Code of Conduct for members of the Council
Nursing and Midwifery Council

Code of Conduct for Council members

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<td>Sets the ethical standards for Council members.</td>
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Introduction

1. The NMC is the independent regulator for nurses and midwives in England, Wales, Scotland and Northern Ireland, established and governed by the Nursing and Midwifery Order 2001 (as amended) (the Order). The NMC is also a registered charity.

2. The NMC’s overarching statutory duty is to protect the public and, as part of that, to promote and maintain:
   2.1 the health, safety and wellbeing of the public;
   2.2 public confidence in the nursing and midwifery professions; and
   2.3 professional standards and conduct for the nursing and midwifery professions.

3. In carrying out your responsibilities as a Council member, you are expected to demonstrate integrity and high ethical standards as set out in this Code of Conduct. You are also expected to comply with the underpinning policies, including:
   3.1 the Managing Interests Policy for Council members and Executive members;
   3.2 the Council Gifts and Hospitality Policy; and
   3.3 the Policy and Procedure for handling breaches of the Code of Conduct or complaints about Council members.

Principles

4. You should observe the Seven Principles of Public Life (the ‘Nolan principles’), in everything you do as a Council member. These are:
   4.1 Selflessness: Holders of public office should act solely in terms of the public interest.
   4.2 Integrity: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
   4.3 Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
   4.4 Accountability: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
4.5 Openness: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

4.6 Honesty: Holders of public office should be truthful.

4.7 Leadership: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**Conduct and Values**

5. You should conduct yourself at all times in a way which promotes confidence in the NMC and professional regulation.

6. As a Council member you should:
   
   6.1 participate in discussion in an open, non-judgmental, and reasoned way;
   
   6.2 treat others with courtesy and consideration;
   
   6.3 value diversity and inclusion;
   
   6.4 foster trust and demonstrate confidence in colleagues;
   
   6.5 welcome, and provide, constructive challenge;
   
   6.6 listen to, and value, the views of others; and
   
   6.7 address matters succinctly and without undue repetition so that others have sufficient opportunity to contribute.

**Collective and individual responsibilities**

7. You should ensure you have a clear understanding of the objectives, functions, powers and duties of the NMC as a set out in the Order and associated legislation.

8. As a member of a statutory body employing staff, you share corporate responsibility for ensuring that the NMC complies with relevant employment, equality, human rights, health and safety, data protection, and freedom of information legislation.

9. You share corporate responsibility for ensuring that the NMC complies with any statutory or administrative requirements governing the use of its funds.

**Role as charity trustees**

10. As a trustee of the charity, you share responsibility for ensuring that the NMC complies with charity legislation and the requirements of the Charity Commission and the Office of the Scottish Charity Regulator.
11. You should ensure you have a clear understanding of your responsibilities as a trustee of the charity (under the Charities Act 2011).

Delegated authority to the Chief Executive and Registrar

12. You have a responsibility to:

12.1 ensure that you have a clear understanding of the scope of authority delegated to the Chief Executive and Registrar; and

12.2 hold the Chief Executive and Registrar to account for the exercise of delegated authority.

Equality and diversity

13. You will be expected to follow best practice on equality and diversity issues, complying fully with the NMC’s responsibilities under anti-discrimination legislation and ensuring the NMC’s equality objectives are upheld.

14. You share corporate responsibility for ensuring that the NMC exercises its functions in a way which has due regard to the public sector general equality duty (under the Equality Act 2010). This means having due regard to the need to:

14.1 eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

14.2 advance equality of opportunity between people who share a protected characteristic and those who do not; and

14.3 foster good relations between people who share a protected characteristic and those who do not.

Note: The protected characteristics are: gender, age, race, disability, religion or belief, sexual orientation, gender reassignment, pregnancy/maternity and marriage/civil-partnership.

Conflicts of interest

15. As a Council member you have a responsibility to:

15.1 avoid being influenced by, or place yourself under an obligation, to any individual or organisation which might affect, or be perceived to affect, your ability to act impartially and objectively as a member of the Council;

15.2 declare any professional or personal interests which may conflict with, or be perceived to conflict with, your responsibilities as a member of the Council. This may include registering or declaring the interests of family members or close associates.

15.3 maintain your entry in the Council register of interests;
16. Further guidance for members can be found in the Managing Interests Policy for Council and Executive staff members, or you can ask for advice from the Secretary to the Council.

Gifts and Hospitality

17. You must not accept gifts, hospitality or benefits, offered in relation to NMC business, which could or might appear to influence you or compromise your personal judgement or integrity. Gifts, hospitality or benefits above £20 which are offered as a consequence of NMC business must be formally registered on the NMC’s Gifts and Hospitality register. Further guidance for members can be found in the Council Member and Partner Member Gifts and Hospitality policy. If you are unsure you can ask the Secretary to the Council for advice.

Decision-making

18. You have a responsibility to make decisions that:
   
   18.1 comply with the NMC’s statutory duties and responsibilities;
   
   18.2 secure public benefit and further the NMC’s overarching statutory duty to protect, promote and maintain the health, safety and wellbeing of the public;
   
   18.3 promote and maintain public confidence in the professions regulated under the Order;
   
   18.4 promote and maintain proper professional standards and conduct for members of those professions;
   
   18.5 are consistent with the NMC’s UK-wide remit;
   
   18.6 take into account the needs and views of interested parties; and
   
   18.7 are not influenced by personal or professional interests.

19. You have a duty to accept collective responsibility for the Council’s decisions and to support their communication and implementation.

20. You have a responsibility to be as open as possible with interested parties about the Council’s decisions and the work of the NMC, restricting information only when the principles of confidentiality or the law require it.

Confidentiality and information security

21. You have a responsibility not to disclose confidential information obtained in the course of your duty as a member of the Council, unless it is in the public interest to do so, and in the event of any such disclosure must notify the Secretary to the Council.

22. You should ensure that all confidential information, whether in electronic or paper form, is held and disposed of securely. Any loss or accidental disclosure, and the
circumstances leading to the loss or disclosure, must immediately be notified to the Chair or the Secretary to the Council.

**Media (including social media), public speaking engagements and communications with external organisations**

23. You have a responsibility to distinguish clearly, when speaking or writing in any public forum, between the views of the NMC, your personal views, and the views of any other organisation to which you may be affiliated. Any public engagement or communication with the media on behalf of the NMC must be discussed with the Chief Executive and Registrar in advance. The same principles for discussing NMC business in public apply on social media.

24. You should always make sure you use all forms of spoken, written and digital communication (including social media and networking sites) responsibly.

25. If you are unsure whether something you post online could compromise your professionalism, reputation or the reputation of the NMC, you should consider how the information affects your responsibilities as a Council member and how the information may reflect on the NMC. If you are unsure you can ask the Secretary to the Council for advice.

**Attendance, induction, development and appraisal**

26. You have a responsibility to make yourself available for meetings of the Council and any committees or working groups to which you have been appointed.

27. You have a responsibility to participate in induction, development, and appraisal processes and to commit to your personal development.

**Continuing eligibility to serve as a Council member**

28. You have a responsibility to ensure that at all times you remain eligible to serve as a Council member under the Order and to be a trustee of the charity under the Charities Act 2011.

29. You should inform the Chair or the Secretary to the Council if at any time you become aware that you may not be eligible to serve as a member of the Council. Failure to do so is a breach of the Code of Conduct.

30. Annexe 2 sets out a list of circumstances which may lead to disqualification under both the Nursing and Midwifery Council (Constitution) Order 2008 and the Charities Act 2011.

**Raising concerns**

31. As a member of the Council you have a responsibility to raise concerns about possible wrongdoing:

   31.1 with the Chief Executive and Registrar, if they relate to a member of staff;
31.2 with the Chair of the Council, if they relate to another Council member or the Chief Executive and Registrar;

31.3 with one of the Vice-Chairs, if they relate to the Chair of the Council.

**Breaches of the Code of Conduct**

32. Any minor breach of the Code will normally be dealt with informally, for example by the Chair of the Council or another Council member drawing the breach to the Council member’s attention during a meeting or similar.

33. Where a complaint is received about the conduct of a member, or where there appears to be a deliberate, serious, or continued breach of the Code, the matter will be referred to the Chair of the Council.

34. Failure at any time to disclose information about your personal or professional history or conduct which could cause embarrassment or bring into disrepute the NMC or Privy Council would constitute a serious breach of this Code.

35. The Policy and Procedure for handling breaches of the Code of Conduct or complaints about Council members set out in annexe 1.

Approved by the Council on 29 March 2017.
Annexe 1

Procedure for handling complaints about Council members

Introduction
1. This document sets out the procedure to be following in dealing with alleged breaches of the Code of Conduct for Council Members (“the Code”).
2. The procedure aims to ensure that complaints are resolved fairly, proportionately, and within reasonable timescales. Indicative timescales are set out in the procedure. These may be varied where necessary, for example, because of the nature or complexity of a complaint.
3. Any person making a complaint under this procedure will not be treated less favourably as a result of lodging a complaint in good faith.

Responsibilities of the Chair
4. The Chair of the Council has specific responsibilities for handling complaints, as set out in the procedure. The Chair of the Audit Committee will exercise those responsibilities if (i) the Chair of the Council is the subject of the complaint; or (ii) the Chair of the Council has a material conflict of interest in relation to a complaint.

Initial receipt and review of complaints
5. Complaints about members of the Council must be addressed to the Chair in writing, setting out full details of the complaint.
6. Complaints that are addressed to any other person, such as the Chief Executive and Registrar, will be referred to the Chair immediately.
7. The Chair is responsible for determining whether a complaint should proceed or whether it should be dismissed.
8. The Chair of the Council has authority to dismiss:
   8.1 anonymous complaints;
   8.2 complaints which appear to the Chair to be trivial or vexatious;
   8.3 complaints which fall outside the scope of the procedure.
9. Where a complaint is dismissed under paragraph 8.2 or 8.3, the Chair will notify the complainant of her or his decision in writing within seven days.
10. The Chair may decide that more information is required before a decision can be made about whether a complaint should proceed or be dismissed. In those circumstances, the Chair will contact the complainant to request further details.

11. The Secretary to the Council will keep a record of all complaints received and will report regularly to the Audit Committee on progress in resolving them.

Copy of complaint to the member

12. If the Chair decides that a complaint should proceed, a copy of the complaint will be sent to the Council member concerned (“the Council member”), together with a copy of this procedure. The Council member will be invited to submit a written response within fourteen days.

Copy of response to the complainant

13. When the Council member provides a response to the complaint, a copy will be sent to the complainant.

Informal resolution

14. At any time before the matter is referred for investigation under paragraph 17, the Chair may, with the consent of the complainant and the Council member, seek to resolve the complaint informally, for example through discussions involving the Chair and both parties or through independent mediation. Any informal resolution process should be concluded within 28 days. Any costs will be borne by the NMC.

15. If a mutually acceptable outcome is reached at the conclusion of the informal resolution process, the complaint will be closed. No report will be made to the Council and the matter will remain confidential. The papers relating to the complaint, including details of the informal resolution, will be placed on the Council member’s file and may be taken into account in the event of a subsequent complaint.

16. If a mutually acceptable outcome is not reached at the conclusion of the informal resolution process, the matter will be referred for investigation under paragraph 17. Any admissions or statements made during the course of the informal resolution process will remain confidential and will not be admissible as evidence in the investigation, except with the consent of both parties.

Formal procedure

Referral for investigation

17. The Chair will refer a complaint for investigation if:

   17.1 either party does not consent to, or withdraws their consent from, an informal resolution process;
17.2 an informal resolution process does not produce a mutually acceptable outcome;

17.3 the Chair considers for any reason that it is not appropriate to seek and informal resolution.

18. The Chair will appoint an independent investigator ("investigator") and will notify both parties within seven days.

Investigation

19. The investigator will (i) investigate the complaint on behalf of the Council; (ii) decide whether, on the balance of probabilities, a breach of the Code has occurred; (iii) advise the Council accordingly. If the investigator decides that breach of the Code has occurred, she or he may make a recommendation to the Council regarding sanction; it is for the Council, not for the investigator, to determine any sanction.

20. The investigation will be dealt with confidentially. Information about the complaint will only be shared to the extent necessary to carry out the investigation (for example, by making enquiries of possible witnesses or obtaining documentary evidence).

21. As part of the investigation the investigator will conduct a hearing in accordance with paragraphs 25 to 32 and will:

   21.1 seek documentary evidence to be considered at the hearing;

   21.2 call witnesses to give evidence at the hearing.

22. The investigator will consult with the complainant and the Council member in relation to the evidence and witnesses for the hearing. It is for the investigator to determine whether it is necessary for the proper investigation of the complaint to admit evidence or call any witness. The investigator’s decision is final.

23. All Council members and employees are required to cooperate with any request made by the investigator.

24. The investigator may seek advice from a legal adviser (who may be a member of the NMC staff) and any such advice will be confidential to the investigator.

Hearing

25. The Council member will be notified in writing of the date of the hearing at least 21 days in advance.

26. The Council member will be sent the papers for the hearing at least fourteen days in advance, including:

   26.1 The complaint.
26.2 The Council member’s initial response to the complaint submitted under paragraph 12.

26.3 Copies of any documentary evidence.

26.4 The names of any witnesses to be called to the hearing.

27. The Council member may submit a written response to the complaint to the investigator at least seven days before the hearing.

28. The Council member may be accompanied at the hearing.

29. The investigator may decide to proceed with the hearing in the Council member’s absence if she or he does not attend without good reason.

30. The investigator is responsible for the good conduct of the hearing. Subject to the investigator’s absolute discretion, the normal sequence of events at the hearing is as follows:

30.1 The investigator will explain that the hearing will be conducted in accordance with these procedures (as varied by the investigator) and will invite the Council member to state any objections to them. The investigator will rule on any objections.

30.2 The investigator will check that the Council member has copies of all the papers that have been circulated.

30.3 The Council member will present her or his response to the complaint and take the investigator through any relevant documents.

30.4 The investigator will ask any questions of the Council member.

30.5 Each witness will be called to give evidence in turn:

(a) The investigator will ask any questions.

(b) The Council member will ask any questions.

(c) The investigator may ask any supplementary questions.

30.6 The Council member will make a closing statement to the investigator.

30.7 The investigator will make any closing remarks.

31. A note taker shall be present throughout the hearing.

32. The investigator may invite a legal adviser to be present throughout the hearing and may seek her or his advice at any stage.
Report

33. The investigator will draft a written report, summarizing the evidence considered and setting out the investigator’s reasoned findings and decision. Within fourteen days of the hearing, a copy of the draft report will be sent to the Council member concerned (but not to the complainant). The Council member will be invited to notify the investigator in writing within seven days of any factual inaccuracies in the report. The investigator will consider any comments made by the Council member and may take them into account in her or his final report.

34. Within seven days, the investigator will finalize the report and submit it to the Chair.

35. Where the investigator has decided that a breach of the Code has not occurred, the matter will be closed and will not be referred to the Council. The Chair will write to the Council member and to the complainant to confirm the conclusion of the process.

36. Where the investigator has decided that a breach of the Code has occurred, the Chair will refer the report to the Council to determine a sanction.

37. The Council will consider the matter at a confidential meeting convened and conducted in accordance with the Standing Orders and the following provisions:

   37.1 If invited to do so by the Chair, the investigator may attend the Council meeting to answer any questions regarding the investigation.

   37.2 The Council member may attend the meeting and may make submissions to the Council (orally or in writing) on the question of the sanction only. There being a material conflict of interest, the Council member shall be excluded from the meeting while the Council reaches its determination.

   37.3 The complainant (unless she or he is a Council member) has no right to be present at the meeting or to make submissions to the Council. If the complainant is a Council member, she or he may attend the meeting; there being a material conflict of interest, shall be excluded from the determination.

38. The following sanctions are open to the Council:

   38.1 To recommend to the Privy Council that the Council member be removed from office under Article 6(1)(j) of the Constitution Order.¹

   38.2 To suspend provisionally the Council member pending the outcome of the Privy Council’s consideration of the Council’s recommendation under paragraph 38.1.

   38.3 To censure the Council member.

   38.4 To require a course of action short of a recommendation to the Privy Council, for example that the Council member issue an apology or undertake further training.
39. The Chair will notify the Council member and the complainant in writing of the Council's determination within seven days.

1 The Nursing and Midwifery Council (Constitution) Order 2008, Article 6 (1)(j), provides that “A member shall be removed by the Privy Council, if […] the Privy Council is satisfied that the member's continued membership of the Council would be liable to undermine public confidence in the regulation of the nursing and midwifery professions.”
Annexe 2

1. This is a summary of the legal provisions in paragraph 6 of the Nursing and Midwifery Council (Constitution) Order 2008 and section 178 of the Charities Act 2011.

2. A member may be suspended or removed from office in the following circumstances:

   2.1 Where an action by a member causes embarrassment or disrepute to the NMC;

   2.2 Where a member has failed to disclose something about their professional or personal history that may cause embarrassment or disrepute to the NMC;

   2.3 Where a registrant member’s registration becomes lapsed;

   2.4 Where a lay member becomes a person who no longer satisfies the criteria for being a lay member as set out in the Nursing and Midwifery Order 2001;

   2.5 Where a registrant member becomes the subject of any investigation or proceedings in connection with an allegation of fraudulent entry to the NMC’s register;

   2.6 Where any investigation or proceedings in connection with an allegation of fraudulent entry to the NMC’s register results in the removal of a registrant member’s entry in the NMC’s register;

   2.7 Where a registrant member becomes subject to any investigation or proceedings concerning their fitness to practise by the NMC;

   2.8 Where any investigation or proceedings by the NMC results in a registrant member being removed from the register; suspended from the register, or any sanctions or conditions of practice;

   2.9 Where a member becomes subject to any investigation or proceedings relating to a serious offence;

   2.10 Conviction of a serious offence in the United Kingdom;

   2.11 Removal from the office of trustee for a charity in connection with misconduct or mismanagement in the administration of the charity;

   2.12 Removal from office as the chair, member, convenor or director of any public body on the grounds that it was not in the interests of that body that the member should continue to hold office;
2.13 Bankruptcy;

2.14 Being subject to an insolvency order;

2.15 Any disqualification under company law;

2.16 Inclusion in a barred list under legislation pertaining to safeguarding vulnerable groups;

2.17 Where a member becomes subject to any investigation or proceedings concerning their fitness to practise by any licensing body;

2.18 Where any investigation or proceedings concerning fitness to practise by any licensing body results in a member being removed from a register; suspended from a register, or any sanctions or conditions of practice.