

## Meeting of the NMC Council

to be held from 09:30 to 14:30 on Thursday 25 April 2013  
in the Council Chambers at 23 Portland Place, London W1B 1PZ

### Agenda

Mark Addison CB  
Chair of the Council

Matthew McClelland,  
Assistant Director,  
Governance and Planning  
(Secretary to the Council)

- |   |   |           |
|---|---|-----------|
| 1 | <b>Welcome from the Chair</b>   | NMC/13/67 |
| 2 | <b>Apologies for absence</b>  | NMC/13/68 |
| 3 | <b>Declarations of interest</b>   | NMC/13/69 |
| 4 | <b>Minutes of previous meetings</b>   | NMC/13/70 |
|   | Minutes of the public session of the Council held on 21 March 2013  |           |
| 5 | <b>Summary of actions</b>   | NMC/13/71 |
|   | An action list detailing matters arising from the minutes of the Council held on 21 March 2013 and outstanding actions from previous meetings |           |
| 6 | <b>Report of decisions taken by the Chair since the last Council meeting</b>  | NMC/13/72 |

### Corporate reporting

- |   |                                  |  |
|---|----------------------------------|--|
| 7 | <b>Francis report</b>            | NMC/13/73  |
|   | Chief Executive and Registrar    |  |
| 8 | <b>Risk register</b>             | NMC/13/74  |
|   | Director of Corporate Governance | <b>TO FOLLOW IN 48-hour PAPERS</b>                 |
| 9 | <b>Chief Executive's report</b>  | NMC/13/75  |
|   | Chief Executive and Registrar    | <b>Annexes 1 and 2 TO FOLLOW IN 48-hour PAPERS</b> |

- |    |   |                                    |
|----|---|------------------------------------|
| 10 | <b>Fitness to Practise performance report / Report from Fitness to Practise Committee</b> | NMC/13/76                          |
|    | Director of Fitness to Practise   | <b>TO FOLLOW IN 48-hour PAPERS</b> |
| 11 | <b>Monthly financial monitoring</b>   | NMC/13/77                          |
|    | Director of Corporate Services  | <b>TO FOLLOW IN 48-hour PAPERS</b> |

### **Matters for decision**

- |    |  |           |
|----|--|-----------|
| 12 | <b>Professional indemnity insurance</b>  | NMC/13/78 |
|    | Director of Continued Practice   |           |
| 13 | <b>NMC quality assurance framework for nursing and midwifery education and local supervising authorities</b> | NMC/13/79 |
|    | Director of Continued Practice   |           |
| 14 | <b>Questions from observers</b>  | NMC/13/80 |
|    | <b>LUNCH: (12.45 – 13.30)</b>  |           |

### **Matters for discussion**

- |    |   |           |
|----|---|-----------|
| 15 | <b>Revised corporate complaints processes</b> | NMC/13/81 |
|    | Chief Executive and Registrar                 |           |
| 16 | <b>Draft annual governance statement</b>      | NMC/13/82 |
|    | Director of Corporate Governance              |           |
| 17 | <b>Transition planning</b>                    | NMC/13/83 |
|    | Director of Corporate Governance              |           |

18 **Feedback from committee chairs of meetings held since last Council:**

NMC/13/84

Audit Committee  
Chair of Audit Committee

Education Committee  
Chair of Education Committee

Midwifery Committee  
Chair of Midwifery Committee

19 **Draft agenda for the Council meeting on 23 May 2013**

NMC/13/85

Director of Corporate Governance

The next public session of the Nursing and Midwifery Council will be held on 23 May 2013 at 17.00 at the Nursing and Midwifery Council, 23 Portland Place, London W1B 1PZ.



Meeting of the Council  
 Held at 09:30 on 21 March 2013  
 at 23 Portland Place, London W1B 1PZ

## Minutes

### Present

#### Members:

Mark Addison CB	Chair
Alison Aitken	Council Member
Professor Judith Ellis MBE	Council Member
Sue Hooton OBE	Council Member
Lorna Jacobs	Council Member
Grahame Owen	Council Member
Nicki Patterson	Council Member
Carole Rees-Williams	Council Member
Ruth Sawtell	Council Member
Bea Teuten	Council Member
Professor Jane Tunstill	Council Member

#### Lay advisors:

Louise Scull	Lay Advisor to Council
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#### NMC officers:

Jackie Smith	Chief Executive and Registrar
Katerina Kolyva	Director of Registration and Standards
Lindsey Mallors	Director of Corporate Governance
Sarah Page	Director of Fitness to Practise
Mark Smith	Director of Corporate Services
Matthew McClelland	Assistant Director, Governance and Planning (Secretary to the Council)
Paul Johnston	Council Services Manager (minutes)

The meeting of the Council commenced at 9.30am.

**Minutes****13/44 Welcome from the Chair**

1. The Chair welcomed all attendees to the meeting and offered a particular welcome to Matthew McClelland, who would serve as Secretary to the Council.

**13/45 Apologies for absence**

1. Apologies for absence were received from David Pyle, Dr Kuldip Bharj OBE and Professor Nigel Ratcliffe.

**13/46 Declarations of Interest**

1. Professor Judith Ellis MBE declared an interest in Item 17, "Standards for five year rule", by virtue of being Executive Dean, Health and Social Care, at London South Bank University.
2. Grahame Owen and Lorna Jacobs declared an interest in Item 17, "Standards for five year rule", by virtue of their role as Council members hearing registration appeals.

**13/47 Minutes of previous meetings**

1. The Chair asked that the minutes be re-ordered to reflect the order of discussions.
2. The Chair of the Fitness to Practise Committee noted that, on minute 13/26/4, the Committee would oversee the Fitness to Practise directorate work on achieving Plain English accreditation and requested that this be reflected as a future action for the Committee.
3. Members noted that action point 13/32/2 needed to be reworded to reflect more accurately the discussions about corporate complaints and the need for complainants to feed in their experiences directly into the organisation.
4. Subject to the above changes, members agreed that the Chair sign an amended version.

**Action: Include oversight of Plain English accreditation for the Fitness to Practise Directorate in the future work of the Fitness to Practise Committee**

**For: Secretary to the Committee**

**By: 23 April 2013**

**13/48 Summary of actions**

1. Members raised the following points:
2. The Chair of the Audit Committee asked for further information on the rationale for the increase in risk rating on T23. Officers said that this point could be considered as part of the Risk Register item.
3. The Chair of the Education Committee noted minute 13/41/2 and said that the setting of educational standards for nursing was an important role for Education Committee and asked that this be added to the actions for the Committee.
4. The Chair of the Finance and IT Committee noted that all actions assigned to the Committee from Council had been progressed appropriately. On the issue of presentation of financial data to the reconstituted Council, the Committee felt that reconstituted Council required the current level of information but with some simplifications in the short-term. The Chair of the Committee outlined the further discussions held at the Committee, including the ICT strategy and the need for robust business cases for ICT projects in going forward, and the agreement to recommend to Council the budget and business plan.

<b>Action:</b>	<b>Include the setting of educational standards for nursing as an agenda item for the Education Committee</b>
<b>For:</b>	<b>Secretary to the Committee</b>
<b>By:</b>	<b>19 April 2013</b>

**13/49 Report of decisions taken by the Chair since the last meeting**

1. Members noted the Chair's action taken. Officers clarified that the 7 registrant Conduct and Competence Commission panellists had already been reappointed but that the action served to reinstate those panellists as Chairs.

**13/50 Francis Report update**

1. Members received the update.
2. Officers commented as follows:
  - The response to the Francis Report recommendations was an area of work that the reconstituted Council would need to take forward. Both the current and reconstituted Council would need to be involved in determining the NMC response to the Department of Health's initial response to the report, which was to be published on 26 March.
  - The NMC needed to remain on its current trajectory of improvement but there were key areas for the NMC in increasing both its profile and proactivity. Officers did stress

that the paper did not intend to suggest that there was only one possible means of delivering on increased proactivity.

3. Members noted:

- There was a need for clarity externally about the timelines and scope of the NMC's response to Francis recommendations.
- The employer liaison model detailed in the report was a potential method of delivering proactive regulation.
- The proposed revision of procedures to ensure their efficiency and members said that it was important to note that the procedures did not represent a change to NMC policy.

4. Members agreed to note the progress within the report.

**13/51 Risk Register**

1. Officers introduced the Register and reminded members that the standing report to Council included top risks only. The entire Register was considered at every Audit Committee (which gave assurance on the robustness of the process in compiling the Register) and Council on a quarterly basis. Directors regularly reviewed the Register and would only downgrade risks when fully satisfied that actions taken were serving to mitigate the risk. The revised risk management framework approved by the Audit Committee would be rolled out in April and a revised Register would be presented to reconstituted Council.

2. On the risks within the register, officers noted:

- risk T23 had been reviewed and the level of risk remained the same.
- mitigation of risk T24 was a long-term piece of work but that officers had identified current gaps and were addressing urgent priorities.

**13/52 Chief Executive's report**

1. The Chief Executive introduced the report and noted that Annexe 2 to the report would be refreshed for reconstituted Council to ensure that information was presented in the clearest possible form to members.

2. Members noted that KPIs needed to be examined to ensure that indicators were both clear and transparent and provided the correct information to ensure that Council were able to correctly judge performance against indicators.

3. Members noted that the full year forecast for approximately half of

the KPIs was a negative variance of more than 10% and asked whether this was expected or whether the KPIs had been set at an unachievable level. Officers explained that reconstituted Council would be asked to reconsider Key Performance Indicators.

4. On specific KPIs, members noted that:
  - R9 needed to be re-worded to ensure clarity.
  - FTP5 figures still needed to improve further. Newly implemented processes within the directorate should serve to drive improvement in the future.
  - HR4 showed a marked decrease in the number of FTE vacancies and members praised HR officers in delivering this improvement.
  
5. Members agreed that it would be helpful to compile a summary of performance on KPIs over the last year for the next Council meeting and asked that shaded KPIs, where appropriate, were marked in future as having been achieved.

<b>Action:</b>	<b>Compile a summary of performance on KPIs for the year for Council in April 2013</b>
<b>For:</b>	<b>Chief Executive and Registrar</b>
<b>By:</b>	<b>25 April 2013</b>

**13/53      Fitness to Practise performance report / Report from Fitness to Practise Committee**

1. The Director of Fitness to Practise introduced the report and noted that the Fitness to Practise directorate had recently undertaken a significant recruitment drive and new staff were still undergoing training and induction. The directorate was still embedding a number of new processes and further tangible improvements in reducing the current caseload would be delivered once new staff had settled and new processes were embedded.
  
2. The Chair of Fitness to Practise Committee informed Council of the discussions held at Committee on 14 March 2013, including discussions on progress in addressing historic cases and the large number of adjudication cases. It was important to note that the historic case progression plan was on track and that progress would be formally reviewed in June. The Committee would continue to monitor improvements arising from new directorate processes, including VR and CPD.
  
3. Members raised the following points:
  - Total caseloads seemed to have increased in the last two months and asked whether this was a consequence of the

Francis report. Officers said that it was difficult to show a direct correlation at this stage but that longer term caseload expectations were modelled and resources were in place to meet the demands as modelled.

- The need for amendments in the legislative framework. Members asked what work was being undertaken with stakeholders to support changes in legislation. Members added that changes in the framework may not necessarily lead to a reduction in caseload but should serve to ensure that referrals received were the correct referrals. Officers said that discussions with the Department of Health on this area were ongoing.
- The Chair of the Finance and IT Committee noted that the Committee had discussed expenditure on resourcing in Fitness to Practise and understood officers' views that further expenditure at this stage may disrupt the increased stability in the directorate. Nonetheless, this remained an area that needed continual monitoring.

#### **13/54 Monthly financial monitoring**

1. The Director of Corporate Services introduced the report, noting that the figures and forecast were very similar to those presented to Council in the preceding two months and that further productive discussions had been held with HMRC in respect of repayment of income tax and National Insurance paid on Fitness to Practise panellist expenses.
2. Members noted the report.

#### **13/55 NMC 2013 – 16 Corporate Plan**

1. Items NMC/13/55 (NMC 2013 – 16 Corporate Plan), NMC/13/56 (NMC budget 2013 – 14) and NMC/13/57 (Annual review of fees level and reviews policy) were considered as one item. Discussion on the three items is reflected within minute 13/55 but decisions on each item is reflected within the respective minute.
2. The Director of Corporate Services gave a presentation on the three items.
3. Following the presentation, attendees asked the following questions.
  - Ms Louise Silverton, Royal College of Midwives, said that the RCM welcomed the proposal not to increase registrant fees in 2013 / 14 and asked whether the NMC had whether the NMC had considered a reduction in registration fees for newly qualified nurses and midwives to reflect the current economic

situation. Officers said that reconstituted Council would reconsider subsidiary fees in the second quarter of 2013.

- Ms Sarah Calkin, Nursing Times, noted that the modelling set out in the presentation indicated that by 2018 the available free reserves could significantly exceed target levels. Officers responded that there would be no intention to hold more reserves than are needed and that that the model would be consistently revised and that the NMC would seek to ensure that the appropriate level of reserves was maintained. Officers added that the Charity Commission also monitored reserve levels to ensure that levels were appropriate.
- Ms Rose Ann O'Shea, Scottish Government, said that the forecasts presented were based on a number of assumptions that would need to be reviewed to reflect ongoing work on, for example, thresholds. The Chair said that this was an important point.

4. The Chair of the Finance and IT Committee said that the Committee had considered the draft budget at its 19 March meeting and had agreed to endorse the budget to Council, subject to stressing that proposed future fees were based on planning assumptions and that the policy on variable fees should be reviewed in due course by reconstituted Council.
5. Ms Scull, the lay financial adviser to Council, added that the Committee had considered the budget to be prudent and, while mindful of the potentially negative impact on organisational stability of further increasing staffing at the current time, the Committee recommended that reconstituted Council review progress on the budget to ascertain whether certain public commitments could be progressed more quickly.
6. Members said that it was important that the NMC could, in view of the current economic climate, demonstrate that it was committed to delivering efficiency savings. Officers said that efficiencies were being delivered and that reporting to Council on organisational efficiencies needed to be improved. Officers agreed to reflect efficiency savings in financial reporting to reconstituted Council.
7. Members noted Francis report recommendations around the importance of raising the NMC's profile and asked to what extent a raised profile had been built into financial planning assumptions. Officers said that further work on stakeholder engagement and scoping work on employer liaison was planned for within the draft budget.
8. Members noted the ongoing organisational pay and grading review and asked whether this was reflected within the budget. Officers said

that the budget included a general 2.3% wage inflationary provision against headcount. Further provisions had been included within the budget on potential implications of the pay and grading review but it remained too early to judge the quantifiable effect and when any pay and grading changes would come into force.

9. Members asked what financial implications would arise from any future proposals to reduce fee levels for newly qualified nurses and midwives. Officers said that modelling for this would be based on evidence from other regulators and stressed that any such changes to these fees would be subject to consultation, as they would be for changes in renewal of registrant fees.
10. Members approved the NMC's Corporate Plan 2013 – 16, subject to the correction of minor typographical errors and amendment of the foreword, to be approved by the Chair and Chief Executive and Registrar.

<b>Action:</b>	<b>Report to reconstituted Council to include information on efficiency savings as a proportion of the total budget</b>
<b>For:</b>	<b>Director of Corporate Services</b>
<b>By:</b>	<b>23 May 2013</b>

**13/56**      **NMC budget 2013 - 14**

1. Members approved the proposed NMC budget for 2013 – 14.

**13/57**      **Annual review of fees level and reviews policy**

1. Members agreed that:
  - the annual registration fee should remain at its current level of £100 and that an increase in the fee to take effect from April 2014 should not be sought
  - the proposed amendments to the risks informing the reserves level and the target range of reserves between £10 million and £25 million
  - the scope of the review of subsidiary fee levels and noted that this review would take place in Summer 2013
  - varying levels of fee for different categories of nurses and midwives should not be implemented at this stage
  - the ability to offer increased frequency of payment via direct debit should not be implemented at this stage
  - that the functionality to be able to offer varying fee levels and payments by instalments should be included in the scope of the new integrated registration database which was being developed as part of the ICT strategy.

**13/58 Amendments to the guidance on conditions of practice and conditions of practice library**

1. Members said that paragraphs 23 and 25 of the annexed draft guidance needed to be revised to ensure compliance with case law as established by *Perry v NMC*.
2. Members added that it was important that registrants' workplace details were available to the NMC in order to ensure that, if issues with performance conditions emerged, the NMC would be able to contact the registrant.
3. Subject to the above considerations, members agreed to the recommendations set out within the report.

<b>Action:</b>	<b>Amend paragraphs 23 and 25 of the draft guidance to ensure compliance with the findings in <i>Perry v NMC</i> case</b>
<b>For:</b>	<b>Director of Fitness to Practise</b>
<b>By:</b>	<b>25 April 2013</b>

**13/59 Revisions to the guidance to panels on interim orders**

1. The Director of Fitness to Practise introduced the report, noting that the work reflected very positive and effective engagement with stakeholders.
2. Members said that the paper, and the paper on item 13/58, raised an issue about ensuring reconstituted Council had assurance that case law, such as it applied to the NMC, was applied throughout the organisation. Officers said that a senior officer group was currently looking at policies and processes throughout the organisation and said that the result of this work would be reported to both Audit Committee and Council.
3. Members noted the proposed amendment following recent developments in case law to the interim order guidance and asked whether the advice for panels considering the suspension of a registrant in a public interest case where there is no risk of harm to patients or the public should include the word "not" as highlighted in the following: "*...the panel should consider whether there would be serious damage to the reputation of the professions if a registrant was **not** suspended pending the final outcome*". Officers said that they would ensure that the wording was correct prior to issuing.
4. Members noted the broader concerns raised by stakeholders on the current interim order arrangements in the context of guidance being given about a reasonable notice period and suggested that panels should take a view on whether registrants had been issued with appropriate notice in each and every case.
5. Members asked whether there was sufficient resourcing within the

directorates needed to take forward the recommendations. Officers confirmed that there was sufficient resourcing.

### **13/60 Principles of Council engagement with Midwifery Committee**

1. The Director of Registration and Standards introduced the report, noting that the content reflected discussion between the Chair of Committee, Directors and the Royal College of Midwives.
2. Members sought clarification on paragraph 3.4. Officers said that this reflected the need for the Committee involvement in areas of NMC work that would affect midwifery regulation.
3. Members suggested that the principles could be reflected in the Committee's Terms of Reference.
4. Members agreed the principles as set out within paragraphs 3.1 to 3.4 of the report.

<b>Action:</b>	<b>Re-examine the Midwifery Committee's Terms of Reference as part of the governance review</b>
<b>By:</b>	<b>Assistant Director, Governance and Planning</b>
<b>For:</b>	<b>20 June 2013</b>

### **13/61 Standards for five year rule**

1. Members said that further clarity was needed around the definition of aptitude testing, noting that such testing should establish competence in nursing and midwifery. Officers said that they would reconsider the point but that the wording as currently phrased reflected the wording in the EU directive.
2. Members agreed to:
  - Approve that for any person who first applies for registration more than five years after being awarded an approved qualification, the standard required is that the person must be able to demonstrate at the point of registering the qualification that he or she meets the NMC standards that currently apply to the qualification.
  - The development of guidance on ways to meet the standards referred to above.

### **13/66 Overseas registration**

1. The Director of Registrations and Standards introduced the report and confirmed that the NMC was currently committed to recommence processing of overseas registration applications from 2 April 2013.
2. The Director said that the pause in accepting overseas applications

had been a short period aimed at ensuring that overseas registrations were processed correctly and confirmed that the associated processes were now robust. The NMC had committed to a longer term improvement review of registrations processes. The Director added that it was important to ensure that communications with overseas registrants remained clear and transparent and said that feedback from registrants would serve to monitor the quality of communications.

3. Members asked about the quality assurance mechanisms to ensure continued improvement in registrations. Officers said that this was an important point and suggested that this may be an area for internal audit to monitor in the new financial year.
4. Members noted the report.

**13/63 Report of the House of Commons Health Committee accountability hearing with the Nursing and Midwifery Council**

1. The Chair noted that it was positive to have the Select Committee's endorsement of recent improvements within the NMC.
2. Members made the following comments:
  - The Select Committee's recommendation for a maximum length of investigation may not be practicable. Officers added that it was important to deal with caseloads efficiently but not to the detriment of quality.
  - The improved stability in the organisation's leadership should lead to improvements in revalidation being driven forward.
  - The need to ensure that the NMC continued its improved grip on financial matters.
3. Members noted the commentary within the Committee's report on staff turnover and said that while ICT provision may have had some impact on staff turnover, it was questionable whether it had had the impact outlined in the report and other factors applied equally. Members added that it was important to use the staff survey to find out whether staff were planning to leave the organisation in the next 12 months.
4. Members noted the report.

**13/62 Questions from observers**

1. Ms Katrina Caslake, a private midwife, said that she needed more information around the introduction of Professional Indemnity Insurance (PII), in particular the type and level of indemnity required. She said that she needed this information as she was still uncertain as to whether she could continue to practise as an independent midwife. She said that she noted Department of Health would shortly

be launching a consultation but that it was often difficult for registrants to engage individually with these consultations as the language was often technical. She said that any further information on this issue would be very much appreciated. The Chair noted that Council would consider the implications of the introduction of PII at the April 2013 meeting and that officers would discuss the issue with Ms Caslake outside of the meeting.

2. Ms Louise Silverton, Royal College of Midwives, said that many RCM members were concerned about the impact of any gaps in employment in being able to obtain or retain PII. Officers said that the Midwifery Committee would consider this issue and that guidance issued to registrants would be largely principle based.
3. Ms Ntombizikile Mkoyana, African Nurses Support Services, asked whether the NMC currently collected and analysed data on Fitness to Practise cases that would establish whether there were persistent issues with particular NHS Trusts. Officers responded that analysis of information was an area that had needed further improvement and that more effective engagement in the future would allow for the provision of further data.

#### **13/64 Feedback from committee chairs of meetings held since last Council**

1. The Chair of the Finance and IT Committee said that, further to discussions at Committee around the budget and fee levels, which had been reflected during Council discussions on those items, the Committee had considered key areas of business that would need to be taken forward as part of the transition planning exercise.
2. The Committee had also recommended the provision of a training session for new Committee members before the first meeting and that it was important that all members had training to ensure a good level of financial literacy across reconstituted Council.

#### **13/65 Draft agenda for the Council meeting on 25 April 2013**

1. The draft agenda for Council on 25 April 2013 was noted and members agreed that:
2.
  - Items on “Engagement plan” and “equality and diversity objectives” be postponed until the reconstitution of Council, and that “unreasonable behaviour policy” did not need to be considered by Council at this juncture.
3.
  - “Transition planning” be an item for the April Council meeting.

**Action:** Postpone items on the Engagement Plan and equality and diversity until the reconstitution of Council, add “transition planning” to the agenda for Council in April 2013 and remove “unreasonable behaviour policy” from the Council work plan  
**For:** Secretary to Council  
**By:** 25 April 2013

The date of the next meeting is to be 25 April 2013.

The meeting ended at 1.45 pm.

**SIGNATURE**.....

**DATE**.....



## Council

### Summary of actions

**Action:** For information.

**Issue:** A summary of the progress on completing actions agreed by the meeting of Council held on 21 March 2013 and progress on actions outstanding from previous Council meetings.

**Core regulatory function:** Supporting functions.

**Corporate objectives:** Corporate objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."

**Decision required:** To note the progress on completing the actions agreed by the Council held on 21 March 2013 and progress on actions outstanding from previous Council meetings.

**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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## Summary of actions outstanding

### Brought forward actions (Council meetings prior to 21 February 2013)

Minute	Action	For	Report back to: Date:	Progress
12/163	Develop strategy for IT future requirements	Director of Corporate Services	Council 23 May, 18 July and 24 October 2013	Interim report taken to Council in January.  Agreed that this be taken forward through the reconstituted Council, who will be asked to agree their forward work plan at the May Council meeting
12/166	Review the effect of the revised guidance and criteria for making decisions on voluntary removal during fitness to practise investigations	Director of Fitness to Practise	Council 12 September 2013	Qualitative and quantitative data is being gathered to assess the effect of this and a report will be prepared for September Council
12/206	Produce a number of target outcomes for engagement work to enable monitoring by Council	Director of Corporate Governance	Council 20 June 2013 (was due 21 March 2013)	Agreed that this be taken forward through the reconstituted Council, who will be asked to agree their forward work plan at the May Council meeting

<b>Minute</b>	<b>Action</b>	<b>For</b>	<b>Report back to: Date:</b>	<b>Progress</b>
12/210	Review effectiveness of Council and Committees (excluding Practise Committee members)	Director of Corporate Governance	Council 25 April 2013	Committee Chairs have been asked whether they wish to consider this due to the overlap with the governance review. The results from those committees which have undertaken an effectiveness review will be fed in through the Annual Governance Statement
12/212	Prepare a series of options on revalidation for Council consideration	Director of Registration and Standards	Council 12 September 2013	Not yet due

**31 January 2013**

13/05	Ensure learning points from customer complaints are presented to the March Council meeting	Chief Executive and Registrar	Council 25 April 2013 (was due 21 March 2013)	A paper on corporate complaints processes will be considered at the April meeting
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13/11	Report results of research and data analysis to Fitness to Practise Committee and Council in relation to the development of further guidance around the meaning of impaired fitness to practise	Director of Fitness to Practise	Fitness to Practise Committee 23 April 2013  Council 18 July 2013	An update paper on Fitness to Practise thresholds will be considered by the FtP Committee on 23 April 2013
13/16	Include Professional Indemnity Insurance on the March 2013 Council agenda	Director of Registration and Standards / Director of Corporate Governance	Council 25 April 2013	Originally to be considered in March but will now be considered at Council in open session in April
13/18	Report ICT strategy to Council in May	Director of Corporate Services / Secretary to the Council	Council 23 May 2013	Refer to action point 12/163 above
13/20	Report progress on the NMC's equality and diversity objectives and action plan	Director of Corporate Governance	Council 23 May 2013 (was due 25 April 2013)	Not yet due

<b>21 February 2013</b>				
13/26	Ensure Council actions for committees are included in each committee's agendas	Council Services Manager	Council 25 April 2013	Ongoing
	Provide detailed engagement plan at Council in April	Director of Corporate Governance	Council 20 June 2013 (was due 25 April 2013)	Refer to action 12/206 above
13/36	Revise HR and OD strategy as necessary to ensure alignment with wider Francis Report recommendations on organisational culture	Director of Corporate Services	Council 20 June 2013	Agreed that this be taken forward through the reconstituted Council, who will be asked to agree their forward work plan at the May Council meeting
	Report to reconstituted Council on progress of development of the HR and OD strategy	Director of Corporate Services	Council 20 June 2013	Not yet due

#### **Actions arising from open session Council meeting on 21 March 2013**

<b>Minute</b>	<b>Action</b>	<b>For</b>	<b>Report back to: Date:</b>	<b>Progress</b>
13/52	Compile a summary of performance on KPIs for the year for Council in April 2013	Chief Executive and Registrar	Council 25 April 2013	Complete
13/55	Reporting to reconstituted Council to include information on efficiency savings as a	Director of Corporate Services	Council 23 May 2013	Not yet due

	proportion of the total budget			
13/58	Amend paragraphs 23 and 25 of the draft guidance to ensure compliance with the findings in Perry v NMC case	Director of Fitness to Practise	Council 25 April 2013	Complete
13/60	Re-examine the Midwifery Committee's Terms of Reference as part of the governance review	Assistant Director, Governance and Planning	Council 20 June 2013  Midwifery Committee 26 June 2013	Not yet due
13/65	Postpone items on the Engagement Plan and equality and diversity until the reconstitution of Council, add "transition planning" to the agenda for Council meeting in April 2013 and remove "unreasonable behaviour policy" from the work plan	Secretary to Council	Council 25 April 2013	Agenda and forward work plan amended accordingly

## Actions for Committees

### Appointments Board

No current actions arising.

### Audit Committee

Minute	Action	For	Report back to: Date:	Progress
12/169	Report on learning (from SERs, data breaches, complaints, FOIs and litigation) with single policy and template developed	Director of Corporate Governance	Audit Committee 19 April 2013	Reported to Audit Committee in December and Council in January.  A further update report on the policy will be considered at the Audit Committee meeting on 19 April

### Education Committee

Minute	Action	For	Report back to: Date:	Progress
13/48	Include the setting of educational standards for nursing as an agenda item for the Education Committee	Secretary to the Committee	Education Committee 19 April 2013	Included in agenda for April meeting

### Finance and IT Committee

Minute	Action	For	Report back to: Date:	Progress
12/163	Develop strategy for IT future requirements	Director of Corporate Services	Finance and IT Committee 30 May 2013  Council 23 May, 18 July and 24 October 2013	Interim report taken to Council in January.  Agreed that this be taken forward through the reconstituted Council, who will be asked to agree their forward work plan at the May Council meeting

### Fitness to Practise Committee

Minute	Action	For	Report back to: Date:	Progress
12/166	Review the effect of the revised guidance and criteria for making decisions on voluntary removal during fitness to practise investigations	Director of Fitness to Practise	Fitness to Practise Committee TBC  Council 12 September 2013	Qualitative and quantitative data will be gathered to assess the effect of this
12/199	Monitor FtP11, estimate of adjudication level to be completed each month	Director of Fitness to Practise	Fitness to Practise Committee Standing item	Included in FtP Committee monitoring

<b>Minute</b>	<b>Action</b>	<b>For</b>	<b>Report back to: Date:</b>	<b>Progress</b>
13/11	Report results of research and data analysis to Fitness to Practise Committee and Council in relation to the development of further guidance around the meaning of impaired fitness to practise	Director of Fitness to Practise	Fitness to Practise Committee 23 April 2013	An update paper on FtP thresholds will be considered by the FtP Committee on 23 April
13/33	Report to Fitness to Practise Committee on issues emerging from the amendment in policy on panel composition for interim order hearings	Director of Fitness to Practise	Fitness to Practise Committee September 2013	Not yet due
13/47	Include Plain English accreditation for the Fitness to Practise Directorate in the future work of the Fitness to Practise Committee	Secretary to the Committee	Fitness to Practise Committee 23 April 2013	Plain English will be monitored by the Committee in line with corporate objectives

### **Midwifery Committee**

<b>Minute</b>	<b>Action</b>	<b>For</b>	<b>Report back to: Date:</b>	<b>Progress</b>
13/14	Examine how the Midwifery Committee can work more closely with partner organisations and with Council This item will be considered by Council at its March 2013 meeting	Chair of Midwifery Committee / Director of Registration and Standards	Midwifery Committee 17 April 2013	This item was considered by Council at its March 2013 meeting and will be considered further at the Committee on 17 April

Minute	Action	For	Report back to: Date:	Progress
13/60	Officers to re-examine the Midwifery Committee's Terms of Reference as part of the governance review	Assistant Director, Governance and Planning	Council 20 June 2013  Midwifery Committee 26 June 2013	Not yet due

### Remuneration Committee

No current actions arising.

## Council

### Report of decisions taken by the Chair since the last Council meeting

- Action:** For information.
- Issue:** The report details decisions taken by the Chair under delegated powers (as per NMC Standing Orders).
- Core regulatory function:** Supporting functions.
- Corporate objectives:** Corporate objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."
- Decision required:** Members are asked to note the Chair's decisions taken on behalf of Council since the last meeting.
- Annexes:** The following annexes are attached to this report:
- Annexe 1: Chair's action sign-off sheet and accompanying report to Chair (extension of contract for 11 practice committee members)
  - Annexe 2: Chair's action sign-off sheet (amendments to the NMC standing orders)
- 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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**Chair's actions**

- 1 **Approval of extension of contract for 11 practice committee members for six months, until the end of September 2013.**
- 2 At its meeting on 14 February 2013, the Appointments Board considered recommendations that a proactive rolling recruitment programme should be adopted for panel members on practice committees.
- 3 As 11 existing practice committee members were nearing their current terms of office, an extension of this term would allow them to be considered alongside 128 committee members whose terms end in September 2013.
- 4 The current commitment to clear historic cases is an undertaking which has been made to stakeholders, including the PSA and Department of Health. This commitment requires full capacity from the NMC.
- 5 The Chair, on behalf of Council, agreed the recommendations on 25 March 2013. A copy of the signed action sheet and accompanying report to the Chair is available as Annexe 1.
- 6 Public protection implications, resources implications, equality and diversity implications, risk implications and stakeholder engagement are considered within Annexe 1.
- 7 **Amendments to the NMC standing orders**
- 8 To assist the preparation for the reconstitution of Council, the Chair of Council was asked to agree to minor amendments to the NMC Standing Orders to ensure that they reflect the provisions of the Nursing & Midwifery Council (Constitution) (Amendment) Order 2012 and the current organisational structure. These amendments are reflected below:
  - 9.1 **Paragraph 5.** Amend from "The Council comprises the 14 persons appointed as members by the Privy Council including the individual appointed to serve as Chair" to read "The Council comprises the 12 persons appointed as members by the Privy Council including the individual appointed to serve as Chair"
  - 9.2 **Paragraph 11.2** (which reflects the number of members of Council needed to call a special meeting of Council). Amend from: "eight members giving notice of such a request to the Chief Executive and Registrar" to "seven members giving notice of such a request to the Chief Executive and Registrar." This is to reflect quorum.

- 9.3 **Paragraph 20, first sentence.** Amend from “The quorum for any Council meeting is defined in the Nursing and Midwifery Council (Constitution) Order 2008 and is eight members.” to read “The quorum for any Council meeting is defined in the Nursing and Midwifery Council (Constitution) Order 2008 (as amended) and is seven members.”
- 9.4 **Paragraph 99.** Amend from “The Chief Executive and Registrar shall keep interests of members of the Corporate Leadership Board under consideration and take appropriate action in cases of conflict.” to read “The Chief Executive and Registrar shall keep interests of Directors under consideration and take appropriate action in cases of conflict.”
- 9.5 **Paragraph 113.** Amend from “These standing orders shall come into effect on 1 December 2010, when all previous standing orders to the Council and committees shall be revoked.” to read “These standing orders shall come into effect on 1 May 2013, when all previous standing orders to the Council and committees shall be revoked.”
- 9 The Chair authorised these amendments on 17 April 2013 in accordance with paragraph 7.1 of the current NMC standing orders.
- 10 A copy of the action sheet is available as Annexe 2. The amendments, being minor in scope, are not considered to have any material public protection implications, resources implications, equality and diversity implications or risk implications.



### Chair's Action

The Chair of any committee shall have the power to authorise action on minor, non-contentious or urgent matters falling within the authority delegated to it by the Council between meetings of the committee. The Chair will take reasonable steps to consult with other committee members before doing so. The Secretary to the Committee will be informed of such actions and will keep a record of them for report to the next meeting (Standing Order 47).

Date: 25/3/2013

Requested by: Gina Sherman

**Detail:** To meet the current FtP business need for panel members the Chair is asked extend the following 11 practice committee members for six months until the end of September 2013.

Full Name	Panel	Lay or Registrant	End of Term Date
Jeremy Colwill	CCC	Lay	31/03/2013
Pauline Daniels	IC	Registrant	31/03/2013
Jennifer Frost	IC	Registrant	31/03/2013
Dawn Johnston	CCC	Registrant	31/03/2013
Peter Liptrot	CCC	Registrant	31/03/2013
Harry Narayan	CCC	Lay	31/03/2013
Nicola Neale	IC	Registrant	31/03/2013
Susan Owen	IC	Registrant	31/03/2013
Jennifer Pennington	IC	Registrant	31/03/2013
Lynn Smith	CCC	Registrant	31/03/2013
Nalini Varma	CCC	Lay	31/03/2013

Full details are contained in the Chairs action paper that accompanies this form.

Signed

*Mah Addison*

(Chair)

## Chairs Action

### Extension of first term appointment to September 2013 for practice committee panel members

**Action:** For decision.

**Issue:** The Chair is asked to extend the first term of appointment for 11 practice committee members for six months until the end of September 2013. In September we will have collected predictive data regarding the NMC business need which will then feed into the criteria for re-appointment.

**Core regulatory function:** Fitness to Practise

**Corporate objectives:** We will take swift and fair action to deal with individuals whose integrity or ability to provide safe care is questioned, so that the public can have confidence in the quality and standards of care provided by nurses and midwives.

**Decision required:** The Chair is recommended to approve the extension of the first term of appointment for 11 practice committee members for six months until the end of September 2013.

**Annexes:** The following annexe is attached to this paper:

- Annexe 1: List of 11 practice committee panel members recommended for an extension of six months to their first term of appointment.

**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 the approval of the recommendations in paper APP/13/04 by the Appointments Board at their 14 February 2013 meeting, we are developing a proactive rolling recruitment plan for panel members on our practice committees.
  - 2 It was noted at this meeting that re-appointment of panel members to a second term also needs to be considered within the criteria of meeting the changing business need such as compatible availability, performance, balance of registrant panel members.
  - 3 We had discussed at this meeting the need for a flexible approach to the re-appointment and length of terms of appointment to enable us to maintain a panel member pool that meets the current business need. It was agreed that options would be discussed prior to the consideration of the re-appointment to a second term.
  - 4 We have 11 practice committee members coming to the end of their first term of appointment at the end of March 2013; 6 Conduct and Competence Committee members (3 lay and 3 registrants) and 5 registrant Investigating Committee members.
  - 5 By extending their first term of appointment until the end of September 2013, they may be considered with the same criteria as the other 128 panel members who also come to the end of their term in September.
  - 6 We have made a commitment to our external stakeholders which include the PSA and the Department of Health that we will clear our historic cases ( those received prior to January 2011 ) by September 2013. We will require our maximum capacity of Conduct and Competence Committee panel members to achieve this.
- Discussion:**
- 7 To approve to extend the first term of appointment for 11 practice committee members for six months until the end of September 2013.
- Public protection implications:**
- 8 To ensure that we have enough panel members to manage the increase of FtP activity.
- Resource implications:**
- 9 None.
- Equality and diversity implications:**
- 10 There are no equality and diversity implications.
- Stakeholder engagement:**
- 11 This topic was discussed and approved at the meeting of the Appointments Board held on 14 February 2013.

- 12 The panel members to be extended have been contacted and have given approval for their appointments to be extended until the end of September 2013, when they will be considered for re-appointment to a second term.

**Risk  
implications:**

- 13 There is a risk if these individuals' first terms of appointment are not extended we will not be able to manage the increase of FtP activity and therefore a risk to public protection.

**Annexe 1: List of practice committee members to be extended**

Full Name	Practice committee	Panel Lay or Registrant	End of Term Date
Jeremy Colwill	CCC	Lay	31/03/2013
Pauline Daniels	IC	Registrant	31/03/2013
Jennifer Frost	IC	Registrant	31/03/2013
Dawn Johnston	CCC	Registrant	31/03/2013
Peter Liptrot	CCC	Registrant	31/03/2013
Harry Narayan	CCC	Lay	31/03/2013
Nicola Neale	IC	Registrant	31/03/2013
Susan Owen	IC	Registrant	31/03/2013
Jennifer Pennington	IC	Registrant	31/03/2013
Lynn Smith	CCC	Registrant	31/03/2013
Nalini Varma	CCC	Lay	31/03/2013



### Chair's Action

As per Standing Order 7.1, the Chair of Council shall have the power to authorise action on minor, non-contentious or urgent matters falling under the authority of the Council. Such actions shall be recorded in writing and passed to the Chief Executive and Registrar who shall maintain a record of all authorisations made under this paragraph and shall report in writing, for information, to each Council meeting the authorisations which have been made since the preceding Council. The Secretary to the Council will be informed of such actions and will keep a record of them for report to the next meeting (Standing Order 80).

Date: 16/04/2013

Requested by: Matthew McClelland  
Assistant Director, Governance and  
Planning

**Detail:**

In preparation for the reconstitution of Council, the Chair of Council is asked to agree the following:

1. changes to make reference to the Nursing and Midwifery Council (Constitution) (Amendment) Order 2012 and consequential changes to Standing Order 5 (members of Council), Standing Order 11.2 (provisions for calling special meetings) and Standing Order 20 (quorum of Council)
2. a minor change to substitute a reference to Corporate Leadership Board for a reference to the Directors.

Once approved, the amendments will come into force on 1 May 2013.

Signed \_\_\_\_\_

(Chair)



## Council

### Francis report - update

**Action:** For information

**Issue:** This paper provides a further update on matters arising out of the Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (the Francis report).

**Core regulatory function:** Fitness to Practise, Registrations, Education, Standards

**Corporate objectives:** The recommendations in the report are relevant to all the NMC's Corporate Objectives.

**Decision required:** None

**Annexes:** The following annexe is attached to this paper.  
Annexe 1 – Summary of proposed section 60 amendments – April 2013

**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:****Background**

- 1 On Wednesday 6 February 2013 the report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (the Francis report) was published. The Chair of the Public Inquiry was Robert Francis QC.
- 2 The background and contents of the Francis report are known to the Council and were summarised in a paper which went to the February 2013 Council meeting.
- 3 We issued an initial press statement in response to the report and published the Chair's response to the Secretary of State's letter.
- 4 Thereafter the NMC was represented at a number of System Forum and seminar meetings at the Department of Health (DH). We provided DH with a summary of the actions we had taken since 2009 related to Francis recommendations and, following the discussion at the February Council meeting, our provisional views on the recommendations that may affect our work.
- 5 A further paper was prepared for the March Council meeting which provided an update on how the work involved in fully considering, responding to and implementing the recommendations which may directly or indirectly affect the work of the NMC would be approached. A blueprint outlining the key post-Francis outcomes for the NMC was annexed to that paper.
- 6 DH published its initial response to the Francis report on Tuesday 26 March 2013 and the Secretary of State made a statement in the House.
- 7 DH were keen to reach a consensus on the key issues in its response, where this was possible, and engaged closely with key organisations, including the NMC, prior to the publication of its response.
- 8 In line with our agreed course of action, we issued a short press statement in response to the publication of the DH response.

**For Information****Summary of DH response - Patients First and Foremost**

- 9 As we had anticipated, the response was thematic and addressed the key messages in the report rather than each individual recommendation.
- 10 The full response can be found at the following link:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/170701/Patients\\_First\\_and\\_Foremost.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170701/Patients_First_and_Foremost.pdf).
- 11 The response comprised a foreword from the Secretary of State for Health followed by a Statement of Common Purpose which was

signed by all the key organisations in the English health and care system, including the NMC. The final draft of the Statement of Common Purpose acknowledged the very different roles of regulators and providers, so, along with the GMC, we felt we could endorse its spirit, to show our common resolve.

- 12 There was an Executive Summary and the body of the response was then divided into 5 chapters:
  - 12.1 Chapter 1 - Preventing problems
  - 12.2 Chapter 2 - Detecting problems quickly
  - 12.3 Chapter 3 - Taking action promptly
  - 12.4 Chapter 4 - Ensuring robust accountability
  - 12.5 Chapter 5 - Ensuring staff are trained and motivated
  
- 13 The Council will be pleased to note that the response recorded the actions that have already been taken by the NMC since 2009 which related to the Francis recommendations and, similarly, noted the work already underway to achieve the key outcomes outlined at the March Council meeting.
  
- 14 The Council will also be pleased to note that the responses to the other key recommendations of relevance to the NMC were in line with the NMC's provisional views. In particular:
  - 14.1 the response does not support the registration of healthcare assistants by the NMC but instead supports minimum training standards and a code of conduct.
  - 14.2 the response recognises that a medical model of revalidation may not be appropriate for the NMC and DH indicates that it will support the NMC in seeking to introduce a proportionate and affordable national scheme for the revalidation of nurses and midwives
  - 14.3 the response does not support the introduction of a new registered status of older person's nurse but instead highlights the need for appropriate training for all nurses in this field
  
- 15 The Council should note that the response did raise a number of other new issues which may involve or affect the work of the NMC, and which were not specific recommendations made in the Francis report itself including:
  - 15.1 a proposal that, starting with pilots, every student in England who seeks NHS funding for nursing degrees should first serve up to a year as a healthcare assistant,

- 15.2 a commitment by DH to consider the conclusions of Don Berwick's review of safety and what further action might be taken by the NMC, the GMC and other professional regulators before deciding on the appropriateness of criminal sanctions on individual registrants below board level.
- 16 We will need to engage carefully with the DH and others in relation to these issues to ensure a common understanding as to concerns that need to be addressed and the most appropriate way forward. In doing so, we will have to bear in mind our role as a four-country regulator and our existing powers to take action in the event of serious professional misconduct.
- 17 The Council is not required to make any decisions on these issues at this stage but may be asked to make decisions at a later date when the detail of these proposals has been further explored and understood.
- 18 DH has provided us with the terms of reference for the Camilla Cavendish review relating to health care support workers and we look forward to engaging further in relation to this important area.
- 19 The Council will also be pleased to note that we are now currently in discussions with DH about our "outdated legislative framework that is too slow and reactive in tackling poor care by individual professionals" (as set out in the Government's initial response to the Francis Report). These discussions are specifically considering the power to review investigation stage decisions that need to be put right and other means of improving the effectiveness of our fitness to practise processes. Our full list of proposed amendments to our current legislation which would require a section 60 Order are attached to this paper as Annexe 1.
- 20 We are also continuing to progress a number of Fitness to Practise cases relating to Mid-Staffs employees and to review the evidence given to the Inquiry.

#### **Next steps for us**

- 21 We are now in the process of carefully reviewing the DH response with a view to identifying any further outstanding issues that will need to be decided by the new Council and will require engagement with any other relevant organisations.
- 22 We are still aiming to publish our full response to the Francis report in June or July 2013, including our "action plan" once the new Council is in place and has had an opportunity to properly consider any outstanding issues and recommendations.
- 23 In the meantime, we have already started our planning work in relation to the recommendations which have already been accepted

in principle by the Council and which do not rely on other organisations accepting related recommendations.

- 24 Many of these recommendations are in line with our existing business and improvement plans and are being taken forward as part of the existing projects under our current change programme including:
- 24.1.1 appropriately raising our public profile, increasing our pro-activity and improving means of referral
  - 24.1.2 introduction of an employer liaison model and a review of our fitness to practise thresholds to support our aim to make our fitness to practise processes more proportionate.
  - 24.1.3 a review of our education standards, Code and professional standards in the light of the Francis recommendations and any new duties created and the strengthening of messages where appropriate.
  - 24.1.4 introduction of an proportionate and affordable scheme for revalidation
- 25 We have recognised that more work is needed to implement the key outcomes relating to improved internal information and data gathering and improved joint working and intelligence sharing with other regulators and we are developing a new project team to lead on this important area of work.
- 26 We are working on the interdependencies between these new Francis-related initiatives and those already underway, such as revalidation. We are still satisfied that any of the further issues that have now been identified can be properly placed under one of these project headings, allowing us to pick them up quickly if needed.
- 27 Progress on all these Francis-related issues is being co-ordinated and monitored by the Francis Report Lead in order to inform our full response to the Francis report in due course and enable Directors and Council to be kept up to date with the progress being made.
- Public protection implications:** 28 This paper is for information only.
- Resource implications:** 29 This paper is for information only. Once further decisions have been made about the specific actions the NMC wishes to take in response to these recommendations, then actual or estimated costs can be provided.

- Equality and diversity implications:** 30 Under the Equality Act 2010, we have a requirement to analyse the effect of our policies and practices and how they further the equality aims.
- 31 This paper is for information only. Once further decisions have been made about the specific actions the NMC may wish to take in response to these recommendations, then equality impact assessments will be undertaken as part of each project before any final decisions are reached.
- Stakeholder engagement:** 32 This paper is for information only. Once further decisions have been made about the actions the NMC may wish to take in response to these recommendations, then appropriate stakeholder mapping and engagement with key stakeholders can be planned and undertaken as part of each project.
- Risk implications:** 33 This paper is for information only. Once further decisions have been made about the actions the NMC may wish to take in response to these recommendations, then the full risk implications can be assessed as part of each project.
- Legal implications:** 34 None at present.

## Annexe 1 – summary of proposed amendments to legislation under section 60 of the Health Act 1999

<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
1	Art 51(1) and Art 7(1) and (2)	Removal of current requirement for Privy Council approval of registration fees and for fees to be set out in rules, which is time-consuming, costly and inefficient.	Policy first approved by DH in 2004 and approved in principle in March 2010 when DH was identifying content of what was then to be the next S60 order. Now crucial due to commitment to annual reviews of fees.	Outside PSA (CHRE) review criteria
2	Art 31(6)(a) and 31(11)	Extend time limit for second and subsequent reviews of interim orders and extend time limit for first review following a court's extension	Proportionate regulation and cost-saving by removal of unnecessary hearings. Approved in principle in March 2010 by DH for next S60 order.	Supported by PSA (CHRE)
9	Art 12(3)(b)	Remove the current prohibition on lapsing the registration of any nurse or midwife who is the subject of an interim or substantive suspension order or conditions of practice order. This would allow voluntary removal to be granted for those under interim orders or following final orders where impairment has been proved or is admitted and the other strict criteria for voluntary removal are fulfilled.	Improved public protection, more proportionate regulation and cost-saving by removal of unnecessary final and review hearings	PSA (CHRE) suggested that this should be considered with plans for voluntary removal (now in place)
10	Art 32	Express power to make rules allowing for cancellation of hearings to resolve drafting issues identified by Department's	Proportionate regulation and cost-saving by removal of unnecessary	Supported by PSA (CHRE),

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<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
		lawyers when considering the 2011 Fitness to Practice rule changes.	hearings	with some qualifications.
11	Art 22(7)	Remove current mandatory requirements for all hearings and preliminary meetings of practice committees to be held in the country of the nurse or midwife's registered address so as to allow all hearings and appeals to be held where they are most convenient and likely to result in the attendance of all the necessary parties at the least cost.	Improved public protection, cost-effectiveness and efficiency, bringing us in line with other regulators.	Outside PSA (CHRE) review criteria
12	Art 38	If proposal 11 is agreed: Amend the definition of "the appropriate court" to allow all fitness to practise appeals to go to the High Court.	Improved cost-effectiveness by reducing legal costs resulting from having appeals heard in different jurisdictions.	Outside PSA (CHRE) review criteria
13 and 14	Art 29(6)	In cases involving allegations of impaired health or lack of competence, remove the restriction preventing a striking off order being imposed unless a registrant has been continuously suspended or subject to a conditions of practice order for a period of no less than two years.	Proportionate regulation and cost-saving by removal of unnecessary review hearings.	Outside PSA (CHRE) review criteria
15	Art 3 and Art 26	New rule-making power to allow case examiners to exercise the investigation stage powers of the Investigating Committee.	Improved public protection and effectiveness by introduction of accountable decision-makers in line with other regulators and reduction of panel costs.	Supported by PSA (CHRE)

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<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
16		Power for the Registrar to deal with allegations of fraudulent or incorrect entries to the register (which are currently dealt with by the Investigating Committee)	This might be a necessary consequence of the introduction of Case Examiners and in line with the Law Commission proposals.	Supported by PSA (CHRE)
17	Art 3	Replace the current requirement for two statutory practice committees – the Conduct and Competence Committee and the Health Committee – with a single Fitness to Practise panel	Improved public protection and effectiveness by introduction of single panel in line with GMC	Supported by PSA (CHRE)
18		Rule-making power for case examiners to agree and monitor undertakings or conditions of practice by consent and to impose caution orders by consent	Proportionate regulation and cost-saving by removal of unnecessary hearings	Not supported until role of Case Examiners has been fully established.
19		Rule-making power for case examiners to make decisions in relation to applications from registrants subject to fitness to practise procedures for voluntary removal	Proportionate regulation and cost-saving by removal of unnecessary hearings	To be considered as part of plans for voluntary removal (now in place) and once Case Examiner role established.
20	Art 32(2)(h) and Art 26(4)	Remove the requirement for the rules governing fitness to practise to include provision for specified persons to be notified when an allegation is referred to the CCC or HC, and	Proportionate regulation and cost-saving by removal of unnecessary notification requirements which	Outside PSA (CHRE) review criteria

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<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
		when a fraudulent entry case is considered by the Investigating Committee.	are in addition to the requirements for the publication of outcomes.	
21	Art 31(5)(b)(ii)	Extend the current provisions to ensure that, when a case is remitted for a re-hearing on an appeal, an interim order would remain in place until the conclusion of that re-hearing.	Improved public protection by removing a current lacuna.	Supported by PSA (CHRE)

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 25 April 2013

<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
22	Art 12	Introduce powers to allow removal from one part of the register so that registration status always reflects current practice.	Improved public protection and transparency by removing a current lacuna.	To be considered further to plans for voluntary removal (now in place )

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<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
23	Art 12	Introduce powers to allow removal of an additional entry such as a recorded qualification from the register so as to ensure that the register always reflect current recorded qualifications.	Improved public protection and transparency by removing a current lacuna.	To be considered further to plans for voluntary removal (now in place )
24	Art 37(8)	Remove the current mandatory requirement for an appeal against a Registrar's decision to be held in the UK country of the nurse or midwife's registered address or, if they are not registered, in the UK country in which they reside. This would allow all appeals to be held where they are most convenient and likely to result in the attendance of all the necessary parties at the least cost.	Improved public protection, cost-effectiveness and efficiency, bringing us in line with other regulators.	Outside PSA (CHRE) review criteria
25	Art 37(10)	If proposal 24 is agreed:  Provide for any appeal against the determination in an article 37 appeal against a Registrar's decision to be to the county court and remove reference to appeals in Scotland being to a sheriff.	Improved cost-effectiveness by reducing legal costs resulting from having appeals heard by different jurisdictions.	Outside PSA (CHRE) review criteria
26	Art 37(5)(c) (iii)	Remedy an oversight in 2008 amendment Order by removing the requirement for the panel hearing an appeal against a registrar's decision to include a registered medical practitioner where the health of the person is relevant to the case.	Improved public protection and cost-effectiveness by removing a current lacuna.	Supported by PSA (CHRE)
27 and 28	Art 37 A37(5)(d)	Remove current potentially unlawful provision by requiring appeals against the Registrar's decisions to be to a	Improved fairness and transparency by removing current	Supported by PSA (CHRE)

Item 7  
NMC/13/73  
25 April 2013

<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
		Registrations Appeal Panel rather than to the Council or by at least removing the current requirement for the person presiding at an appeal against a Registrar's decision to be a Council Member	provision in light of High Court decision in <i>R(on the application of Kaur) v Institute of Legal Executives Appeal Tribunal [2011] EWCA Civ 1168</i> .	
29 NB Not in original list	Art 12	Amendment to correct the current lacuna whereby registrants made subject to caution orders may lapse before CHRE's s.29 appeal period against that order has expired, thus preventing any re-hearing following a finding of an unduly lenient sanction. [ NB those registrants who are made the subject of suspension or conditions of practice orders are already prevented from lapsing under our rules governing registration.]	Improved public protection by removing a current lacuna.	Suggested by PSA (CHRE) in its report following concerns raised with CHRE by NMC in two appeals.
30 NB Not in original list	Art 31(12)	Power for court to replace an interim suspension order with an interim conditions of practice order and vice versa on an application to the court in relation to an interim order.	Improved public protection by removing a current lacuna.	Not part of PSA (CHRE) report as lacuna only identified in recent High Court case.
31 NB Not in original list		New rule-making power to review certain initial stage fitness to practise decisions, similar to GMC's rule 12 provision allowing it to review decisions made in the initial stages of fitness to practise cases where a) the decision may be materially flawed or (b) there is new information which may have led to a	Improved public protection by removing a current lacuna	Suggested by DH and supported in recent PSA letter.

Item 7  
 NMC/13/73  
 25 April 2013

<i>Original proposal number</i>	<i>Current article of NMC Order (where applicable)</i>	<i>Proposed amendment</i>	<i>Principal benefits of proposed amendment</i>	<i>PSA (CHRE) position</i>
		different decision. Further, a decision may only be reviewed if it is necessary for the protection of the public, prevention of injustice to the practitioner or otherwise in the public interest.		

## Council

### Chief Executive's report

**Action:** For discussion.

**Issue:** This paper reports on key strategic developments and performance against the NMC's Corporate Plan 2013-2016.

**Core regulatory function:** This paper covers all of our core regulatory functions.

**Corporate objectives:** This paper reports against all of the NMC's corporate objectives.

**Decision required:** No decision is required but the Council is invited to note and discuss progress, including the balanced scorecard and key performance indicators (Annexe 1) and the summary of progress against KPI targets for 2012-2013 (Annexe 2).

**Annexes:** The following annexes are attached to this paper:

- Annexe 1: Balanced scorecard March 2013 report (to follow).
- Annexe 2: Summary of progress against KPI targets for 2012-2013 (to follow).

**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 This paper is a standing item on the Council's agenda and reports on key developments against the Corporate Plan 2013-2016.
- Balanced scorecard (Annexe 1)**
- 2 As agreed by Council, this will be provided 48 hours before the meeting to ensure that the most up to date information is available.
- Summary of progress against KPI targets for 2012-2013 (Annexe 2)**
- 3 At its March 2013 meeting, Council requested a summary of progress against the KPI targets on the balanced scorecard over the past year. This will also be provided 48 hours before the meeting.

**Discussion Strategic context**

**Professional Standards Authority**

- 4 The Professional Standards Authority's draft performance assessment of the NMC for 2012-2013 is expected to be received by the time of the Council meeting and will be considered separately in confidential session.

**Engagement with professional bodies, unions, educators and other regulators**

- 5 The Francis Inquiry report continues to be the main focus of engagement.
- 6 On 3 March, the Chief Executive gave a presentation at the Director of Army Nursing Services Symposium on key NMC developments, including the Francis Inquiry report.
- 7 On 6 March, the Chief Executive attended a meeting of the DH Professional Standards Strategy Board, which focused on the Francis Inquiry report.
- 8 On 12 March, the Chief Executive attended a meeting of the DH National Quality Board, which was set up as a response to the Francis Inquiry report. The board assesses quality issues in the new NHS structure.
- 9 On 11 March, the Director, Continued Practice, and the Assistant Director, Education and Standards, visited colleagues at NHS Education Scotland to discuss how they would like to see our relationship around nursing and midwifery education develop. We heard about their support for quality in practice placements and received useful feedback about our standards and quality assurance.

- 10 On 14 March, the Chief Executive spoke at an Associate Parliamentary Health Group seminar on the Francis Inquiry report. As well as making reference to the parliamentary debate following the Government's response to the Francis Inquiry report, the Chief Executive spoke about the report of the Health Committee's 2012 scrutiny meeting with the NMC, which was published on 6 March 2013.
- 11 On 18 March, the Assistant Director, Education and Standards, met the Director of Quality at Health Education England, along with other professional regulators. There are a number of recommendations in the Francis Inquiry report that require us to work together and so an early discussion of roles and priorities was timely.
- 12 On 26 March, the Chair and the Chief Executive met with Dr Dan Poulter to update him on improvements in Fitness to Practise, the NMC's plans for revalidation and progress with changes to the NMC's legal framework.
- 13 We continue to participate in NHS England's Quality Surveillance Groups, established to improve earlier identification of risks to patient safety. We are also participating in work initiated by the Care Quality Commission and the General Medical Council to improve information sharing between regulators.
- 14 Stakeholder engagement for input to the drafting of our revalidation model continues. In March we engaged with General Medical Council revalidation colleagues, representatives from the Scottish Government and a revalidation colleague in the Department of Health.
- 15 On 3 April, the Chief Executive met with senior DH officials to discuss changes to the NMC's legal framework

#### **Engagement with public and patient groups**

- 16 We have invited members of the Patient and Public Engagement Forum to meet new Council members for an informal lunch as part of their induction on 2 May.
- 17 The Patient and Public Engagement Forum will next meet on 16 May 2013.

#### **Change Management Programme**

- 18 As previously reported, we have commenced a review of the change programme to assess viability and efficacy. We will complete the first part of the review by May 2013 and will report to Council as appropriate.
- 19 We have recruited an Interim Programme Manager for developing robust plans for the Registration Improvement Programme. We are

committed to carrying out a review of all our registration policy and processes as part of the improvement programme.

- 20 An initial assessment of the impact of recommendations contained in the Francis report on the Change Management Programme has been carried out. Where possible we have incorporated our plans for addressing some of the recommendations within existing projects. We will continue to assess impact over the coming months, taking into account the response from the Government and other regulatory bodies.
- 21 We are making good progress with the review of our governance arrangements. Over the last few weeks we have had extensive engagement with a number of internal and external stakeholders and have developed and tested governance principles and options. Feedback received from stakeholders will be incorporated in the final recommendations which will be delivered in April 2013.
- 22 Progress on other aspects of the Change Management Programme is reported elsewhere on this report.

## **Regulatory priorities**

### **Fitness to Practise**

- 23 The Fitness to Practise (FtP) performance report, providing full information about activity in FtP, is included on the meeting agenda.

### **Overseas registrations**

- 24 The registration of overseas applicants recommenced on 2 April 2013. There is now a revised policy and process in place following the review of overseas registrations. We have now entered a stabilisation phase whilst we begin work on drafting a new overseas policy and process.
- 25 Additional resource has been brought into the team to assist in processing those applications that were paused in the process. The team has also received structured training and guidance on how to deal with applications under the new process. All persons applying on or after 2 April will be processed in line with the new process.

### **Registration appeals**

- 26 We have 24 registration appeals pending. Out of these, 20 are appealing against the Registrar's decision to reject their applications and four are appealing against additional conditions in the form of adaptations that the Registrar has requested they complete prior to registering.
- 27 We have held four hearings in March. Seven were scheduled but three were postponed by the appellant's representatives. Of the four

hearings, the Registrar's decisions were upheld in all. So far this year, all but one of the Registrar's decisions were upheld by the Appeal Panel. The decision that was not upheld was referred back to the Registrar (the appellant has been given a timeframe to collate further information to support his application). Two appeals were withdrawn on the day.

- 28 Eight appeals are scheduled for April 2013; however none are scheduled for May or June at present due to the reconstitution of the Council.
- 29 From July 2012 to April 2013 we had scheduled 46 hearings and concluded 26 appeals. Several hearings required two hearing dates for conclusion and the rest were adjourned by the appellants or their representatives.

### **Standards development**

- 30 The required minor amendments to the Nursing and Midwifery Council (Midwives) Rules 2012 and Standards following renaming of the National Health Service Commissioning Board to the National Health Service England have been completed. The unofficial consolidated version of The Nursing and Midwifery Order 2001 has been updated and put up on the website, all relevant publications on the website have been updated and relevant stakeholders have been informed. We have also recorded the amendments in our internal audit documentation, which is used whenever we amend the legislation.

### **Standards compliance**

- 31 The contract procurement exercise for the provision of UK-wide quality assurance services is running to timetable and the contract is due to be awarded on 30 April 2013. The evaluation panel has reviewed the bids and the bidders presented to the panel on 25 March 2013. The other project workstreams have culminated in the new quality assurance framework document which features elsewhere on the Council's agenda.

### **Governance issues**

- 32 Following successful completion of a tender exercise under a Government Procurement Services (GPS) framework, Moore Stephens has been appointed as the new internal audit service provider from April 2013. Further information is provided in the Audit Committee report (to be included in 48 - hour papers).

## Supporting functions

### Human Resources

- 33 During March 2013 we had 15 new starters, including the Assistant Director, Governance and Planning and the Head of Panel Support and Scheduling.
- 34 The pay and grading review is well underway with roles across the organisation being benchmarked to other regulators, and public and private sectors, as appropriate. Feedback from that exercise will be given to the project team at the end of April and will enable work to commence in May on establishing a new grading structure and then pay structure.
- 35 The Executive has received an initial report from advisers relating to options around pension provision and our preparation for auto-enrolment, for which our staging date is 1 February 2014. We await legal opinion on those options before being able to take the report forward and engage with Council and staff.
- 36 Directors considered the Learning and Development programme for the organisation at its meeting on 11 April and the roll-out of that plan is underway.
- 37 Performance and development review (PDR) briefings are underway as the process began on 2 April 2013. The deadline for the return of PDR summaries this year is 31 May 2013.
- 38 The Information Security e-Learning module was made available on iLearn to all staff on 11 March. All employees who have yet to complete face to face Information Security training have been sent an email letting them know they should complete the module within two weeks and directors have been given a list of all employees who need to complete this training.
- 39 Further development of the e-Learning platform has been scheduled for early April. Functionality will be put in place to enable email reminders to be automatically sent to all employees who do not complete the statutory and mandatory e-learning within the specified deadline. Employees' managers and the Learning and Development team will also receive these email notifications.

### ICT

- 40 The ICT Strategic Delivery Programme remains on course and is now moving from the planning stage to implementation on some of the key enabling projects:
- 40.1 A new licensing agreement with Microsoft has been entered into, remedying the previous position where the NMC was out

of licence and therefore exposed to potential risk.

40.2 We are now working with a supplier on the upgrade of our telephony system, a key requisite for progressing later stages of the ICT strategy, and user requirements are being established in April.

40.3 Procurement of a supplier to work with us on our desktop upgrade will be completed by the end of April.

41 An external review of our Information Security Improvement Plan has been completed and an update on progress in delivering that plan was reported to the Audit Committee in April.

**Public protection implications:**

42 Public protection implications arising from the activities in this paper are addressed as part of individual workstreams and projects.

**Resource implications:**

43 The resource implications of the various workstreams and projects are described in the monthly financial monitoring report on the meeting agenda.

**Equality and diversity implications:**

44 Equality and diversity is addressed as part of individual workstreams and projects, with equality impact assessments carried out as appropriate.

**Stakeholder engagement:**

45 Stakeholder engagement is detailed, as appropriate, in the body of this report.

**Risk implications:**

46 Any high level corporate risks that arise from the activities described in this paper, which are currently rated as red, are detailed in the risk register which is included elsewhere on the meeting agenda.

**Legal implications:**

47 Legal implications that arise from the activities in this paper are addressed as part of individual workstreams and activities.



## Council

### Professional indemnity insurance

**Action:** For decision.

**Issue:** The Department of Health is currently consulting on draft legislation which will make holding an appropriate indemnity arrangement a requirement for registration with the NMC. This paper proposes the key policy principles to be followed to assist the NMC in implementing this new legislative requirement.

**Core regulatory function:** Fitness to Practise/Registration/Standards

**Corporate objectives:** **Corporate objective 1:** We will safeguard the public's health and wellbeing by keeping an accessible, accurate register of all nurses and midwives who are required to demonstrate that they continue to be fit to practise.

**Corporate objective 3:** We will take swift and fair action to deal with individuals whose integrity or ability to provide safe care is questioned, so that the public can have confidence in the quality and standards of care provided by nurses and midwives.

**Decision required:** The Council is recommended to:

- **Recommendation 1:** Agree the proposed key policy principles for the introduction of professional indemnity insurance as a NMC requirement for registration outlined in Annexe 2 (paragraph 9).
- **Recommendation 2:** Authorise the executive to agree the drafting of the necessary legislative amendments to the *Nursing and Midwifery Order 2001* (the Order) and the *Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004* (the Rules) to give effect to the proposed key policy principles outlined in Annexe 2 (paragraph 11).

**Annexes:** The following annexes are attached to this paper:

- Annexe 1: Legislative background to professional indemnity insurance.
- Annexe 2: Proposed key policy principles for the introduction of

professional indemnity insurance as a requirement for registration.

**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 2013, the Department of Health (DH) began consulting on draft legislation that will make holding an appropriate indemnity arrangement a condition of registration with the NMC. This legislation is being introduced as a result of a new European Union (EU) directive on patient's rights<sup>1</sup>.
  - 2 All professional healthcare regulators in the UK apart from the NMC and the Health and Care Professions Council (HCPC) currently require professional indemnity insurance either for registration or as a mandatory requirement in their codes of conduct.
  - 3 By 25 October 2013, the NMC will be required to introduce processes that will make holding an appropriate indemnity arrangement a condition of registration.
  - 4 A description of the legislative background is attached as Annexe 1.
- Discussion and options appraisal:**
- 5 In preparing to introduce this new requirement, the NMC faces a number of time constraints:
    - 5.1 The directive on patients' rights must be transposed into UK legislation by 25 October 2013. The NMC has no option but to implement this legislation.
    - 5.2 By the middle of May 2013, the NMC must inform the DH what changes it requires to be made to the Order and the Rules, in order to implement its new process. Changes to the Order and the Rules are being included in the same piece of legislation that the DH is consulting on.
    - 5.3 These legislative changes will be enacted through the parliamentary approval procedure.
    - 5.4 The NMC's registration processes will need to be amended and this will result in changes to the WISER system. These changes must be scoped by May 2013.
  - 6 In order to meet the requirements of the legislation, and being cognisant of the principles of 'right-touch' regulation, the NMC's process for professional indemnity insurance will centre on a self-declaration approach that will be completed by nurses and midwives at the point of initial entry to the register, at renewal of registration and upon readmission to the register. This process reflects the approach taken by the other professional healthcare regulators.
  - 7 The NMC may undertake a monitoring process which may include considering relevant information which has been collected on

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<sup>1</sup> Directive 2011/24/EU of the Parliament and of Council on the application of patients' rights on cross-border healthcare.

registrants' indemnity arrangements and employment situation.

- 8 The proposed key policy principles for the introduction of professional indemnity insurance as a requirement for NMC registration is outlined in Annexe 2.
- 9 **Recommendation 1: Agree the proposed key policy principles for the introduction of professional indemnity insurance as a requirement for NMC registration outlined in Annexe 2.**
- 10 Some amendments to the draft DH order will be required to give effect to the proposed key policy principles in Annexe 2.
- 11 **Recommendation 2: Authorise the executive to agree the drafting of the necessary legislative amendments to the Order and the Rules to give effect to the proposed key policy principles outlined in Annexe 2.**
- 12 Once the legislation has been passed, a full policy document will be presented to Council for approval

**Public protection implications:**

- 13 The intention of the new legislation is to enshrine in law the fundamental rights of patients to have recourse to redress through compensation should they be harmed due to the negligent activity of a healthcare professional. Although research shows that the majority of nurses and midwives already hold an indemnity arrangement the new requirement will enhance public protection by extending that requirement to groups who may not previously have been covered.

**Resource implications:**

- 14 A full implementation plan is being scoped, with possible financial implications including: a possible reduction in revenue from a decrease in registrants on the NMC register (either through refusal to register or lapsing due to not having cover); and an upgrade to WISER to be able to record additional information (to be scoped).
- 15 A project manager has been accounted for in the NMC's budget going forward (approximately £80,000). Further costs or reduction in revenue have not been separately included in the budget at this time.

**Equality and diversity implications:**

- 16 A comprehensive equality impact assessment has been created along with a wider impact assessment. These have considered the equality implications of the requirement for registrants to hold an appropriate indemnity arrangement and the NMC's proposed method of implementing the new requirement. The introduction of the requirement is a legal obligation under EU law, and as such, the NMC has no control over the equality issues which may arise. However, the assessment highlighted that the NMC's proposed

process for implementing the requirements is just and fair on all groups.

- 17 The wider impact assessment carried out to assess the impact of this legislative change on our stakeholders concluded that the vast majority of nurses and midwives already have access to an indemnity arrangement through their employer, trade union, professional body or through other means. However it also highlighted that a small number of nurses and midwives do not currently have an indemnity arrangement and so may therefore be at risk of no longer meeting the requirements for registration. Foremost amongst those are self-employed nurses and midwives. This information has been provided to the DH.

**Stakeholder engagement:**

- 18 DH is the lead on the development of the required legislative changes across the health sector. The NMC is working closely with DH to ensure that the necessary legislative amendments to the Order and the Rules have been considered.
- 19 A single self declaration and media statement will be developed jointly by the health regulators, with the intention that there is a single message being portrayed to employees in the health sector.
- 20 The NMC has no option but to implement this legislation if it is passed. However it is working closely with the Royal College of Midwives and Local Supervising Authority Midwifery Officers regarding the difficulty independent midwives may face in finding viable cover. DH is also working with independent midwives to find a suitable solution to allow as many independent midwives to continue to practice as possible.

**Risk implications:**

- 21 There are a number of risks associated with the introduction of this new requirement. These include:
- 21.1 The risk that the NMC does not comply with the legislative requirement to have a system for professional indemnity insurance in place by 25 October 2013.
- 21.2 The risk that the NMC's registrations and ICT processes are not able to deliver the minimum requirements for introduction of the new system.
- 21.3 The risk that the NMC is unable to formulate its final policy position in time for it to specify its legislative requirements to the DH in May.

**Legal implications:**

- 22 The introduction of the new requirement is a result of EU legislation. The UK government has therefore published transposing legislation

to make changes to the Nursing and Midwifery Order 2001 and the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004 where necessary.<sup>2</sup>.

- 23 If the NMC fails to transpose the directive into legislation by 25 October 2013, it will not be compliant with EU law, and the UK could face infraction proceedings as a consequence.

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<sup>2</sup> Enabled through s60 of the Health Act 1999.

## Annexe 1: Legislative background to professional indemnity insurance

- 1 The draft legislation introduces the new requirement into Article 9 ('Registration') of the NMC Order. It stipulates that one of the requirements for registration is that the nurse or midwife:

*"...satisfies the Registrar that there is in force in relation to the applicant, or there will be as necessary... appropriate cover under an indemnity arrangement".<sup>1</sup>*

- 2 The source document for the introduction of professional indemnity insurance as a requirement for registration is directive 2011/24/EU 'on the application of patients' rights in cross border healthcare'. This sets out that each member state must, by 25 October 2013, transpose into domestic law:

*"...systems of professional liability insurance, or a guarantee or similar arrangement that is equivalent or essentially comparable as regards its purpose and which is appropriate to the nature and the extent of the risk, are in place for treatment provided [in Member States]"*.

- 3 The directive further provides for the purpose of its implementation a number of definitions including:

*"Healthcare" – which means "health services provided by health professionals to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medicinal devices"*.

*"Healthcare provider" – which means "any natural or legal person or any entity legally providing healthcare on the territory of a Member State"*.

- 4 The Department of Health consultation defines the nature of an indemnity arrangement as:

*"...a policy of insurance, an arrangement made for the purposes of indemnifying a person, or a combination of the two"*.

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<sup>1</sup> Paragraph 22 of the draft Health Care and Associated Professions (Indemnity Arrangements) Order 2013.



## **Annexe 2: Proposed key policy principles for the introduction of professional indemnity insurance as a requirement for NMC registration**

- 1 In order to be eligible for registration with the NMC, nurses and midwives will be required to sign a self-declaration that they hold, or will hold when they begin practising, an appropriate indemnity arrangement.
- 2 Every nurse or midwife applying to join the register for the first time, renew their registration or seek readmission to the register will be required to sign the self-declaration.
- 3 Nurse and midwives who are not able to sign the self-declaration will not be eligible for registration.
- 4 Nurses and midwives are individually responsible for ensuring that they hold an appropriate indemnity arrangement and that this reflects the level of risk associated with their scope of practice.
- 5 The Registrar may request employment information from any nurse or midwife and may seek confirmation of whether the indemnity arrangement held by the nurse or midwife is one provided by their employer, their professional body, their trade union or through commercial or other means.
- 6 The Registrar may carry out risk-based monitoring of self-declarations as appropriate.
- 7 Nurses and midwives may be required by the Registrar to provide evidence that they hold an appropriate indemnity arrangement in order to confirm the accuracy of the self-declaration that they have previously made.
- 8 Where it is discovered that a nurse or midwife did not or does not hold an appropriate indemnity arrangement in respect of their practice, they may be removed from the register through the administrative removal function or through the fitness to practise function, as appropriate.
- 9 Nurses and midwives will not be removed from the register through the administrative removal function whilst they are subject to any fitness to practise proceedings.



## Council

### **NMC quality assurance framework for nursing and midwifery education and local supervising authorities**

**Action:** For decision

**Issue:** For the first time the NMC is setting out its approach to quality assuring nursing and midwifery education, and the work of local supervising authorities for midwifery.

**Core regulatory function:** Education, setting standards.

**Corporate objectives:** **Corporate Objective 2:** We will set appropriate standards of education and practice and assure the quality of education programmes and the supervision of midwives so that we can be sure that all those on our register are fit to practise as nurses and midwives.

**Decision required:** The Council is recommended to approve the framework.

**Annexes:** The following annexe is attached to this paper:

- Annexe 1: Quality assurance framework for nursing and midwifery education and local supervising authorities.

**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 quality assurance (QA) of nursing and midwifery education and the QA of Local Supervising Authorities (LSAs) for midwifery are important regulatory functions for the NMC.
  - 2 An internal review of QA activity in these areas suggested that they might usefully be brought together in a single framework, drawing on effective practice in each area of work.
  - 3 The NMC is endeavouring to ensure that there is a transparent and agreed policy informing each of our key operations, and so we wanted to take the opportunity provided by a new outsourced contract to set out our approach to quality assurance. In doing so we wanted to distinguish our role as a regulator from those of others involved in assuring the quality of education and midwifery supervision.
  - 4 The framework sets the context of the QA function and is targeted to a general audience including our key stakeholders. In addition to that we are developing a new QA handbook, which is a detailed operational guide to our QA processes for all of those directly involved in the process.
  - 5 We are publishing our framework so that our role and activity can be understood and interrogated by any interested party, and our stakeholders can hold us to account for the consistency with which our principles are applied in practice.
  - 6 We will seek early feedback on the implementation of the framework and make any changes that are appropriate sooner rather than later in the new cycle, which starts in September 2013.
  - 7 The main components of QA are unchanged: a cycle of review visits which take as their starting point a self assessment on the part of the Approved Education Institution (AEI) or LSA, and any evidence about quality received from other sources, such as a system regulator.
  - 8 The changes we have made are largely in response to feedback from the Professional Standards Authority, LSAMOs and AEIs, relating to the proportionality of our QA, and to the burdens it can place on those under scrutiny. These changes were approved by the Council in autumn 2012 – for example, the introduction of lay reviewers into education reviews.
  - 9 We envisage publishing more detailed information about our new requirements of AEIs, designed to reduce the burden on AEIs by assessing their institutional ‘fitness’ to offer approved programmes once, rather than every time they seek approval or re-approval for a programme.
  - 10 We will also set out our responding to concerns process for AEIs

and LSAs (for education this was previously known as ‘extraordinary review’).

11 The framework has been shaped by comments on a draft by the chairs of the education and midwifery committees, and by directors. By the time it is considered by the Council, both Midwifery and Education Committees will also have had the opportunity to comment.

12 **Recommendation: Council is recommended to approve the QA framework.**

**Public protection implications:**

13 The framework makes it clear that as a professional regulator our stake in education and supervision is wholly concerned with public protection.

**Resource implications:**

14 The costs of our outsourced QA operations are currently part of a tender exercise.

15 There are two manager posts and 4 officer posts at the NMC working on aspects of education and LSA QA to include standards development. There are no plans to change this staffing but we want to refocus our internal resources on making effective use of the data generated by QA and managing productive relationships with our stakeholders and partners.

**Equality and diversity implications:**

16 There are no specific equality and diversity implications of the QA framework, although equality considerations play an important part in the QA operations that flow from the framework. We would, for example, want to know how AEIs met the needs of students with disabilities, and to hear how LSAs ensure that their services are accessible to mothers from diverse backgrounds.

**Stakeholder engagement:**

17 The framework draws on the work of a QA reference group that provided valuable insights to the NMC before the establishment of an education committee. It has been discussed with various external stakeholder groups while in development, including Cyngor in Wales, NHS Education Scotland and the UKSC which represents Specialist Community Public Health Nursing (SCPHN) educators across the UK.

18 In November 2012 the NMC canvassed opinion using a questionnaire format via SurveyMonkey. This was not a formal consultation but an opportunity to seek the views of key stakeholders to help inform the development of the new QA framework. We had 143 responses from the range of our key stakeholders. The survey

was targeted at the AEs, Chief Nursing Officers in the four countries, Council of Deans, Education Commissioners, Lead Midwives of Education, LSAMOs, LSA reviewers, QA reviewers and the patient/public forum members.

**Risk implications:**

- 19 Publishing a clear framework should reduce risks that arise whenever operations take place outside of an approved framework. It also mitigates the risk of being seen as insufficiently transparent and open.
- 20 Imminent review of standards may be perceived as another potential risk to the delivery of the framework. We propose to manage this risk by careful briefing of reviewers, and by requiring our supplier to frame visits in such a way as to avoid duplicative activity.

**Legal implications:**

- 21 We are taking legal advice on some specific matters associated with the framework to ensure that our requirements of AEs are consistent with our own legislation.

## Annexe 1

### The NMC Quality Assurance Framework

for nursing and midwifery education and the supervision of  
midwives

DRAFT

# The NMC Quality Assurance Framework

## for nursing and midwifery education and local supervising authorities for midwifery

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# The NMC Quality Assurance Framework for nursing and midwifery education and local supervising authorities for midwifery

## Part 1

### Introduction

- 1 The Nursing and Midwifery Council is the UK regulator for nurses and midwives. Our purpose is to protect the public.
- 2 We set standards for nursing and midwifery education and practice, and issue a code of conduct for nurses and midwives. We maintain a register of qualified nurses and midwives who are capable of safe and effective practice. We act when concerns are raised about the conduct or competence of our registrants.
- 3 At the time of writing there are 79 education institutions approved by the NMC to offer programmes of nursing and midwifery education. There are just short of 1,000 programmes in approval at the current time. The high volume component of programmes we regulate (in terms of student numbers) is pre-registration education<sup>1</sup>. Our role as a regulator in these programmes is clear as they are linked to the integrity of our register and its role in public protection.
- 4 We also currently approve a range of post-registration programmes<sup>2</sup>. We are aware that some of the standards we set for these programmes are in need of revision. This year we are publishing a high level policy for standards and a provisional cycle for the review of our existing standards.
- 5 We are also embarking on a piece of work to improve our register. Our intention is to have a clear rationale based on public protection for any post-registration qualification which features on the register. This is likely to lead to changes in the range of post-qualification standards which we regard as needing regulatory approval.
- 6 There are currently 14 Local Supervising Authorities (LSAs) for midwifery, and these are based within NHS institutions, although they are responsible for the supervision of all midwives practising within their area. LSA responsibilities include ensuring that:
  - 6.1 all practising midwives have submitted their intention to practise forms (ITP)

<sup>1</sup> The pre-registration standards are Pre-Registration Nurse Education (2010) and Pre-Registration Midwifery Education (2009)

<sup>2</sup> Currently the post qualifying standards are: Standards for the preparation and practice of supervisors of midwives (2010); Standards to support learning and assessment in practice (2008); Overseas midwives programme: Standards for adaptation to midwifery in the UK (2007); Standards of proficiency for specialist community public health nursing (2004); Standards of proficiency for nurse and midwife prescribers (2006); Standards for specialist education and practice (2001)

- 6.2 midwives and student midwives have access to supervisors of midwives
  - 6.3 midwives have an annual review of their performance and learning needs
  - 6.4 the practice of supervision is audited annually
  - 6.5 supervisors of midwives have access to CPD
  - 6.6 women and user organisations are involved in assuring the quality of provision
  - 6.7 concerns about midwives or other patient safety concerns are investigated or escalated as set out in the Midwives' Rules and Standards (2012).
- 7 We are publishing our quality assurance framework (QAF) for the first time. Our objectives in doing so are:
- 7.1 **Transparency:** as a public body it is right to explain what we do and why
  - 7.2 **Clarity:** about our role and the responsibilities of others
  - 7.3 **Utility:** we want to provide better tools for those involved in education and supervision to help them meet our standards
  - 7.4 **Accountability:** we welcome feedback about whether our practice matches our stated approach
  - 7.5 **Improvement:** our framework will change over time in response to contextual factors and the performance of those we quality assure.
- 8 The target audience for our framework is the public (including service users, carers and students) strategic partners and the wider community of interest in nurse and midwifery education and the quality and safety of midwifery supervision.
- 9 We also publish a Quality Assurance Handbook (QAH) which sets out the detail of our QA processes, primarily for the benefit of those directly involved in education and LSA QA.

## The legislative basis for our role

- 10 The Nursing and Midwifery Order (2001) defines our role in the education and training of nurses and midwives (Part IV). We set standards that must be met by nurses and midwives entering the register and that in some circumstances must be met by existing registrants in order to fulfill a particular function. Providers of education and training can apply to deliver programmes that enable students to meet these standards. In order to deliver approved programmes providers need to meet our requirements of approved education institutions (AEI). The Order also allows us to withdraw approval from programmes.

- 11 The Order also gives us a particular role in overseeing the supervision of midwives – an additional public protection measure (Part VIII). It is supplemented by the Midwives' Rules and Standards (2012) which form the basis of our quality assurance of LSA.
- 12 This quality assurance framework (QAF) addresses both the quality assurance of education and the quality assurance of the LSA.

## The context in which we regulate

- 13 There is a strong public interest in the quality of nursing and midwifery. The public wants assurance that our registrants have the skills, knowledge and behaviours to offer safe and effective care, and to have regard to the well being of service users as well as their health outcomes.
- 14 High profile failures of care can undermine public trust in nursing and midwifery. Regulators are urged to redouble their efforts to prevent avoidable harm to service users. System regulators are responsible for assuring the quality of care in hospitals, care homes and other settings. That is not the role of professional regulators. However, when we are fulfilling our regulatory function in assuring the quality of education or midwifery supervision, we may become aware of concerns about patient safety or the quality of care. In these instances we will always take action, even if that action is to refer the matter to another body. We have a process called raising and responding to concerns that sets out the steps we take in these instances.
- 15 We also fulfil our duty to protect the public by making sure everyone involved in education and supervision, including students and service users, knows how to raise a concern with us.
- 16 In addition to ensuring our QA contributes to identifying and responding to risk, we will make an effective contribution to wider public protection initiatives. We will establish clear processes for information sharing with other regulators and improve our capacity to respond to requests for data from third parties with a role in quality and risk. These developments may have a bearing on the data we seek from education and supervision and the use we make of it.
- 17 The changes to our framework are informed by:
  - 17.27 Stakeholder views
  - 17.28 Feedback from those we quality assure – AEs (including practice placements) and LSAs
  - 17.29 Perspectives of the Professional Standards Authority (PSA)
  - 17.30 Peer engagement with other regulators
  - 17.31 Notable developments in the health and education sectors, such as the Francis Report

- 18 This context will also inform changes to how we report publicly on the outcomes of our QA activity.

### **A UK wide role in nursing and midwifery**

- 19 We have a UK wide remit and therefore have a responsibility to understand and interpret the strategic context in England, Northern Ireland, Scotland and Wales and to set standards that resonate with education and practice in each jurisdiction. We are assisted in this by effective relationships between the national commissioners of education and healthcare, so that equilibrium is maintained across diverse national interests and there is a conduit for sharing effective practice.

### **The role of others in quality**

#### **Education**

- 20 As a professional regulator the NMC has an important and specific role in the education of nurses and midwives.
- 21 We ensure that pre-registration education programmes provide students with the opportunity to meet standards that make them eligible for registration with the NMC. In a few circumstances, we also assure that programmes for those already registered with us meet standards associated with particular roles and functions.
- 22 We set requirements for providers of NMC approved programmes, which we call Approved Education Institutions (AEIs). These are the minimum requirements we believe necessary for the delivery of programmes that meet our standards.
- 23 Our standards for programmes are threshold standards – they are met or not met. This is a necessity for our regulatory functions – we must have a basis on which to make judgments about joining or being removed from the register. However, when we approve or review provision we may judge it to be partially met with mandatory conditions.
- 24 Our remit is in the assurance of standards and not for their improvement but we can contribute to improvement led by providers and HE sector or professional bodies by making the knowledge we have about provision more widely available. Commissioners can also use our data to improve commissioning. We also contribute to quality improvement through reviewing our standards, which can change the threshold standards for nursing and midwifery. Other authoritative bodies in nursing, midwifery or higher education may develop professional standards that might support advanced practice, wider specialisms and career pathways.
- 25 Responsibility for the day to day management of quality lies with the provider. Our education providers are partnerships between AEIs and practice settings. The AEI is accountable to the NMC for the management of quality (and risk) of the education- and practice-based elements of their provision. However, we recognise that this is challenging and we are committed to working to support and encourage a focus on quality education in practice settings. We can do this through the framework and through our strategic engagement with health sector partners so

that we are all promoting the relationship between the clinical and educational quality in settings.

- 26 We are a professional regulator and not an educational regulator. Programmes that meet our standards also bear academic awards or credits and it is not our job to verify the academic standards of our programmes. That is the responsibility of the providers themselves through their own internal quality assurance, and of the Quality Assurance Agency for Higher Education (QAA).
- 27 However, we uphold the UK policy position that nursing and midwifery are degree level entry professions and so it is a requirement of AEIs that they have degree awarding powers or access to those powers through another degree-awarding institution. We seek to minimise the burden on AEIs by participating in joint QA events with the AEI and/or other regulators where possible, but we do so with clarity about our respective roles in a joint process.

### Supervision of midwives

- 28 Our role in the quality assurance of local supervising authorities (LSA) is to ensure compliance with standards we set for supervision in the Midwives Rules and Standards (2012). Quality management and improvement are the responsibility of LSAs and for employed midwives, employers. An important part of our LSA QA is assuring local quality management. Midwifery services are also subject to scrutiny by health service system regulators, with a focus on whether women and their babies are given safe and effective care.

### Our approach to quality assurance

#### Public protection

- 29 We are required to protect the public in all of our regulatory functions. We do this in QA of education and supervision by:
- 29.1 Ensuring new entrants to the register are capable of meeting standards set for safe and effective practice
  - 29.2 Ensuring that everyone involved in education and the supervision of midwives, including students and service users, knows how and when to raise a concern
  - 29.3 Ensuring that providers of education and supervision act swiftly and effectively when there are questions about the fitness to practise of a student (whether pre- or post-registration) or a midwife

#### Right touch regulation

- 30 We regulate within a framework set by the PSA and it defines right touch regulation as regulation which is **proportionate, consistent, targeted, transparent, accountable and agile**. We will encourage stakeholders to give us feedback about whether we are demonstrating these attributes through our QA. Publishing this framework is one of the measures we are taking to become more transparent and accountable.

## Focusing on outcomes

- 31 We will move towards a greater focus on the outcomes of education and supervision, and draw back from specifying how those outcomes are to be realised. Some of our existing standards are over-specified and as a consequence, difficult to apply in diverse contexts. It will take time to review our standards and to ensure they are fit for purpose in this regard, but we are committed to making this shift in the relationship between the NMC as regulator and those responsible for providing education and supervision.
- 32 There are four main reasons why we want to focus on outcomes.
- 32.1 **Public interest** – the public concern is the outcome of safe and effective care
  - 32.2 **Fostering mature professionalism** – we recognise the expertise of educators (in HE and practice) and LSAMO/SOM and we want to empower them to exercise informed professional judgment about the most effective approaches to meeting our standards
  - 32.3 **Enabling innovation** – we operate within a fast changing environment and it is in the interest of patients and service users that educators and supervisors can experiment safely with new approaches to delivery
  - 32.4 **Authority** - we have a statutory remit for setting standards but educators and LSAMO/SOM are best placed to judge how they should be met, and to manage our expectations alongside those of education and/or service.
- 33 We want to offer those responsible for education and supervision more discretion over how they meet our standards, to share the burden of risk appropriately between the regulator and AEI/LSA, and to make authoritative and clear judgments about how education and supervision are contributing to public protection.

## Risk based model

- 34 We have been developing a risk-based approach to education and supervision, including:
- 34.1 Increasing the focus in education monitoring on aspects of provision where risk is anticipated or known
  - 34.2 Promoting reporting by exception for AEIs and LSAMOs
  - 34.3 Establishing processes for raising and responding to concerns
- 35 We have not taken the view at this stage that our QA should be solely based on risk. We see all AEIs and LSAs in a review cycle. We do this because:
- 35.1 Our experience suggests that while there are some more or less effective AEI and LSA, it would be more accurate to say that there are

riskier aspects of education and supervision than that there are riskier AEI/LSA

- 35.2 There is a degree of volatility year on year, not least because education and supervision are affected by the volatility in the health service
- 35.3 It is important to see the spectrum of provision in order to be confident in our judgments about where to pitch our threshold standards
- 35.4 A solely risk-based approach would require a greater degree of confidence in our risk intelligence and management.

36 We will continue to focus on risk through:

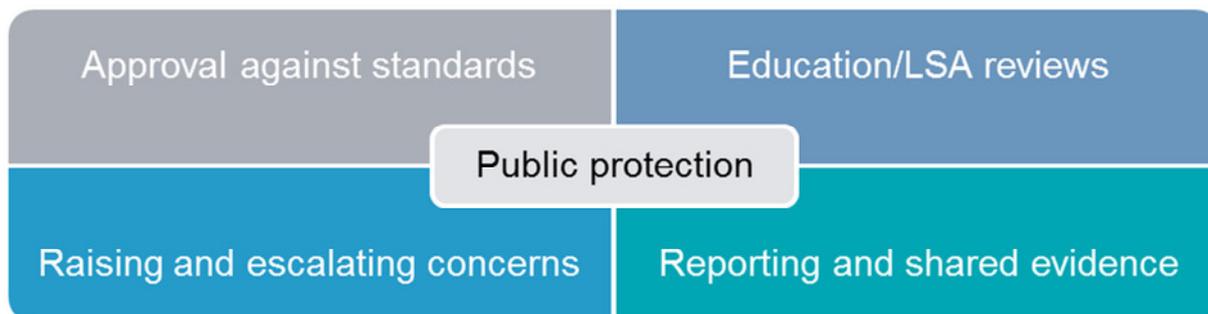
- 36.1 Scrutiny and support for the practice-based element of education
- 36.2 Requiring risk-based reporting in respect of education and supervision

### Involving stakeholders

- 37 The NMC's quality assurance of education and supervision will engage service users, students, registrants, educators (in HE and practice), and those with responsibility for supervision to inform our judgments about quality.
  - 37.1 We have strengthened requirements on education providers to involve **service users and carers** in the design, delivery and evaluation of programmes and we will build on this theme in our requirements of AEIs.
  - 37.2 **Students** and new entrants to the professions are an invaluable source of intelligence for education and service and we will consider whether we should seek direct student feedback ourselves or continue to draw on feedback to others.
  - 37.3 We rely on **educators** in AEI and settings and on **LSAMO/SOM** to make exacting judgments about the standards achieved by students and registrants. They provide us with valuable feedback on the application of our standards in practice.

## Part 2

### Delivery of quality assurance



- 38 The NMC has statutory duty to set and assure standards for education and midwifery supervision. We are responsible and accountable for the QA Framework. Our Council approves our approach to QA and has strategic oversight of its delivery and effectiveness. It sets the high level policy for QA and issues reports on QA activity. It receives LSA reports and has formal responsibility for approval and withdrawal of approval of education programmes. Council also approves significant changes to the QA framework.
- 39 The NMC role includes:
- 39.1 Commissioning and overseeing an effective QA process
  - 39.2 Developing and using intelligence from QA to protect the public
  - 39.3 Sharing intelligence from QA appropriately with others
  - 39.4 Making effective use of intelligence from others<sup>3</sup> to inform QA
  - 39.5 Using our evidence from QA to influence the strategic context for nursing and midwifery education and for midwifery to improve public protection
  - 39.6 Engagement with stakeholders in education and the supervision of midwives.
- 40 The operational delivery of quality assurance of education and midwifery supervision is outsourced to a supplier that:
- 40.1 Recruits, trains and manages the performance of NMC reviewers
  - 40.2 Schedules and organises QA visits
  - 40.3 Issues and updates documentation governing QA processes, including the QA Handbook

<sup>3</sup> These may include other regulators, or bodies involved in the commissioning or quality assurance of healthcare education.

- 40.4 Manages QA reporting on the part of AEI and LSA
- 40.5 Supplies and maintains data relating to AEI and LSA
- 40.6 Reports to the NMC on its delivery of the QA operations contract.

## Elements of quality assurance - education

### Requirements of Approved Education Institutions

- 41 Our QA of education is based on whether provision meets our education standards. Our practice has been to produce education standards which incorporate a mixture of requirements of providers and outcomes we seek from students who successfully complete the course. As a consequence we have placed unnecessary burdens on providers who have been required to resubmit evidence of their institutional 'fitness to provide' repeatedly. In response to feedback from providers we are introducing **requirements of approved education institutions (AEI)** which providers will need to meet once. Thereafter they will need to report by exception on any changes to their ability to meet the requirements and their on-going 'fitness to provide' will be the subject of review.
- 42 Our existing providers will be audited against the requirements of AEI from September 2013 to confirm their AEI status and provide a benchmark for QA.
- 43 We will be able to refocus approval and re-approval visits on assurance of the programme in question. There will be a period of transition during which time our existing standards will still be effective (which range across provider and programme requirements) and so we will need careful guidance for reviewers so that they are clear that do not need to revisit requirements of providers because they have been assured by other means.

### Approval and re-approval

- 44 An AEI requests an approval event if it wishes to run an NMC approved programme. It submits documentation for scrutiny which demonstrates how it meets or intends to meet NMC standards.
- 45 An approval event is arranged which meets the internal QA requirements of the AEI and those of the NMC and any other regulator involved.
- 46 The approval team will include reviewers who are registrants and may be drawn from education and practice settings. They will have no recent connection with the AEI in question. We give due regard to the programmes under consideration, and ensure that each team includes reviewers with the relevant specialist knowledge.
- 47 The reviewer submits a report on the programme that details whether our standards are met, partially met (with conditions) or not met.
- 48 If conditions are set these must be met before the programme is delivered.
- 49 Responsibility for approval, reapproval or withdrawing approval resides with the NMC.

- 50 Our requirements of AEIs will include expectations that AEIs take responsibility for:
- 50.1 making timely requests for approval and reapproval
  - 50.2 only enrolling students to programmes in approval
  - 50.3 requesting approval only when they judge programmes to be ready.

### **Programme modification**

- 51 AEIs may submit modifications to approved programmes. How these are managed depends on the extent of change and the process is detailed in the QA Handbook.

### **Endorsement**

- 52 In principle, a programme presented for approval in one UK country may be approved to be delivered in any of the other UK countries.
- 53 The process of endorsement does not allow a programme to be approved in the UK for sole delivery outside of the UK but approved programmes may be delivered outside the UK with the UK AEI bearing responsibility for quality.

### **Self-assessment and review**

- 54 Review is the process by which the NMC assures itself that AEIs continue to meet NMC standards for the programmes they run, and the requirements for AEIs. Review teams are also looking at how the AEI manages any risks associated with delivery of the programme.
- 55 The review is informed by the AEI's annual self-assessment report and by intelligence from other sources that speaks to the quality or risk of the AEI or its practice placement partners.
- 56 The NMC will publish a schedule of planned review visits and every year it will include a sample of AEIs selected on a risk basis. We will also undertake unscheduled visits if required in response to any emerging public protection concerns. We have a process for managing such concerns.
- 57 There may be a thematic or a geographical element to a cycle of reviews.
- 58 Review teams will consist of a managing reviewer, registrant reviewers (where possible, drawn from education and practice) and a lay member. Registrant reviewers will be selected with due regard for the particular programmes under scrutiny.
- 59 Review will always take account of feedback from service users and students involved with programmes under scrutiny. The NMC does not use students or service users as reviewers but encourages AEIs to involve them meaningfully in review.
- 60 Outcomes of reviews are shared with the provider in draft for their comment on matters of fact and will be published on the NMC website.

## Elements of quality assurance – supervision of midwives

### Role of the local supervising authority

- 61 The NMC has devolved quality management responsibilities for supervision of midwives to the LSAs who in turn verify that standards for supervision of midwives are being met. LSAs:
- 61.1 audit statutory supervision of midwives and midwifery practice on an annual basis
  - 61.2 submit an annual report about the impact of supervision, any concerns or trends in maternity services, and examples of effective practice
  - 61.3 submit quarterly quality monitoring reports as a structured means of regular reporting from LSAs in order to provide more contemporaneous data

### Self assessment and review

- 62 The purpose of the LSA review is assurance that the LSA is meeting NMC standards for supervision. The review also enables exploration of any issues that may have an impact on the safety and wellbeing of women and babies.
- 63 As with education QA, review visits are informed by annual self-assessment on the part of the LSA and intelligence from other sources.
- 64 There may be a thematic or geographical element to a cycle of reviews.
- 65 The LSA review team will always include a managing reviewer, an LSAMO, a registered midwife and a lay member.
- 66 Reviews will draw on feedback from maternity service users and from midwives supervised by the LSA in question.
- 67 Reports of review visits will be shared with LSA for comments on facts and will continue to be published on the NMC website.

### NMC reporting on quality assurance of education and midwifery supervision

- 68 Our past practice has been to publish LSA review reports in full but to publish summary information about the outcomes of education QA activity. From September 2013 all of our QA outcomes will be in the public domain, as part of our commitment to transparency and information sharing. This may have a bearing on how outcomes are presented, and we will be working on reports formats with sector stakeholders and our outsourced supplier.
- 69 The NMC will publish an annual report on the basis of education and LSA self reporting and the outcomes of its QA activity. We will also use these sources of

intelligence to refine the focus of QA activity year on year, mindful of the need to give AEIs and LSAs adequate notice of any new expectations we may have.

- 70 The NMC will report to Council on the performance and outcomes of QA activity so that Council has the opportunity to shape the direction of travel for QA on the basis of evidence. Our evidence about the delivery of the function will include quarterly and annual reports from our supplier about the delivery of the contract.

### **Thematic reporting**

- 71 We may require AEIs or LSAs to report on particular themes or explore themes through review in order to gain evidence about an aspect of public protection. We will be mindful of the need to avoid placing undue burdens on AEIs or LSAs and will give reasonable notice where possible.

### **Effective practice**

- 72 We will continue to highlight instances of effective practice when we report on our QA activity.
- 73 There are many health and education sector bodies with a remit for quality improvement and the promotion of innovation, and we will maintain constructive relationships with them in order that their work informs our own as appropriate.

### **Research**

- 74 At the present time we have a lot of change to manage with a new contract and framework, but we have a longer term goal of making our data available to the research community to exploit its potential beyond the uses we make of it as a regulator. This is a discussion we hope to take forward with stakeholders in due course.

## Council

### Revised corporate complaints processes

**Action:** For discussion.

**Issue:** An update for Council members on the planned review of the corporate complaints process.

**Core regulatory function:** Supporting functions.

**Corporate objectives:** Corporate objective 6: "We will develop and maintain constructive and responsive communications so that people are well informed about the standards of care they should expect from nurses and midwives, and the role of the NMC when standards are not met."

**Decision required:** The Council is recommended to note the report on the planned review of the corporate complaints process (paragraph 8).

**Annexes:** There is no annexe 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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**Context:**

- 1 The current corporate complaints handling process was introduced in April 2009. The process has been managed, since that time, by the Office of the Chair and Chief Executive (OCCE) and a dedicated complaints manager joined the OCCE in April 2011.
- 2 The current process covers complaints and feedback about our administration and processes but not the outcome of fitness to practise cases. Quarterly complaints reports have been discussed by the NMC's senior management team since July 2009. The NMC director team now reviews complaints on a monthly basis.
- 3 Since July 2011, Council have discussed complaints statistics on a quarterly basis in public session. Our record in responding to complaints within the current 20-day timescale and the number of complaints that are upheld or partially upheld forms part of the NMC's key performance indicators.
- 4 In May 2013, Council will receive a report on the complaints handled under the current corporate complaint process in the financial year 2012-2013.

**Discussion and options appraisal:**

- 5 In 2012, the CHRE (PSA) strategic review highlighted the need for the NMC to improve its governance and customer service. Effective handling of corporate complaints is an important part of good governance and customer service.
- 6 A number of additional factors have prompted a review of the current arrangements for complaints handling, namely:
  - 6.1 the period that has elapsed since the last formal review of the process
  - 6.2 the increased volume of complaints being handled by the OCCE. In 2010/2011, 132 complaints were logged by OCCE. In 2012/2013, this number had risen to over 400.
  - 6.3 the changes resulting from the 2012 NMC organisational restructure which have impacted on staffing and directorate structures and the creation of an assistant director in the corporate governance directorate responsible for quality assurance issues
  - 6.4 the increased number of referrers raising concerns about decisions to close their fitness to practise cases through the corporate complaints route
  - 6.5 the expectation (see paragraph 5 above) that learning from complaints will be integrated alongside the feedback from other avenues and will result in service improvement.

- 6.6 the increased expectations from external professional stakeholders about the service they receive from the NMC.
- 7 The review of our complaints process will include, among other areas:
- 7.1 the current process for the management of corporate complaints, including reference to the Parliamentary and Health Service Ombudsman's 'principles for good complaints handling'
  - 7.2 the resourcing of the complaints handling function and whether the role continues to sit within the OCCE or should move to the corporate governance team and the recently-established corporate quality assurance function.
  - 7.3 the learning from complaints and the use of complaints outcomes to generate service improvements and the approach to customer service at the NMC.
  - 7.4 the ownership of complaints at a local level by directorates. If complaints are dealt with - and resolved - by the frontline service areas, this would impact on resourcing and responsibilities within these areas.
  - 7.5 the categorisation of complaints. Council have previously discussed how the outcome of complaints should be recorded. Following discussions with other regulatory bodies, we will be considering an approach based on the outcome for the NMC rather than the NMC's own assessment of whether a complaint was upheld or not.
  - 7.6 the future reporting of complaints to Council. As the reporting of corporate performance information becomes more sophisticated, we will be considering whether reporting on complaints should be included in the suite of performance information regularly reviewed by Council rather than as a standalone item.
  - 7.7 input from complainants about their concerns. In February 2013, Council members had expressed views about how they are made aware of complaints for the public. The approach in this area is still being scoped as part of the work on the Francis Report.
- 8 Recommendation: Council is invited to note the report on the planned review of the corporate complaints process.**

<b>Public protection implications:</b>	9	There are no direct public protection implications. However, members of the public and registrants expect the NMC to have a robust process in place to dealing with the concerns that are raised about our ability to deliver a high-quality service.
<b>Resource implications:</b>	10	There are no direct resourcing costs contained within the paper other than those that are budgeted for as part of the usual course of business. Any moves towards a more local approach to the management of complaints would impact at a directorate level.
<b>Equality and diversity implications:</b>	11	An equality assessment impact assessment has not, to date, been undertaken in this area.
<b>Stakeholder engagement:</b>	12	Input has already been sought from regulatory partners, The PSA will also be approached from input.
<b>Risk implications:</b>	13	None from this paper.
<b>Legal implications:</b>	14	None from this paper.

## Council

### Draft Annual Governance Statement

**Action:** For decision.

**Issue:** As part of the NMC's annual report and financial statements, we are required to publish an annual governance statement. The draft annual governance statement is attached for the Council's consideration.

**Core regulatory function:** Supporting functions.

**Corporate objectives:** Corporate Objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."

**Decision required:** The Council is recommended to approve the draft annual governance statement at annexe 1.

**Annexes:** The following annexes are attached to this paper:

- Annexe 1: Draft Annual Governance Statement.
- Annexe 2: National Audit Office Governance Statements Fact Sheet

**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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<b>Context:</b>	1	Like other organisations audited by the National Audit Office (NAO), the NMC is required to publish an annual governance statement as part of its annual report and accounts. The annual governance statement is an important public accountability document which is intended to provide the reader with a clear understanding of the dynamics and control structure of the organisation, and an assessment of the principal risks to corporate objectives.
	2	There is no set template for the annual governance statement, although it must include key disclosures relating to governance, risk, and control. These are set out in HM Treasury (2012) Managing Public Money and reproduced in the NAO Fact Sheet at Annexe 2. The draft annual governance statement has been prepared in accordance with the guidance.
	3	At its meeting on 19 April, the Audit Committee was asked to consider the draft statement to provide assurance to Council. The Committee's considerations are set out in the Audit Committee report (within the 48-hour papers).
<b>Discussion:</b>		<b>Recommendation: The Council is recommended to approve the draft annual governance statement at annexe 1.</b>
<b>Public protection implications:</b>	4	No direct public protection issues.
<b>Resource implications:</b>	5	None other than staff time to prepare the reports.
<b>Equality and diversity implications:</b>	6	Not directly as a result of this report.
<b>Stakeholder engagement:</b>	7	None.
<b>Risk implications:</b>	8	The draft annual governance statement incorporates a description of the NMC's risk management process, including the Audit Committee's assurance remit, and an assessment of the principal risks.
<b>Legal implications:</b>	9	None.

Item 16  
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## **DRAFT Annual Governance Statement**

The Nursing and Midwifery Council is the independent regulator for nurses and midwives in the UK, established by, and governed in accordance with, the Nursing and Midwifery Order 2001 (“Order”).

The NMC is a charity registered in England and Wales (number 1091434) and in Scotland (number SC038362). As required, we have had regard to the Charity Commission’s guidance on public benefit.

### **The Council**

The Council is the governing body of the NMC and the Council members are the charity trustees. The Council members are collectively responsible for directing the affairs of the NMC, ensuring that it is solvent, well-run, and delivers public benefit.

In accordance with the Order, the Council consisted of fourteen members during the year ended 31 March 2013: seven registrant members and seven lay members. Lay members are those who have never been a registered nurse or midwife. All members are appointed by the Privy Council.

The following served as Council members during the year ended 31 March 2013:

<b>Mark Addison CB</b>	(Chair from 10 September 2012)
<b>Professor Judith Ellis MBE</b>	(Council member since 1 January 2009, Deputy Chair from to 1 April 2012 to 9 September 2012)
<b>Alison Aitken</b>	
<b>Dr Kuldip Bharj OBE</b>	
<b>Sue Hooton OBE</b>	(appointed 12 June 2012)
<b>Lorna Jacobs</b>	
<b>Grahame Owen</b>	
<b>Nicki Patterson</b>	(appointed 12 June 2012)
<b>David Pyle</b>	
<b>Carole Rees-Williams</b>	
<b>Ruth Sawtell</b>	
<b>Beatrice Teuten</b>	
<b>Professor Jane Tunstill</b>	
<b>Joyce Fletcher</b>	(resigned 31 May 2012)

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In accordance with the Nursing and Midwifery Council (Constitution) (Amendment) Order 2012, the Council was reconstituted on 01 May 2013 and all existing Council members, apart from the Chair, demitted office. Following the reconstitution, the Council consists of twelve members: six registrant members and six lay members.

The Privy Council appointed the following members to hold office from 01 May 2013:

**[NAMES TO BE INSERTED FOLLOWING PRIVY COUNCIL DECISION]**

### **Role of the Council**

The Council is responsible for:

- Ensuring the NMC effectively fulfils its statutory objectives, general functions and duties and appropriately exercises the legal powers vested in it under the Nursing and Midwifery Order 2001, the Charities Act 2011, and other relevant legislation.
- Determining the overall strategic direction of the NMC.
- Annually approving the corporate plan and ensuring the necessary resources are available to achieve it.
- Monitoring the performance of the Chief Executive and Registrar through the Chair and holding them to account for the exercise of powers delegated by the Council in the scheme of delegation and delivery of the corporate plan and budgets.
- Promoting and protecting the NMC's statutory powers, values, integrity, image and reputation.
- Ensuring high standards of governance that command the confidence of all stakeholders.

### **Committees**

The Order requires there to be a Midwifery Committee. The Council may establish other committees for specified purposes. The Appointments Board, the Audit Committee, and the Remuneration Committee operated throughout the year ended 31 March 2013. During the year, the Council established the Education Committee, the Finance & IT Committee, and the Fitness to Practise Committee. The key responsibilities and activities of each committee are summarised below.

#### **Appointments Board**

The Appointments Board is responsible for ensuring that the processes for the appointment, training, and performance management of partner members are independent, transparent, and follow good practice. Partner members include non-Council members of committees, fitness to practise panel members, and Local Supervising Authority reviewers. To maintain the Appointment Board's independence, its five members, including the Chair, are partner members. The Chair of the Appointments Board during the year was Professor Nigel Ratcliffe.

#### **Audit Committee**

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The Audit Committee is responsible for ensuring that the NMC's business is conducted with the highest integrity, probity, and efficiency, and that there are appropriate systems in place for managing risk. The Chair of the Audit Committee during the year was Ruth Sawtell, a Council member.

### **Education Committee**

The role of the Education Committee is to advise the Council on discharging its responsibility for ensuring that the standards and requirements set for approved educational institutions in the United Kingdom, concerned with the education and training of nurses and midwives, are met. The Education Committee met for the first time on 24 January 2013. The Chair of the Education Committee during the year was Professor Judith Ellis MBE, a Council member.

### **Finance and IT Committee**

The role of the Finance and IT Committee is to advise the Council on the development and implementation of appropriate financial and information technology plans, to enable the NMC to fulfil its statutory functions, maintain sound financial health and robust control over its information technology systems. The Finance and IT Committee met for the first time on 24 January 2013. The Chair of the Finance and IT Committee during the year was Grahame Owen, a Council member.

### **Fitness to Practise Committee**

The role of the Fitness to Practise Committee is to advise the Council on the performance and management of the NMC's fitness to practise activities. The Fitness to Practise Committee met for the first time on 19 February 2013. The Chair of the Fitness to Practise Committee during the year was Beatrice Teuten, a Council member.

### **Midwifery Committee**

The statutory remit of the Midwifery Committee is to advise the Council on all matters relating to midwifery. The Chair of the Midwifery Committee during the year was Dr Kuldip Bharj OBE, a Council member.

### **Remuneration Committee**

The role of the Remuneration Committee is to advise on the appointment and remuneration of the Chief Executive and Registrar and of the directors and to agree remuneration arrangements for members of the Council. The Chair of the Remuneration Committee during the year was John Halladay, a partner member.

### **Attendance at Council and Committee meetings**

Attendance by members and partner members at Council and committee meetings during the year is recorded below.

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**Council**

Member	Council*	Attended
Mark Addison CB	6	6
Professor Judith Ellis MBE	10	10
Alison Aitken	10	7
Dr Kuldip Bharj OBE	10	6
Sue Hooton OBE **	8	6
Lorna Jacobs	10	10
Grahame Owen	10	10
Nicki Patterson **	8	7
David Pyle	10	9
Carole Rees-Williams	10	5
Ruth Sawtell	10	10
Beatrice Teuten	10	9
Professor Jane Tunstill	10	9
Joyce Fletcher	2	1

\* not including a confidential only session of Council held on 24 January 2013

\*\* The appointments of both Sue Hooton and Nicki Patterson took effect from 12 June 2012. Neither attended the 21 June Council meeting due to short notice.

**Audit Committee**

Member	Committee	Attended
Ruth Sawtell	4	4
Grahame Owen (until 12 December 2012)	3	2
Bea Teuten	4	4
Sue Hooton OBE (from 12 December 2012)	1	0

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Member	Committee	Attended
Professor Jane Tunstill (from 12 December 2012)	1	1
Julia Drown (partner member)	4	4
Kim Lavelly (partner member) (resigned 12 December 2012)	3	3
Louise Scull (partner member)	4	4

**Midwifery Committee**

Member	Committee	Attended
Dr Kuldip Bharj OBE	3	3
David Pyle	3	1
Gillian Boden (partner member)	3	3
Marie McDonald (partner member)	3	3
Dorothy Patterson (partner member)	3	3
Kirsty Darwent (partner member)	3	2
Ann Holmes (partner member)	3	1
Frances McCartney (partner member)	3	2
Rose McCarthy (partner member) (resigned 11 September 2012)	1	0

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**Remuneration Committee**

Member	Committee	Attended
John Halladay	5	5
Dr Kuldip Bharj OBE	5	4
David Pyle	5	5
Professor Jane Tunstill	5	5

**Finance and IT Committee**

Member	Committee	Attended
Grahame Owen	2	2
Lorna Jacobs	2	1
Alison Aitken	2	1
Louise Scull (partner member)	2	2

**Fitness to Practise Committee**

Member	Committee	Attended
Bea Teuten	3	3
Lorna Jacobs	3	3
Carole Rees-Williams	3	1

**Education Committee**

Member	Committee	Attended
Judith Ellis	1	1
Sue Hooton OBE	1	0
David Pyle	1	1

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### **Role of the Executive**

The Chief Executive and Registrar is the NMC's chief officer and has executive responsibility for the operational management of the NMC. This includes procedures for financial matters, conduct and discipline. The Chief Executive and Registrar is supported by the Directors Group.

The Chief Executive and Registrar is responsible for ensuring the Chair and Council have timely, accurate and clear information to carry out their responsibilities.

The Chief Executive and Registrar is responsible for leading the Directors Group and staff in:

- Fulfilling the NMC's statutory objectives, general functions and duties and exercising its legal powers.
- Developing plans, programmes and policies for Council approval.
- Realising the Council's strategies and plans for the future.
- Delivering the NMC's services in line with targets and performance indicators agreed with the Council.

As the NMC's Accounting Officer, the Chief Executive and Registrar has personal responsibility for matters relating to financial propriety and regularity, keeping proper account of financial affairs and of the effective use of resources. They report to the Audit Committee on the NMC's use of registrant funds and have personal accountability and responsibility for the NMC's:

- Propriety and regularity.
- Prudent and economical administration.
- Avoidance of waste and extravagance.
- Efficient and effective use of available resources.
- General organisation, staffing and management.

### **Effectiveness of governance**

The Council is committed to high standards of governance. Our practice broadly complies with HM Treasury's Corporate Governance Code of Good Practice to the extent that it is applicable to the organisation. We conduct our business in accordance with the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

We have continued to make progress in addressing the recommendations of the PSA (formerly CHRE) Strategic Review regarding governance and leadership. Mark Addison CB was appointed as Chair of Council on 10 September 2012. Jackie Smith was appointed as the substantive Chief Executive and Registrar on 05 October 2012 for a one year period. In addition, two new Council members were appointed during the year. We have reviewed our approach to governance during the year, including:

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- Revising the NMC governance framework to clarify the respective responsibilities of the Council and the executive, and the relationships between them.
- Improving the quality of information provided to the Council, in particular financial data and performance indicators, to support its decision-making and enhance the accountability of the executive.
- Constituting the Education Committee, the Finance & IT Committee, and the Fitness to Practise Committee in order to provide additional governance oversight of key functions.

Ensuring effective transition in the leadership and governance of the NMC remains a priority. We have commissioned an independent review to help establish a model of governance that is fit for purpose and well placed to support the reconstituted Council in the delivery of its objectives.

Council committees have undertaken an annual review of their effectiveness. **[INSERT SUMMARY OF OUTCOMES FOLLOWING COMMITTEE MEETINGS]**.

#### **Internal control and risk management**

The Council is responsible for instituting and maintaining a sound system of internal control that enables the NMC to deliver its core regulatory purpose. The system of internal control is designed to manage, rather than to eliminate risk, and to provide reasonable, but not absolute, assurance of effectiveness. The Chief Executive and Registrar is responsible for implementing the system of internal control. The Audit Committee provides assurance to the Council regarding the operation of the system of internal control.

During the year, the NMC's internal audit service was provided by Parkhill, which operates to the Government Internal Audit Standards and the Chartered Institute of Internal Auditors International Standards for the Practice of Internal Auditing. The internal auditors submitted regular reports to the Audit Committee, which included an independent opinion on the adequacy and effectiveness of the system of internal control, together with recommendations for improvement. The Audit Committee's work was further informed by reports from management and by comments from the external auditors in their management letter.

Following a competitive process, we have appointed Moore Stephens to provide our internal audit service from 01 April 2013. Our priorities are to manage an effective transition in internal audit services and work with the incoming firm to continue to strengthen our internal control and assurance framework.

The Council has overall responsibility for risk management, including ensuring that the NMC has in place an appropriate risk management policy and that major risks are properly managed and reported. As part of the process for managing risk, the Council approves the corporate plan and budget, reviews progress against key performance indicators, and has due regard to opportunities and risks in decision-making.

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The Chief Executive and Registrar is responsible for the implementation of the risk management policy and, through the Directors, for identifying and evaluating risks, putting in place appropriate measures to mitigate risks, and monitoring and reporting progress. The Audit Committee is responsible for providing assurance to the Council regarding the implementation of the risk management policy and the management of risk.

The Council has discussed the principal risks facing the NMC at each of its public meetings during the year. The Directors Group has considered the full risk register each month. The Audit Committee has discussed the process for risk control, and considered the effectiveness of the risk management process, at each of its meetings.

During the year, the NMC has taken steps to stabilise its financial position and to invest significantly in its fitness to practise operations to enhance public protection, and these remain matters to which the Council pays close attention. We have made progress in improving fitness to practise operations and continue to monitor performance closely. We have put in place an ICT Strategy to stabilise our current systems for the short-term and ensure that we have appropriate systems and infrastructure to meet our public protection obligations. The NMC continues to manage closely risks relating to its regulatory activities, including:

- Reviewing the overseas registration process in order that systems are sufficiently robust to ensure that all applicants satisfy the relevant conditions of registration.
- Implementing technical and organisational changes to improve the accuracy and integrity of the register.
- Ensuring that we respond appropriately and proportionately to the recommendations of the Independent Inquiry into Care Provided by Mid-Staffordshire NHS Foundation Trust (the Francis Report), and that our public profile is consistent with our core regulatory purpose.
- Taking steps to meet our obligations regarding the requirement for registrants to hold professional indemnity insurance.

The key matters of internal control and risk management discussed by the Audit Committee during the year included:

- An independent review of the work undertaken to reconcile discrepancies between the registrations system and the case management system.
- Overseeing the development of an integrated approach to serious events, security incidents, and complaints.
- Reviewing the whistle-blowing policy; the financial regulations; the anti-fraud, bribery, and corruption policy; the NMC's approach to the development of policies and procedures.
- Approving revisions to our risk management framework to strengthen our approach and ensure that it is embedded across the NMC.
- Outcomes of internal audit work undertaken during the year, progress in implementing internal audit recommendations, and the process for procurement of new internal audit provision with effect from April 2013.

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### **Lapses in protective security**

NMC policies require all information security incidents, including any loss of personal data, to be reported. Our definition of a data security breach includes events where there was a potential for a breach but no actual unauthorised disclosure of data. Incidents are monitored by the Information Governance and Security Group which is accountable to the Directors Group for ensuring learning is identified to prevent recurrence. During the year, there were [DATA TO BE INSERTED FROM AUDIT COMMITTEE REPORT]. The Audit Committee has received reports on data security breaches at each of its meetings and the risk continues to be closely managed.

During the year ended 31 March 2012, we voluntarily reported to the Information Commissioner a data security breach which had occurred on 07 October 2011. This resulted in a monetary penalty notice of £150,000 (which was reduced to £120,000 for early payment) being issued on 14 March 2013. In the intervening period we have strengthened our information security practices by revising our policy, introducing a new standard operating procedure, and amending our training for employees.

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## Governance Statements: good practice observations from our audits

Introduced in 2011-12, Governance Statements are important public accountability documents. Departments, their executive agencies and arm's-length bodies must provide a Governance Statement in their annual report and accounts.

Governance Statements replace and build on the old Statement on Internal Control (SIC). Aiming to support better governance and drive more consistent, coherent and transparent reporting, the Governance Statement, for the first time, brings together in one place in the annual report and accounts all disclosures relating to governance, risk and control.

To address “the fungus of boiler-plate”, reporting has moved away from the template-based approach adopted for SICs. *Managing Public Money* encourages organisations to tailor their reporting to better reflect their own circumstances, whilst specifying “essential features” that should always be reported on (Box 1).

In 2012, we considered over 350 Governance Statements as part of our audits of government's accounts. Here we highlight the key messages and good practice we identified from our work. Organisations need to build on the foundations laid in year-one so that the intended benefits of Governance Statement reporting can be more fully and consistently realised. Organisations can use our good practice observations and “challenge questions” (Box 2) to help support better governance and drive more transparent reporting.

### Key Messages From Our Work

Organisations materially complied with HM Treasury's requirements and the information presented was consistent with our wider knowledge of organisations.

There is a sense of evolution from the “old” SICs, but some organisations have made more progress than others. While some have reviewed and strengthened their approach to governance reporting, others have, essentially, re-badged the prior year SIC and “bolted-on” the new requirements.

Under *Clear line of sight*, group Governance Statements are helping to present a clearer picture of risk across government. Some organisations have identified a need to strengthen their group-risk escalation and assurance processes so that they can be confident that they are sighted on the right risks at the right time and can report transparently on them.

There was wide variation in the robustness of evidence underpinning Governance Statements and in how comprehensive and open the disclosures were about each “essential feature”. Statements were often process-heavy, providing less insight into outcomes achieved or the risks faced.

Organisations have adopted a range of approaches to Governance Statement preparation and reporting. Organisations generally welcomed the more flexible reporting approach, but some expressed uncertainty as to whether they had “got it right”.

### Corporate Governance Code Compliance

Departments disclosed few departures from *Corporate governance in central government departments: Code of good practice (the Code)*. Disclosed departures commonly related to Nominations and Governance Committee arrangements and board composition.

Some non-departmental bodies were unsure how the Code applied to them. A statement confirming compliance to the extent that it is relevant and meaningful should be made.

### Better Governance Statements Are:

- concise and transparent. They help the reader “see the wood for the trees” by sign-posting key messages and avoiding long-winded process descriptions;
- comprehensive, tailored to organisational circumstances, focussed on outcomes – not on process, and include open and honest risk disclosures;
- drafted by a suitably senior member of staff with a strategic understanding of the organisation;
- underpinned by robust evidence and assurance and not treated as a one-off annual exercise;
- driven by the early engagement of the Accounting Officer and Board and subject to robust scrutiny and challenge by the Audit Committee and Non-Executive Members, with ample opportunity provided for debate.

**Box 1****Essential features of the Governance Statement**

- the governance framework of the organisation, including information about the Board's committee structure, its attendance records, and the coverage of its work;
- the Board's performance, including its assessment of its own effectiveness;
- highlights of Board committee reports, notably by the Audit and Nomination committees;
- an account of corporate governance, including the Board's assessment of its compliance with the *Corporate governance in central government departments: Code of good practice*, with explanations of any departures;
- information about the quality of the data used by the Board, and why the Board finds it acceptable;
- where relevant (for certain central government departments), an account of how resources made available to certain locally governed organisations are distributed and how the department gains assurance about their satisfactory use; and
- a risk assessment, including the organisation's risk profile, and how it is managed, including, subject to a public interest test:
  - any newly identified risk;
  - a record of any ministerial directions given; and,
  - a summary of any significant lapses of protective security (e.g. data losses).

**Box 2****Challenge Questions**

**The Accounting Officer, Board and Audit Committee can use these questions to help inform their review of the Governance Statement (the Statement).**

- How do we have assurance that the process for producing the Statement is adequate, covers all areas of our operations and has been followed?
- To what extent does the Statement comply with HM Treasury's requirements and include all the "essential features" (**Box 1**)?
- How clearly does the Statement give an understanding of the control structure and stewardship of our organisation, and a sense of its risks, vulnerabilities and resilience to challenges?
- What evidence have management presented to support the Statement and are we satisfied it is robust?
- How do we have assurance that all relevant matters are disclosed, including material issues from arm's-length bodies? How have any governance matters we have raised been dealt with?
- How has compliance with *the Code* been assessed and have all departures been explained and disclosed? What evidence underpins this assessment and are we satisfied it is robust?
- What involvement has internal audit or any other internal oversight body had in reviewing and/or challenging assurance statements and other evidence provided by management?
- How have we assured ourselves that management has responded appropriately to all observations on the draft Statement made by the internal and external auditors?

**Other NAO Guidance**

We have produced a number of publications to help support those involved in the preparation or scrutiny of Governance Statements.

*Fact Sheet: Governance Statements*

[www.nao.org.uk/governance-statements](http://www.nao.org.uk/governance-statements)

*Corporate governance in central government departments: Code of good practice 2011: Compliance Checklist*

[www.nao.org.uk/support\\_to\\_boards](http://www.nao.org.uk/support_to_boards)

The messages in our previous guides to the Statement on Internal Control also remain appropriate to the arrangements and processes supporting the production of the Governance Statement.

*A Good Practice Guide to the Statement on Internal Control*

[www.nao.org.uk/governance-statements](http://www.nao.org.uk/governance-statements)

*Statement on Internal Control: A guide for Audit Committees*

[www.nao.org.uk/governance-statements](http://www.nao.org.uk/governance-statements)

**Other Useful Guidance**

*Managing Public Money (HM Treasury), Annex 3.1, The Governance Statement:* [www.hm-treasury.gov.uk/d/mpm\\_annex3.1.pdf](http://www.hm-treasury.gov.uk/d/mpm_annex3.1.pdf)

*Corporate governance in central government departments: Code of good practice 2011:* [www.hm-treasury.gov.uk/d/corporate\\_governance\\_good\\_practice\\_july2011.pdf](http://www.hm-treasury.gov.uk/d/corporate_governance_good_practice_july2011.pdf)

Assurance Frameworks: [www.hm-treasury.gov.uk/d/psr\\_governance\\_risk\\_assurance\\_frameworks\\_191212.pdf](http://www.hm-treasury.gov.uk/d/psr_governance_risk_assurance_frameworks_191212.pdf)

This fact sheet is available to download at [www.nao.org.uk/governance-statements](http://www.nao.org.uk/governance-statements)

For further information contact your usual NAO team or the NAO's Financial Management and Reporting team: [Z5-FMGP@nao.gsi.gov.uk](mailto:Z5-FMGP@nao.gsi.gov.uk)

## Council

### Transition planning

**Action:** For discussion.

**Issue:** This report updates the Council on the actions taken throughout the NMC in preparation for the reconstituted Council.

**Core regulatory function:** Supporting functions.

**Corporate objectives:** Corporate objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."

**Decision required:** The Council is recommended to consider the transition plan (attached to this report at annexe 1)

**Annexes:** The following annexe is attached to this paper:

- Annexe 1: NMC transition plan

**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 Members will be well aware that the reconstituted Council is to be formally constituted on 1 May 2013.
  - 2 In anticipation, colleagues from across the organisation have been planning the necessary steps to ensure a smooth transition from the current Council to the reconstituted Council.
  - 3 The Council has previously considered a paper on transition planning, which set out the steps already undertaken at that point and the proposed measures in going forward.
  - 4 To recap, the main risks identified by the Council with the transition planning exercise were as follows:
    - 4.1 Lack of continuity in decision making
    - 4.2 Inappropriate handover of current Council work to reconstituted Council
    - 4.3 Insufficient levels of induction and training for reconstituted Council members to undertake their role
    - 4.4 Statutory / mandatory committees are not established sufficiently quickly
    - 4.5 Reconstituted Council members are needed to chair registrations appeals panels
    - 4.6 Lack of policy to inform the status of independent council members in the reconstituted Council
    - 4.7 The reconstituted Council is unable to make the important decisions required in its first few months of leadership.

#### **Transition planning actions**

- 5 The attached transition plan (at annexe 1) sets out much of the detail of the actions taken since the matter was last formally reported to Council, with the following being of particular note:
  - 5.1 Each committee has been asked to consider transition planning at its meetings in either February, March or April. Discussions at committee have identified the most important issues that will need to be taken forward by the reconstituted Council and the reconstituted committee structure. These discussions have also, at least in part, served to mitigate the risk outlined in paragraph 4.2 set out above through identifying the most pressing issues that needs to be taken forward.
  - 5.2 Planning for the induction days on 1 and 2 May 2013 for reconstituted Council members is now at an advanced stage.

The event aims to ensure that new members are familiar with all aspects of the NMC's business and are introduced to a number of key external stakeholders. This in part will serve to mitigate the risk as set out in paragraph 4.3 above. Beyond the event, members will be invited to complete a skills analysis as part of the induction process which will serve to further mitigate this risk.

- 5.3 In order to assist the induction process, committee members have agreed that it would be useful for each committee at its first meeting to be preceded by a short seminar that will cover the key areas for those said committees. Forward work plans for each committee have also been developed to assist with this.

**6 Recommendation: Members are asked to consider the transition plan (attached as annexe 1).**

**Public protection implications:**

- 7 There are no public protection implications arising directly from this report, which is for members' information. However, it is acknowledged that weak decision making and lack of appropriate handover could have public protection implications.
- 8 These implications are well understood by Directors and officers leading on transition planning, and every effort is being made to fully support a smooth and successful transition to reconstituted Council.

**Resource implications:**

- 9 There are no resource implications arising directly from this report.

**Equality and diversity implications:**

- 10 There are no equality and diversity implications arising directly from this report.
- 11 The process for appointing members of reconstituted Council has been fully compliant with the Equality Act 2010.

**Stakeholder engagement:**

- 12 The Council and committees have been consulted in respect of forward planning of issues that fall within their respective remits.

**Risk implications:**

- 13 Transition planning features as a top risk on the risk register, as there is a significant reputational and potential public protection risk if the reconstituted Council is not brought up to speed with the most pressing issues facing the NMC quickly.
- 14 Directors have been careful to ensure that the transition planning process has been robust and have monitored the measures

proposed to mitigate the risk.

**Legal  
implications:**

- 15 There are no legal implications arising directly from this paper.

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### Annexe 1: Transition to reconstituted Council: Issues and proposed actions

	Proposed actions	Who	When	Update
<b>1</b>	<b>Continuity in decision making.</b>			
	<ul style="list-style-type: none"> <li>Consider whether current committee Chairs meet with reconstituted Council members to support transition and continuity in decision making</li> </ul>	Directors and Council	End March	Current committee Chairs have offered to meet incoming Chairs. Once new Chairs have been identified, meetings will be suggested as part of induction.
	<ul style="list-style-type: none"> <li>Current Council responsible for decisions until 23 April 2013 (last scheduled meeting of current Council)</li> </ul>	Council - operate as normal	April Council meeting	Current Council will be responsible for decisions until they demit office at midnight on 30 April 2013.
	<ul style="list-style-type: none"> <li>Decisions delegated to Chair and Chief Executive for the period between 26 April 2013 up to 30 April 2013 (decision making cover during transition to reconstituted Council)</li> </ul>	Council to agree at April meeting	End April	No action required. Standing Orders provide for Chair to take action in between meetings, where appropriate.
	<ul style="list-style-type: none"> <li>Reconstituted Council responsible for decisions, oversight and strategy from 1 May 2013</li> </ul>	Reconstituted Council – May meetings onwards	May Council meeting onwards	No action required.
	<ul style="list-style-type: none"> <li>First scheduled formal meeting of reconstituted Council to be 2 May 2013 to formally establish the reconstituted Council</li> </ul>	Reconstituted Council	Beginning May	Induction will take place on 01 – 02 May 2013. If necessary, a formal meeting will be convened. Otherwise, the first formal meeting of Council will be on 23 May 2013.

	<b>Proposed actions</b>	<b>Who</b>	<b>When</b>	<b>Update</b>
<b>2</b>	<b>Inappropriate handover of current Council work to reconstituted Council.</b>			
	<ul style="list-style-type: none"> <li>Transition planning to be a standard item on every Council and committee agenda until NMC business is handed over to reconstituted Council.</li> </ul>	Director of Corporate Governance	Each Council meeting	Complete.
	<ul style="list-style-type: none"> <li>Forward work plan agreed by directors and to be discussed with committee chairs.</li> </ul>	Directors and committee chairs	End March	Complete.
	<ul style="list-style-type: none"> <li>Current Council and committees to refer to forward work plans and decide what work is to be taken forward to reconstituted Council.</li> </ul>	Council and committee chairs	End March	Complete.
	<ul style="list-style-type: none"> <li>Handover report for last committee meeting by Chair of committee - to report to current Council in open or confidential session as appropriate.</li> </ul>	Committee chairs	April Council meeting	Chairs of committees will report to Council in the normal way. Council Services will invite Chairs of committees which, cyclically, are not due to report to Council in April to update the meeting orally on any matters which are not reflected in previous minutes.
	<ul style="list-style-type: none"> <li>Reconstituted Council to review forward work plans in line with their priorities.</li> </ul>	Chair and Council	May Council meeting	Schedule of business to be standing item on Council and committee agendas.

	<b>Proposed actions</b>	<b>Who</b>	<b>When</b>	<b>Update</b>
<b>3</b>	<b>Insufficient levels of induction and training for reconstituted Council members to undertake role</b>			
	<ul style="list-style-type: none"> <li>2 days induction for all Council members at the start of their role.</li> </ul>	Director of Corporate Governance	1 and 2 May	Scheduled.
	<ul style="list-style-type: none"> <li>Continuing induction after commencing role in Council seminar sessions for the following 6 months.</li> </ul>	Director of Corporate Governance	Ongoing seminar sessions	Seminar sessions planned until November 2013
	<ul style="list-style-type: none"> <li>Personal training and development for individual Council Members based on training needs analysis and feedback from recruitment process.</li> </ul>	Director of Corporate Governance	Individual plans agreed by end June	Incoming Council-members will be invited to complete skills analysis as part of induction process. Meetings with Chair will be scheduled within first 3-6 months to agree training and development needs.
	<ul style="list-style-type: none"> <li>First committee meeting to be used as induction to the committee business. Using forward planner, decision making to be avoided if possible in this meeting.</li> </ul>	Director of Corporate Governance	In line with committee meeting schedule	Each formal committee meeting will be preceded by a seminar session which will introduce members to the remit and business of the committee. In accordance with Council's decision of November 2012, committees are advisory in nature. As far as possible, substantive business will be avoided at initial meeting; it should be noted that the Audit Committee will need to reach a recommendation to Council regarding the annual accounts at its first meeting.

	<b>Proposed actions</b>	<b>Who</b>	<b>When</b>	<b>Update</b>
	<ul style="list-style-type: none"> <li>• Supplement forward decision planner for the year ahead by developing supporting material for Council and committee members. e.g. <ul style="list-style-type: none"> <li>○ Background to issues.</li> <li>○ Additional supporting reading material</li> </ul> </li> </ul>	Director of Corporate Governance	In line with committee and Council meeting schedule	Information packs are being put together as part of induction. Information will also be posted on e-net.
<b>4</b>	<b>Statutory/mandatory committees to be rapidly established</b>			
	<ul style="list-style-type: none"> <li>• Chair to identify suitable candidates to sit on Audit, Midwifery and Remuneration committees during the current recruitment and selection process for reconstituted Council and ensure the appropriate skills and competencies mix on Committees</li> </ul>	Chair	End of April	Registration Appeal Panel Chairs to be indentified in May. Members and chairs of other committees to be indentified in first 3 months following reconstitution of Council.
	<ul style="list-style-type: none"> <li>• These committees to receive priority induction and training if required.</li> </ul>	Director of Corporate Governance	Mid May	Each formal committee meeting will be preceded by a seminar session which will introduce members to the remit and business of the committee.
<b>5</b>	<b>Reconstituted Council members are needed to chair registrations appeal panels (3 members).</b>			
	<ul style="list-style-type: none"> <li>• Priority induction and training if required to be delivered so new Council members are equipped to chair registration appeal panels.</li> </ul>	Director of Registrations	End May	Arrangements are being made to for training to take place in May 2013.

	<b>Proposed actions</b>	<b>Who</b>	<b>When</b>	<b>Update</b>
<b>6</b>	<b>The NMC has no policy in place to inform the status of independent council members in the reconstituted Council.</b>			
	<ul style="list-style-type: none"> <li>Identify termination dates of current independent council members</li> </ul>	Director of Corporate Governance	End March	Complete. Current partner members to remain in post until the end of their current terms of office.
	<ul style="list-style-type: none"> <li>Reconstituted Council to agree policy and recruitment and selection process for independent Council members.</li> </ul>	Director of Corporate Governance	End July	To be considered as part of decision-making arising from Governance review.
<b>7</b>	<b>The reconstituted Council will need to make important decisions in the first few months of its leadership of the NMC e.g.</b> <ul style="list-style-type: none"> <li><b>The NMC's response to the Francis report.</b></li> <li><b>NMC Annual Report, Accounts, Charity Commission Annual Returns and Governance Statement need to be approved by Council.</b></li> </ul>			
	<ul style="list-style-type: none"> <li>Shortlisted candidates for reconstituted Council to be informed of dates of Council for 2013 to mitigate risk of iniquity</li> </ul>	Director of Corporate Governance	Early March	Complete
	<ul style="list-style-type: none"> <li>Reconstituted Council meetings to be scheduled so that key decisions can be taken at the right time.</li> </ul>	Chair	End of April	Key decisions have been included in the schedule of business.



## Meeting of the NMC Council

to be held from 09.30 to 14.30 on Thursday 23 May 2013  
in the Council Chambers at 23 Portland Place, London W1B 1PZ

### Agenda

Mark Addison CB  
Chair of the NMC

Matthew McClelland,  
Assistant Director,  
Governance and Planning  
(Secretary to the Council)

- |   |   |           |
|---|---|-----------|
| 1 | <b>Welcome from the Chair</b>   | NMC/13/xx |
| 2 | <b>Apologies for absence</b>  | NMC/13/xx |
| 3 | <b>Declarations of interest</b>   | NMC/13/xx |
| 4 | <b>Minutes of previous meetings</b>   | NMC/13/xx |
|   | Minutes of the public session of the Council held on<br>25 April 2013   |           |
| 5 | <b>Summary of actions</b>   | NMC/13/xx |
|   | An action list detailing matters arising from the minutes of<br>the public session of the Council held on 25 April 2013<br>and outstanding actions from previous meetings |           |
| 6 | <b>Report of decisions taken by the Chair since the last<br/>Council meeting</b>  | NMC/13/xx |

### Corporate reporting

- |   |                                  |   |
|---|----------------------------------|---|
| 7 | <b>Francis report update</b>     | NMC/13/xx                               |
|   | Chief Executive and Registrar    |   |
| 8 | <b>Risk register</b>             | NMC/13/xx                               |
|   | Director of Corporate Governance | <b>TO FOLLOW IN 48-<br/>hour PAPERS</b> |
| 9 | <b>Chief Executive's report</b>  | NMC/13/xx                               |
|   | Chief Executive and Registrar    |   |

**10 FtP performance report**

NMC/13/xx

Director of Fitness to Practise

**11 Monthly financial monitoring**

NMC/13/xx

Director of Corporate Services

**Matters for decision****12 Progress report on key areas**

NMC/13/xx

Chief Executive and Registrar

**Matters for discussion****13 Questions from observers**

NMC/13/xx

**LUNCH: (12.45 – 13.30)****14 Council forward work plan**

NMC/13/xx

Director of Corporate Governance

The next public session of the Nursing and Midwifery Council is currently scheduled to be held on Thursday 20 June 2013 at 9.30am at the Nursing and Midwifery Council, 23 Portland Place, London W1B 1PZ.