

# Interim order reviews

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## ‘Standard’ reviews

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An [interim order](#) must be reviewed every six months<sup>1</sup>. This can happen either at a hearing<sup>2</sup> or a private meeting. We will invite the nurse, midwife or nursing associate to attend the review hearing, or to send in representations if the order is being reviewed at a meeting.

Review meetings are held in private, without the parties present, and the panel will be invited to confirm the interim order currently in place.

## ‘Early’ reviews

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When we impose an interim order we continually risk-assess any new information. If we receive information that shows the original interim order may not be appropriate, we'll schedule an early review of the order<sup>3</sup>.

For example, we might receive information that suggests a more restrictive, or conversely, a less restrictive measure is needed to manage any risk to patients or the wider public interest.

In these cases where new, relevant evidence becomes available after an interim order has been imposed, it must be reviewed by a panel at an early review hearing, before the usual six month review date.

Examples of cases where we would schedule an early review are:

- when we receive information that suggests that conditions imposed as part of an interim order are unworkable
- when the nurse, midwife or nursing associate was unable to attend the initial interim order hearing or provide detailed submissions to the panel, and is now in a position to do so
- when we receive information that suggests that the interim order has been breached
- when we receive new information, that affects the previously identified risk. For example [multiple referrals](#).

The nurse, midwife or nursing associate may contact us and request an early review of their order. However there are cases when we won't accept such requests. This is when:

- The nurse, midwife or nursing associate has requested it because they are generally dissatisfied with the outcome of a previous hearing. Where this is the case, the nurse, midwife or nursing associate can apply to the High Court (in England and Wales), the Court of Session in Scotland, or the High Court of Justice in Northern Ireland, to terminate the order<sup>4</sup>.
- There does not appear to be any relevant new information for the panel to consider.

## How does a panel make a decision at a review?

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The panel must make sure that it thoroughly considers the interim order in the light of all the circumstances that are now before the panel.

The panel will need to consider whether some kind of interim restriction remains necessary in the particular case that they are considering, having regard to the three grounds for imposing an interim order<sup>5</sup>. If the panel concludes that an interim order continues to be required, they will then need to give careful consideration as to whether the current interim order remains proportionate to the risks identified in that particular case.

Some of the specific factors the panel will consider at a review include:

- the circumstances at the time the interim order was made, summarised in the decision of the panel
- any other relevant documentation
- any change of circumstances since then
- the length of time the order has been in place and the impact of the order on the professional
- the progress made by the NMC in respect of its investigation into the fitness to practise of the professional.

We have some general guidance on decision making for interim orders, which the panel may find helpful and in particular the section on [proportionality and applying the test](#).

## A panel's powers at a review

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A panel can review the interim order at either a private meeting or a hearing<sup>6</sup>.

At a review the panel then may:

- revoke the interim order or revoke any condition imposed by the interim order
- confirm the interim order
- vary any condition imposed by the interim order
- replace an interim conditions of practice order with an interim suspension order for the remainder of the duration of the interim order
- replace an interim suspension order with an interim conditions of practice order for the remainder of the duration of the interim order<sup>7</sup>.

We do not send a formal notice to the nurse, midwife or nursing associate when we are holding an interim order review as a . As result the panel's powers at a review are more restricted, and they may only:

- revoke the interim order or revoke any condition imposed by the interim order
- confirm the interim order<sup>8</sup>

If having reviewed the order at a meeting the panel takes the view that they would like to vary or replace the interim order, then they should request that the matter be scheduled on a new date for a review hearing so that the full range of powers are available to the reviewing panel.

## Reviewing interim suspension orders

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Interim suspension orders will usually be reviewed at meetings unless there has been a material change of circumstances, or unless the nurse, midwife or nursing associate requests a review hearing.

## Reviewing interim conditions of practice orders

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Interim conditions of practice orders will usually be reviewed at hearings unless a full consideration of all the

information before us suggests that the order can be confirmed at a review meeting.

## Breaching interim orders

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If a nurse, midwife or nursing associate deliberately breaches an interim order imposed on them, whether it is an interim conditions of practice order or interim suspension order, this may in itself require regulatory action. Such matters are likely to be taken very seriously as they show a disregard for the steps the NMC has put in place to keep the public safe or uphold confidence in the professions.

A deliberate breach of an interim order 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.

## Arrangements for an interim order review hearing

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We will normally list interim order review hearings for a virtual hearing, but we will always consider requests from the nurse, midwife or nursing associate for the hearing to be held physically at a hearings centre. We'll expect such requests to be supported by clear reasons for the request. We'll be guided by the principle of fairness and will do what we can to ensure that people can engage effectively in the hearing. Before we hold a case virtually, we'll check to find out if participants have the right technology to participate effectively and are able to use it.

## Notice

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We try to give 14 days' notice for review hearings but there will be times when we need to provide a shorter timeframe.

For instance, if we feel there are urgent public protection needs that are not addressed by the current interim order, we can send the notice less than seven days before the hearing.

If we do this we'll explain our reasons in the notice of hearing.

If the panel at an early review is being asked to consider imposing a more restrictive interim order than the one already in place, the notice should clearly set out the reasons for this request. The reasons should make reference to one or more of the three legal grounds that an interim order can be made on.

## Transcripts of previous hearings

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If the panel wishes, it can see the transcript of the first full interim order hearing where the nurse, midwife or nursing associate made representations. Previous transcripts can be made available to panels sitting on later interim order review hearings if necessary, but they are not provided as standard.

If the nurse, midwife or nursing associate has never attended in person or via a representative and made representations, future panels will not need a transcript and the previous decision notice will suffice.

1 From the date the Order was made or the date of the last review (Art 31(6)(a) NMC Order 2001) or from the date of any extension or replacement by the High Court (Art 31(11) NMC Order 2001)

2 IO review hearings will usually be held in public, but can be held partly or wholly in private if appropriate. See R.19 of the FtP Rules [2004]. "In private" in this context means in the presence of the parties but otherwise excluding the public.

3 See A.31(6)(b) NMC Order 2001

4 We would also not schedule an early review where we disagree with the outcome of an interim order hearing (new application or review)

5 See A.31(2) NMC Order

6 See footnote above re: hearings and r.19 FTP Rules [2004]

7 See A.31(7) of the NMC Order 2001

8 See Rule 8(1) FtP Rules 2004 which requires for a Panel to be satisfied that notice has been served if they wish to vary or replace an interim order. See also restrictions in “confirming” an interim order if A.31(5)(b) of the NMC Order 2001 applies.