

# How we consider removal applications

Reference: CMT-5b    Last Updated: 09/06/2025

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When we receive applications for agreed removal, the Assistant Registrar will look at:

- The nurse, midwife or nursing associate's reasons for applying for removal, what they've said about their future intentions and their response to the concerns about their fitness to practise
- The concerns that have been raised and what our guidance says about the [likely sanction that will be imposed because of the risk a professional's conduct poses](#)
- Any comments received from the maker of the allegation.

## Making decisions on agreed removal applications

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Agreed removal can be an effective and proportionate way of protecting the public and maintaining public confidence. In most cases the Assistant Registrar is likely to agree to removal from the register provided:

- they're satisfied that the regulatory concerns raised aren't so serious that they're the kinds of concerns that are likely to result in the Fitness to Practise Committee making a striking-off order
- where we haven't completed our investigation, they're satisfied that there's enough information to make a decision about the seriousness of the concerns and the public interest in removing the professional from our register without completing our investigation.

In all cases the Assistant Registrar will carefully weigh up any comments received from the maker of the allegation, the interests and circumstances of the nurse, midwife and nursing associate and the public interest, always bearing in mind our overarching objective of protecting the public. The Assistant Registrar will take this guidance into account when making their decision – for example the sections in this document on   
and .

The Assistant Registrar will also take into account the detailed guidance in [Applying the agreed removal criteria to particular cases](#).

## Concerns likely to result in a striking-off order

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When a nurse, midwife, or nursing associate is removed from the register, the public is immediately protected from the risk of future harm, and the reasons for this are published. In many cases allowing someone to leave the register quickly, without full consideration by a fitness to practise panel, will be the best way to meet the public interest.

However, more serious concerns where the nurse, midwife, or nursing associate's conduct is likely to result in a

striking-off order aren't usually suitable for agreed removal. This is because there's a public interest in these concerns being investigated and considered by the Fitness to Practise Committee. The Assistant Registrar is also unlikely to agree removal where there is likely to be a finely balanced decision about whether the professional should receive such a sanction. That's because it's usually in the public interest for those kinds of decisions to be made by the Fitness to Practise Committee, and for the full reasoning to be published.

- One very exceptional situation where it may be right to depart from this general principle is where there is clear evidence indicating that, if an application for removal was refused, and the matter proceeded to a Fitness to Practise Committee, this could risk causing serious harm to the health and wellbeing of the professional concerned. In this situation, the Assistant Registrar should consider whether the risk of harm to the professional's health and wellbeing outweighs the public interest in the matter being dealt with by the Fitness to Practise Committee.

Medical evidence is likely to be the most helpful source of information for the Assistant Registrar in making a decision in relation to the risk of serious harm, and usually they would expect to receive this in circumstances where this exception is being raised. If medical evidence cannot be obtained, then the Assistant Registrar would need to carefully consider the reasons why this is the case.

Other sources of information could assist the Assistant Registrar in making their assessment of the risk of serious harm. For example, we may get information from other organisations or individuals, such as the police, or social services which also raise or corroborate concerns about the professional's welfare.

The Assistant Registrar should take into account all the evidence available to them in order to make the best assessment they can on the potential risk of serious harm to the professional in the NMC continuing with the fitness to practise process. In doing so they will need to carefully consider the quality and detail of the information available to them.

The decision on whether that risk of serious harm outweighs the public interest in the matter being dealt with by the Fitness to Practise Committee is likely to be dependent on the specific circumstances of each individual case. However, the Assistant Registrar may find it helpful to consider the following factors when making their decision:

- The seriousness of the fitness to practise concerns.
- The nature and likelihood of the risk of serious harm to the professional.
- How the continuation of the fitness to practise process is linked to that risk
- Whether there are any other steps which are in place or which could be taken to mitigate or reduce the risk
- Another very exceptional situation may be where the professional wants to remove themselves from the register due to very serious ill health (a serious life-changing condition or where they are suffering from a terminal illness) but where their health is not the regulatory concern (or only regulatory concern) we are looking into. In these very unusual circumstances, the Assistant Registrar would need to balance the interests of the nurse, midwife or nursing associate in being able to leave the register and draw the fitness to practise proceedings to a conclusion, against the public interest in the matter being dealt with by the Fitness to Practise Committee. The Assistant Registrar should expect to receive clear medical evidence about the medical condition in order to help them consider the application for agreed removal.

While each individual case would need to be considered on its own merits, the following are some general considerations which may help the Assistant Registrar when considering this balancing exercise:

- The seriousness of the fitness to practise concerns.
- The impact generally of the medical condition on the nurse, midwife or nursing associate and prognosis
- The impact of the fitness to practise process on the nurse, midwife or nursing associate and whether it is causing them harm.
- The impact of the nurse, midwife or nursing associate's illness on their ability to engage in the fitness to practise process.
- The timing of the application, the stage reached in the fitness to practise process and the likelihood that it will be possible to conclude the process.

If the nature of the serious ill health is that the professional is terminally ill, or where the professional lacks the mental capacity to engage in our process, then an alternative to agreed removal would be to consider closing the case through our [cancellation of hearings](#) process. This process is only available to nurses, midwives or

nursing associates if their case has progressed beyond a decision by the Case Examiners.

If the nurse, midwife or nursing associate's case has progressed beyond the Case Examiners, then Agreed removal will usually be the most appropriate process as this will result in their immediate removal from the register if it is granted. However, the cancellation of hearings process is likely to be the most appropriate if the nurse, midwife or nursing associate is unable to make an application for Agreed Removal due to their health condition, and they are not able to instruct somebody to do it on their behalf.

## Removal before we've completed an investigation

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In cases where the nurse, midwife or nursing associate applies for removal before we've concluded our investigation, the Assistant Registrar should only agree the removal if they're satisfied that they have sufficient information:

- to understand the full extent of the regulatory concerns and make a fully informed decision about the removal application
- to be confident that immediate removal (without concluding an investigation) will protect the public
- to explain their removal decision to any interested third parties.

## Comments received from the maker of the allegation

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The Assistant Registrar should consider any comments received from the maker of the allegation.<sup>1</sup> The maker of the allegation is not necessarily the person who reported the matters to us. Where appropriate it may be the person affected by the circumstances leading to the referral, or, in a criminal case, it may be the person or organisation that initially reported matters to the police.

Comments from the maker of the allegation can be an important way of ensuring that the voice of patients, service-users or members of the public who raise concerns with us is heard, and can help us understand the impact a nurse, midwife, or nursing associate's actions have had on the people involved. Their comments may also help us understand how the fitness to practise process is impacting on them, and whether agreed removal may in fact be beneficial to them in respect of bringing the matter to a conclusion. Their comments may help us understand the seriousness of the concerns or may support a decision to agree removal, for example where an employer confirms they are supporting a nurse to continue working as a healthcare assistant.

We will request comments from the maker of the allegation before the Assistant Registrar considers the removal application. Although the Assistant Registrar will take any comments received from the maker of the allegation into account, they will make their final decision based on how we can best protect the public and maintain public confidence, having considered all the available information, including any information provided by the professional.

In cases where the allegation relates to health, we do not disclose the details of the nurse, midwife, or nursing associate's health condition to the maker of the allegation. Given that health details are regarded as confidential, it will not always be possible for the maker of an allegation to be fully informed of the reasons why removal was agreed.<sup>2</sup>

## Interests of the nurse, midwife or nursing associate

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The Assistant Registrar will also take into account the interests of the nurse, midwife, or nursing associate when deciding whether to allow removal from the register, weighing these alongside the public interest.

The Assistant Registrar should consider the following factors:

1. the nurse, midwife, or nursing associate's reasons for seeking removal
2. their plans for the future

If the nurse, midwife, or nursing associate demonstrates a committed intention to leave the profession then this will be a factor in favour of agreeing removal. For example, a nurse, midwife, or nursing associate may express their intention to follow an alternative career path, be suffering from long term ill health, or have taken steps to leave the profession before we raised concerns with them. They may wish to submit a statement and/or provide

evidence of this in support of their application, and we will usually ask them whether they plan on reapplying to join the register within the next five years.

Sometimes a nurse, midwife, or nursing associate who is subject to fitness to practise proceedings may want to be removed from the register for a period of time with a view to returning in the future, once the issues with their ability to practise safely have been resolved. This will usually only apply in cases of lack of necessary knowledge of English, where the nurse, midwife, or nursing associate's skill may improve over time; or health, where their health might improve or be better managed in the future.

## Public interest

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The Assistant Registrar should make sure that any other public interest considerations are addressed in their decision to agree removal.

There is no requirement that the professional must accept the regulatory concern before an application for removal is granted. However, the fact that a professional hasn't accepted the concern could in some cases be relevant to the Assistant Registrar's assessment of whether there is an overriding public interest in those concerns being considered by a fitness to practise panel. This might be the case where the Assistant Registrar feels that there is a strong public interest in a fitness to practise panel considering the matter and publishing findings of fact about the events that led to the concern being raised.

1 This is a statutory requirement under Rule 14(2B)(b)(i) of the Registration Rules

2 Details of the fitness to practise information we publish can be found in the [NMC's guidance on publication of fitness to practise and registration appeal outcomes](#)