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Factors to consider before deciding on sanctions

Reference: SAN-1 Last Updated: 02/12/2024

In this guide

Proportionality

Being proportionate means finding a fair balance between the nurse, midwife or nursing associate's rights and our overarching objective of public protection.[1] We need to choose a sanction that doesn't go further than we need to meet this objective. This reflects the idea of right-touch regulation[2], where the right amount of 'regulatory force' is applied to deal with the target risk, but no more.

The Fitness to Practise Committee has to be proportionate when making decisions about sanctions. It's under a legal duty to make sure that any decisions to restrict a nurse, midwife or nursing associate's right to practise as a registered professional are justified.

To be proportionate, and not go further than it needs to, the Committee should think about what action it needs to take to protect the public and address the reasons why the nurse, midwife or nursing associate is not currently fit to practise.

They should consider whether the sanction with the least impact on the nurse, midwife or nursing associate's practice would be enough to achieve public protection, looking at the reasons why the nurse, midwife or nursing associate isn't currently fit to practise and any aggravating or mitigating features.

If this sanction isn't enough to achieve public protection, they should consider the next most serious sanction. When the Committee finds the sanction that is enough to achieve public protection, then it has gone far enough.

They need to explain why the following most serious sanction is not necessary as it would be going further than is needed to achieve public protection – simply saying that it would be disproportionate isn't enough.

Aggravating features

Aggravating features are aspects of the case that make it more serious. They might mean that the Fitness to Practise Committee needs to order a sanction that has a greater impact on the nurse, midwife or nursing associate's practice.

Some possible aggravating features are:

- any previous regulatory or disciplinary findings
- abuse of a position of trust
- lack of insight into failings

- a pattern of misconduct over a period of time
- conduct which put people receiving care at risk of suffering harm.

Panels should weigh up carefully what evidence there is of a nurse, midwife or nursing associate's insight. Where there is *some* evidence of insight panels should consider whether this is so little that it might be an aggravating factor in the case, or whether this is evidence of developing insight which may count in the nurse, midwife or nursing associate's favour. It's unlikely that the level of insight can be both an aggravating and a mitigating factor.

If a nurse, midwife or nursing associate's actions put people at risk of being harmed, this risk makes their case more serious. However, keeping people receiving care safe also includes avoiding a culture of blame or cover up, so we do not want to punish nurses, midwives or nursing associates for making genuine clinical mistakes.

Generally, whether or not harm did happen is less important than whether the nurse, midwife or nursing associate's actions caused a risk of harm. We explain why this is in our guidance on investigating what caused the death or serious harm of a patient. It confirms that the fact that someone did suffer harm will only make a nurse, midwife or nursing associate's conduct or failings more serious if they deliberately chose to take an unreasonable risk with the safety of people in their care. The fact that a nurse, midwife or nursing associate has denied an allegation (and their defence has been rejected) might, in some cases, be regarded as an aggravating factor but panels must bear in mind the principle that nurses, midwives and nursing associates are fairly entitled to defend themselves. Panels should carefully consider the nature of the rejected defence before concluding that it can properly be regarded as an aggravating factor[3].

Mitigating features

Mitigating features are aspects of the case that show it is less serious. Mitigating features may mean the future risk to the public is reduced and a sanction which has less impact on the nurse, midwife or nursing associate's practice is appropriate to manage that risk. The Fitness to Practise Committee will always look carefully at any evidence about mitigation, including references and testimonials, when they are deciding which sanction, if any, to impose.

Mitigation can be considered in three categories.

- Evidence of the nurse, midwife or nursing associate's insight and understanding of the problem, and their attempts to address it. This may include early admission of the facts, apologies to anyone affected, any efforts to prevent similar things happening again, or any efforts to put problems right.
- Evidence that the nurse, midwife or nursing associate has followed the principles of good practice. This may include them showing they have kept up to date with their area of practice.
- Personal mitigation, such as periods of stress or illness, personal and financial hardship, level of experience at the time in question, and the level of support in the workplace.

In regulatory proceedings, where the purpose of sanctions is to protect the public and not to punish nurses, midwives or nursing associates, personal mitigation is usually less relevant than it would be to punishing offenders in the criminal justice system. In some cases, sanctions might have an effect that could be described as being punitive, but this is not their purpose.

As we explained in the section about aggravating factors, we take patient harm extremely seriously. Putting patients at risk of harm makes a nurse, midwife or nursing associate's failings more serious. If the nurse, midwife or nursing associate's actions put patients or members of the public at a real risk of suffering harm, and the reason they did not suffer harm was down to chance, the fact that nobody suffered actual harm is generally not a good mitigating factor.

The Fitness to Practise Committee will use our guidance on insight and strengthened practice, and in particular whether the concern has been addressed, when weighing up whether the level of insight demonstrated by a nurse, midwife or nursing associate is either aggravating or mitigating.

Previous interim orders and their effect on sanctions

Interim orders have a separate and different purpose from final sanctions.

The purpose of interim orders is to tackle risks while a case is being investigated and prepared, and before the Committee decides whether the nurse, midwife or nursing associate is fit to practise.

When making their decision on sanction, the Fitness to Practise Committee may be told that the nurse, midwife or nursing associate was under an interim order before they started deciding the case. The panel should consider the effect this might have.

Effects on which sanction to impose

If a nurse, midwife or nursing associate has been under an interim order they may have only had a limited chance to address the risks in their practice by working as a nurse, midwife or nursing associate.

If the nurse, midwife or nursing associate has followed the terms of the interim order, and made good progress under it, this can be relevant to questions about how much insight the nurse, midwife or nursing associate has shown, and how much of a risk they may present to the public in the future.

Equally, any evidence that the nurse, midwife or nursing associate did not fully comply with an interim order may be relevant to questions about insight, their attitude towards professionalism, and whether they are likely to comply with any order the Fitness to Practise Committee might make.

Effects on length of sanction

The fact that a nurse, midwife or nursing associate was previously under an interim order, and for how long, are relevant background factors in deciding on what a proportionate length of sanction might be.

This however doesn't mean that the length of time for which the nurse, midwife or nursing associate was previously restricted or suspended under an interim order must be deducted from a sanction. An interim order is separate from a substantive order[4]. When thinking about making a substantive order, the panel should take into account the individual circumstances of each case, and this may include the length of time that a nurse, midwife or nursing associate is under an interim order[5]. This is however never likely to be appropriate where a panel has identified that there is a current risk to public protection.

Previous fitness to practise history

The nurse, midwife or nursing associate's fitness to practise history with us can be relevant to a decision on sanction. It's most likely to be useful in cases about similar kinds of concerns. If problems seem to be repeating themselves, this may mean that previous orders were not effective to help the nurse, midwife or nursing associate address them. If the panel is considering making a similar order to those made by previous panels, it may need to take this factor into account and reconsider if necessary.

The fact that a nurse, midwife or nursing associate doesn't have a past fitness to practise history in general may have some relevance when considering the decision on sanction, depending on the types of charges that have been found proved. For example, suppose the allegations relate to clinical failings and are shown to be one-off failings during a long career. In this case, this could be a relevant consideration for a panel when considering sanction alongside any evidence of insight, reflection and strengthened practice.

If the allegations relate to deep-seated attitudinal concerns, such as displaying discriminatory views and behaviours that the nurse, midwife or nursing associate hasn't fully addressed, the absence of a fitness to practise history is unlikely to be relevant to a panel when considering sanction.

Unlike a criminal court, the panel is not punishing the nurse, midwife or nursing associate. Its role is to decide which sanction is needed to achieve public protection. This includes protecting people receiving care, maintaining public trust and confidence and upholding the standards we expect of nurses, midwives and nursing associates.

Sometimes, the nurse, midwife or nursing associate's conduct may be so serious that it is fundamentally incompatible with continuing to be a registered professional. If this is the case, the fact that the nurse, midwife or nursing associate does not have any fitness to practise history cannot change the fact that what they have done cannot sit with them remaining on our register.

For these reasons, panels should bear in mind there will usually be only limited circumstances where the concept of a 'previously unblemished career'[6] will be a relevant consideration when they are deciding which sanction is needed, or in giving their reasons.

DBS and Disclosure Scotland decisions

The existence of a DBS barring or Disclosure Scotland listing decision will be a legitimate consideration when approaching sanction – for example, when addressing the workability of conditions of practice. Where a fitness to practise panel is satisfied of the facts but decides that a nurse, midwife or nursing associate subject to such a decision shouldn't be struck off or suspended, it will need to explain carefully how it has reached that decision, with reference to public protection, public confidence and maintaining proper professional standards in the profession.

1 See the balance between the individual's rights and the public interest in Huang v Secretary of State for the Home Department [2007] UKHL 11
2 See Right-touch regulation, published by the Professional Standards Authority in 2015.
3 Sawati v GMC [2022] EHWC 283 (Admin)
4 Article 31(1)-(2) of the Order
5 Aga v GDC [2023] EWHC 3208 (Admin)
6 For an example of a case where a panel's decision to rely on a 'previously unblemished career' and not impose a striking-off order was overturned on appeal, see Judge v Nursing and Midwifery Council [2017] EWHC 817 (Admin)

Sanctions for particularly serious cases

Reference: SAN-2 Last Updated: 06/05/2025

In this guide

Some concerns that come before a panel are particularly serious and are likely to attract the most serious sanctions.

A conviction for a serious crime or concerns that someone has displayed discriminatory views and behaviours, been involved in dishonest or violent behaviour, engaged in sexual misconduct or abused a child or vulnerable adult[1], for example, could have a particularly negative impact on public safety, public confidence or professional standards.

The guidance below covers the considerations a panel should make when considering these types of cases and deciding which sanction, if any, to impose.

There's further guidance on factors to consider before deciding on sanctions.

Cases involving dishonesty

Honesty is of central importance to a nurse, midwife or nursing associate's practice. Therefore allegations of dishonesty will always be serious and a nurse, midwife or nursing associate who has acted dishonestly will always be at some risk of being removed from the register. However, in every case, the Fitness to Practise Committee must carefully consider the kind of dishonest conduct that has taken place. Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:

- deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to people receiving care
- misuse of power
- vulnerable victims
- personal financial gain from a breach of trust
- direct risk to people receiving care
- premeditated, systematic or longstanding deception

Dishonest conduct will generally be less serious in cases of:

- one-off incidents
- opportunistic or spontaneous conduct
- no direct personal gain
- incidents outside professional practice

Nurses, midwives and nursing associates who have behaved dishonestly can engage with the Fitness to Practise Committee to show that they feel remorse, that they realise they acted in a dishonest way, and tell the panel that it will not happen again. Where the professional denies dishonesty, it is particularly important that they make every effort to attend the hearing so that the Committee can hear at first hand their response to the allegations.

It is not the case that the Fitness to Practise Committee only has a choice between suspending a nurse, midwife or nursing associate or removing them from the register in cases about dishonesty. It's vital that, like any other case, the Fitness to Practise Committee should consider the sanctions in ascending order of seriousness, and work upwards to the next most serious sanction if it needs to.

Particular care is required where the professional has denied charges of dishonesty which are found proved by the panel. The panel must bear in mind the principle that professionals facing charges involving dishonesty, should have a proper opportunity to resist very serious allegations. That must be balanced against the necessity of protecting people receiving care and the public from professionals whose honesty and integrity they cannot rely upon.

A rejected defence of honesty may, in some cases, properly be regarded as an aggravating feature, but panels will need to consider carefully the following factors:

- there is a distinction to be drawn between an allegation of conduct which is intrinsically dishonest, like fraud or forgery, as opposed to an allegation which relates to conduct (record-keeping, for example) which is capable of being performed either honestly or dishonestly. A rejected defence of honesty is less likely to be properly regarded as an aggravating factor if it is based on a disagreement between the panel and the professional about facts relating to the professional's subjective state of mind (for example a situation where the professional's defence is that a record-keeping error was innocent, but the panel concludes that it was deliberate/dishonest).

- a professional's refusal to admit objective facts they can reasonably be expected to be aware of (such as where they were at a particular time, or what they did) is more likely to be relevant to sanction than when a panel disbelieves their evidence about their state of mind or motivation. An example of failing to admit objective facts might be telling the panel 'I told my manager that I was feeling unwell and had to finish my shift early' in circumstances where the panel concludes that no such conversation ever took place. That kind of rejected evidence is more likely to be relevant to sanction than a professional telling the panel 'my record-keeping error was a mistake' when the panel finds that the motivation was deliberate dishonesty. The fact that the panel did not accept the professional's evidence about their subjective state of mind is less likely to be relevant to sanction.

- the panel should consider whether there is any other evidence of lack of insight on the part of the professional, other than the rejected defence

- the panel should consider the nature of the rejected defence: a failure to admit an allegation does not always indicate that someone has not told the truth to the panel. The panel must consider, for example, whether the defence amounted to an act of dishonesty or misconduct in its own right. Did it wrongly implicate or blame others, or falsely accuse witnesses of being dishonest?[2]

Cases involving deliberate breach of an interim order, substantive order or an undertaking

Deliberate breach of an interim or substantive order:

The NMC can restrict the practice of one of the professionals on our register by imposing an interim order, or a substantive order at the end of a fitness to practise case.

If a nurse, midwife or nursing associate deliberately doesn't comply with an interim or substantive order this will be taken very seriously. This is because it is likely to show a disregard by that person for the steps the NMC has put in place to keep the public safe or uphold confidence in the professions.

If the breach is in relation to an interim order this will be taken into account by a panel when reviewing that order. We are also likely to consider bringing a separate regulatory concern against the nurse, midwife or nursing associate based on the deliberate breach.

We have separate guidance in relation to how we deal with breach of a substantive order, which can be found here.

If we are satisfied that a nurse, midwife or nursing associate has deliberately not complied with an order this is likely to call into question whether that person should remain on the register[3].

Breach of a restrictive measure in an undertaking:

As part of our fitness to practise process, the NMC is also able to agree "undertakings" with one of the professionals on our register. These are measures agreed between the Case Examiners and the professional, and are put in place to address problems in that individual's practice. We discuss these in more detail in our guidance on "undertakings" which can be found here.

As we explain in our guidance, undertakings are likely in part to include some "restrictive" measures. These may for example prevent a nurse, midwife or nursing associate from undertaking a particular activity, or may restrict their practice to a particular setting.

If the nurse, midwife or nursing associate deliberately fails to comply with a restrictive measure, we are likely to consider such a failure seriously. This is because the Case Examiners have previously decided that those restrictions are needed to keep the public safe, while the person completes their pathway back to safe practice. The person would have had to agree to those restrictions for the undertaking to be put in place. Deliberately breaching those restrictions is again likely to show a disregard by that person for the measures we have put in place to protect the public.

We explain in more detail in our guidance on undertakings how such a breach may result in a separate misconduct charge being sent to the Fitness to Practise Committee. If we are satisfied that a deliberate breach of a restrictive measure has taken place, this may call into question whether the person should remain on the register.

Cases involving sexual misconduct

is unwelcome behaviour of a sexual nature, or behaviour that can reasonably be interpreted as sexual, which degrades, harms, humiliates or intimidates another. It includes sexual harassment and will be regarded as extremely serious whether or not it occurs in the workplace.

When making decisions on sanctions in cases involving people receiving care, the Fitness to Practise Committee should consider the guidance on sexual boundaries produced by the Professional Standards Authority together with our guidance on misconduct.

Sexual misconduct is likely to create a risk to people receiving care and to colleagues as well as undermining public trust and confidence in the professions we regulate. A panel should always consider factors such as the duration of the conduct in question, the professional's relationship or position in relation to those involved and the vulnerabilities of anyone subject to the alleged conduct. Long-term or repeated conduct is more likely to suggest risk of harm, together with conduct involving imbalances of power, cruelty, exploitation and predatory behaviour.

The Fitness to Practise Committee should be mindful of the following aggravating factors:

- situations where the nurse, midwife or nursing associate has abused a position of trust they hold as a registered professional or a position of power.
- situations where the nurse, midwife or nursing associate has to register as a sex offender.
- Convictions for sexual offences including rape, sexual assault, sexual harassment and accessing, viewing, or any other offence relating to images or videos involving child sexual abuse or exploitation. These types of offences gravely undermine the public's trust in nurses, midwives and nursing associates. Some offences relating to images or videos of child sexual abuse are considered more serious than others in the criminal courts. However, in fitness to practise, any conviction relating to images or videos involving child sexual abuse is likely to raise fundamental questions about the ability of the nurse, midwife or nursing associate to uphold the standards and values set out in the Code.

Panels deciding on sanction in cases about sexual misconduct will, as in all cases, need to start their decision-making with the least severe sanction, and work upwards until they find the appropriate outcome. However, as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of people receiving care, any nurse, midwife or nursing associate who is found to have behaved in this way will be at risk of being removed from the register. If the panel

decides to impose a less severe sanction, they will need to make sure they explain the reasons for their decision clearly and carefully. This will allow people who have not heard all of the evidence in the case, which may include those directly affected by the sexual misconduct in question, to properly understand the decision.

Abuse or neglect of children or vulnerable people

Safeguarding and protecting people from harm, abuse and neglect is an integral part of the standards and values set out in the Code, and any allegation involving the abuse or neglect of children or vulnerable people[4] will always be treated seriously.

When considering sanctions in cases involving the abuse or neglect of children or vulnerable adults, panels will, as always, start by considering the least severe sanction first and move upwards until they find the appropriate outcome. However, as these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of those who use services, any nurse, midwife or nursing associate who is found to have behaved in this way will be at risk of being removed from the register. If the panel decides to impose a less severe sanction, they will need to make sure they explain the reasons for their decision clearly and carefully. This will allow people who have not heard all of the evidence in the case, which may include those directly affected by the conduct in question, to properly understand the decision.

Cases involving criminal convictions or cautions

In the criminal courts, one of the purposes of sentencing is to punish people for offending. When passing sentence, the criminal court will look carefully at the personal circumstances of the offender. In contrast, the purpose of the Fitness to Practise Committee when deciding on a sanction in a case about criminal offences is to achieve our overarching objective of public protection. When doing so, the Committee will think about promoting and maintaining the health, safety and wellbeing of the public, public confidence in nurses, midwives and nursing associates, and professional standards.

It's clear that the Committee's purpose isn't to punish the nurse, midwife or nursing associate for a second time. Because of this, the sentence passed by the criminal court isn't necessarily a reliable guide to how seriously the conviction affects the nurse, midwife or nursing associate's fitness to practise. This means that the personal circumstances or mitigation of the nurse, midwife or nursing associate is less likely to be useful or helpful to the Fitness to Practise Committee when making a sanction decision than it would have been to the criminal court.

Rather than rely on a criminal judge's assessment of seriousness in a criminal context, a panel will undertake a separate analysis of the underlying facts to understand how they may have impacted on the quality of care given, what they say about the professional's attitude and ability to practise safely and effectively going forward, and the likely effect that they would have on the public's confidence in the profession. The panel will have to decide how serious the behaviour is in the regulatory sense, by considering all the information before it, as well as our cautions and convictions and misconduct guidance.

Cases about criminal offending by nurses, midwives or nursing associates illustrate the principle that the reputation of the professions is more important than the fortunes of any individual member of those professions. Being a registered professional brings many benefits, but this principle is part of the 'price'.[5]

The law says that, when making its decision on sanction, the Fitness to Practise Committee should consider:

- the fact that a nurse, midwife or nursing associate convicted of a serious offence is still serving their sentence (even if on probation), and
- whether the nurse, midwife or nursing associate should be able to restart their professional practice before they have completed their sentence

In general, the rule is that a nurse, midwife or nursing associate should not be permitted to start practising again until they have completed a sentence for a serious offence.[6] This is a general rule that it would be right for the Fitness to Practise Committee to consider, but it does not mean that the Committee has no choice but to remove the nurse, midwife or nursing associate from the register permanently.[7]

Cases relating to discrimination

We may need to take restrictive regulatory action against nurses, midwives or nursing associates who've been found to display discriminatory views and behaviours and haven't demonstrated comprehensive insight, remorse and strengthened practice, which addresses the concerns from an early stage.

If a nurse, midwife or nursing associate denies the problem or fails to engage with the fitness to practise process, it's more likely that a significant sanction, such as removal from the register, will be necessary to maintain public trust and confidence.

We talk about how seriously we view concerns involving discrimination in our screening and misconduct guidance.

Cases that we regard as being particularly serious

Some concerns are serious because in these cases it is less easy for the nurse, midwife or nursing associate to put right the conduct, the problems in their practice, or the aspect of their attitude which led to the incidents happening.

Examples of this type of concern are:

- breaching the professional duty of candour to be open and honest when things go wrong, including covering up, falsifying records, obstructing, victimising or hindering a colleague or member of the public who wants to raise a concern, encouraging others not to tell the truth, or otherwise contributing to a culture which suppresses openness about the safety of care;
- abusing their position as a registered nurse, midwife or nursing associate or other position of power to exploit, coerce or obtain a benefit (including sexual or financial) from people receiving care, colleagues or students;
- relationships with people receiving care in breach of guidance on clear sexual boundaries;
- specified offences, including hate crimes, sexual offences and serious crimes against children or vulnerable people; deliberately causing harm to people receiving care;
- deliberately using or referring to false qualifications or giving a false picture of employment history which hides clinical incidents in the past, not telling employers that their right to practise has been restricted or suspended, practising or trying to practise in breach of restrictions or suspension imposed by us;
- being directly responsible (such as through management of a service or setting) for exposing people receiving care to harm or neglect, especially where the evidence shows the nurse, midwife or nursing associate putting their own priorities, or those of the organisation they work for, before their professional duty to ensure the safety and dignity of people receiving care.

Serious concerns that could result in harm if not put right

Assessing the risks presented by an individual nurse, midwife or nursing associate's practice means carefully considering the evidence about those risks.

Our evidence will need to explain clearly whether people using health or care services were put at risk by the nurse, midwife or nursing associate's conduct or failings in the past, and what harm did or could have happened to other users of services because of those failings.

We will need to assess how likely the nurse, midwife or nursing associate is to repeat similar conduct or failings in the future, and if they do, if it is likely that people who use services would come to harm, and in what way.

We wouldn't usually need to take regulatory action for an isolated incident (for example, a clinical error) unless it suggests that there may be an attitudinal issue.

Examples could include cruelty to service users or a serious failure to prioritise their safety, discrimination or sexual misconduct. Such behaviours may indicate a deep-seated problem even if there is only one reported incident which will typically be harder to address and rectify.

A pattern of incidents is usually more likely to show risk to people who use services, requiring us to act. Conduct or failings that put people receiving care at risk of harm will usually involve a serious departure from the standards set out in our Code. These standards are intended to ensure that nurses, midwives or nursing associates practise

safely and effectively.

Prioritise people

The evidence shows that the nurse, midwife or nursing associate has failed to:

- uphold people's dignity, treat them with kindness, respect and compassion, deliver treatment care or assistance without undue delay, or deliver the fundamentals of care (including hydration, nutrition, bladder and bowel care and ensuring people receiving care are kept in clean and hygienic conditions).
- make sure the physical, social and psychological needs of people receiving care are responded to.
- respect people's right to privacy and confidentiality.
  Practise effectively
  The evidence shows that the nurse, midwife or nursing associate:
- has not maintained the knowledge and skills for safe and effective practice.
- is unable to communicate clearly, work cooperatively, keep clear and accurate records, without falsification.
- failed to be accountable for decisions to delegate tasks and duties to other people and/or failed to ensure they are adequately supported.

Preserve safety

The evidence shows that the nurse, midwife or nursing associate has failed to:

- recognise and work within the limits of competence, accurately assess signs of normal or worsening physical or mental health, or make timely and appropriate referrals where needed.
- be open and candid with people in their care, or act immediately to put right, explain and apologise when any mistakes or harm have taken place.
- offer help if an emergency arises in practice.
- act without delay if they believe there is a risk to the safety of people in their care or to public protection.
- raise or escalate concerns.
- advise, prescribe or administer medicines in line with training, law and guidance.
- be aware of, or reduce as far as possible, any potential for harm associated with practice, including controlling and preventing infection, taking precautions to avoid potential health risks to colleagues, or people receiving care and the public.

Promote professionalism and trust

The evidence shows that the nurse, midwife or nursing associate has:

- failed to uphold the reputation of the profession, by not acting with honesty and integrity, treating people fairly, without discrimination, bullying or harassment, in a way that does not take advantage of their vulnerability or cause them upset or distress.
- failed to maintain the level of health needed for safe and effective practice.
- asked for or accepted a loan from someone in their care (or anyone close to a person in their care).
- failed to cooperate with investigations and audits, including requests to act as a witness.
- failed to tell us as soon as they could have about cautions or charges, conditional discharges or convictions for criminal offences.

Serious concerns which raise risks to the public's confidence in the professions generally or to professional standards:

Sometimes we may need to take regulatory action against a nurse, midwife or nursing associate to promote and maintain professional standards and the public's trust and confidence in the professions we regulate.

We will do so when the concerns raise fundamental questions about the ability of the nurse, midwife or nursing associate to uphold the standards and values set out in the Code.

Concerns do not need to have occurred within professional practice to indicate a risk to people using services in future. In some circumstances, the way a nurse, midwife or nursing associate conducts themselves outside their professional practice could indicate deep-seated attitudinal issues which could pose a risk to people receiving care or to colleagues. This will include discrimination of any kind, harassment, sexual misconduct, violence and

the abuse or neglect of children or vulnerable adults. We will look closely at the particular circumstances of the concern raised with us to determine whether such attitudes and risks are present.

We are likely to take restrictive regulatory action against nurses, midwives or nursing associates whose conduct has had this kind of impact on the public's trust in their profession, particularly where they haven't made any attempt to reflect on it, show insight, and haven't taken any steps to put it right. This may even mean they can't stay on the register.

1 An adult is defined as vulnerable where they have care and support needs and, as a result of this, are unable to take care of themselves or protect themselves from abuse or neglect.
2 Sawati v GMC [2022] EWHC 283 (Admin)
3 See case of GMC v Donadio [2021] EWHC 562 (Admin) in relation to the serious nature of deliberate breaches of interim orders
4 An adult is defined as vulnerable where they have care and support needs and, as a result of this, are unable to take care of themselves or protect themselves from abuse or neglect.
5 Bolton v Law Society [1994] 1 WLR 512
6 Council for the Regulation of Health Care Professionals v (1) General Dental Council and (2) Fleischmann [2005] EWHC 87 (QB)
7 Chandrasekera v Nursing and Midwifery Council [2009] EWHC 144 (Admin)

Available sanction orders

Reference: SAN-3 Last Updated: 28/07/2017

Fitness to Practise Committee panels will consider the full range of sanctions open to them.

The proper approach is to start with the least severe sanction: the panel should decide whether the outcome is right for fitness to practise concern in question after they have considered any less severe sanction.[1]

This means that panels must explain why they have chosen a particular sanction, and also say why they have rejected other sanctions. The following section of this guidance deals with each of the sanctions in turn, starting with the least serious first. These are:

- taking no further action
- a caution order of between one and five years
- a conditions of practice order of up to three years
- a suspension order of up to twelve months
- a striking-off order

1 See *Giele v General Medical Council* [2005] EWHC 2143 (Admin)

Taking no further action

Reference: SAN-3a Last Updated: 12/10/2018

In this guide

When the panel makes the first sanction decision in a case

The Fitness to Practise Committee does have a discretion to take no further action and impose no sanction immediately after it has first decided that a nurse, midwife or nursing associate's fitness to practise is impaired. However, the panel will use this discretion only in rare cases, and it will need to explain its decision very clearly.

This is because as part of its decision about fitness to practise, the panel must already have decided that the nurse, midwife or nursing asociate:

- presents a continuing risk to patients
- was responsible for conduct or failings that undermined the public's trust in nurses, midwives or nursing associates, or
- breached one of the fundamental tenets of the professions.

Any one of those factors, or more than one, may apply in a particular case. They will usually mean that to achieve our overarching objective of public protection, the panel needs to take action to secure patient safety, to secure public trust in nurses, midwives and nursing associates, or to promote and maintain proper professional standards and conduct.

So before taking no further action, the panel will need to explain in detail why it is appropriate to do so, even though it has decided that the nurse, midwife or nursing associate's fitness to practise is currently impaired. It will need to carefully identify the circumstances, along with clear and reliable evidence that supports its approach.

On review of an existing sanction order

When the Fitness to Practise Committee is reviewing an existing sanction order against a nurse, midwife or nursing associate, the panel first has to decide whether the nurse, midwife or nursing associate's fitness to practise is still impaired.

If the panel decides that the nurse, midwife or nursing associate's fitness to practise is still impaired, in some circumstances, taking no action and allowing the order to expire can be the best way to protect the public from the concerns about a nurse, midwife or nursing associate's practice.

We explain these circumstances, and how to decide when this will be the best way to make sure the public remains protected, in our guidance on allowing orders to expire when a nurse, midwife or nursing associate's registration will lapse.

Caution order

Reference: SAN-3b Last Updated: 12/10/2018

A caution order is the least serious of our sanctions in that it is the least restrictive.

A caution order is only appropriate if the Fitness to Practise Committee has decided there's no risk to the public or to patients requiring the nurse, midwife or nursing associate's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again.

Because a caution order doesn't affect a nurse, midwife or nursing associate's right to practise, the Committee will always need to ask itself if its decision about the nurse, midwife or nursing associate's fitness to practise indicated any risk to patient safety.

If it did, the panel members will then have to ask themselves whether a caution order will be enough to protect the public, given that it would allow the nurse, midwife or nursing associate to continue to practise without any restriction.

A caution order can be ordered to run for a period of between one and five years. It is recorded on the register and published on our website, and disclosed to anyone enquiring about the nurse, midwife or nursing associate's fitness to practise history.

Conditions of practice order

Reference: SAN-3c Last Updated: 28/01/2020

In this guide

Overview

When a conditions of practice order is imposed on a nurse, midwife or nursing associate's registration, they have to comply with the conditions placed on their practice for up to three years.

If conditions of practice are imposed as an interim order, rather than as a sanction, the order allows the nurse, midwife or nursing associate to work while the allegations against them are being investigated.

How does a conditions of practice order protect the public?

Conditions of practice keep patients safe by addressing the concerns that led to the panel deciding the nurse, midwife or nursing associate's fitness to practise is currently impaired, but also allow the nurse, midwife or nursing associate to continue to work.

Conditions are published on our website and details of any conditions of practice order are made available to anyone enquiring about a nurse, midwife or nursing associate's registration.

However, we do not publish conditions that relate to a nurse, midwife or nursing associate's health.

A conditions of practice order is usually reviewed before it expires.

A nurse, midwife or nursing associate must comply with the conditions of a conditions of practice order. It's a serious problem if they don't, and it could mean the panel reviewing the order will replace the conditions with a suspension order, or make a striking-off order.

For examples of conditions, decision makers should look at our conditions of practice library.

When conditions of practice are appropriate

The key consideration for the panel, before making this order, is whether conditions can be put in place that will be sufficient to protect patients or service users, and if necessary, address any concerns about public confidence or proper professional standards and conduct.

Conditions may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):

- no evidence of harmful deep-seated personality or attitudinal problems
- identifiable areas of the nurse, midwife or nursing associate's practice in need of assessment and/or

retraining
- no evidence of general incompetence
- potential and willingness to respond positively to retraining
- the nurse, midwife or nursing associate has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision
- patients will not be put in danger either directly or indirectly as a result of the conditions
- the conditions will protect patients during the period they are in force
- conditions can be created that can be monitored and assessed.

Being fair and protecting the public

To make sure conditions of practice achieve their aim of public protection, in a way that's fair to the nurse, midwife or nursing associate, they should be .

means that the conditions should relate to and address the concerns that led to the panel deciding that the nurse, midwife or nursing associate's fitness to practise is impaired.

In the case of an interim conditions of practice order, conditions should address the risks to the public, the public interest, and the nurse, midwife or nursing associate's own interests raised by the allegations.

means that the conditions must be no more restrictive than necessary to protect the public and uphold confidence in the profession.

They must strike a fair balance between the interests of the nurse, midwife or nursing associate and the public interest. This also includes public protection and public confidence.

There is also a public interest in nurses, midwives or nursing associates being allowed to practise their profession in a safe manner.

means that it must be possible for the nurse, midwife or nursing associate to comply with the conditions.

Any conditions imposed should be realistic and practical for a nurse, midwife or nursing associate to comply with. They should not have the effect of amounting to a complete restriction on the nurse, midwife or nursing associate's ability to practise. It is inevitable that conditions may have the effect of making it more difficult to obtain employment, but this does not mean that the conditions are unworkable.[1]

means that it must be possible to assess objectively whether or not the nurse, midwife or nursing associate has complied with each condition.

The condition must be clear and unambiguous. The question of whether the nurse, midwife or nursing associate has complied with the condition should be capable of being answered 'yes' or 'no'. If the question is capable of being answered 'It depends…', the condition is not measurable because it is not specific enough.

The conditions should also ensure that, where necessary, the nurse, midwife or nursing associate is under an obligation to provide us with sufficient information, in sufficient time, to allow the panel at a review hearing to properly consider whether the nurse, midwife or nursing associate has complied with the condition.

Make conditions clear

A conditions of practice order should be easy to read and understand as a stand-alone document, without referring to any other document so with this in mind, when drafting conditions, panels should:

Avoid complicated words when simple ones are available. For example, use 'before', not 'prior to', 'start', not 'commence'.

If it is necessary to use clinical terms, these should be defined clearly in a way that can be understood by a lay person.

If a term is used that is capable of being interpreted in different ways by different panels, the panel must provide a clear definition of what it means by that term.
For example, 'supervision' is a term that is capable of being interpreted differently by different people. Among other things, it could mean:

- having regular meetings with a supervisor to discuss clinical issues
- working with a supervisor at the other end of a telephone if required
- working with a supervisor who is physically present some, but not all of the time
- being observed at all times by a supervisor.

Accordingly, if a panel considers that there should be a degree of supervision or oversight of the nurse, midwife or nursing associate's work, it must specify precisely the extent of that oversight. Examples are included in the conditions of practice library.

A conditions of practice library has been prepared to help panels to achieve consistency in the conditions of practice that are imposed. Where the wording of a library condition meets the requirements of the panel, that wording should be used. Where there is no condition in the library that meets the requirements of the panel, the panel must create its own condition.

To help panels to ensure that no conditions are published that should not be, the conditions in the library are divided into public and confidential conditions.

Make sure the obligation to comply is on the nurse, midwife or nursing associate:

Conditions should always put the obligation on the nurse, midwife or nursing associate, not an employer or third party.

For example instead of saying

"Your GP must provide a report to the NMC…."

the condition should say

"You must provide the NMC with a report from your GP".

Times and periods of the order must be specified, for example 'weekly', 'on the first day of each month', or 'once every three months' instead of 'regularly', and 'within x days' instead of 'promptly'.

It is important that panels, and nurses, midwives and nursing associates, understand when conditions take effect, and that this is clearly reflected in the order.

Conditions of practice imposed as a sanction

After a nurse, midwife or nursing associate's fitness to practise has been found to be impaired, conditions of practise order imposed as a sanction, take effect when the period for appealing against the order expires, which is 28 days after we send the nurse, midwife or nursing associate the decision in a letter.

If the nurse, midwife or nursing associate appeals, then the conditions don't take effect until the appeal is withdrawn or otherwise finally disposed of by the court.

Conditions of practice imposed as a standard review before the expiry of an order[2] take effect from the expiry of the original order.

In the instance of an early review, if the panel decides to extend an existing conditions of the practice order, this also takes effect when the original order would have expired. If an early review panel replaces a different original order (for example suspension) with a conditions of practice order, or varies an existing conditions of practice order, this takes effect immediately.

When and how to get other people's input when setting conditions

The panel needs to be confident that the conditions of an imposed order are workable, however, neither the nurse, midwife or nursing associate, employer, nor anyone else who may be affected by a conditions of practice order, needs to expressly agree to the terms of the conditions for it to be imposed.[3]

In practical terms though, if a nurse, midwife or nursing associate refuses to comply with conditions, it's unlikely that the order will be workable.

Where a nurse, midwife or nursing associate is not employed

Conditions may still be workable even where a nurse, midwife or nursing associate is not employed, or doesn't have a job offer at the time conditions are being considered.

A condition preventing a nurse, midwife or nursing associate from working in a particular environment or role, or from carrying out a particular procedure would still be a workable condition in these circumstances.

The condition doesn't make any demands of an employer or anyone else for support or input, so there wouldn't be any need for anyone to comment on the conditions before the order could be made.

Where the panel needs the input of an employer or other organisation

The panel may decide that it needs the input from an employer or other organisation to make sure the conditions it wants to impose will achieve public protection. This could be further information, advice, or support. If the panel decides it needs this input, it should give us, the nurse, midwife or nursing associate, any employer, other organisation or person affected by the order, an opportunity to comment on whether the proposed conditions are workable.

Doing this will help panels to make informed decisions and might avoid the need for early reviews. Where possible, we'll try to arrange for any employer or other organisation to be available to comment before any order is made.

If this hasn't been possible (for example, because we didn't know who the employer, proposed employer or other person or organisation was before the hearing), the panel may take a short break during the day for us to contact them and get their comments on the proposed conditions.

Where we can't get the input the panel needs

If there's no evidence to suggest that the relevant organisation or person is available or willing to provide the input the panel needs to make sure a conditions of practice order will protect the public, a conditions of practice order is unlikely to be workable.

In these circumstances, the panel will need to move on to consider a suspension order.

Either party can seek an early review of the order should further evidence become available.

If it does impose a suspension order, the panel should explain in its decision what support or input it considered necessary to protect the public. It should also explain why it considered a conditions of practice order to be unworkable on the evidence it had.

This will help the nurse, midwife or nursing associate understand what will be needed before a conditions of practice order can be workable, and give them the chance to gather the necessary evidence before a review hearing.

A case should never be adjourned to another day simply because it has not been possible to obtain the comments of a third party about a conditions of practice order. This would leave the public unprotected in the meantime.

The panel must make an order that is relevant, proportionate, workable and measurable based on the evidence it has. Either party can seek an early review of the order should further evidence become available.

When conditions can be imposed without prior support by an employer

The panel might decide that the conditions needed to protect the public would need some form of support to be given to the nurse, midwife or nursing associate, like for example direct supervision by a colleague equivalent to a band 6 nurse. The panel might anticipate who will provide this support, but perhaps not have specific confirmation that they will do so. It would be appropriate to go ahead and make the order if the conditions were general in nature, and didn't need the particular input of a specific identified person, like in the supervision example. The supervision could be by any colleague who fit the requirements.

The practical effect of conditions might be that the nurse, midwife or nursing associate is unable to practise until they find a setting or employer prepared to employ them on the conditions. If the nurse, midwife or nursing associate finds an employer or setting who will employ them under the conditions, the public have the benefit of a

nurse, midwife and nursing associate in practice, but with the limits to make sure they do not present a risk. The public will be protected either way.[4]

How conditions and sanctions apply to those registered on more than one part of our register

Our register is made up of parts.

One part of the register is for nurses, one part is for midwives and the final part is for nursing associates. Someone entered on our register as a nurse as a midwife will only have one single registration with us, but they will be entered on two parts of our register.

Fitness to practise sanctions apply to all parts of someone's single registration.

If someone who is, for example, a nurse and a midwife has a conditions of practice order, all of the conditions will apply to all parts of their practice, unless the order states otherwise.

For the same reason, a suspension order will apply to all of a nurse or midwife's single registration. We cannot suspend someone from only one part of the register.

If a panel wants to prevent someone who is registered on more than one part of our register from practising in only of those professions, it must do so using a conditions of practice order, which would say (for example) 'you must not practise as a nurse'.

This would be appropriate if someone had problems in one of the professions they practise that are so serious that the panel decides they need to be prevented from practising that profession, but the panel decided that a complete restriction on all areas of practice would not be necessary to protect the public.

This wouldn't be equivalent to a suspension order, because it would allow the person to continue to work in one area of their professional practice.

Sometimes, there will be an overlap between the two areas of professional practice. When this happens, panels should consider whether they need to impose particular conditions on the nurse, midwife or nursing associate's work in the other profession.

In a case with serious clinical problems about only one area of professional practice, like a repeated failure in midwifery care, but also separate failings about a more general part of practice, like record keeping, it may be necessary to prevent the person from working as a midwife, and to impose conditions on their practice as a nurse or nursing associate, to address the record keeping concerns.

This would be a proportionate response if the panel decided it needed to prevent someone practising in one profession, but it also decided they were able to practise safely with restrictions in the other profession.

Return to practice courses and the test of competence

A nurse or midwife can complete a return to practice course or take a test of competence if they cannot meet the NMC's readmission or revalidation practice hours requirements.

Return to practice courses are intended to be a way of updating skills and knowledge before returning to registered practice.

The test of competence is made up of two parts:

- a multiple-choice computer based theoretical test known as the CBT
- a practical test known as the OSCE.

Although return to practice courses and the test of competence may provide relevant evidence that a panel can take into account at a hearing or a review, they are not designed to address specific concerns about a nurse or midwife's fitness to practise.

It would be generally inappropriate for a panel to rely on a return to practise course or test of competence in place of a conditions of practice order. Nor should a panel direct a nurse or midwife to complete a return to practice course or a test of competence as part of an order.

Sanctions

1 Daraghmeh v General Medical Council [2011] EWHC 2080 (Admin)
2 Article 30 of the Nursing and Midwifery Order 2001 ('the Order')
3 Whitehead v General Medical Council [2003] HRLR 9
4 Perry v Nursing and Midwifery Council [2012] EWHC 2275 (Admin)

Suspension order

Reference: SAN-3d Last Updated: 06/05/2025

This order suspends the nurse, midwife or nursing associate's registration for a period of up to one year and may be appropriate in cases where the misconduct isn't fundamentally incompatible with the nurse, midwife or nursing associate continuing to be a registered professional, and our overarching objective may be satisfied by a less severe outcome than permanent removal from the register.

A suspension order is usually reviewed before it expires. The nurse, midwife or nursing associate may not practise as a registered nurse, midwife or nursing associate during the period the order is in force.

Key things to weigh up before imposing this order include:

- whether the seriousness of the case requires temporary removal from the register?
- will a period of suspension be sufficient to protect patients, public confidence in nurses, midwives or nursing associates, or professional standards?

Use the checklist below as a guide to help decide whether it's appropriate or not. This list is not exhaustive:

- a single instance of misconduct but where a lesser sanction is not sufficient
- no evidence of harmful deep-seated personality or attitudinal problems
- no evidence of repetition of behaviour since the incident
- the Committee is satisfied that the nurse, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour
- in cases where the only issue relates to the nurse, midwife or nursing associate's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions
- in cases where the only issue relates to the nurse, midwife or nursing associate's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions

When considering how serious the professional's conduct is, the Fitness to Practise Committee will look at how far the nurse, midwife or nursing associate fell short of the standards expected of them. It will consider the risks to patients and to the other factors above, and any other particular factors it considers relevant on each case.

When making a suspension order the Fitness to Practise Committee may wish to explain clearly what expectations it has, or what actions the nurse, midwife or nursing associate could take that would help a future Committee reviewing the order before it expires.

Striking-off order

Reference: SAN-3e Last Updated: 06/05/2025

A striking-off order is the most serious sanction. It results in removing the nurse, midwife or nursing associate's name from the register, which prevents them from working as a registered nurse, midwife or nursing associate.

This sanction is likely to be appropriate when what the nurse, midwife or nursing associate has done is fundamentally incompatible with being a registered professional. Before imposing this sanction, key considerations the panel will take into account include:

- Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?
- Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not struck off from the register?
- Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?

The panel should refer to our guidance on sanctions for particularly serious cases, which highlights a number of factors indicating which kinds of concern it may not be possible for the nurse, midwife or nursing associate to address or put right, and which will most seriously affect the public's trust and confidence in registered nurses, midwives or nursing associates.

The courts have supported decisions to strike off healthcare professionals where there has been lack of probity, honesty or trustworthiness, notwithstanding that in other regards there were no concerns around the professional's clinical skills or any risk of harm to the public.[1] Striking-off orders have been upheld on the basis that they have been justified for reasons of maintaining trust and confidence in the professions.

When a striking off order cannot be used

A striking-off order can't be used if the nurse, midwife or nursing associate's fitness to practise is impaired due to:

- their health,
- lack of competence or
- not having the necessary knowledge of English

until they have been on either a suspension order a conditions of practice order for a continuous period of two years.

The two-year period can be made up of a combination of periods of suspension and conditions, provided that there is a continuous period during which the nurse, midwife or nursing associate's practice has been subject to restriction under a substantive order.

The panel should also refer to the guidance on standard reviews of substantive orders if they are considering imposing a strike off at a substantive order review hearing.

Restoration

A nurse, midwife or nursing associate who has been subject to a striking off order may not apply for restoration until a period of five years has elapsed since the striking-off order was made. Our guidance on restoration explains how the Fitness to Practise Committee approaches these applications.

1 For example, Parkinson v NMC [2010] EWHC 1898 (Admin), Mvenge v GMC [2010] EWHC 3529 (Admin), Ige v Nursing and Midwifery Council [2011] EWHC 3721 (Admin)

Available orders for fraudulent or incorrect entry

Reference: SAN-4 Last Updated: 09/06/2025

In this guide

If the Investigating Committee finds an allegation of fraudulent or incorrect entry proved, it may order the Registrar to remove the entry, amend the entry, or it may take no action.[1] The Committee also has the power to impose an interim order at the same time.

The appropriate outcome will depend on the circumstances of the case. The Investigating Committee should consider whether the other options may be appropriate before ordering that the Registrar should remove the entry. They should bear in mind that they are not deciding whether the nurse, midwife or nursing associate would now meet the entry requirements, but deciding what action should be taken following their decision that the entry was fraudulent or incorrect.

The Investigating Committee should consider its purpose carefully in line with our main objective of protecting the public, which includes maintaining public confidence in the professions we regulate.

Making an order that the Registrar remove the entry

Taking account of our overarching objective, if the Investigating Committee has decided that the person gained or maintained their registration through wrong information about their qualifications, practice history or character, it should assess carefully whether the person's registration should be removed.

In cases of fraudulent entry, the fact that the person's application to gain, maintain or renew their registration was supported by deliberately misleading information is likely to be a strong factor in favour of removing the entry. This is because our duty to maintain the register is a vital part of our overarching objective, protection of the public. Members of the public who need or rely on the services of nurses, midwives and nursing associates should be able to trust that people registered with us are entitled to practise as registered professionals.

Once the Investigating Committee has decided that someone has gained entry to our register because of fraud, their decision on what action to take should assess carefully whether the person can continue to be registered without undermining the public's trust in the accuracy of our register. When coming to their decision, the Investigating Committee should consider whether the fraud was perpetrated by the nurse, midwife or nursing associate or a third party.

Removing the entry may also be the appropriate outcome if the entry was incorrectly made and the person concerned didn't act dishonestly. If their entry is removed, the person concerned can apply for registration immediately afterwards. If they do this, the Registrar (or one of our Assistant Registrars who also make decisions on behalf of the Registrar) can consider the nature and circumstances of the case.

In deciding whether to remove the entry following a finding that the entry was incorrectly made (but not fraudulent), the Investigating Committee should take account of:

- the Registrar's specialism in making registration decisions
- whether the panel decided the entry was incorrect because the Registrar didn't know about information that needed a value judgment or balancing exercise.

For example, an entry was incorrect because the Registrar wasn't aware of a minor criminal conviction. It's more likely to be appropriate to order that the entry is removed than, for example, a mistake relating to revalidation requirements. This is because the existence of a criminal conviction is likely to require the Registrar to exercise their judgement to decide whether the person should be permitted to be on our register.

If the person applies again for registration, the Registrar can make a new registration decision, using their specialism and our health and character guidance to help them reach the right decision.

Where the issue which led us to find the entry incorrect is more straightforward, it may be appropriate to consider taking no action. This might include simple errors relating to required practice hours, continuing professional development or professional indemnity insurance.

Where a nurse, midwife or nursing associate is already subject to a suspension or conditions of practice order, this wouldn't prevent the Investigating Committee ordering their removal from the register because of a fraudulent or incorrect entry.

The circumstances leading to the suspension or conditions of practice order will be taken into account by the Registrar if the professional subsequently applies for re-admission to the register.

Making an order that the Registrar amend the entry

In certain circumstances, it may be appropriate to order that the Registrar amend the entry in the register. This could apply in situations where an annotation has been made in error, and there is no wider concern regarding the integrity of the entry.

An order to amend the entry in the register may be appropriate if:

- the entry was incorrect
- there was no fraud or dishonesty, and
- there's no issue over any of the registration requirements that needs the specialist judgement of the Registrar.

Taking no action

Taking no action may be appropriate if the error or inaccuracy in the application process was trivial or unimportant. It may also be appropriate where the nurse, midwife or nursing associate has corrected the error or inaccuracy, or where the Registrar has since correctly entered the nurse, midwife or nursing associate on the register based on all relevant information.

The Investigating Committee may decide there is no need to make an order removing the entry if:

- the entry was incorrect
- there was no fraud or dishonesty, and
- there is no issue over any of the registration requirements that needs the specialist judgement of the Registrar.

There would then be no need for the person to reapply for registration.

This is only likely to be an appropriate outcome where the entry was incorrect because of a clear-cut issue that the person has shown they have now put right, such as completing the required number of hours of practice or continuing professional development, or having professional indemnity insurance in place.

Action should be taken if the issues in the case need a value judgment or balancing exercise about whether the person would now meet the requirements for registration (such as health or character). This is because these issues should be decided by the Registrar, who is in the best position to make such judgments if the person decides to reapply for registration in the future.

Even if the Investigating Committee has decided that an entry was fraudulent, there may still be exceptional cases where it could decide to take no action. This is only likely to happen when the person concerned was not aware of the fraud as it was carried out by a third party. In such cases, taking no action will only be appropriate if there

are no issues with the registration requirements that might need the specialist judgement of the Registrar.

Imposing an interim order

If it makes an order, the Investigating Committee should bear in mind that any substantive order that it makes will not take effect until after the deadline has passed for lodging an appeal against their decision, or if their decision is appealed, until the appeal has been resolved. The Panel will therefore need to consider whether it is necessary to impose an interim order. In doing so, it should consider whether the fact that its decision will not take effect immediately would present a risk to:

- members of the public
- public confidence in nurses, midwives and nursing associates
- the person whose entry in the register it has been considering.

The Committee will need to consider the circumstances of each individual case. Where the Committee has decided that a Register entry has been fraudulently procured and that removal from the Register is therefore the right course of action, the Committee will need to consider carefully whether an interim suspension order should be imposed to prevent the individual concerned from practising with immediate effect.

Among the factors to be considered will be:

- where the professional concerned has been found to have participated in fraudulent activity, the public protection issues that could arise from allowing someone who has engaged in fraud to continue practising
- whether it is consistent with the Committee's overall decision and will maintain public confidence in the integrity of the register to allow an individual whose entry on the register has been secured by fraud to continue practising.

1 Article 26(7) of the Nursing and Midwifery Order 2001 ('the Order')

Interim orders after a sanction is imposed

Reference: SAN-5 Last Updated: 02/12/2024

When the panel announces its decision on a sanction, any interim order that has been in place up to that point will lapse unless the registrant is the subject of multiple referrals and at least one of those referrals has not yet been finally adjudicated on.

Where that is the position, the interim order will not lapse and we will list a review of the interim order to allow the change in circumstances to be considered.

If, however, the referrals that have not yet been finally adjudicated on have never previously been drawn to the attention of an interim order panel, the order will lapse.

Equally, if the referrals that have not yet been finally adjudicated on have been drawn to the attention of an interim order panel and the interim order panel has clearly indicated in their reasons that the interim order does not apply to the concerns in those referrals, the order will lapse.

Sanctions cannot take effect until the end of the appeal period, that is 28 days after the date on which the decision letter is served, or, if an appeal has been lodged, before the appeal has been finally determined.

The Fitness to Practise Committee has the power to impose an interim order for up to 18 months to cover this period.[1]

The decision to make an order after a sanction has been passed involves discretion and careful consideration. It is not an automatic decision in every case.

Whenever it makes a conditions of practice order, suspension order or striking-off order, the Committee will consider whether or not to impose an interim order.

An interim order cannot last for longer than 18 months unless the Court extends the order. A nurse, midwife or nursing associate can ask for the Committee to review the interim order at any time if new evidence has become available which is relevant to the order. We can also ask the Committee to review the order if we think a review is needed.

[1] This does not include where the Committee have made a “caution order”

Directing reviews of substantive orders

Reference: SAN-6 Last Updated: 12/10/2018

When a panel of the Fitness to Practise Committee imposes conditions of practice orders or suspension orders, it will need to decide whether a review is necessary.

Where no review is ordered, the order will expire at the end of its period.

As conditions of practice orders are usually imposed to protect the public from a risk to patients, it is unlikely that the order should be allowed to expire without review by a panel, as they will need to assess if an order is still necessary.

If a finding of impairment is made to promote and maintain public confidence in the professions or proper professional standards and conduct, and the nurse, midwife or nursing associate does not present a current risk to patients, the panel may conclude that a review would serve no purpose, and therefore decide not to require a review.

Panels should always give reasons for their decision.