**17**	**3**	**174**	**8**	**1**	**356**	**24**	**0**
Facts not proved	20 (5%)	2 (9%)	0	6 (3%)	0	0	4 (<1%)	3 (11%)	0
FtP not impaired	57 (15%)	4 (17%)	0	15 (8%)	3 (27%)	1 (50%)	64 (15%)	1 (3%)	0
Overall totals	**388**	**23**	**3**	**195**	**11**	**2**	**424**	**28**	**0**

Since the role was introduced three years ago, no allegations against nursing associates have come before a panel.

Allegations found proved at adjudication

The top three categories of allegations found proved have remained the same each year since 2019, although the order has varied.

In 2021–2022, patient care was the most common category, followed by prescribing and medicines management and then record keeping.

The table below shows the most common allegations within each of these categories. Level one is the category theme and level two shows more detail.

Allegation level one (% of total allegations)	Allegation level two
Patient care (26%)	Diagnosis, observation, assessment. Inappropriate or delayed response to negative signs, deterioration, or incidents.
Prescribing and medicines management (15%)	Other drugs administration or medicines management errors. Not administering or refusing to administer medication.
Record keeping (14%)	Patient or clinical records. Drugs or medication records.

Fraudulent or incorrect register entries

Our panels consider allegations that a nurse, midwife or nursing associate has been added to the register incorrectly or fraudulently. If they find the allegation proved, the panel can direct the Registrar to remove or amend the entry on the register.

In 2021–2022, our panels directed the Registrar to remove a nurse or midwife from the register in 38 cases (2020–2021: 17 and 2019–2020: 33).

Voluntary removal

After a case has been referred for a hearing or meeting, nurses, midwives and nursing associates may apply to be voluntarily removed from the register. The Registrar will only approve applications where the nurse, midwife or nursing associate accepts the allegations and it is in the public interest for them to be removed from the register immediately. If the application is not accepted, the case will proceed to either a hearing or a meeting to be decided by a panel.

Table 9 shows the number of applications received and granted in the last three years. The figures do not balance in-year because some decisions are reached in the year after the request was received.

Table 9

Voluntary removal applications

Voluntary removals	2021–2022	2020–2021	2019–2020
Number of applications	78	36	50
Applications granted	46	39	31
Applications rejected	31	6	20

The table below shows the breakdown of this year's voluntary removal decisions by registration type.

There were no voluntary removal decisions made about dual-registered professionals or nursing associates.

Table 10

Voluntary removal decisions by registration type

	2021–2022		2020–2021		2019–2020	
Voluntary removals	Nurse	Midwife	Nurse	Midwife	Nurse	Midwife
Applications granted	39	7	39	0	30	1
Applications rejected	29	2	5	1	19	1
Total	**68**	**9**	**44**	**1**	**49**	**2**

Reviews and appeals

We have the power to review the case examiners' decisions, including advice, warnings and undertakings, and anyone can request that we do so.

Reviewing a decision is done in two stages.

1. We decide whether to carry out a review.
2. If we carry out a review, we can decide either to uphold the original decision or that a new decision is required.

Table 11 shows the number of requests we received and the decisions we took during the year. The figures do not balance in-year because some reviews were not completed in the year the requests were received. There were more requests this year than in previous years, although the volume of case examiner decisions also increased, equating to 3.3 percent of case examiner decisions (in 2020–2021: 3.5 percent).

Learning from reviews informs training and other quality improvement activities for case examiners and investigators.

Table 11

Reviews of case examiner decisions

Power to review stage	2021–2022	2020–2021	2019–2020
Total requests for review received	52	38	37
First stage: request closed	21	17	19
Second stage: fresh decision required	18	7	17
Second stage: original decision upheld	0	0	2

In the 18 cases where the Registrar decided a fresh decision was required in 2021–2022, **they gave three reasons.**

- In 16 cases, there was a material flaw in the original decision.
- In one case, new information became available.
- In one case, there was both a material flaw in the original decision and new information became available.

A nurse, midwife or nursing associate can appeal against a decision of our panels. They must lodge their appeal within 28 days of the decision to one of the following: the High Court in England and Wales, the High Court in Northern Ireland or the Court of Session in Scotland. The court may decide that there are exceptional circumstances to justify extending the time period. The PSA can also refer a case to court if it considers that a panel decision does not protect the public.

Table 12 shows the total number of appeals – not all appeals lodged were concluded in the same year and the outcomes include appeals lodged in previous reporting periods. This means the figures do not balance in-year because some decisions were not reached in the year the appeal was lodged. Learning from appeals is used to inform training for panel members and staff and other quality improvement activities.

Table 12

Outcomes of appeals of panel decisions

Outcome	2021–2022	2020–2021	2019–2020
Total appeals lodged	13	13	23
Appeal upheld	7	6	13
Appeal dismissed	6	13	9

Table 13 shows the breakdown in this year's appeal of panel decisions by appeal type.

Table 13

Appeal of panel decisions by appeal type

	PSA	Registrant
Appeal upheld	6	1
Appeal dismissed	1	5

Restoration to the register

A nurse or midwife struck off by a panel can apply to be restored to our register after five years. Before they can rejoin the register, they must satisfy a panel that they are fit to practise. If their application is successful, they usually have to undergo a return to practice programme.

Table 14 shows the outcomes of restoration applications in 2021–2022. The figures do not balance in-year because some decisions are reached in the year after the appeal was made. The number of restoration applications has fluctuated over the last few years; however, we have not identified any underlying trends.

Table 14

Restoration application outcomes

Outcome	2021–2022	2020–2021	2019–2020
Total applications received	56	72	62
Application accepted	21	33	30
Application rejected	21	30	28

Table 15 shows the breakdown of this year's restoration decisions by registration type.

Table 15

Restoration decisions by registration type

	2021–2022 total	Nurse	Midwife
Application accepted	21	20	1
Application rejected	21	20	1

06

Future focus: 2022–2023

We have analysed our performance for 2021–2022 to identify which areas of our improvement programme we need to focus on in order to make substantial progress in reducing our caseload, shortening our timescales and delivering more person-centred regulation.

In 2022–2023 we will continue to focus on these aims. As well as gaining further benefits from the changes we made in 2021–2022, **we will:**

- expand our decision-making capacity for screening and case examiners. Our recruitment activity to achieve this has either been completed or is advancing
- embed the changes we have introduced to improve our efficiency, such as maintaining our focus on ensuring that referrals to us are within our remit and are well articulated
- consider how technology can further improve our efficiency and effectiveness.

Through these actions we will aim to reduce the caseload to a target of 5,000 by March 2023.

We will ensure that our changes:

- deliver gains in the immediate term that meet our caseload ambition for the end of March 2023
- support the transition to the new model of fitness to practise, which will be delivered through regulatory reform.

The common thread running through all our improvement work is the drive to become more person-centred, with the aim of better supporting everyone involved.

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