Deciding on applications for restoration

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Order of proceedings at restoration hearings

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Unless the panel decides otherwise, the order of proceedings at a restoration hearing is:[1]

- the case presenter informs the panel of the background to the case and directs the panel to any relevant evidence, including decisions, reasons or if needed, transcripts of previous substantive or restoration hearings
- the applicant presents evidence to support their application for restoration. If the applicant was struck off the register because their fitness to practise was impaired by their health, they should present any medical evidence they want to rely on, which it is their responsibility to obtain, at this stage.
- the panel deliberates in private and announces its decision in public, setting out its reasons.

Is the applicant a fit and proper person?

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In addition to the other requirements for restoration, the applicant must show that they are a fit and proper person to practise as a nurse, midwife or nursing associate. The panel must consider this in the context of a previous decision that the applicant's conduct (or other fitness to practise concern) was fundamentally incompatible with continuing to be registered as a nurse, midwife or nursing associate.

In deciding whether the applicant is now a fit and proper person to practise as a nurse, midwife or nursing associate, the Fitness to Practise Committee needs to consider our overarching objective of public protection and explain how its decision fits with that objective. This means that when it looks at the relevant factors listed below, the panel needs to show how it has taken account of our objectives to promote and maintain public confidence in the nursing and midwifery professions, proper professional standards for those professions, as well as the health, safety and wellbeing of members of the public.[2]

The following factors should be considered:

- the extent to which the applicant has demonstrated insight and addressed the concerns which led to the striking-off order (using the guidance on insight and strengthened practice),
- the period of time since being struck off and any previous restoration application,
- the applicant's employment history since they were removed from the register,
- the efforts the applicant has made to keep up to date with professional practice,
- taking into account the above factors, whether the applicant would be able to practise safely as a nurse, midwife or nursing associate in the future, and
- whether, in the context of the concerns that led to the previous striking-off order, public confidence in the nursing or midwifery professions would be undermined if the applicant was restored to the register. There is a spectrum of concerns which lead to a nurse, midwife or nursing associate being struck off the register. At one end, some cases may be just serious enough to end in a striking-off order. At the other, there may be cases which are so serious that it may be difficult to see how the nurse, midwife or nursing associate could ever be restored to the register.[3]

Other requirements for restoration

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For their application to be successful, as well as showing that they are a fit and proper person to practise as nurse, midwife or nursing associate, the applicant must show that they meet the following additional requirements for restoration, which form part (but not all) of the requirements for applications for first registration.[4]

- An approved qualification which was awarded in the last five years, or if their qualification was awarded earlier, have satisfied the requirements for additional education or training and experience as set out in the NMC's return to practice standards.[5]
- Capable of safe and effective practice as a nurse, midwife or nursing associate. This includes showing that they meet the required practice standards and can provide evidence that they meet the NMC's health and character requirements. The panel should consider our guidance on this question.
- The necessary knowledge of English. The applicant will have to show that they meet our English language requirements. This can be through evidence of having undertaken nursing or midwifery training in the UK or having completed a Return to Practice programme in the UK.[6] Alternatively, other evidence could be provided, such as language test results which demonstrate the necessary knowledge of English. Guidance on this standard is available.

Unresolved concerns

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Sometimes there will be a concern about an applicant that hadn't been addressed by the time the striking off order was imposed. In other cases, a concern will have been raised about an applicant after the striking off order was imposed.

An example could be a situation where, prior to the imposition of the striking off order, we received a referral from the applicant's employer raising a new concern about their clinical practice. By the time the striking off order was imposed, the new concern hadn't reached an outcome because it was still being investigated and so wasn't ready to progress to a substantive hearing.

Another example could be where an applicant was convicted of a criminal offence after the striking off order was imposed.

We call these "unresolved concerns" and in such situations we'll establish if there's evidence to support those concerns.

If we obtain evidence to support the unresolved concerns, we'll give the applicant notice of the unresolved concerns and provide them with a copy of the evidence that supports those concerns. We'll also give the applicant an opportunity to respond to those concerns.

Once the applicant's case is ready to progress to a hearing, we'll inform the panel of our intention to present evidence that we think supports the unresolved concerns.

Our legislation states that when the panel makes its decision on whether to restore an applicant to the register it must be satisfied "on such evidence as it may require."[7]

Similarly, our legislation says that we can direct the panel "to any relevant evidence."[8]

It is for the NMC to prove the unresolved concerns on the balance of probabilities. If the panel find those concerns proved, we'll ask the panel to consider them along with any other relevant factors when making its decision on whether to restore the applicant to the register.

1. Rule 25 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 (FtP Rules)
2. General Medical Council v Chandra [2018] EWCA Civ 1898
3. General Medical Council v Nooh [2017] EWHC 2948 (Admin)
4. Article 9(2)(a), (b) and (ba) of the Order
5. Article 33 (6) of the Order
6. Successful completion of a return to practice course is listed as evidence of knowledge of English for readmission to the register in the guidance on registration language requirements.
7. Article 33(5) of the Nursing and Midwifery Order 2001
8. Rule 25(2) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004