

Meeting of the Midwifery Committee

to be held between 10:00 and 13:00 followed by lunch on 24 February 2016
in the Council Chamber, 23 Portland Place, London W1B 1PZ.

Agenda

Dr Anne Wright
Chair of the Midwifery Committee

Jennifer Turner
Secretary to the Committee

Preliminary items

- | | | | |
|---|---|---------|-------|
| 1 | Welcome from the Chair

Chair | M/16/01 | 10:00 |
| 2 | Apologies for absence

Secretary | M/16/02 | |
| 3 | Declarations of interest

All | M/16/03 | |
| 4 | Minutes of the last meeting

Chair | M/16/04 | |
| 5 | Summary of actions

Secretary | M/16/05 | |

Matters for discussion

- | | | | |
|---|---|---------|-------|
| 6 | Midwifery regulation change

6A: Update on developments

Assistant Director Strategy and Insight

6B: Risk register

Assistant Director Strategy and Insight

6C: Communications and engagement plan

Assistant Director Communications | M/16/06 | 10:10 |
|---|---|---------|-------|

7	Midwifery Panel Update Chief Executive and Registrar	M/16/07	12:10
8	Midwifery education update Chief Executive and Registrar / Director of Continued Practice	M/16/08	12:15 (Oral)
9	Quality Assurance of Local Supervising Authorities Assistant Director Education and Standards	M/16/09	12:20
10	Revalidation update Director of Continued Practice	M/16/10	12:45 (Oral)
Matters for information			
11	Midwifery Committee objectives and schedule of business 2016 – 2017 Chair / Secretary	M/16/11	12:55
12	Any other business Chair	M/16/12	

The next meeting of the Midwifery Committee will be held on Wednesday 27 April 2016 at 10:00 at 23 Portland Place, London.

Meeting of the Midwifery Committee
 Held at 09:30 on 29 October 2015
 at 23 Portland Place, London W1B 1PZ

Minutes

Present

Members:

Dr Anne Wright	Chair of the Midwifery Committee
Pradeep Agrawal	Member
Dr Patricia Gillen	Member
Dr Tina Harris	Member
Farrah Pradhan	Member
Susanne Roff	Member
Lorna Tinsley	Member

NMC officers:

Jackie Smith (Item 6 only)	Chief Executive and Registrar
Alison Sansome	Interim Chief Operating Officer
Katerina Kolyva	Director of Continued Practice
Jon Billings	Director of Strategy
Anne Trotter	Assistant Director, Education and Standards
Emma Westcott	Assistant Director, Strategy and Insight
Clare Padley (Item 6 only)	Corporate Legislation Advisor
Jennifer Turner	Governance and Committee Manager (Secretary)

Observers:

Debby Wisby	RCN Midwifery Forum
David Foster	Department of Health
Jess Read	LSAMO Forum
Louise Silverton	Royal College of Midwives
Nicky Clark	LME Forum
Verena Wallace	Department of Health, Northern Ireland
Professor Jacqueline Dunkley-Bent	National Health Service, England
Richard Hatchett	NMC
Aditi Chowdhary-Gandi	NMC
Tom Kirkbride	NMC

Minutes

M/15/42 Welcome from the Chair

1. The Chair welcomed members of the Committee, NMC staff and observers to the meeting. The Chair noted that Mr David Foster (observer) would be asked to contribute to the discussion during item 6 on midwifery regulation change.
2. The Chair extended congratulations to Louise Silverton on receiving a CBE award.

M/15/43 Apologies

1. No apologies were received.

M/15/44 Declarations of Interest

1. All registrant members declared an interest in substantive items on the agenda by virtue of being registered midwives. Tina Harris declared an interest in item 7 due to her work in the education sector.
2. The Chair noted the interests declared and determined that all members would be permitted to participate in all discussions.

M/15/45 Minutes of the previous meeting

1. The minutes of the meeting of the Committee held on 24 June 2015 were confirmed as a correct record.

M/15/46 Summary of actions

1. The Committee noted the summary of actions.

M/15/47 Midwifery regulation change: Update paper

1. The Committee noted the report and the work that had been undertaken. The NMC had been working with the Department of Health (DH) to ensure the legislative change would occur. The project team had met fortnightly. The NMC had participated in the DH/Chief Nursing Officers' group planning for the future of supervision.
2. The Committee was advised that the DH was having continued discussions with the four countries about the drafting of a non-statutory midwifery supervision framework. The timetable for the introduction of the new legislation was not finalised but was currently

anticipated to consist of a period of consultation in 2016 followed by approval of the amended legislation in Spring 2017.

3. The Committee noted the tabled paper, which detailed the following proposed legislative changes:
- a) Changes were proposed to Articles 41 – 43 as those functions were already covered by other instruments, rules, standards or policies.
 - b) No change was proposed to Article 45.
 - c) Change was proposed to the rules relating to the establishment of a statutory midwifery committee as this will no longer be a requirement under the new legislation.
 - d) No change was proposed to the rule which relates to the role of the lead midwife.
 - e) Changes were proposed to Rules 1-4 and 6-15 of the Midwives rules and standards 2012, on the grounds that there was no risk-based evidence to justify a different approach to that of other healthcare professionals.
 - f) No change was proposed to Rule 5 which relates to the midwifery scope of practice.
 - g) Changes were proposed to standards on the preparation of supervisors, because they relate to the current statutory supervisory role.
 - h) Limited change was proposed to standards relating to pre-registration midwifery education, and return to midwifery practice. These standards would remain but need to be updated to remove references to the current statutory framework for midwifery regulation and replaced with up to date references. This would be done as part of the planned review of the standards.
4. In discussion, the Committee noted the following:
- a) The Committee was aware that midwives were concerned about their functions being delegated to other workers, but the Committee noted that this was not a result of the proposed legislative changes.
 - b) The protected function of “attendance on a woman in childbirth” would not be changed.
 - c) The proposed changes to the legislation and associated rules

and standards did not impact on public protection, or represent an erosion of midwifery duties.

- d) The proposed changes need to be effectively communicated to the midwifery community, and the Committee noted that a communication plan and engagement strategy was being developed.

- 5. The Committee was advised that the NMC was looking at options for transitional arrangements for the Midwifery Committee.
- 6. The Committee members were invited to contact NMC officers if they had any questions following the meeting.
- 7. The Committee asked for a risk document to be brought to future meetings.

Action: Provide Midwifery Committee with a risk register for regulation change.
For: Director of Strategy
By: 24 February 2016

M/15/48 Midwifery education: The context for pre-registration midwifery education standards

- 1. The Committee noted the paper. The following points were raised in the discussion:
 - a) The current pre-registration standards for midwifery education were published in 2009. They were designed to reflect standards of proficiency for midwives entering the register and standards for institutions delivering programmes. The NMC is planning to separate those in the future and have two sets of standards of proficiency, one for nurses and one for midwives.
 - b) The focus of the redraft would be on the midwife as a practitioner and the midwife as a professional.
 - c) The NMC was planning to establish a small task and finish group consisting of representation from the four countries of the UK.
 - d) Communication skills were an important element which the committee agreed should factor into the new draft of the standards.
 - e) The standards should also capture the fact that midwives must be adaptable and flexible to future changes.
 - f) The standard(s) relating to the promotion of normal birth

should include consideration of, and the need to balance, the woman's needs and wants. They should also consider the language of 'normality'.

- g) The education standards should include a test of values at the student admission stage. It is too late after the student reaches the end of their education to then discover that their values were unsuitable for professional practice.
- h) The new standards should also take into consideration new ways of working and models of care.
- i) The Committee asked to be provided with an update on the maternity reviews in England and Scotland.

Action: Provide Midwifery Committee with an update on the maternity reviews in England and Scotland.
For: Director of Continued Practice
By: 24 February 2016

M/15/49 Draft annual report on the quality assurance of education and local supervising authorities (2014-2015)

1. The Committee was asked to comment on the draft annual report. It noted the following significant issues in the report in relationship to education:
 - a) Some learning environments were found to be inadequate due to a lack of resources, mentorship, and placement capacity.
 - b) The majority of the LSA regions (11 out of 14) did not meet best practice timelines for escalating issues to the NMC.
2. The Committee also noted the risk with midwives not escalating concerns on a regular basis.
3. The Committee heard that a number of education providers were unable to gain programme approval after the first assessment and many were being set conditions to fulfil before being approved. It was noted that all went on to meet the conditions. The Committee was asked to consider what the NMC could do to ensure that its resources were not wasted by having to revisit education providers a second time. The Committee asked for further information to be provided to a future meeting so they could consider the options.
4. The Committee heard from one observer, the Chair of the LSAMO Forum, that for the next reporting year the LSAMOs would be working to maintain the Midwives Rules and Standards in the context of considerable challenges, not least as the changes in prospect for supervision may mean insufficient numbers of supervisors of

midwives. The NMC was asked to bear the challenges in mind and to ensure that, while it had to report on compliance, the tone of reports showed understanding of the complexity of the task facing LSAMOs for the immediate future. The NMC agreed to reflect on the appropriate tone of reporting on LSA QA for the remainder of the period before legislative change takes effect.

5. The Committee agreed to recommend that Council approve the draft annual report at their November 2015 meeting.

Action:	Provide the Committee with further information regarding programme non approval on first assessment, and options to address this.
For:	Director of Continued Practice
By:	24 February 2016

M/15/50 Revalidation update: Report on Council decision in October 2015

1. This topic was discussed under other business (M/15/53).

M/15/51 Draft Midwifery Committee effectiveness review

1. The Committee noted the results from the effectiveness review. There were no major concerns raised as part of the review. The Chair noted that future development opportunities still needed to be considered and asked members to think about their needs.

M/15/52 Midwifery Committee objectives and schedule of business 2016-2017

1. The Committee noted the forward work plan for 2016-2017. The Chair asked members to consider how the Council could make sure it had appropriate access to midwifery advice and expertise after the removal of the statutory requirement for the Committee's existence.
2. In relation to the topic of data and intelligence, members were asked to forward their thoughts and suggestions directly to the NMC, focusing their requests on data that the Committee needs to deliver its work plan.

M/15/53 Any Other Business

1. The Committee was provided with a verbal update on revalidation. It was noted that Council had approved the revalidation model at its October meeting. Nurses and midwives would go through the new revalidation process from April 2016 onwards on a monthly basis, at the point of their renewal. Since Council's decision, Scotland, Northern Ireland and Wales had confirmed in writing their support and readiness for revalidation. The NMC was awaiting written confirmation from the Department of Health in England (this was

received following the Midwifery Committee meeting).

2. The Chair suggested that a Committee seminar would be helpful. The Committee agreed that it would like to discuss its future needs, what joined up thinking between agencies would be useful, and the relationship between revalidation and the planned legislative change and how this also tied in with changes to education standards.

Action:	Arrange a Midwifery Committee Seminar.
For:	Secretary
By:	

The date of the next meeting is 24 February 2016.

The meeting ended at 12:05.

Confirmed by the Committee as a correct record and signed by the Chair:

SIGNATURE: *DRAFT*

DATE: *DRAFT*

Midwifery Committee

Summary of actions

Action: For discussion.

Issue: Summarises the progress of actions agreed at previous meetings

Core regulatory function: Supporting functions.

Strategic priority: Strategic priority 4: An effective organisation.

Decision required: To note the progress on completing the actions agreed by the Midwifery Committee at previous meetings.

Annexes: There are no annexes attached to this paper.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Summary of the actions arising out of the Midwifery Committee meeting on 29 October 2015

Minute	Action	For	Report back to: Date:	Progress
M/15/47	Provide Midwifery Committee with a risk register for regulation change.	Director of Strategy	24 February 2016	This is incorporated in the item on midwifery regulation change on the agenda for 24 February meeting
M/15/48	Provide Midwifery Committee with an update on the maternity reviews in England Scotland.	Director of Continued Practice	27 April 2016	These reviews are not yet complete. Due date moved to the April meeting.
M/15/49	Provide Committee with further information regarding programme non approval on first assessment, and options to address this.	Director of Continued Practice	24 February 2016	This issue will be presented verbally at the February meeting.
M/15/53	Arrange a Midwifery Committee Seminar.	Secretary		Date to be determined.

Midwifery Committee

Update on midwifery change

Action: For information.

Issue: This paper provides an update on progress with midwifery legislative change and should be read in conjunction with the related paper on Communications and Engagement, and Quality Assurance of Local Supervising Authorities.

Core regulatory function: Fitness to Practise/Registrations/Education/Setting standards

Strategic priority: Strategic priority 1: Effective regulation

Decision required: No decision is required.

Annexes: None

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
- 1 In January 2015 the Council accepted the recommendations of an independent review of midwifery regulation by the King's Fund and asked the government to legislate to amend our legislation. Following the election in May 2015, and responding to a further maternity review into failings at University Hospitals of Morecambe Bay NHS Foundation Trust, the Secretary of State said in a statement to the House of Commons that supervision would be removed from the NMC's statute and the additional tier of regulation applying to midwifery would be also be removed.
 - 2 The Committee has received regular updates on the progress with our midwifery legislative change, and has kept Council informed about its oversight of the work.

Discussion: Progress of the Section 60 Order

- 3 There was a hiatus at the end of 2015 while the Department of Health considered whether the Section 60 amending our midwifery regulation should also include a set of urgent fitness to practise changes. We have recently been told that the fitness to practise provisions will be included in the draft going to Ministers for approval. This is positive news and the delay appears not to have had an impact on the overall timeline for the Section 60 (completion in Spring 2017).
- 4 The Department is preparing for a public consultation later this Spring. The NMC has contributed material to inform the consultation document. There will be an opportunity to reflect on the outcomes of the consultation at a future meeting of the Committee.

Sector developments

- 5 The transition boards in each of the four countries of the UK have been set up and started work, and they are focused on preparing midwives and their employers for new roles in fitness to practise concerns and planning for the new, non-regulatory model of supervision.
- 6 The Department of Health convened a group on the future of supervision 'decoupled' from regulation which harnessed the leadership of the four UK Chief Nursing Officers and also involved the NMC, the RCM and the LSAMO Forum. A paper arising from this work was published on 22 January 2016, and circulated to committee members by email on 29 January 2016. This is a positive development for the NMC's change because we know from the King's Fund work that many midwives were most concerned about ongoing access to the supportive and developmental aspects of supervision, and less concerned about maintaining a role in investigations and sanctions.

Operational readiness – NMC

- 7 Operational readiness will be a key focus for the NMC during 2016. A detailed impact assessment has been scoped and business analysis support secured for the project team. Meetings are taking place across the business to establish where the changes to midwifery will have an impact, including with IT, education, registrations and fitness to practise colleagues.
- 8 One of the most significant areas of operation planning will be the transfer of case-related documentation. Our aspiration is that a 'shadow' approach to local investigations of concerns is introduced in 2016/17 Q3/4 so that change can be smooth when the legislative change takes effect. We will be liaising with employers to secure support for our advice to LSA on the transfer of case-related material. In summary, our expectation is that material relating to FtP-level cases will come to the NMC and material relating to 'sub-FtP' matters should transfer to employers (in the majority of cases where midwives are employed). More work is needed to scope appropriate transitions for independent midwifery.
- 9 A separate paper (Quality Assurance of Local Supervising Authorities) provides more information about our work with the LSAMO Forum and sector leaders to map out a proportionate approach to the quality assurance of LSA for the final year of their operation.

Next steps for the Committee

- 10 There are two documents we will now prepare to support the changes ahead. The first is a transition document setting out what the NMC and/or LSAs will no longer be doing so that the sector transition boards can plan for those aspects of current roles and activities they wish to plan for. The second is a document for midwives setting out the new regulatory framework for midwifery. This is in recognition that midwives have been used to using the Midwives Rules and Standards as a point of reference and will want to have clarity about the new framework within which they practise. Drafts of these documents will be shared with the Midwifery Committee for consideration and comment.
- 11 We are also planning some limited amendments to the pre-registration education standards in advance of a full review where some updating is required and we propose scrutiny of these by the Midwifery Committee.

Public protection implications:	12	The change described in this paper is explicitly concerned with public protection. It is a consequence of three authoritative reviews into concerns about statutory midwifery supervision from a public protection and public confidence perspective.
Resource implications:	13	The resources associated with this work have been a small investment in legal advice, reported previously to the Committee, and staff time. There is a strategic business case being considered by the Performance and Resources Board which covers the midwifery and fitness to practise dimensions of the project.
Equality and diversity implications:	14	An equality impact assessment of the midwifery legislation changes has been completed.
Stakeholder engagement:	15	A separate paper on the agenda covers communications and engagement.
Risk implications:	16	A separate paper on the agenda addresses risks associated with the project.
Legal implications:	17	This paper is concerned with a process of legislative change and the consequential changes that follow for our regulatory framework.

Midwifery Committee

Midwifery change risk register

Action: For discussion

Issue: The three key risks in relation to the changes in midwifery regulation

Core regulatory function: Education
Setting standards
Supporting functions

Corporate objectives: Strategic priority 1: Effective regulation

Decision required: None

Annexes: The following annexe is attached to this paper:

- Annexe 1: Risk register

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
- 1 Following Council's decision around the review of midwifery regulation, a project board has been established to see through the delivery of the changes to the NMC's midwifery regulation framework. The Committee has requested oversight of progress with a particular focus on the key risks.
 - 2 The project has been designed around three key work streams which include the changes to legislation, delivery of the change internally to the NMC (process and systems) and the delivery of the engagement and communications plan.
 - 3 This is currently a work in progress and we are seeking input from the Committee to ensure that we have articulated the risks clearly from its point of view.
 - 4 The project plan includes a detailed risk register and the three areas that have been identified as key for the Committee's focus fall under strategic, legislative and operational risks.
 - 5 The three key risks:
 - 5.1 Strategic communications risk: focused on engaging and communicating effectively around the transition, planning for the transition and the uncertainty in the midwifery community about the effect of the changes.
 - 5.2 Legislative risk: focused on the potential failure to secure the legislative change to remove midwifery supervision from our legislation.
 - 5.3 Operational risk: focused on the delivery of the required changes to NMC operations, processes and systems and the potential failure to handover operations effectively.
- Public protection implications:**
- 6 This project addresses public protection concerns raised about the current framework for midwifery regulation.
- Resource implications:**
- 7 None
- Equality and diversity implications:**
- 8 An equality impact assessment has been completed for the midwifery change project. No detrimental impact to any of the groups with protected characteristics is anticipated.
- Stakeholder engagement:**
- 9 The stakeholder and engagement plan forms part of the important mitigations to the strategic risks.

Risk implications:

- 10 As set out in annexe 1. The risks associated with the midwifery change feature in the corporate risk register (corporate risk 18 Failure to develop our regulatory functions to meet changing public protection needs). Also relevant is the communications risk on the corporate risk register (corporate risk 20).

Legal implications:

- 11 The risk and impact of legislative change forms part of the key risks.

Risk register

Note: The 'inherent risk scoring' column does not take into account any mitigation. The post-mitigation scoring involves taking into account the mitigation in place but not the planned action.

Midwifery legislative change programme			Date: 02.02.16	Issue No: 1													
No.	Date of origin	Risk Scenario			Inherent risk scoring			Mitigation in place / Planned action			Post-mitigation scoring			Risk Owner (and Mitigation Owner)	Dates updated	Status (open / closed plus whether on track / not on track to reduce scoring)	Direction (of risk score)
		Root cause(s)	Potential situation	Consequences	Likelihood	Impact	Score	Likelihood	Impact	Score							
1	02.02.16	Strategic communications risk: Communicating about the transition			4	5	20	Mitigation in place: 1,2,3. Co-production work with LSAMO Forum (November 2015) 1,2,3 Involvement in DH/CNOs work on the future of non-statutory supervision (to December 2015) 1,2,3. Engagement at strategic level with key system Planned action: 1. Transition plan for QA of LSAs 1,2,3. Engagement and communications plan (April 2016-March 2017) 3 Development of new reference document setting out the revised midwifery framework 1, 2, 3. Governance of the transition programme of work			4	4	16	AD Strategy	12/02/2016	Open and on track	No change
		1. The sector needs to plan for the transition 2. There could potentially be confusion around key roles and responsibilities of the regulator, employers and the wider system 3. There is uncertainty in the midwifery community about the effect of the changes	We may fail to engage and communicate effectively with the sector about the changes	1.2. Transition is not effective 1,2,3 Public protection is undermined 1,2,3 Negative impact on service users													
2	02.02.16 (transfer from previous risk register)	Legislative risk: Securing the right legislative change			3	4	12	Mitigation in place: 1. Create political momentum for change through evidence and work with strategic partners 2. Establish and maintain close working relationship with the Department of Health's S.60 team 1,2. Obtaining timely legal advice to confirm approach Planned action: 1. Response to the Department of Health's consultation (May/June 2016) 2. Public affairs work for Parliamentary phase (Jan 2017) and close working relationships with the Department of Health			2	4	8	AD Strategy	12/02/2016	Open and on track	Reducing
		1. Legislative change is not yet finalised 2. Consultation outcomes and parliamentary phase may influence content of section 60 order	We may fail to secure the legislative change to remove midwifery supervision from our legislation which might lead to increased uncertainty and challenge for the sector	1, 2. Current outdated arrangements continue to apply 1,2. Public protection is undermined													
3	02.02.16	Operational risk: Operationalisation and implementation of change			3	4	12	Mitigation in place: 1,2. Detailed impact assessment scoped (February 2016-March 2016) 1,2. Project board appointed and fully operational (February 2016) Planned action: 1,2. Detailed impact assessment completed (April 2016) 1,2. Delivery plan of process and system changes (April 2016-March 2017) 3 Work with transition boards to agree shadowing for Q3 and Q4 (April - September 2016)			2	4	8	Sponsor director	12/02/2016	Open and on track	No change
		1. There are a number of interdependencies between our regulatory processes and aspects of the current framework which require system and process changes (e.g. ITP, LSA investigations, data transfer) 2. Preparation for change is complex involving NMC staff, panellists and external stakeholders	1, 2 We might fail to handover operations effectively	1,2, 3 Public protection is undermined 1,2. Reputational damage with a negative impact on service users													

Risk matrix

1. Rating the likelihood

Likelihood of risk occurring			
Term	Score	Guidance	Evidence
Very high	5	There is strong evidence (or belief) to suggest that the risk will occur during the timescale concerned.	A history of it happening at the NMC. Expected to occur in most
High	4	There is some evidence (or belief) to suggest that the risk will occur during the timescale concerned. Typical	Has happened at the NMC in the recent past. Expected to occur at
Medium	3	There is some evidence (or belief) to suggest that the risk may occur during the timescale concerned. Typical	Has happened at the NMC in the past. Can see it happening at
Low	2	There is little evidence (or belief) to suggest that the risk may occur during the timescale concerned. Typical	May have happened at the NMC in the distant past. Not expected
Very low	1	There is no evidence (or belief) to suggest that the risk may occur at all during the timescale concerned.	No history of it happening at the NMC. Not expected to occur.

2. Rating the impact (consequence)

Impact if risk occurs		
Term	Score	Guidance
Critical	5	Critical impact on the achievement of business, project and public protection objectives, and overall performance. Huge impact on
Major	4	Major impact on costs and achievement of objectives. Affects a significant part of the business or project. Serious impact on
Moderate	3	Significant waste of time and resources. Impact on operational efficiency, output and quality, hindering effective progress against
Minor	2	Minor loss, delay, inconvenience or interruption. Objectives not compromised. Low impact on public protection and/or reputation.
Insignificant	1	Minimal loss, delay, inconvenience or interruption. Very low or no impact on public protection, costs and/or reputation. Very easy to

3. Scoring likelihood against impact

Impact	CRITICAL	5	5	10	15	20	25
	MAJOR	4	4	8	12	16	20
	MODERATE	3	3	6	9	12	15
	MINOR	2	2	4	6	8	10
	INSIGNIFICANT	1	1	2	3	4	5
	Score		1	2	3	4	5
			VERY LOW	LOW	MEDIUM	HIGH	VERY HIGH
			Likelihood				

Risk scores: 1-8 Green 9-15* Amber 16-25 Red

* due to their 'Critical' impact, an amber rating is also given to risks which score 5 for Impact and 1 for Likelihood

Midwifery Committee

Communications and engagement plan – midwifery legislative change

Action: For discussion.

Issue: Outlines our plans for communicating effectively, including key messages, timelines and stakeholder groups.

Core regulatory function: Supporting functions.

Strategic priority: Strategic priority 3: Collaboration and communication.

Decision required: None.

Annexes: The following annexe is attached to this paper:

- Annexe 1: Communications and engagement plan – midwifery changes

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
- 1 On 16 July 2015 the Health Secretary, Jeremy Hunt MP, announced that the government would amend the legislation governing our regulation of midwives through a section 60 order.
 - 2 The current timetable estimates that the new legislation will take effect in early 2017, though the timetable is subject to change.
 - 3 Given the scope of the transition, there is significant stakeholder expectation and concern about the potential changes and the implications for midwifery practice.
- Discussion and options appraisal:**
- 4 Annexe 1 sets out the planned approach to communications and engagement.
 - 5 The Midwifery Committee will be updated at future meetings with our tactical plans, including appropriate milestones and deliverables.
- Public protection implications:**
- 6 Effective communications and engagement will support public protection through supporting transition to the new model and strengthening understanding of this model.
- Resource implications:**
- 7 Delivering this plan can be met within existing resources.
- Equality and diversity implications:**
- 8 The change project has included an equalities impact assessment. Pregnancy and maternity is a protected characteristic and this plan covers communication and engagement with patients, service users and organisations representing those who are pregnant, expecting a baby or in the period after birth. This plan also covers communication and engagement with those who may have other protected characteristics.
- Stakeholder engagement:**
- 9 Stakeholder engagement is addressed in Annexe 1.
- Risk implications:**
- 10 Risks relating to stakeholder engagement and communications are covered in a separate risk paper.
- Legal implications:**
- 11 None.

Communications and engagement plan – midwifery legislative change

Objectives

- 1 The purpose of this plan is to set out our approach to communications and engagement regarding the prospective changes to regulation and supervision of midwives.
- 2 Our objectives are to make sure that:
 - 2.1 We communicate the changes effectively to all key audiences, so that everyone affected is clear about what is changing and what is not;
 - 2.2 Public protection is maintained throughout the transition.

Context

- 3 In January 2015 Council decided to ask for a change in the NMC's legislation applying to midwives. This followed a number of critical incidents and independent reports confirming that the current arrangements were not appropriate for public protection.
- 4 There is ongoing work in each of the four countries, led by their health departments, to define and plan for a future for supervision outside of regulatory legislation. Our approach to the regulation of midwives will be the same across the four countries.
- 5 The legislative timetable includes a consultation starting in April 2016 followed by a draft Order laid in Parliament in mid-November 2016. It is expected that the Order will be signed by the Privy Council and will come into force in March 2017. Until the legislative change, the current *Midwives rules and standards (2012)* remain in force.

Key messages

Public protection

- 6 The change will make maternity service providers clearer about their responsibility when concerns are raised. It will end the extra layer of regulation that is confusing for patients and the public. This clarity will improve confidence in the system of regulation, strengthening public protection.
- 7 The changes will clarify both the NMC's role as regulator and the responsibilities of employers (the majority of midwives are employed) for sound clinical governance.
- 8 As the King's Fund found no additional public protection benefit to the current arrangements, we are confident that their removal will not place women and

babies at risk. Rather, it will give women the clarity they need about the distinctive responsibilities of maternity service providers and the NMC as regulator.

The NMC's role as the professional regulator for midwifery

- 9 The status of midwifery as a distinct profession is secure and the NMC remains the professional regulator of both nurses and midwives. The standards of proficiency and of education that we set will continue to recognise the distinction between the two professions.
- 10 There are no changes to the protected title of 'midwife' or the protected function of 'attendance on a woman in childbirth'. Nor will the function of the midwife or their scope of practice change.
- 11 Direct entry to the midwifery part of the register continues.
- 12 The Council will continue to require and benefit from midwifery expertise, and retain a statutory duty to consult midwives on matters affecting their regulation. How this will work in practice is yet to be agreed.
- 13 Our engagement and communications will be targeted as a range of audiences and stakeholders as set out below.

Strategic stakeholders

- 14 These include UK ministers, the Department of Health, chief nursing officers (CNOs) and their midwifery leads, the devolved administrations, unions and professional bodies, the Professional Standards Authority, and the Council of Deans of Health. Key strategic individuals include Dame Julie Mellor (Parliamentary and Health Service Ombudsman, and via her, the other ombudsmen as needed), Bill Kirkup (the DH Morecambe Bay Investigation), Baroness Cumberlege (the NHS England-commissioned national review of maternity care), and those leading the review of maternity and neonatal services in Scotland.

Political representatives

- 15 Parliamentary select committees – the House of Commons Health Committee holds the Department of Health, the NHS and the NMC to account – accordingly we will keep the committee updated. Similarly, the Public Administration and Constitutional Affairs Committee holds the Parliamentary and Health Service Ombudsman to account and has previously examined progress in addressing the Ombudsman's findings – we will continue to keep the committee updated.

Operational stakeholders

- 16 These stakeholders have roles under the current statutory arrangements and will need to make changes to their policies and processes. They include the Local supervising authority (LSA) host bodies across the four countries, the Local Supervising Midwifery Officers (LSAMOs), supervisors of midwives, Lead Midwives of Education (LMEs) as well as those responsible for the delivery and quality assurance of programmes of supervision.

Midwifery sector

- 17 These include registered midwives, independent midwives, employers with a particular focus on heads of midwifery, education providers, midwifery students as well as representatives of service users.

Wider community

- 18 There are a number of groups which represent, advocate for, or work with midwifery service users, such as NCT, Mumsnet, Maternity Action, Baby Lifeline, Tommy's, the National Maternity Support Foundation, Bliss, Sands, Best Beginnings, and Arc.

Delivery plan

Date	Activity	Brief description	Audience	Objective	NMC leads
Targeted engagement					
Spring/summer 2016 TBC	Listening Events	Five events, co-produced with system leads, across the four countries. Twenty to 25 stakeholders at each. These will communicate the change and the timetable for it: what's new, what future roles will be for us, system and employers. Invitation list co-created with CNOs and system leads.	Heads of midwifery and middle management across the four nations.	To inform and gain support for the change amongst those who can spread the message.	Anne Trotter Chris Jenkinson Susan Law Danielle Bailey
Spring/summer 2016 TBC	Evening reception	Round table discussion to be held in Council Chambers, chaired and introduced by NMC Chief Executive and NMC Chair.	Midwifery leads across all stakeholder groups	To show our ongoing (but changing) role in midwifery and the changing roles of others	Anne Trotter Chris Jenkinson Susan Law Danielle Bailey
Spring 2016 onwards	Lead stakeholder individual meetings	Ongoing close and regular engagement	RCM, CNOs, Council of Deans	To maintain support for the change amongst those who can spread the message	Katerina Kolyva Anne Trotter
		Key independent midwives will be invited to meet to discuss the changes.	Independent midwives	To inform and gain support for the change amongst those who can spread the message	Emma Westcott

Date	Activity	Brief description	Audience	Objective	NMC leads
Communication tools					
31 March 2016	Website changes	Content will be redesigned to be midwife/public (rather than policy) focused. It will sit as 'Midwifery' under standards and include background, the changes, news, provisional 'guidance'	Midwives and general public	To make content and messages more accessible and to reassure midwives and service users/members of the public	Communications team
31 March 2016	Public facing leaflet	Produce a light-touch leaflet on our regulatory role in conjunction with the NCT to be circulated by them to their groups across the four countries.	Users of midwifery services	To raise awareness of the NMC and promote confidence in us as an organisation among service users.	Communications team
end-April 2016	Midwifery regulation guidance	An accessible document that draws together regulatory aspects of midwifery, focusing on scope of practice, protected status and function, the Code and revalidation. We will seek and accept top level feedback so this will be an evolving document. It will be published on our website.	Midwives and other stakeholders	To provide clarity about the nature of how we regulate midwives	Communications team Emma Westcott
Communications approach					
April onwards	Proactive media	We will engage with <i>Midwives</i> , the quarterly midwife publication, to place regular features and guest editorials,	Midwives	To inform and gain support for the change and to	Communications team

Date	Activity	Brief description	Audience	Objective	NMC leads
		promoting our messages and reassuring midwives.		direct midwives to further information.	
		We will promote our leaflet for users of midwifery services via stakeholder organisations such as NCT and Mumsnet.	Users of midwifery services	To raise awareness of the NMC and promote confidence in us as an organisation among service users.	Communications team
31 March 2016 onwards	Social media campaign	Regular proactive tweeting and a co-hosted Twitter chat. Links to web pages, new materials and to the consultation. #talkmidwifery myth busting campaign on twitter.	All stakeholders	To inform and gain support for the change and to direct to further information.	Communications team
31 March 2016	Public and Patient groups	A campaign among groups that speak to or for pregnant women and new mothers. Using media such as Mumsnet.	Users of midwifery services	To raise awareness of the NMC and promote confidence in us as an organisation among service users.	Strategic relations team
31 March 2016 onwards	e-newsletters	Regular content in nurses and midwives monthly e-newsletter; circulation approximately 150,000.	Nurses and midwives	To inform and gain support for the change and direct to further information.	Communications team
31 March 2016 onwards	e-newsletters	Regular content in patients and public monthly e-newsletter; circulation approximately 28,000.	Users of midwifery services	To raise awareness of the NMC and promote confidence in us	Communications team

Date	Activity	Brief description	Audience	Objective	NMC leads
				as an organisation among service users.	
TBC	Direct mailings	Letters to Directors of nursing and Heads of midwifery	Key stakeholders	To inform and gain support for the change among those who can spread the message.	Anne Trotter Communications team
Ongoing	Events	<ul style="list-style-type: none"> * The Future of Midwifery – Salford on 28 April (Invite currently with Anne Trotter) * RCN conference - Glasgow, 18–22 June * RCM Legal birth conference, 7 July 	Midwives and midwifery stakeholders	To provide clarity about the nature of how we regulate midwives; and what the changes mean for the profession.	Jackie Smith, Anne Trotter

Midwifery Committee

Midwifery Panel Update

Action:	For information
Issue:	Preparing for legislative changes to midwifery regulation
Core regulatory function:	All regulatory functions
Corporate objectives:	Strategic priority 1: Effective regulation
Recommendation:	The Committee is recommended to note this update on the work of the Midwifery Panel which has met twice November 2015.
Annexes:	None
Further information:	If you require clarification about any point in the paper or would like further information please contact the author or the director named below.
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Background:

1. Following the Secretary of State's announcement in 2015 that the government would legislate to reform midwifery regulation by means of a Section 60 Order, we have been actively working with the Department of Health on a range of issues relating to the proposed change.
2. The Chief Executive and Registrar established the Midwifery Panel to advise on the transitional arrangements following the removal of the requirement for a statutory Midwifery Committee.
3. At the extraordinary meeting of the Committee on 18 December 2015, members received a verbal update on the establishment of the Midwifery Panel. This paper provides a high-level summary of the Panel's role and relationship to the Committee, and their discussions to date.

Membership

4. The Panel is comprised of the following members:
 - Jackie Smith, NMC Chief Executive and Registrar (Chair)
 - Jane Cummings, CNO England
 - David Foster, Department of Health
 - Charlotte McArdle, CNO Northern Ireland
 - Fiona McQueen, CNO Scotland
 - Donna Ockenden, NMC senior midwifery advisor
 - Mary Renfrew, a senior midwifery academic from the University of Dundee
 - Lorna Tinsley, NMC Midwifery Committee member
 - Cathy Warwick, RCM Chief Executive
 - Jean White, CNO Wales
 - Lay member (in the process of being identified)
5. The Chief Nursing Officers (CNOs) are closely supported in the work of the Panel by their senior midwifery advisors who also deputise for them at the meetings, as required.
6. The Midwifery Committee member of the Panel provides a link to the discussions taking place at the Committee. The Panel also receive information on the Committee's 'forward look' work programme. In addition, the Chair of the Panel meets with the

Chair of the Midwifery Committee on a regular basis to discuss the work being undertaken by the respective groupings.

Purpose of the Panel

7. The Panel has been established as a distinct entity to the Midwifery Committee, which will continue to fulfil its statutory role in the run-up to legislative change.
8. The Panel will run parallel to the Committee and focus on future regulation post changes. A key area of focus for the Panel will be ensuring that the approach to providing midwifery-specific advice can be embedded in the NMC post the legislative change.

Discussions to date

9. Two meetings of the Panel have taken place on 12 November 2015 and 18 January 2016.
10. Initial discussions focussed on the role and the purpose of the Panel and ensuring that its role as distinct from the Committee is understood and clearly articulated. The importance of effective communications has been a recurrent discussion topic and the Panel has been keen to ensure that effective communication channels are developed between the Panel and the Committee.
11. The Panel reflected on the discussions in the four countries to secure the future of clinical supervision. While the Panel agreed that it would not be appropriate to receive reports from the task and finish groups as the future of clinical supervision fell more appropriately within the remit of the Committee, the Panel could provide a valuable additional forum for sharing information.
12. The Panel considered the extent to which the forthcoming legislative discussions provided an opportunity to address wider concerns about the status of midwifery as a profession, the challenges for the NMC in regulating two professions and the appropriate fit for regulation and the role and scope of practice of midwives.

Future meetings

13. The Panel will meet quarterly. The meetings are scheduled to take place in April, October and December 2016. Dates for 2017 have not been established.

Stakeholder engagement

14. A communications plan for the Panel is being developed and will be considered at the next meeting in April 2016.

- Public protection:** 15. This Panel's work supports our wider work to ensure that our regulatory approach continues to play an appropriate role in public protection.
- Resource implications:** 16. The cost of staff time is the main cost associated with the Panel.
- Equality and diversity implications:** 17. An equalities impact assessment has been undertaken for the wider aspects of the regulatory change. This was referenced for their Committee at their November 2015 meeting. No specific additional work is proposed for the work of the Panel.
- Stakeholder engagement:** 18. The Panel have stressed the importance of ongoing communications with the midwifery community in relation to their work and that of the Committee and the NMC's commitment to ensuring the continuation of the midwifery voice pre and post legislative change.
- Risk implications:** 19. Risk in the areas has already addressed in a related presentation to the Midwifery Committee.
- Legal implications:** 20. We have previously taken legal advice about the proposed legislative change.

Quality assurance of Local Supervising Authorities: preparing for legislative change to midwifery regulation

Action: For discussion.

Issue: Adopting a proportionate approach to the quality assurance of Local Supervising Authorities (LSAs) during the transition of removing statutory supervision from our legislation.

Core regulatory function: Education
Standards
Supporting functions

Strategic priority: Strategic priority 1: Effective regulation

Decision required: The Committee is recommended to note the proposed approach to the quality assurance of LSAs pending formal legislative change.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Context:

- 1 The Nursing and Midwifery Order 2001 (the Order) sets the legislative context for the quality assurance of LSAs. The Order is supplemented by the Midwives rules and standards (2012) (MRS) which forms the basis of our quality assurance of LSAs.
- 2 In January 2015, following the publication of the King's Fund report, Council took the decision to ask for a change in our legislation in order to remove the additional tier of regulation applying to midwives. Over the summer, the Secretary of State announced that Government would legislate to reform midwifery regulation and remove statutory supervision through a section 60 Order.
- 3 We have seen a notable change through our quality assurance activity with LSA Midwifery Officers (LSAMOs) reporting difficulties in meeting the MRS for a number of reasons. These have been reported to the Committee and included:
 - 3.1 A shortage in resources, organisational restructures and notably a lack of willingness by key stakeholders to support and recruit midwives to the preparation of supervisors of midwives (PoSoM) programme.
 - 3.2 Trusts reducing protected time for supervision, preferring to invest resources in clinical time. This has led to a spike in Supervisor of Midwives (SoM) ratios and supervisory investigations exceeding 45 days.

Discussion

- 4 As we move towards changing our legislation, we are committed to quality assuring LSA's in line with our statutory requirements. We are also committed to maintaining oversight of LSAs. However, we need to be proportionate and adapt our operational approach to quality assurance activity to support senior leadership and local management of escalated concerns within LSAs. This will allow LSAs to focus their resource and energy on the transition of supervision and future proofing rather than over reporting to the NMC.
- 5 There are two main drivers for adjusting our approach to our quality assurance for the final year. First, Council has agreed with authoritative independent advice that the additional tier of regulation applying to midwifery is not warranted from a public protection perspective. In this context it would be perverse to take strenuous action where certain standards are not met within the MRS when we know the standards are in any case due to be removed. Second, the prospect of change is itself influencing the ability of LSA to uphold the standards we set.
- 6 In November 2015, we invited LSAMOs and strategic LSA leads to participate in a workshop and discuss the operational delivery of the quality assurance of LSAs in view of the changes to statutory

supervision.

- 7 The discussion focused on:
 - 7.1 Those requirements of the NMC which are statutory and must continue to be fulfilled until the legislation changes;
 - 7.2 Operational elements that could be moderated whilst maintaining adequate control of risk.

- 8 It was felt that our quarterly quality monitoring and risk based monitoring visits required significant resource which was adding more strain to an LSA's ability to manage risks to statutory supervision. Monitoring visits in particular were seen as taking strategic LSA leads away from managing concerns to statutory supervision and dealing with escalated risks locally.

- 9 The mandatory rules and standards within the MRS cannot be changed without consultation. This means that all statutory requirements (including annual reporting, supervisory investigations, and annual audit frameworks) will remain in place. However, we regularly review our QAF and operating requirements and have made the following recommendations in this case:
 - 9.1 **Removing quarterly quality monitoring (QQM).** In light of the pending regulatory change, routine QQM's are deemed burdensome and unnecessary. In addition, the success of QQM relies on the quality of data we receive from LSAMOs and, at present, that data is variable. The quality of data is unlikely to improve during this transition. We propose to instead adopt a risk based approach where we request reports from LSAMOs by exception.
 - 9.2 This would allow LSAMOs to focus on statutory reporting requirements and prepare for transition. We would also focus on these reporting tools to encourage LSAMOs to escalate concerns through exceptional reporting requirements.
 - 9.3 **Monitoring visits:** We consider that it would be disproportionate and counter-productive to continue to conduct monitoring visits for LSAs. We need to support LSA leads in managing risks to statutory supervision locally and cannot do this effectively if the same people are required to take part in unscheduled and timely monitoring visits. We will still reserve the right to do an extraordinary review visit.

- 10 We propose to implement these changes in the new midwifery year commencing 1 April 2016. This will be the last year of LSA QA activity for the NMC.

- 11 We have mitigation in place to ensure these changes will not affect our oversight of risk within statutory supervision. We continue to

strengthen our intelligence sharing with the new Employer Link service and we have regular cross intelligence meetings to ensure that any immediate concerns are shared. Employer Link can then engage with LSAMOS and employers and, where appropriate, advise on referrals. Where SoMs do not have capacity and are exceeding timeframes for supervisory investigations, these should be escalated to Employer Link and Fitness to Practise colleagues.

- 12 We can also raise our concerns with LSA leads and seek assurance that they are aware of the issues and have put actions in place. Employer Link has additionally taken over our presence at quality risk summits and surveillance groups where maternity concerns may be raised and a joint response agreed.
- 13 LSAs will still be required to report annually and exceptionally on any risks to our rules and standards and we will act in accordance with our published process if we are not satisfied that these risks are being adequately managed.
- 14 We are assured that the proposed changes will allow us to continue to meet our legislative requirements and maintain control of risk. The additional safeguard of Employer Link and, our strengthened collaboration with strategic leads, means that our proposed changes will not impact upon our visibility of risk during this transitional period.
- Public protection implications:** 15 We must ensure that the quality assurance of LSAs continues to be effective and proportionate in identifying risks to our MRS and the provision of maternity care.
- Resource implications:** 16 The proposed approach could result in additional staff resource and cost savings for the NMC through our contract with Mott MacDonald.
- Equality and diversity implications:** 17 As supervision of midwives impacts directly on women using maternity services, individual LSAs are expected to continue to address equality and diversity requirements in meeting the MWRS.
- Stakeholder engagement:** 18 The LSAMO strategic reference group held in November 2015 discussed the QAF and potential transitional arrangements. There was good support for the co-production of a proportionate framework for this transitional year. A meeting is scheduled with senior LSA leads in February 2016 to further discuss management of risk.
- Risk implications:** 19 We are strengthening our exceptional reporting requirements and collaborating with Employer Link colleagues in order to effectively mitigate risks to statutory supervision and the provision of maternity

services. We are also engaging with LSA leads and sharing intelligence in order to support local management of risks.

- 20 We are working with Mott MacDonald to regularly review risk factors in order to ensure statutory supervision continues to be delivered safely and effectively pending formal legislative change.

Legal implications:

- 21 No legal implications as we are only changing our operational activity. Failure to comply with MWRS would affect our ability to discharge our statutory duties as set out in the Order.

Midwifery Committee: Forward Work Plan 2016-2017

Midwifery Committee: standing items		
<ul style="list-style-type: none"> • Minutes and summary actions from previous meetings 		For information
<ul style="list-style-type: none"> • Changes to midwifery regulation 		For discussion
<ul style="list-style-type: none"> • Data and intelligence 		For discussion
<ul style="list-style-type: none"> • Revalidation update (oral updates) 		For information
<ul style="list-style-type: none"> • Midwifery education 		For discussion
Scheduled Items		
<ul style="list-style-type: none"> • Data and intelligence 		27 April 2016
Proposed dates for 2016 – March 2017		
Date	Time	Venue
Wed 24-Feb-16	10:00 – 13:00	London
Wed 27-Apr-16	10:00 – 13:00	London
Wed 29-Jun-16	10:00 – 13:00	London
Wed 26-Oct-16	10:00 – 13:00	London
Wed 22-Feb-17	10:00 – 13:00	London