

Meeting of the NMC Council

to be held at 9.30am on Thursday 31 January 2013 in the Council Chamber at 23
Portland Place, London W1B 1PZ

Agenda

Mark Addison CB
Chair of the NMC

Maggie Wood,
Interim Assistant Director,
Corporate Governance
(Secretary to the Council)

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| 1 | Welcome from the Chair | |
| 2 | Apologies for absence | |
| 3 | Declarations of interest | |
| 4 | Minutes of previous meetings | NMC/13/01 |
| | Minutes of the public sessions of the Council held on 25
October 2012 and 22 November 2012 | |
| 5 | Summary of actions | NMC/13/02 |
| | An action list detailing matters arising from the minutes of
the public session of the Council held on 22 November
2012 and outstanding actions from previous meetings | |
| 6 | Report of decisions taken by the Chair since the last
Council meeting | NMC/13/03 |

Corporate reporting

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|---|----------------------------------|---|
| 7 | Risk Register | NMC/13/04 |
| | Director of Corporate Governance | TO FOLLOW IN 48-
hour PAPERS |
| 8 | Chief Executive report | NMC/13/05 |
| | Chief Executive and Registrar | |

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| 9 | FtP Performance report
Director of Fitness to Practise | NMC/13/06
TO FOLLOW IN 48-hour PAPERS |
| 10 | Monthly financial monitoring
Director of Corporate Services | NMC/13/07
TO FOLLOW IN 48-hour PAPERS |

Matters for decision

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|----|--|-----------|
| 11 | Update on thresholds for investigation
Director of Fitness to Practise | NMC/13/08 |
| 12 | Financial Strategy
Director of Corporate Services | NMC/13/09 |
| 13 | Corporate complaints
Chief Executive and Registrar | NMC/13/10 |
| 14 | Terms of Reference – Remuneration Committee | NMC/13/11 |
| 15 | Questions from observers

LUNCH: (12.45 – 13.30) | |

Matters for discussion

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| 16 | Professional indemnity insurance as a requirement for registration with the NMC
Director of Registration and Standards | NMC/13/12 |
| 17 | PSA initial stages audit
Director of Fitness to Practise | NMC/13/13 |
| 18 | ICT strategy and implementation update
Director of Corporate Services | NMC/13/14 |

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| 19 | Proposed framework for the quality assurance of education and local supervising authorities for midwifery | NMC/13/15 |
| | Director of Registration and Standards | |
| 20 | Minutes and feedback from committee chairs of meetings held since last Council: | VERBAL |
| | Midwifery Committee
Chair of Midwifery Committee | |
| | Education Committee
Chair of Education Committee | |
| | Audit Committee
Chair of Audit Committee | |
| | Finance and IT Committee
Chair of Finance and IT Committee | |
| | Fitness to Practise Committee
Chair of Fitness to Practise Committee | |
| | Remuneration Committee
Chair of Remuneration Committee | |
| | Appointments Board
Chair of Appointments Board | TO FOLLOW IN 48-
hour PAPERS |
| 21 | Draft agenda for the Council meeting on 21 February 2013 | NMC/13/17 |
| | Director of Corporate Governance | |

The next public session of the Nursing and Midwifery Council will be held on Thursday 21 February 2013 at 9.30am at the Nursing and Midwifery Council, 23 Portland Place, London W1B 1PZ.

Meeting of Council held at 09:30 on 25 October 2012
at 23 Portland Place, London W1B 1PZ

Council Minutes

Present

Members:

Mark Addison NMC Chair

Alison Aitken
Kuldip Bharj
Judith Ellis
Sue Hooton
Lorna Jacobs
Grahame Owen
Nicki Patterson
David Pyle
Ruth Sawtell
Bea Teuten
Jane Tunstill

Present until the end of item 6

NMC officers:

Jackie Smith Chief Executive and Registrar
Paul Hackwell Interim Director of Corporate Services
Jeremy Kite Interim Assistant Director, Governance and Planning (minutes)
Katerina Kolyva Acting Director of Registrations and Standards
Lindsey Mallors Director of Corporate Governance
Sarah Page Acting Director of Fitness to Practise
Janet Rubin Interim Director of Human Resources and Organisational
Development
Shelley Thornton Interim Assistant Director, Governance and Planning (Secretary to the
Council)

In attendance:

Louise Scull Lay advisor on financial issues

Minute

12/177 Chair's opening remarks

- 1 The Chair welcomed members, registrants, representatives of the Royal Colleges, Unions, UK governments, the Department of Health, public, media, NMC staff and other observers to the meeting.
- 2 The Chair explained there was one particularly important agenda item relating to registrant fees and this merited a change to the normal Council agenda order because he wanted to give Council adequate time to discuss the issue and to receive questions and comments from the floor. He confirmed Council had received the papers and these had also been available on the website. The papers relating to the fee rise would be presented by the Chief Executive and Interim Director of Corporate Services. Council would first consider the NMC's financial position and the case for the fee rise. Following this, Council would consider the response from the consultation and other stakeholder feedback. Questions and comments would then be received from the floor to inform the Council's debate. In light of the responses and questions, general comments would be invited before Council members expressed their own view on the proposals. Depending on the outcome from these either a consensus would be reached allowing a decision to be made or a vote would be taken.

12/178 Apologies for absence

- 1 Apologies were received from Carole Rees-Williams and David Pyle, who indicated that he would have to leave the meeting after item 6.
- 2 The meeting remained quorate.

12/179 Declarations of interest

- 1 Declarations of interest were declared in respect of item 6, (Decision on the fee rise), by Alison Aitken Judith Ellis, Sue Hooton and Nicki Patterson (being a registered nurses), and Kuldip Bharj (being a registered midwife). Kuldip Bharj and Bea Teuten declared an interest in item 13 (Administrative matters) due to professional connections with some of the proposed appointments to FtP practice committees.

12/180 Minutes of the public session of the Council held on 13 September 2012 (NMC/12/137)

- 1 The minutes of the previous meeting were approved subject to the following amendments:
Louise Scull to be described as lay advisor on financial issues
12/154 delete duplicated actions
12/173 amend date relating to tendering of external audit to 2013-2014
12/159 amend to read "Council were being asked to formally approve

the Nursing and Midwifery Council (Midwives) Rules 2012, the format of which had yet to be validated by the Department of Health.”

Action: Amend minutes
For: Interim Assistant Director Governance and Planning
By: 22 November 2012

12/181 Summary of actions arising from the minutes of the public meeting of Council held on 13 September 2012 (NMC/12/138)

- 1 12/158 mandatory training had improved from 62% to 74% completed within the induction period. This was much closer towards the target of 80%.
 12/162 Director of Corporate Services would come back to Council with the IT strategy via the Finance Review Group in July 2013 with a finalised strategy in September 2013.
 12/160, 12/166 draw out actions from this list and feed into the Fitness to Practise Action Group. In addition, the mechanism for feeding actions from Council to committees and reporting back to Council needed to be improved.

Action: Ensure numbering of actions corresponds to minutes
For: Interim Assistant Director Governance and Planning
By: 22 November 2012

Action: Ensure committee minutes are fed back into Council
For: Interim Assistant Director Governance and Planning
By: 22 November 2012

12/182 Decision on the fee rise (NMC/12/138)

- 1 The Chief Executive explained that Council had three papers before it. The first paper was the business case for a registration fee increase. The second paper was an overview of the consultation process and an analysis of the consultation responses. The third paper set out the options at which the fee could be set.
- 2 The Chief Executive gave a presentation which described the background to the need to increase fees. This included the fact that there had been a 50% growth in fitness to practise referrals since 2010. In June Council agreed a rebased budget for FtP but in reaching this decision made clear that the increased activity would need to be scaled back in order to ensure financial stability. In 2012 a stringent operational review was completed to eliminate non-core activity and a substantial organisational restructure rolled out. However these measures would not allow the NMC to live within its means and deliver activity in FtP. Projections indicate available reserves will run out entirely by the end of 2012/13 which would require a reduction of FtP activity with an increased risk to public

protection and safeguarding. The fee consultation ran for 12 weeks and during that period numerous discussions with the Department of Health (DH), unions and Royal Colleges took place to discuss the business case and what the NMC was trying to achieve.

- 3 There were 2 key questions in the consultation. These were “do you agree or disagree that the registration fee should be increased to £120” and “in principle do you agree or disagree that the level of fee should be linked to inflation”. A significant number of responses were received to the consultation (over 24,000) which were overwhelmingly against the fee increase. The response to the link to inflation was more mixed.
- 4 The interim Director of Corporate Services then explained the options which were available to Council. He explained any options for fees must generate sufficient income to finance the level of expenditure required to deliver the NMC’s core regulatory functions and maintain financial sustainability. He explained the assumptions on activity levels in relation to reserves and the external independent assurance which had been received on these assumptions by KPMG. Four registration fee options were then presented to Council. These were
- Option 1: £76 fee plus £20m grant from Department of Health
 - Option 2: £120 fee with no grant
 - Option 3: £100 fee for two years plus £20m grant (£120 fee after two years)
 - Option 4; £95 fee for one year then £105 for one year plus £20m grant. (£120 fee after two years)
- 5 Members enquired what the next steps would be following their decision and if consultation would be required in future years. The Chief Executive confirmed that any changes in future fee levels would be subject to consultation. The Chair then requested questions and comments from the floor. These included: confirmation that the financial model had been independently validated, the current reserves position and suggestion for potential areas for future savings. Comments were received on whether or not the fee rise could be delayed, the detrimental impact the increase would have on registrants’ disposable income, the offer of a grant from the DH should be accepted, more effort should be put into preventing FtP activity through improved registrant standards and education, and the proposal to increase fees was wrong. Additionally, it was commented that more registrants would have responded to the consultation had a greater range of fee options been presented, a flat fee increase had a regressive impact on registrants on low incomes who were disproportionately BME. It was asked whether or not registrants could pay by monthly direct debit. The Chair asked executive colleagues to respond.

- 6 Executive colleagues confirmed that the financial model and business case had been externally validated and the report was included in the Council papers. This had concluded that the assumptions in the business model were reasonable and in line with normal practice. It was recognised that there was an additional cost pressure of £1.3m relating to pension liabilities.
- 7 The current reserves position was outlined in the monthly financial report at item 10 on the agenda and showed that at the end of this financial year reserves were forecast to be £9.4m which was below the Council's reserves policy minimum of £10m.
- 8 No formal notice of the terms and conditions of the grant offered by the DH had been received but they were expected to relate to FtP achieving its KPIs, clearing its backlog and a requirement for the NMC to conduct an annual review.
- 9 The executive had been working on a number of areas of potential savings and would continue to do so. These included the organisational restructure which would have an annual saving of £3.2m and ceasing projects which were not core to the NMC's regulatory purpose. An Efficiency Board had also been established to continue the focus on identifying potential areas of cost improvement. The work of this Board is reported to the Finance Review Group.
- 10 An EQIA had been undertaken and this did not indicate that the fee increase would have a negative impact on the earning potential of those people with protected characteristics. Payment by monthly direct debit was currently not feasible.
- 11 In response it was commented from the floor that the EQIA had not properly taken into account the disproportionate impact on part time workers who made up 40% of registrants.
- 12 Following a short refreshment break the Chair thanked the floor for their perceptive and thoughtful contributions. He explained Council would now have a general discussion before each member would be asked to indicate their position in relation to the decision in hand, setting out the rationale for their preferences. It was important that members felt they had all the information available to them, had considered the various points in the reports, presentations and questions raised verbally in the open floor session.
- 13 Members noted that the fee issue had brought into sharp focus the role of the NMC, the role of members as trustees, including financial stewardship, and the importance of the registrants' "licence to practise". The primary function of the NMC was public protection. The DH grant should not be accepted if its conditions were too onerous. It was important that the NMC consider how it could regain registrants'

confidence. The assumptions underpinning the financial model needed to be kept under review and the fee level should be reviewed annually. The implications of delaying the fee increase needed further consideration. The current reserves position was already forecast to be below the Council's policy level at the end of this financial year and it was important that the implications on reserve levels of each of the options was properly considered.

- 14 It was noted that the nursing and midwifery professions were passionate about public protection but that in the current climate every pound mattered to hard working registrants. Members also noted that the NMC has been streamlining its activities and needed to continue to make efficiencies as the grant was a public subsidy and recognised the valuable work nurses and midwives performed. A fee increase below £100 had not been consulted on because it would mean FtP activity would need to be scaled back. Investment in FtP was essential to deliver the NMC's public protection role. With over 1400 cases in the queue for a hearing the number of cases would increase dramatically if FtP activity was scaled back.
- 15 The Executive responded, commenting that reserves needed to be rebuilt otherwise the external auditor may question the NMC's future financial viability. It was felt that the DH would not have offered a grant if it did not have confidence in the NMC's ability to deliver. If improvements in FtP activity were delayed it would take longer to restore public confidence in the organisation and its role in public protection. Option 1, which delayed a fee increase, required FtP activity to be reduced, increasing the number of cases which were in the queue and DH would be concerned about the NMC's ability to deliver its public protection role.
- 16 The Chair of Council asked each member to indicate which option they favoured, the reasons for their preference and whether they were in agreement to conducting an annual review of the registration fee. Every Council member publicly stated that they preferred option three (£100 for two years plus £20m grant), while acknowledging the considerable financial impact on hard working nurses and midwives that this option would have. All Council members stated that this option would bring financial stability to the NMC, enable FTP to achieve its KPI within publicly stated targets and clear the backlog of historic cases, thus ensuring delivery of public protection. All members agreed to an annual review of the fee.
- 17 Members discounted option one (£76 fee plus £20m grant from the DH) because it would fail to provide financial stability and it would necessitate FtP activity being scaled back fundamentally impacting on public protection. The reserves position under option one would not be restored and would, by April 2013, have run down completely. Option two (£120 fee with no grant) was discounted by members as it

was recognised that the grant on offer would immediately ease the NMC's financial position and it would reduce the burden on hard working nurses and midwives. The target minimum available free reserves would be restored by April 2015. Option four (£95 fee for one year then £105 for one year plus £20m grant) was rejected by Council members because it would require consultation on the fee position at least twice, would bring less certainty to our financial position. It would also divert management time and staff resources away from other pressing priorities. The target minimum available free reserves level would not be reached until January 2016.

18 All members expressed the view that they preferred option three, which restored the reserves position more quickly than option 4, with reluctance bearing in mind the impact on registrants and they added it was imperative an annual review of the registration fee was conducted. Members also added that the NMC needed to do more to engage with registrants to restore confidence in the regulator and to better explain the NMC's role.

19 The Chair thanked members for their very helpful comments and explained that it was now necessary to move to a decision based upon the consensus.

Decision: Members' views supported option 3, being a £100 fee for two years plus £20m grant (subject to terms and conditions), subject to an annual review of the fee.

20 The Chair commented that an annual review would be a sensible way forward. It provided the opportunity to review the assumptions and whether they were still appropriate. He also noted that different payment options, such as monthly direct debits, should be considered in the future. However, Council were clear that it was essential the NMC maintained public protection and rebuild confidence between the NMC and nurses, midwives and the public. The first annual review could also provide an opportunity to consider a tiered fee structure based on nurses and midwives seniority.

21 In November the Nursing and Midwifery Council Fees (Amendment) Rules 2012 would be brought to Council for decision which would allow agreement by the Department of Health and Privy Council of the fee increase and implementation from 1 February 2013.

Action: Bring Nursing and Midwifery Council Fees (Amendment) Rules 2012 to Council for decision

For: Acting Director of Registration & Standards
By: 22 November 2012

Action: Undertake annual review of fees and assumptions including tiered fee option

For: Director of Corporate Services
By: October 2013

12/183 The Risk Register (NMC/12/139)

- 1 An update on the progress of managing the NMC's top risks was provided to the meeting. Two new risks had been added to the risk register. These related to loss of sensitive data and high staff turnover. Both were rated red with a score of 16. It was noted that the risk associated with the appointment of a reconstituted Council had reduced from red to amber and that there was still considerable uncertainty around Francis and how this might impact adversely on the NMC.
- 2 Members were concerned to hear that staff turnover was currently 41%. The costs and disruption of this turnover level were noted and the Interim Director of HR and OD asked to provide further insight in to this and possible ways of addressing it. They also acknowledged the data security risk and that the work to manage this had yet to be done. Members noted that risk concerning lack of financial resources, could now be re-evaluated in the light of the fee and grant decision.

Action: Provide better insight to causes of staff turnover and remedies
For: Interim Director of HR and OD
By: 14 December 2012

- 3 Members commented that the consultation on fees had thrown up a number of issues and risks for the NMC and these needed to be properly considered including understanding in more detail what was meant by a lack of confidence in the NMC and loss of reputation.
- 4 Members requested that originating dates for all risks should be included in the risk register where these were known and that the date of the October meeting should be used where the information was not available.

Action: Identify issues and risks thrown up through the fee consultation and consider the implication of these on confidence in and the reputation of the NMC
For: Director of Corporate Governance
By: 21 November 2012 (Council seminar)

Action: Provide originating dates for risks on the risk register
For: Director of Corporate Governance
By: 22 November 2012

12/184 Chief Executive report (NMC/12/140)

- 1 The Chief Executive reported on key developments since the last meeting including the balanced scorecard and key performance indicators. She explained the NMC's attendance before the Select Committee on 16 October had particularly focussed on fitness to practise, Francis, regulation of health care support workers and fees. She drew members' attention to a number of red areas in the balanced scorecard.
- 2 Discussion covered the timescale before the revalidation strategy would begin to deliver results, the shortcomings in IT and its impact on registrations and complaints arising from the inability to process notification of practice forms on line. The Chair asked the Chief Executive to continue to keep Council apprised on this matter. The Finance Review Group was shortly to receive a report on the IT short term strategy and relevant targets which would address some of these problems.
- 3 In reviewing the Change Management Portfolio members requested dates be added to the delivery phases.

Action: Provide dates for the Change Management Portfolio phases
For: Director of Corporate Governance
By: 22 November 2012

- 4 In relation to the reconstituted Council, members commented that they should see the framework for appointment. It was agreed that Council needed to oversee the process for appointing the reconstituted Council.

Action: Present Council with a framework for appointing a reconstituted Council for approval
For: Director of Corporate Governance
By: 22 December 2012

- 5 Members again noted concern regarding staff turnover of 41%. It was explained that there were a number of initiatives which were intended to address this including a pay and grading review, improved induction arrangements and improved capability of managers.
- 6 Members wanted more information on appeal data. They wanted a greater understanding on complaints upheld and partially upheld in the balanced scorecard along with an explanation of what partially upheld meant and noted the importance of complaints being independently reviewed.

Action: Provide more information on appeal data
For: Acting Director of Registration and Standards
By: 14 December 2012

Action: Provide explanation of what partially upheld complaints means and comment on complaints upheld and partially upheld
For: Chief Executive
By: 14 December 2012

7 Members observed they had some concerns about some of the KPI year end forecasts. Current performance and the trend did not appear consistent with the year end forecast. It was agreed these forecasts should be reviewed in light of an appraisal of likely year end performance and not default to a 'met' setting.

Action: Review KPI overall year forecasts to ensure they properly reflect the most likely outcome
For: Chief Executive
By: 22 November 2012

12/185 **Fitness to Practise performance report (12/141)**

1 The Acting Director of Fitness to Practise explained that there were performance improvements across a number of areas including interim orders and closure of historic cases. Further learning from litigation would be brought in the next FtP report. It was noted that another high court judge had commented on the quality of reasoning in an FtP case and this needed to be fed back to panellists with other positive messages from the Chair on the significance of their role in public protection. However in some areas, such as adjudications and part heard cases performance was still unsatisfactory. The recruitment activity in FtP was also explained and members were updated on the recent open day.

Action: Provide positive feedback from the Chair to panel chairs via the newsletter on the importance of their work
For: Acting Director of Fitness to Practise
By: 22 November 2012

Action: Provide further learning from litigation in FtP report
For: Acting Director of Fitness to Practise
By: 22 November 2012

2 There was discussion around the number of adjourned cases and the implications of these for public protection. This needed to be sensitively incorporated in the newsletter to panellists.

Action: Include implications of adjournments in newsletter to panellists
For: Acting Director of Fitness to Practise

By: 22 November 2012

- 3 There was discussion around the timing of the FtP strategy being brought to Council after agreement by the FtP Action Group.

Action: Bring FtP strategy to Council after it has been agreed by FtP Action Group
For: Acting Director of Fitness to Practise
By: 14 December 2012

- 4 Members commented that FtP activity along with LSA reports needed to feedback in to informing future education and standards.

Action: Incorporate in to the FtP Strategy how learning is to be captured from FtP cases and LSA reports to inform education and standards
For: Acting Director of Fitness to Practise
By: 14 December 2012

- 5 Members discussed briefly case management screening and thresholds for FtP activity. Members requested an update on the proposed work to review the thresholds for impairment.

Action: Provide update on proposed work to review the thresholds for impairment
For: Acting Director of Fitness to Practise
By: 31 January 2013

12/186 Monthly financial monitoring (12/142)

- 1 The current and year end forecast was explained to members. Free reserves were now forecast to be £9.4m at the year end compared to £9.1m forecast last month. The current and year end forecast was explained to members. The forecast reflected a similar overall financial position to the previous forecast presented to Council, with total free reserves projected to be £9.4 million at March 2013 compared to £9.1 million in the previous forecast, and available free reserves forecast to be £1.5 million compared to the £1.2 million previously forecast. The principal difference between the forecast and the previous forecast was the switch of £1.7 million expenditure from revenue expenditure to capital expenditure, representing the spend on the fitout of leased premises at the Old Bailey for hearings, and the first tranche of expenditure on the migration of the Wisser platform to a more stable and secure code. It was noted that the income forecast and assumptions will be restated to take account of the fee decision made earlier in the meeting.

- 2 It was agreed that close financial monitoring of the fee increase was required from its implementation date in February 2013 and this should be done through the Finance Review Group and monthly

reports to Council.

Action: Monitor fee income through Finance Review Group and monthly reports to Council
For: Director of Corporate services
By: 22 November 2012

12/187 Review of Midwives rules and standards (12/143)

- 1 Council were asked to formally approve the changes to the Nursing and Midwifery Council (Midwives) Rules 2012 at September Council meeting. They were now being asked to approve the standards and guidance which support these rules. The standards and guidance sit below the rules in the compliance hierarchy.
- 2 The rules and guidance were informed by evidence drawn from a number of sources which included LSAs, midwifery officers, women's networks and the Fitness to Practise directorate.

Decision: Council approved the revised standards and guidance for the Midwives rules.

12/188 Committee Structure and Scheme of Delegation Review (NMC/12/144)

- 1 Council were reminded it was proposed to have a new scheme of delegation in place by April 2013 in time for new Council but in the meantime there were some gaps and weaknesses which needed addressing by formalising in to committees the Finance Review and the Fitness to Practise Action Groups and creating an Education Committee which included the quality assurance of education.
- 2 Members discussed the proposed terms of reference and drew out a number of principles. These included the role and membership of committees. Members agreed committees should be advisory and should have consistent membership in terms of registrants and lay Council members. Council should be seeking assurance on the governance of the NMC through the activities of the committees.

Action: Revise the terms of reference of the proposed committees to reflect the principles discussed
For: Director of Corporate Governance
By: 22 November 2012

12/189 Administrative Matters (12/145)

Decision: Council agreed the appointments as set out in the report and noted the Chair's action taken to recommend appointments on an interim basis. Chair's action had been taken as a decision was needed

between Council meetings.

12/190 Strategic direction of our regulatory work in education and LSA quality assurance activity (NMC/12/146)

- 1 Proposed changes to the NMC's quality assurance (QA) of education were set out with a more strategic and consistent approach being adopted for the future. The inclusion of QA of local supervising authorities for midwifery in the outsourced QA contract was being proposed for the first time.
- 2 A particular concern was expressed relating to the inclusion of the QA of local supervising authorities in the tender. Specifically the need for a robust option appraisal following testing of the market was needed before deciding on the inclusion of the QA of local supervising authorities in any contract. Further comments were made by members that the paper needed to be amended to reflect the four countries of the UK (para 11.2) and to revise wording at paragraphs 11.5 (delete reference to seldom risky) and 11.7 which was unclear.

Action: Amend paper at paragraphs 11.2, 11.5 and 11.7
For: Acting Director of Registration and Standards
By: 22 November 2012

Decision: Council agreed the proposed strategic goals and direction of travel for the new education QA contract, scrutiny of the procurement process through the involvement of two Council members in the tender panel, inclusion of midwifery LSA in the invitation to tender, and development of an education strategy for Council consideration in June 2013.

12/190 Report of the Midwifery Committee (NMC/12/147)

- 1 It was noted that members had recognised that there were significant changes in the NMC and there was a considerable appetite within the committee to be engaged with the developments.
- 2 The Committee needed to develop a forward workplan which would be shared at Council in January.

Action: Develop forward workplan for Midwifery Committee
For: Acting Director of Registration & Standards
By: 31 January 2013

12/191 Update from the Midwifery Committee on 10 October meeting (NMC/12/verbal)

- 1 This teleconference was held to discuss the proposed inclusion of QA of local supervising authorities for midwifery in the LSA QA tender.

- 2 Members agreed a robust option appraisal following testing of the market should be completed before deciding on the inclusion of the QA of local supervising authorities in any contract

Action: Feedback to Council progress on the tendering exercise
For: Acting Director of Registration & Standards
By: 14 December 2012

12/192 Draft agenda for the 22 November 2012 Council meeting (NMC/12/138)

- 1 The agenda was noted subject to changes required following decisions and discussion at the meeting.

There being no other business the open session of the meeting concluded at 15.55.

DRAFT

Meeting of the Council held at 09:30 on 22 November 2012
at 23 Portland Place, London W1B 1PZ

Council Minutes

Present

Name	Title
Mark Addison	NMC Chair
Kuldip Bharj	NMC Council Member
Judith Ellis	NMC Council Member
Sue Hooton	NMC Council Member
Lorna Jacobs	NMC Council Member
Grahame Owen	NMC Council Member
Nicki Patterson	NMC Council Member
David Pyle	NMC Council Member
Ruth Sawtell	NMC Council Member
Bea Teuten	NMC Council Member
Jane Tunstill	NMC Council Member
Carole Rees-Williams	NMC Council Member
Julia Drown	NMC Audit Committee Member
John Halladay	NMC Remuneration Committee Chair

Officers:

Name	Title
Jackie Smith	Chief Executive and Registrar
Katerina Kolyva	Acting Director of Registrations and Standards
Lindsey Mallors	Director of Corporate Governance
Sarah Page	Acting Director of Fitness to Practise
Janet Rubin	Interim Director of Human Resources
Mark Smith	Director of Corporate Services
Maggie Wood	Secretary to the Council
Paul Johnston	Council Services Manager (minutes)

In attendance:

Louise Scull – Lay advisor on financial issues

Minutes

12/193 Welcome from the Chair

The Chair welcomed members, registrants, representatives of the Royal Colleges and unions, media, public, NMC staff and other observers to the meeting.

12/194 Apologies for absence

Apologies were received from Alison Aitken. The meeting remained quorate.

12/195 Declarations of interest

Declarations of interest were declared in respect of:

Item 15. The Chair declared an interest by virtue of being acquainted with Mrs Anna Walker.

Item 17. All Council Members and Ms Scull declared an interest in the item by virtue of being eligible to apply to sit on the reconstituted Council next year.

12/196 Minutes of the previous meeting

1. The Chair noted that a number of comments had been received in respect of the minutes of the meeting held on 25 October 2012.
2. Members said that options 3 and 4 as set out in paragraph 4, 12/182 was incomplete in that it should state £120 fee after 2 years.
3. These changes would be incorporated and presented to the next Council meeting for approval.

Decision **Members agreed that minutes of the meeting held on 25 October 2012 be presented to the next Council meeting for approval.**

Action: Review minutes of the meeting held on 25 October 2012 to ensure all comments received and actions points are incorporated
For: Director of Corporate Governance
By: 31 January 2013

12/197 Matters arising

1. Members said that they were pleased that the report set out the items that needed to be referred to future committees / action groups, but that it was important also to state the dates of those items for future committee / action group agendas.

Action Review summary of actions to state the dates when items will be put before

For:	committee / action groups as well as Council
By:	Director of Corporate Governance
	31 January 2013
Action	Amend the outstanding actions summary document to reflect that the Council review of registration fees will take place in March 2013
For:	Director of Corporate Governance
By:	31 January 2013

Corporate reporting

12/198 **The Risk Register**

1. The Director of Corporate Governance introduced the report, noting that a number of risks had been downgraded since the last Council meeting. However, members considered the financial risk to still be high as the timetable for implementation was tight and partly reliant on Department of Health making the rules for the fee change.
2. Members noted that the outcome of the Francis Report may lead to an increased risk around additional referrals with consequent financial implications for NMC.

12/199 **Chief Executive Report**

1. The Chief Executive introduced the report.
2. Members asked why there had been an increase in EU registration application packs requested. Officers said that this was largely attributable to applications from Portugal, Ireland, Greece, Spain and other countries facing difficult economic climates and that this situation, which was not expected to be a long-term trend, would be carefully monitored.
3. Members noted that the number of registration appeals was currently 28 but that the anticipated time to complete these appeals did not account for additional appeals in the coming months. Officers said that they would reconsider this in the next round of reporting.
4. Members noted that statutory and mandatory training completed for FtP staff within target date had improved significantly within the last two months and congratulated officers on this improvement. Members noted that the year to date risk remained at amber because further work needed to be undertaken to ensure that employees were receiving 5 days of training per year in line with the agreed target.
5. Members noted the DH consultation on the introduction of professional indemnity insurance as a requirement for registration was not now due to be published until at least mid-December 2012. It was noted that this issue was of particular concern to the midwifery profession and members asked when Council would consider this issue. Officers said that this was due to be

considered both by the Midwifery Committee and Council in January 2013.

6. Members asked how, on FTP11 on the Balanced Scorecard, the estimate of adjudication cases to be completed with a final decision each month had been reached. Officers said that this was a recently revised target but would need to be closely monitored and evidenced at future Fitness to Practise Action Group meetings.
7. Members said that the risk around the fee implementation project, as referred to within the report in view of the DH grant, did not appear to align to the level of risk identified within the Risk Register. Officers said that the Register would be amended.
8. Members asked why the risk rating on the balanced scorecard on FTP13 (% of cases that go part-heard) had changed from red to amber given the modest changes in percentage of such cases in the last 3 month period. Officers said that there was a definitive improvement in reducing such cases and that they were therefore confident of meeting the 2012-13 target. Members asked for this rationale to be outlined in future, and suggested that the rationale would also apply for performance indicators FTP 6 and 7.
9. Members were informed that percentages on performance indicators at year end were derived from spot rates, rather than averaging. Members suggested that there was an inherent assumption in the balanced scorecard that certain KPI forecasts, once achieved, would continue to be achieved and said that it was important that forecasts continue to be scrutinised effectively. Officers said that KPI forecasts would continue to be rigorously monitored against achievements.
10. On FTP 5, members asked why the target was not for 100% of interim orders to be imposed within 28 days of receipt of referral, which was important for assuring public protection. Officers said that the target of 100% would not be met as the clock starts ticking from the moment a referral is received. As a result, there would always be cases where insufficient information is received at the point of referral.
11. Following the Parliamentary Health Select Committee hearing on 16 October 2012, members asked whether officers felt that there was a clear plan of what the organisation needed to deliver over the coming months. Officers confirmed that there was such a plan – the Change Management Programme.

Action Review scorecard to more clearly align KPI and comments
For: Director of Corporate Governance
By: 31 January 2013

Action Bring policy on professional indemnity insurance to a future meeting
For: Acting Director of Registration and Standards
By: 31 January 2013

Action Change 'amber' rating to 'red' on FTP11 – “number of adjudication cases completed with a final decision each month”

For: Director of Corporate Governance

By: 31 January 2013

Action Amend risk register to show fee implementation project as a top risk.

For: Director of Corporate Governance

By: 31 January 2013

12/200 FtP performance report

1. The Acting Director of Fitness to Practise introduced the report and thanked FtP staff for their recent efforts, which had seen improved performance in FtP work.
2. Members thanked staff for their work but noted that there remained areas of concern and that Fitness to Practise performance remained fragile.
3. Members asked what learning had been established from recent High Court appeals, one of which had found in favour of the NMC and one in favour of the registrant. Officers said that good practice established by the case in favour of the NMC would be circulated appropriately.
4. Members asked about recent changes in FtP caseload numbers. Officers responded that this was dependent on each team, but that in terms of resourcing, officers were confident that once fully resourced, each caseload team would be able to meet their targets.
5. In response to members' queries regarding changes in administrative interim suspension order reviews, officers said that they would provide Council with amended guidance to panels to reflect these changes.
6. Members noted that there were a number of typographical errors within Annexe 6. Officers said that these would be corrected for the next Council meeting.

Action Provide Council with more substantive points post-consultation on the changes to the guidance issued to panels on making an interim order

For: Acting Director of Fitness to Practise

By: 21 February 2013

12/201 Monthly financial reporting

1. The Director of Corporate Services introduced the item.
2. The Chair of the Finance Review Group (FRG) outlined the Group's discussions on the financial reports at its last meeting, noting in particular that the DH £20m grant was not yet reflected in the accounts, and that NMC reserve levels were currently below the recommended level. Members said that the issue of reserve position levels was of significant concern and that

this was an important area for Council to monitor. Officers informed Council that reserve management would be incorporated within financial monitoring in the future.

3. Members expressed concern about current ICT provision and asked for reassurance that FRG were monitoring this area. Officers noted that a report would go to Council in January 2013 setting out ICT spend and where that spend had been directed, as well as progress against the ICT programme, and that FRG would have a role in monitoring this spend. Responding to members' points, officers added that progress on CMS maintenance releases would also be monitored by FRG.
4. Members asked about the assumptions upon which forecasting spend, particularly on Fitness of to Practise, was based. Officers noted that 12-month forecasting would allow the capture of increased activity and where costs for that activity would fall and that the financial reporting update to January Council would need to set out clearly the end-of-year financial position.

Action	Provide an update report on ICT strategy and implementation
For:	Director of Corporate Services
By:	31 January 2013
Action	Provide forecasted end-of-year financial position to Council at the next meeting (to include IT spend)
For:	Director of Corporate Services
By:	31 January 2013
Action	Ensure that future financial monitoring considers reserve management and that Council monitors the reserves position on a regular basis
For:	Director of Corporate Services
By:	31 January 2013 (and ongoing)

12/202 Corporate complaints handling statistics – July to September 2012

1. Members noted that the report stated there were no public protection implications arising from the report but said that the need for transparency and good customer care was important in securing public confidence.
2. Members wanted to ensure that learning experiences from recent partially upheld complaints on FtP decisions were considered properly and used in developing Fitness to Practise processes and training where appropriate to support future cases. Officers confirmed that learning points from cases would be built in to future developments. The wider issue of learning from corporate complaints was also raised. Officers agreed to report back on this to the next meeting.
3. Members asked what was being done to mitigate the risk around the projected number of corporate complaints, and around the delay experienced by registrants in receiving their renewal packs. Officers said

that they were monitoring both issues closely, and would provide an update on the review undertaken on postal arrangements at the Council meeting in January.

Action	Report on learning points relating to corporate complaints
For:	All Directors
By:	31 January 2013
Action	Provide Council with update on current arrangements for registrations' postal correspondence
For:	Acting Director of Registrations and Standards
By:	31 January 2013

Matters for Decision

12/203 Nursing and Midwifery Council (Fees) (Amendment) Rules 2012

Decision Members approved, and thereby made, the Nursing and Midwifery Council (Fees) (Amendment) Rules 2012.

12/204 Annual review of registration fees

1. The Director of Corporate Services introduced the item, noting FRG comments on the review and proposed work going forward, including examining the viability of establishing different fee levels according to staff seniority and the possible administration of fee payments on a monthly basis by direct debit.
2. Members said that the current "actions arising" document cited consideration of future fees as being at the May 2013 Council meeting but it was now clear that this needed to be considered prior to May to fit with the budget planning cycle and the time needed to implement a fee review. Officers said that they would amend the actions arising document.
3. The Chair asked whether members considered it necessary to include external validation of the fees setting process. Members said that, on balance, external validation this year had been invaluable because it had been a number of years since the last fee rise and a new model was being incorporated. Members said that these factors had been unique to the last proposed fee rise, and agreed that the issue of external validation was not immediately necessary but may need to be reconsidered in the future.

Decision **Members:**

- **Agreed the scope of the annual review.**
- **Noted the indicative timetable for future reviews.**

12/205 CHRE performance review 2012 – 2013: draft NMC evidence

The Director of Corporate Governance introduced the item, thanking staff

for the work undertaken to date. Members added their thanks to staff.

Decision Members:

- **Approved in principle the draft NMC evidence for the CHRE performance review 12 – 13.**
- **Agreed to delegate authority to the Chief Executive and Registrar to sign the final submission.**

12/206 Patient and public engagement

1. The Director of Corporate Governance introduced the item, noting that the first draft of the engagement strategy would come to Council in January 2013.
2. Members said that that the work was very welcome, and represented an opportunity to ensure that positive messages about the NMC were shared externally. Members said that the strategy should aim to include education of nurses and midwives, incorporating patient and public views into the NMC task and finish groups. Members agreed that NMC should place a particular focus on engaging with traditionally hard to reach groups, engaging with those working in front-line services, and engaging with all four home nations.
3. Members suggested a number of partners with whom it would be important to engage, including mental health and learning disabilities services, the Citizens' Advice Bureau and the Patient Client Council (in Northern Ireland).
4. Members said that it was important that the strategy was user-friendly and accessible and that tone and language was therefore very important. Achieving the right tone and language would help in ensuring engagement with harder to reach groups.
5. Members queried the use of the phrase 'Franchise model' and it was agreed that this term was not helpful as it did not accurately reflect the sense of collaboration that was intended by working with patients and the public.
6. The Chair echoed members' comments that this was a welcome piece of work and suggested that officers develop three or four tangible outcomes to allow Council to monitor and assess the effectiveness of engagement work as it was progressed.

Decision Members approved the NMC approach to engaging with patients and the public as set out in the report and subject to the above suggestions being incorporated.

Action Consider learning from patient and public engagement work undertaken by mental health services and learning disabilities services providers

For: Assistant Director, Policy and Communications
By: 31 January 2013

Action Produce a number of target outcomes for engagement work to enable monitoring by Council

For: Director of Corporate Governance
By: 31 January 2013.

12/207 Administrative matters

The Chair declared an interest by virtue of being acquainted with Mrs Anna Walker.

Decision **Members agreed to the reappointment of panel members.**

12/208 Questions from observers

1. Ms Jane Beech, UNITE, asked whether, in order to further publicise the Council application process, a current member of Council could write an article for the UNITE journal. Ms Beech also suggested that the Fatherhood Institute was a valuable partner for public and patient engagement.
2. Ms Louise Silverton, Royal College of Midwifery, endorsed Council members' comments that the application process for the reconstituted Council should encourage as diverse a field of applicants as possible. Ms Silverton said that the process should also seek to encourage applications from lay members. She noted that often midwives appeared to be overlooked when asking each of the four countries to encourage applications.
3. Ms Silverton asked what progress had been made on changes to indemnity requirements following the implementation of a new EU directive and what progress had been made in establishing root causes of the rise in numbers of FtP cases. Officers responded that changes imposed by the new EU directive would be discussed at Council in January 2013. Data around the second point would be helpful and officers continued to look at means of improving collection and dissemination of data.
4. Ms Catherine McLoughlin said that she wished to caution Council that the appointment of external assessors for fee rises was likely to incur substantial expenditure.

12/209 Reconstitution of Council

1. The Chair welcomed the Chair of the Remuneration Committee to the meeting.
2. All Council members and Ms Scull declared an interest in the item by virtue of being eligible to apply to sit on the reconstituted Council next year.
3. The Director of Corporate Governance introduced the item.

4. Members commended work undertaken on the recruitment process to date and said that it would be beneficial if members, given their experience of being Council members, had the opportunity to feed in their views on what needed to be included within the job description, person specification and skills mix. They suggested that their contact details be included within the information pack in order to allow applicants to contact them to share advice and opinions. Members added that it was important that professional registrants had the opportunity to feed into shaping the person specification and job description. The Chair of the Remuneration Committee said that he would welcome members' views and asked that they be submitted to him or officers by 26 November 2012.
5. Members asked that the timetable for the recruitment process be made available to them and sought reassurance that the process for unsuccessful applicants would be robust and independently overseen.
6. Members felt that it was important to ensure that the recruitment process served to encourage as diverse a group of applicants as possible. This would include tailoring the application form to ensure a user-friendly approach and to ensure that registrants without prior board level experience were able to apply. Officers agreed that it was important to reach as wide an audience as possible to ensure applications from diverse professional and personal backgrounds, and that the recruitment process complied with the Equality and Impact Assessment undertaken. Members also acknowledged applicants were likely to have had senior experience in an organisation and that successful candidates would need to be able to operate at a strategic level.
7. Members expressed concern about the new Council members' terms of office expiring at the same time. Officers said that the length of tenure of successful applicants was in the gift of the NMC. The recommendations to the Privy Council would include advising on the length of appointments and that these were likely to range between 2 and 4 years.
8. Members said that engagement with stakeholders was particularly important and that notification of the appointment for the reconstituted Council should form part of the wider engagement strategy, which would include liaison with patient and public groups.
9. The Chair of the Remuneration Committee thanked members for their comments, noting that many of the suggestions were already built into the application process but that he would continue to provide Council with information and assurance over the process at key points in the timetable.

Decision Members:

- **Approved the process for the appointment of members to a reconstituted Council.**
- **Agreed delegated authority to the Chair for sign-off at key**

stages of the process between Council meetings when required and agreed that officers compile a summarised action plan of key stages.

- **Agreed that the Chair of the Remuneration Committee provide assurance to Council on the process management and material content.**

Action	Produce a summary document for members outlining the appointment timetable for the reconstituted Council
For:	Director of Corporate Governance
By:	31 January 2013
Action	Incorporate members' comments in to the future Council member role descriptions / person specifications and skills mix
For:	Director of Corporate Governance
By:	31 January 2013
Action	Ensure that there is registrant input into the applicant Information Pack.
For:	Director of Corporate Governance
By:	31 January 2013
Action	Ensure that application packs and the appointment website include current Council members' contact details.
For:	Director of Corporate Governance
By:	31 January 2013

12/210 Committee Terms of Reference

1. The Chair introduced the item.
2. Members said that it would be beneficial to establish size limits for committees and that it would be helpful to establish frequency of meetings, which would give members the opportunity to consider the demands on their time prior to agreeing to sit on a committee.
3. Members asked what additional resources had been put in place to ensure that additional committees were fully supported. Officers said additional resources had recently been put into place within the Corporate Governance directorate but that resourcing would continue to be assessed to ensure that committees were supported and serviced appropriately.
4. Members made a number of detailed comments on the prospective Terms of Reference for the Fitness to Practise Committee; the Finance and IT Committee; and the Education Committee. Members agreed that membership and chairing arrangements were important areas to discuss and that this would be progressed following the Council meeting.

Decision • **Members agreed that committee membership not exceed 10**

- members (excluding co-opted (non-voting) members).
- **Members agreed that committees should not meet less than four times per year.**

Action	Amend the draft Finance Committee Terms of Reference to omit 1.10 (Appropriate responses to reports from the Audit Committee) and to include within the Terms of Reference monitoring of IT strategy and implementation, reserves position, and registration fees
For:	Director of Corporate Governance
By:	31 January 2013
Action	Amend the Fitness to Practise Action Committee Terms of Reference to include wider strategic issues beyond plans and policies from CHRE and to include reference to a quality assurance role
For:	Director of Corporate Governance
By:	31 January 2013
Action	Amend the Education Committee Terms of Reference to include initial approvals of education programmes and risk management
For:	Director of Corporate Governance
By:	31 January 2013
Action	Amend Standing Orders to specify that committees meet a minimum of four times per year and that committee membership (excluding co-opted members) not exceed ten
For:	Director of Corporate Governance
By:	31 January 2013
Action	Feedback to Council on administrative and logistical support for governance bodies
For:	Director of Corporate Governance
By:	31 January 2013
Action	All committees and Council to review their effectiveness (excluding practice committee members)
For:	Director of Corporate Governance
By:	31 January 2013

12/211 Case management and consensual panel determinations

1. The Acting Director of Fitness to Practise introduced the item.
2. In discussing the recommendations, members said that it was important that information for registrants needed to undergo a "Plain English" assessment. Members accepted that much of the language within the draft document would be understood by professionals but considered that such an assessment would be beneficial in fostering better public engagement.
3. With regard to the fourth recommendation, members noted that it was

important to examine consensual panel determination (CPD) processes to ensure that referrers were involved within the process as and when appropriate.

4. Members asked whether CHRE felt that their concerns regarding the NMC's proposed consensual panel determination processes had been addressed. Officers said that they believed this to be the case and that other regulators had similar arrangements. Officers added that where an agreement for CPD was approved by a panel, the panel's determination could be referred to the High Court as with any other final determination by the CCC or HC.

Decision Members:

- **Approved the objectives of the case management process.**
- **Approved the proposed arrangements for preliminary meetings by telephone.**
- **Approved amendments to Standing Orders and agreed to make standard directions for the Conduct and Competence Committee and Health Committee.**
- **Approved the proposed arrangements for consensual panel determination.**

Action Re-evaluate Annexe 4 (Case management: information for registrants) to ensure it complies with Plain English requirements.

For: Acting Director of Fitness to Practise

By: 31 January 2013

Action Amend sixth objective to state "Treat all parties sensitively and with respect, and offer such information and support as it is appropriate for the NMC to provide"

For: Acting Director of Fitness to Practise

By: 31 January 2013

Matters for discussion

12/212 Revalidation update

1. The Acting Director of Registrations and Standards introduced the item. She noted that revalidation activity assumptions were included in the NMC financial strategy and that resources would be dedicated appropriately. She added that there had been significant external interest in this issue and governance arrangements were therefore being refreshed to include key external stakeholders. She added that members should express an interest soon if they wished to sit on the proposed Programme Board.
2. Members were keen for Council to be involved in oversight of the revalidation strategy. Officers said that Council members' involvement was actively sought by officers and that Council would be updated regularly on progress.

3. Members noted that the strategy would need to go to consultation and asked that officers prepare a series of final options to Council before consultation.

- Decision**
- **Members noted the progress to date on developing a system of revalidation and the proposed approach to taking the programme of work forward.**
 - **Members agreed that officers prepare a series of options to Council before consultation.**

Action For: Prepare a series of options in revalidation for Council consideration
By: Acting Director of Registration and Standards.
 21 March 2013

12/213 Report of the Remuneration Committee

1. The Chair of the Remuneration Committee informed Council of discussions held at the last Remuneration Committee. These included Council's reconstitution, remuneration of Council members, the constitution of the Selection Panel and the pay and grading review for NMC staff.
2. Members discussed how to ensure sharing of information between the Committee and Council in the future. Members agreed that Committee minutes could be tailored appropriately to exclude personal information and shared with Council.
3. Members thanked the Chair of the Remuneration Committee for his report.

12/214 Fitness to Practise Action Group meeting report

1. Members were updated on the discussions held at the last Group meeting, which included information on key performance indicators, historic case progression and an overview of management information. Further items discussed included progress on recruitment, training, percentage of cases closed and efficiencies around the process and administration of hearings, with the improvement in the time taken on investigations being of particular note.
2. Members noted that the meeting on 17 January 2013 would also consider a presentation on the Lean review conducted by KPMG, as well as the directorate strategic plan and quality assurance report.

12/215 Draft agenda for the Council meeting on 14 December 2012

1. Whilst concern was expressed at the long gap between the November 2012 and January 2013 meetings, members agreed that as the meeting on 14 December was likely to be inquorate, the meeting be cancelled and items brought forward to the Council meeting to take place on 31 January 2013.

Action	Arrange for agenda items scheduled for December 2012 to be moved to the January 2013 Council meeting
For	Interim Assistant Director of Governance and Planning
By:	31 January 2013
Action	Arrange for sign-off of the FtP publication and disclosure policy by the Chair of Council (under delegated powers) prior to next Council, and to feedback at January 2013 Council
For	Chair of Council / Acting Director of Fitness to Practise
By:	31 January 2013

The meeting, which started at 9.32am, closed at 2.40pm.

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 22 November 2012 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 22 November 2012 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 and arising out of the open session Council meeting on 22 November 2012

Brought forward actions

Minute	Action	Core regulatory function	Corporate objectives	For	Report back to: Date:	Progress
12/129	Complete risk register to be reviewed by Council on a quarterly basis			Director of Corporate Governance	Council 31 January 2013	On agenda.
12/135	Plain English review to be undertaken as part of the engagement strategy			Director of Corporate Governance	Council 31 January 2013	To be brought to February meeting
12/139	Provide scoping paper for reviewing alcohol and drugs policy Provide update on proposed work to review thresholds for impairment Update on the implementation of agreed changes to the policy regarding minor cautions and convictions			Director of Fitness to Practise	Council 31 January 2013 31 January 2013 31 January 2013	One paper to include all items – agenda item 11
12/163	Review reserves policy			Director of	Council	To be included as

Minute	Action	Core regulatory function	Corporate objectives	For	Report back to: Date:	Progress
	annually			Corporate Services	May 2013	part of the annual review of the fee
	Develop strategy for IT future requirements			Director of Corporate Services	Council 18 July / 24 October 2013	Plan for designing future IT requirements, which will be brought back to Council for approval, including the associated funding, is being developed. Work is underway and we are recruiting for both permanent and project resource
12/165	Agree proposed amendment to FtP publication and disclosure policy to publish all "striking off" orders online indefinitely, subject to IT capability			Director of Fitness to Practise	Council 31 January 2013	Council agreed at its November 2012 meeting that the revised FtP publication and disclosure policy be approved by the Chair under delegated powers
12/166	Review the effect of the revised guidance and criteria for making			Director of Fitness to Practise	Council 12 September 2013	Qualitative and quantitative data will be gathered to

Minute	Action	Core regulatory function	Corporate objectives	For	Report back to: Date:	Progress
	decisions on voluntary removal during fitness to practise investigations					assess the effect of this
12/167	Review priority and other options for investment in relation to improving speed of answering calls into registrations			Director of Registrations and Standards/Director of Corporate Services	Council 13 March 2013	To be included in budget 12/13 discussions which will be agreed by Council on 13 March 2013
12/168	Include compliments in the quarterly complaints statistics report			Chief Executive	Council 31 January 2013	Report format being to developed to capture compliments
12/169	Report on learning (from SERs, data breaches, complaints, FOIs and litigation) with single policy and template developed			Director Corporate Governance	Audit Committee 11 December 2012 Council 31 January 2013	Reported to Audit Committee in December and further work needed. Report to Audit Committee in April 2013
12/171	Explain on each confidential agenda why it is confidential			Authors	Council 31 January 2013	See reports on confidential agenda
12/182	Improve communication with registrants of the role and purpose of the			AD Policy and Communications	Council 31 January 2013	Included in Engagement Strategy to be

Minute	Action	Core regulatory function	Corporate objectives	For	Report back to: Date:	Progress
	NMC					brought to February Council
	Carry out annually a robust review of fee levels, which include consideration of different levels based upon registrants' income level			Director of Corporate Services	Council 23 March 2013	Not yet due
12/183	Provide better insight to causes of staff turnover and remedies			Interim Director of HR and OD	Council 31 January 2013	Included in CEO report (Item 8 on the Council agenda).
12/184	Provide update on ability of IT systems to meet registrants' expectations. Outline of the planned phases and milestones for monitoring the current IT development budgeted expenditure			Chief Executive	Council seminar 30 January 2013	On seminar agenda
	Provide comment on (SS5) complaints upheld and partially upheld in the balanced scorecard along with an explanation of what "partially upheld" means			Chief Executive	Council 31 January 2013	On agenda – item 14

Minute	Action	Core regulatory function	Corporate objectives	For	Report back to: Date:	Progress
12/185	Bring FtP strategy after it has been agreed by the FtP group			Director of Fitness to Practise	Council 31 January 2013	To be presented to seminar and incorporated into corporate planning
	Consider within the FtP strategy how learning is captured from FtP cases and LSA reports to subsequently inform education and standards			Directors of Fitness to Practise and Registration and Standards	Council 31 January 2013	To be presented to seminar and incorporated into corporate planning

Actions arising from open session Council meeting on 22 November 2012

Minute	Action	For	Report back to: Date:	Progress
12/196	Review minutes of the meeting held on 25 October 2012 to ensure all comments and action points are incorporated	Director of Corporate Governance	Council 31 January 2013	This has been completed and incorporated within agenda item 4
12/197	Review summary of actions to state the dates when items will be put before Committee / Action Group as well as Council	Director of Corporate Governance	Council 31 January 2013	Completed - see committee actions at the end of paper

Minute	Action	For	Report back to: Date:	Progress
	Amend the outstanding actions summary document to reflect that the Council review of registration fees needs to take place in March 2013 (rather than May 2013 as in the summary document) and will need to determine decide whether a change in level of fee is required and if so a consultation will be required. (Discussed in item 12/157)	Director of Corporate Governance	Council 31 January 2013	Done
12/199	Review scorecard to more clearly align KPI and comments	Director of Corporate Governance	Council 31 January 2013	Included in agenda item 8
	Bring policy on professional indemnity insurance to future meeting	Director of Registration and Standards	Midwifery Committee 16 January 2013 Council 31 January 2013	On agenda – item 13
	On the balanced scorecard, change amber rating to red on FTP11 – “number of adjudication cases completed with a final decision each month”	Director of Corporate Governance	Council 31 January 2013	Completed.
	Amend risk register to show the implementation project as a top risk.	Director of Corporate Governance	Council 31 January 2013	The risk register was amended to reflect this risk as “red” as per members’

Minute	Action	For	Report back to: Date:	Progress
				request. Since then, amended rules were laid before Parliament on 6 December, which provides sufficient time (more than 28 days) prior to coming into force on 1 Feb 2013. The risk has therefore been subsequently amended to amber.
12/200	Provide Council with more substantial points post-consultation on the changes to the guidance issued to panels on making an interim order	Director of Fitness to Practise	Council 21 February 2013	Not yet due
12/201	Provide an update report on ICT strategy and implementation	Director of Corporate Services	Council 31 January 2013	To be discussed in seminar
	Provide forecasted end-of-year financial position to Council at the next meeting to include specific area on IT spend	Director of Corporate Services	Council 31 January 2013	In monthly financial report – agenda item 10
	Ensure that future financial monitoring considers reserve management, and that Council monitor reserves position on a regular basis	Director of Corporate Services	Council 31 January 2013 (and ongoing)	In monthly financial report – agenda item 10

Minute	Action	For	Report back to: Date:	Progress
12/202	Report on learning points relating to corporate complaints	All directors	Council 31 January 2013	On agenda included in paper on complaints
	Provide Council with update on current arrangements for registrations postal correspondence	Director of Registration and Standards	Council 31 January 2013	On agenda in CEO's report – agenda item 8
12/206	Consider learning from patient and public engagement work undertaken by mental health services and learning disabilities services providers	Assistant Director, Policy and Communications	Council 31 January 2013	Learning will be incorporated in Engagement Strategy roll out following February Council
	Produce a number of target outcomes for engagement work to enable monitoring by Council	Director of Corporate Governance	Council January 2013	Being developed as part of business planning process, will include in January 2013 seminar and report back to February 2013 Council
12/208	Produce a summary document outlining the key stages for the process of Council members appointment for current Council members	Director of Corporate Governance / Chair of Remuneration Committee	Council 31 January 2013	Sent to members with Chair of Remuneration Committee update note
	Incorporate members' comments in to the future Council member job descriptions/person specifications and skills mix	Director of Corporate Governance	Council 31 January 2013	Included in application information pack

Minute	Action	For	Report back to: Date:	Progress
	Ensure that there is professional registrant input into the applicant information pack.	Director of Corporate Governance	Council 31 January 2013	Done
	Ensure that application packs and appointment website include current Council members' contact details	Director of Corporate Governance	Council 31 January 2013	Done and then removed following PSA feedback
12/209	Amend the draft Finance Committee Terms of Reference to omit 1.10 (Appropriate responses to reports from the Audit Committee) and to include within the Terms of Reference monitoring of IT strategy and implementation, reserves position, and registration fees	Director of Corporate Governance	Council 31 January 2013	Circulated with papers for information
	Amend the Fitness to Practise Action Committee Terms of Reference to include wider strategic issues beyond plans and policies from CHRE and to include reference to a quality assurance role	Director of Corporate Governance	Council 31 January 2013	Circulated with papers for information
	Amend the Education Committee Terms of Reference to include initial approvals of education	Director of Corporate Governance	Council 31 January 2013	Circulated with papers for information

Minute	Action	For	Report back to: Date:	Progress
	programmes and risk management			
	Amend Standing Orders to specify that committees meet a minimum of four times per year and that committee membership (excluding co-opted members) does not exceed ten	Director of Corporate Governance	Council 31 January 2013	Terms of reference for each committee have been amended to reflect the action requested,
	Officers to feedback to Council on administrative and logistical support for governance bodies	Director of Corporate Governance	Council 31 January 2013	Committee administrative arrangements agreed as follows: Council, Audit Committee, Remuneration Committee and Finance & IT Committee - (Paul Johnston) . Midwifery Committee, Education Committee, Fitness to Practise Committee and Appointments Board - (David Gordon)
	All committees and Council to review their effectiveness (excluding Practise Committee members)	Director of Corporate Governance	Council 25 April 2013	Not yet due
12/210	Re-evaluate Annexe 4 (Case	Director of Fitness	Council	Done.

Minute	Action	For	Report back to: Date:	Progress
	management: information for registrants) to ensure it complies with Plain English requirements	to Practise	31 January 2013	
	Amend sixth objective to state "Treat all parties sensitively and with respect, and offer such information and support as it is appropriate for the NMC to provide"	Director of Fitness to Practise	Council 31 January 2013	Done
12/212	Arrange for agenda items scheduled for December 2012 to be moved to the January 2013 Council meeting	Interim Assistant Director of Governance and Planning	Council 31 January 2013	This has been completed.
12/212	Arrange for sign-off of the FtP publication and disclosure policy by the Chair of Council (under delegated powers)	Chair of Council; Director of Fitness to Practise	Council 31 January 2013	Done - reported under Chair's action under Item 6.

Actions for Committees and Groups

Audit Committee

Minute	Action	For	Report back to: Date:	Progress
12/169	Report on learning (from SERs, data breaches, complaints, FOIs	Director Corporate Governance	Audit Committee 11 December 2012	Reported to Audit Committee in December

Minute	Action	For	Report back to: Date:	Progress
	and litigation) with single policy and template developed		Council 31 January 2013	and further work needed. Report to Audit Committee in March

Finance & IT Committee

Minute	Action	For	Report back to: Date:	Progress
12/163	Review reserves policy annually	Director of Corporate Services	Finance and IT Committee March 2013 Council 21 March 2013	To be included as part of the annual review of the fee
12/163	Develop strategy for IT future requirements	Director of Corporate Services	Finance and IT Committee May 2013 Council 18 July / 24 October 2013	Plan for designing future IT requirements, which will be brought back to Council for approval, including the associated funding is being developed. Work is underway and we are recruiting for both permanent and project resource
12/182	Carry out annually a thorough robust review of fee levels which will include consideration of different levels based upon	Director of Corporate Resources	Finance and IT Committee March 2013	Added to Council forward planner

Minute	Action	For	Report back to: Date:	Progress
	registrants income level		Council 21 March 2013	
12/184	Provide update on ability of IT systems to meet registrant's online expectations. Outline of the planned phases and milestones for monitoring the current budgeted expenditure	Chief Executive	Finance and IT Committee 24 January 2013 Council 31 January 2013	Reported to Council seminar January 2013
12/207	Officers to amend the draft Finance Committee Terms of Reference to omit 1.10 (Appropriate responses to reports from the Audit Committee) and to include within the Terms of Reference monitoring of IT strategy and implementation, reserves position, and registration fees	Director of Corporate Governance	Finance and IT Committee 24 January 2013 Council 31 January 2013	Done. Committee to note its Terms of Reference at its 24 January meeting.

Fitness to Practise Committee

Minute	Action	For	Report back to: Date:	Progress
12/139	Provide scoping paper for reviewing alcohol and drugs policy	Director of Fitness to Practise	Fitness to Practise Committee 17 January 2013	Thresholds were discussed at FtP committee on 17 January

Minute	Action	For	Report back to: Date:	Progress
	<p>Provide update on proposed work to review thresholds for impairment</p> <p>Update on the implementation of agreed changes to the policy regarding minor cautions and convictions</p>		<p>Council 31 January 2013</p>	<p>All matters are on the Council agenda under item 11</p>
12/165	<p>Agree proposed amendment to FtP publication and disclosure policy to publish all "striking off" orders online indefinitely, subject to IT capability</p>	<p>Director of Fitness to Practise</p>	<p>Council 31 January 2013</p>	<p>Council agreed at its November 2012 meeting that the revised FtP publication and disclosure policy be approved by the Chair under delegated powers (see item 6 on this agenda)</p>
12/166	<p>Review the effect of the revised guidance and criteria for making decisions on voluntary removal during fitness to practise investigations</p>	<p>Director of Fitness to Practise</p>	<p>Fitness to Practise Committee TBC</p> <p>Council 12 September 2013</p>	<p>Qualitative and quantitative data will be gathered to assess the effect of this</p>
12/185	<p>Bring FtP strategy after it has been agreed by FtP Committee.</p>	<p>Director of Fitness to Practise</p>	<p>Fitness to Practise Committee 17 January 2013</p> <p>Council</p>	<p>To be discussed in seminar as part of corporate planning</p>

Minute	Action	For	Report back to: Date:	Progress
			31 January 2013	
12/185	Consider within the FtP strategy incorporate how learning is captured from FtP cases and LSA reports to subsequently inform education and standards	Directors of Fitness to Practise and Registration and Standards	Fitness to Practise Committee 17 January 2013 Council 31 January 2013	Seminar January and incorporated into corporate planning
12/185	Provide update on proposed work to review thresholds for impairment including potential effects	Director of Fitness to Practise	Fitness to Practise Committee 17 January 2013 Council 31 January 2013	On agenda for January Council meeting - item 11
12/199	Monitor FtP11, estimate of adjudication level to be completed each month	Director of Fitness to Practise	FtP Committee – standing item each meeting	Included in FtP Committee monitoring
12/207	Officers to amend the Fitness to Practise Action Committee Terms of Reference to include wider strategic issues beyond plans and policies from CHRE and to include reference to an assurance role	Director of Corporate Governance	Fitness to Practise Committee 17 January 2013 Council 31 January 2013	Done

Midwifery Committee

Minute	Action	For	Report back to: Date:	Progress
12/190	Bring to Council the forward plan for Midwifery Committee	Acting Director Registrations and Standards	Midwifery Committee 16 January 2013 Council 31 January 2013	Included in Midwifery report to Council – agenda item 19
12/199	Policy on professional indemnity insurance to be brought to future meetings	Acting Director of Registration and Standards	Midwifery Committee 16 January 2013 Council 31 January 2013	On agenda for both Committee and Council – agenda item 13

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, as set out within paragraphs 7, 9, 13, 16 and 19 of this report.
Annexes:	<ul style="list-style-type: none"> • Annexe 1: Chair's action report (approval of the revised NMC Fitness to Practise publication and Disclosure policy). • Annexe 2: Chair's action sign-off sheet (approval of the revised NMC Fitness to Practise publication and Disclosure policy). • Annexe 3: Chair's action sign-off sheet (appointment of two additional registrars). • Annexe 4: Chair's action sign-off sheet (extension of term of office). • Annexe 5: Chair's action sign-off sheet (appointment of panel members for 2nd term). • Annexe 6: Additional Chair's action sign-off sheet (approval of the revised NMC Fitness to Practise publication and Disclosure policy)
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

Approval of the revised NMC Fitness to Practise publication and Disclosure policy

- 1 Council approved detailed changes to the NMC disclosure policy at its September 2012 meeting, subject to appropriate IT provisions being sourced. An appropriate IT solution has now been achieved and the new online search facility for Fitness to Practise has been available to the public on the NMC website since 3 January 2013.
- 2 Furthermore, Council decided at its September meeting that orders removing registrants from the register (such as removal and striking off orders) should be displayed indefinitely, subject only to the need to remove the names of those who are deceased to prevent the list of names becoming unmanageable.
- 3 Further to the above decision, officers amended the NMC's Fitness to Practise publication to incorporate other revisions to the written policy document. These changes reflect the current practice and terminology being used in the Fitness to Practise, Registration and Standards, and Corporate Governance directorates.
- 4 Officers have also taken the opportunity to include a new section within the publication, outlining our approach to the use of patient healthcare records in our investigations.
- 5 No amendments have been made to the legislative framework or the key principles in the policy and none of these revisions involve any significant change in policy for which specific Council approval needs to be sought.
- 6 Council agreed to delegate the final sign-off of the revised NMC Fitness to Practise Publication and Disclosure policy to the Chair at its meeting in November 2012.
- 7 **Recommendation: Note the Chair's approval of the revised NMC Fitness to Practise publication and Disclosure policy.**
- 8 Since the Chair's action outlined above was taken, the Chair also agreed via a separate action three further minor changes to the publication, which are set out within Annexe 6.
- 9 **Recommendation: Note the Chair's approval of three further minor changes to the NMC FtP publication and disclosure policy.**

Approval of the appointments of two additional assistant registrars

- 10 In September 2012, Council approved and therefore made, the

Nursing and Midwifery Council (Education and Registration Appeals) (Amendment) Rules 2012.

- 11 The approval introduced voluntary removal procedures for nurses and midwives who are subject to fitness to practise investigations.
 - 12 The Chair has been asked to approve the appointment of the Assistant Director of Education and Standards and the Assistant Director of Registrations as two additional assistant registrars. The appointment of two more assistant registrars enables the voluntary removal process to operate more efficiently and effectively.
 - 13 **Recommendation: Note the Chair's approval of the appointments of two additional assistant registrars to act for the Registrar following the implementation of voluntary removal.**
- Approval of the extension of the second term of office for a number of registrant panel members**
- 14 In order to meet the current FtP business need for registrant panel members, the Chair has agreed to extend the second term of office for a number of registrant panel members (as detailed within Annexe 4).
 - 15 In making the agreement, the Chair noted that all panel members are registrants and that they will only be able to sit as registrant panel members and not as Chairs.
 - 16 **Recommendation: Note the Chair's approval of the extension of the second term of office for a number of registrant panel members.**
 - 17 **Appointment of one panel member to a second term of office to the conduct and competence committee and one panel member to the investigating committee**
 - 18 The Appointments Board has recommended that Karen Bates be appointed to a second term of office on the conduct and competence committee and that Lynne Barlow be appointment to a second term of office on the investigating committee. The Chair has subsequently endorsed this recommendation.
 - 19 **Recommendation: Note the Chair's action on the appointment of one panel member to a second term of office to the conduct and competence committee and one panel member to the investigating committee.**

ANNEXE 1

Chair's Action

Revised Publication and Disclosure policy

Action: For decision

Issue: The Chair is asked to approve the revised NMC Fitness to Practise Publication and Disclosure policy which has been amended to include details of the new online sanctions policy approved by Council in September 2012 and some minor updating revisions.

Core regulatory function: Fitness to Practise, Registrations, Communications

Corporate objectives: This revised policy supports our commitments to an accurate register, fair fitness to practise processes and good communications –Objectives 1, 3 and 6 of the NMC Corporate Objectives.

Decision required: The Chair is recommended to:

- approve the revised NMC Fitness to Practise Publication and Disclosure policy (effective from 3 January 2013) annexed to this paper (paragraph 14).

Annexes: The following annexes are attached to this paper:

- Annexe 1: the NMC Fitness to Practise Publication and Disclosure policy – revised with effect from 3 January 2013
- Annexe 2: previous Council paper [NMC/12/129/] “Publishing fitness to practise sanctions online” [TRIM REF: 1789624]

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 full context and background to this paper are set out in the previous two Council papers on this subject presented to the January and September 2012 Council meetings. The September 2012 paper is annexed to this paper at Annexe 2.
 - 2 In summary, this policy change was recommended by CHRE in a report in October 2010, approved in principle by Council in January 2012, consulted on in July 2012 and approved in detail by Council in September 2012 subject only to an appropriate IT solution being found.
 - 3 At that September 2012 meeting Council also decided that orders removing registrants from the register (such as removal and striking off orders) should be displayed indefinitely subject only to the need to remove the names of those who are deceased to avoid the list of names becoming unmanageable.
 - 4 Council agreed that once any IT issues had been overcome and the WISER/CMS reconciliation process was complete, the new policy should be implemented.

Discussion: New online search facility

- 5 An appropriate IT solution has now been achieved and the new online search facility has been available to the public on the NMC website since 3 January 2013.
- 6 The Fitness to Practise Publication and Disclosure policy has therefore been revised to reflect this new policy and, if approved, will be effective from 3 January 2013.
- 7 As requested by Council, the IT solution allows for any sanctions relating to a deceased individual to be removed from the search results upon formal notification of the death, as at present, and for all sanctions to be displayed for no more than 60 years in line with our fitness to practise retention of information policy.
- 8 The new online search arrangements are set out in paragraphs 14 to 22 of the revised policy.

Other minor revisions to policy

- 9 The Fitness to Practise Publication and Disclosure policy was adopted by Council in March 2011 and has not been amended by Council since that time.
- 10 As outlined to Council in September 2012, we have therefore taken the opportunity presented by this change in policy to make some other updating revisions to the written policy document so that it properly reflects the current practice and terminology being used in the Fitness to Practise, Registrations and Corporate Governance

directorates.

- 11 We have also taken the opportunity to include a new section outlining our approach to the use of patient healthcare records in our investigations.
 - 12 No amendments have been made to the legislative framework or the key principles in the policy and none of these revisions involve any significant change in policy for which specific Council approval needs to be sought.
 - 13 Examples of the revisions made include:
 - 13.1 Minor revisions to reflect the new corporate structure
 - 13.2 Minor revisions to reflect the new Fitness to Practice investigation stages
 - 13.3 Minor revisions to reflect the current corporate communications arrangements such as employers and managers' newsletters.
 - 13.4 Minor revisions to fully reflect our approach to the anonymisation of witnesses and the availability of transcripts.
 - 14 **Recommendation:** To approve the revised NMC Fitness to Practise Publication and Disclosure policy (effective from 3 January 2013) annexed to this paper.
- Public protection implications:**
- 15 This revised policy will enhance public protection by making details of those who have been suspended or removed from our register since 1 January 2008 available to online enquirers.
- Resource implications:**
- 16 There are no further costs associated with the decision required in this paper beyond the costs involved in the IT work outlined in the previous Council papers.
- Equality and diversity implications:**
- 17 Please see the relevant sections in the previous Council papers. There are no separate potential equality and diversity implications associated with the decision required in this paper beyond those already outlined in the previous Council papers.
- Stakeholder engagement:**
- 18 Please see the relevant sections in the previous Council papers for full details of the consultation and previous stakeholder engagement on this issue.
 - 19 Now that new online search arrangements have been finalised, a communication plan has been prepared in order to ensure that

registrants, employers and the public are made aware of the changes and how and when they will be implemented. This will include the normal channels of communication such as the website and our mailing lists. Our plans will also be communicated to NMC stakeholders including other health regulators, CHRE, professional associations and unions.

Risk implications: 20 A small risk must always remain that there will be unforeseen IT issues when the new online search facility goes live but we are satisfied that the test site is working effectively and have internal IT resources working on this project.

Legal implications: 21 None.

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: 18/12/12

Requested by: Clare Padley,
Assistant Director – Policy, Strategy
and Legislation, Fitness to Practise

Detail:

The Chair is asked to approve the revised NMC Fitness to Practise Publication and Disclosure policy which has been amended to include details of the new online sanctions policy approved by Council in September 2012 and some minor updating revisions.

Full details are in the attached Chair's Action paper.

Signed Mark Addison (Chair)

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: 14/12/2012

Requested by:
Clare Padley

Detail:

The Council is recommended to approve the appointment of two additional Assistant Registrars to act for the Registrar following the implementation of voluntary removal.

The Chair is requested to sign off the attached recommendation on behalf of Council for the appointment of the Assistant Director of Education and Standards and the Assistant Director of Registrations as two more Assistant Registrars.

The appointment of two more Assistant Registrars will enable the voluntary removal process to be efficient and effective, once in place, by enabling them to make decisions on applications for removal from the register.

The operational change to the process for voluntary removal has the potential to achieve significant efficiency savings by ensuring that fitness to practise hearings are only held where necessary.

Signed _____



(Chair)

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: 12/12/2012

Requested by: Darren Wheatley

Detail: To meet the current FtP business need for registrant panel members the Chair is asked to extend the second term of office for the following registrant panel members:

Michele Harrison
Laura Spittles
Gill Barker
Anna Buchan
Andrew Coleman
Virginia Garnett
Rachel O'Connell
Camilla Wiley
Judith Worthington

These panel members have been selected firstly because they are registrants and secondly because they are either:

1. Dual qualified
- or
2. Experienced (based on the fact they are currently sitting as chairs)

During the extension period these practice committee members will only be eligible to sit as registrant panel members and not as chairs.

The extension is for a period of one year from 1 January 2013 to 31 December 2013.

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

Signed



(Chair)

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: 12/12/2012

Requested by: Darren Wheatley
Head of Panel Support and
Scheduling

Detail: The Chair of Council is asked to appoint the following panel members to a second term of office:

Karen Bates to the conduct and competence committee

Lynne Barlow to the investigating committee

The second term will be for a period of four years and will take effect from 1 January 2013.

These second term appointments are recommended by the appointment board.

Signed Moh Addeh (Chair)

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 80).

Date: 15/11/13

Requested by: Clare Rodkey

Detail:

Amendments to the updated Fitness to Practise publication and disclosure policy

The Fitness to Practise publication and disclosure policy was recently updated to reflect several changes to fitness to practise procedures. These changes were approved by Chair's Action.

Since approval a few more amendments have been deemed necessary to ensure that the policy is clear and unambiguous about when we will publicly confirm referrals and what information about witnesses can be released.

The Chair is recommended to approve the three changes outlined overleaf, relating to 'witnesses' and the 'online search the register facility'.

Signed

Mr Addison

(Chair)

Witnesses

41. The names of patients, patient relatives, complainants in sexual cases and children are anonymised throughout the hearing and in all the hearing documents. The names of other witnesses and third parties who are not granted legal anonymity are not anonymised during the hearing, but will be anonymised in the decisions and reasons published on the NMC's website after the hearing with effect from 14 January 2013.

42. The names of witnesses and third parties not granted legal anonymity can be released into the public domain on request.

43. In most public hearings, all the witnesses will give live evidence in public. In some circumstances witnesses may be allowed to give evidence by video link but the hearing will still be in public and the witness will still be subject to questioning. In exceptional circumstances, vulnerable witnesses may be allowed to give evidence to the Panel in private, however their evidence will still be noted in the reasons and some details may be published in accordance with this policy. Full details will be explained to the witnesses in question at the time.

Online search the register facility

21 The online search results will not indicate whether a nurse or midwife is the subject of an ongoing fitness to practise investigation as this information remains confidential until the case is referred for adjudication or an interim order is scheduled.

Deleted: made

Council

Chief Executive's report

Action: For discussion.

Issue: This paper reports on key strategic developments and performance against the NMC's Corporate Plan 2012-2015.

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

Corporate objectives: This paper reports against all of the NMC 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 Change Management Portfolio High Level Delivery Plan update (Annexe 2).

Annexes: The following annexes are attached to this paper:

- Annexe 1: Balanced scorecard December 2012 report (to follow).
- Annexe 2: Change Management Portfolio High Level Delivery Plan update.

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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Chief Executive: Jackie Smith
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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 2012-2015.

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.

Discussion Strategic context

Professional Standards Authority

- 3 The NMC's evidence submission to the Professional Standards Authority performance review 2012-2013 was submitted to deadline on 3 December 2012. Copies of the submission were subsequently sent to Council and committee members.

Health Select Committee

- 4 Following the Chair and Chief Executive's evidence session to the House of Commons Health Committee as part of our annual accountability hearing on Tuesday 16 October 2012, we have been informed that the publication of the committee's report has been delayed slightly and is expected imminently.

Francis report

- 5 The final report of the Francis Inquiry is currently being considered by the Department of Health and is expected to be made public in February 2013.

Engagement with professional bodies, unions, educators and other regulators

- 6 On 27 November 2012 the Chief Executive and Directors met with the Director of Nursing at the NHS Trust Development Authority for a briefing on its role and responsibilities, in particular the sharing of information in order to identify areas of risk in care settings.
- 7 On 28 November 2012 the Chair and Chief Executive met with the Chief Executive and Director of Employment Services for NHS employers to discuss assistance with appropriate referrals to Fitness to Practise (FtP).
- 8 On 4 December 2012 the Chair attended the Department of Health CNO conference, which saw the launch of the new strategy for nurses, midwives and care givers, Our Culture of Compassionate Care. The strategy is based on the outcomes of the recent Department of Health consultation. The vision set out in the consultation was for nurses, midwives and care-givers to deliver high quality compassionate care that is person-centred and evidence-

based. It identified the role of nurses and midwives as leading across six priority areas, the '6 Cs': care, compassion, competence, communication, courage and commitment.

- 9 On 13 December 2012 the Chair and Chief Executive met with the Director of Regulatory Development at the Care Quality Commission to discuss closer working relationships.
- 10 The Chair continued with his programme of induction meetings and met with the Chair of the Health and Care Professions Council and the Chair of the General Pharmaceutical Council on 29 November.

Engagement with public and patient groups

- 11 On 28 November 2012 we held our second Patient and Public Engagement Forum. These events are a way for us to work more closely with patient representatives and to ensure that we put patients at the heart of all our work. The events are attended by a range of patient groups, patient advocates and health charities.
- 12 The group discussed patients' experiences of referring to the NMC and what good customer service means. The key issue arising from the discussion was the need to use plain English in all of our communications. The next meeting will take place on 13 February 2013.
- 13 On 29 November 2012 the Chief Executive attended the Patient Association First Annual Parliamentary Partners in Care Conference, where she took part in a panel discussion along with representatives from the Care Quality Commission, the National Health Service Commissioning Board and the National Institute for Health and Clinical Excellence.
- 14 On 6 December 2012 the Chair and Chief Executive met with representatives of Cure the NHS, the campaign group set up in relation to the standard of care at Mid Staffordshire NHS Foundation Trust. At the meeting participants discussed the forthcoming publication of the Francis Inquiry.
- 15 As part of his programme of induction meetings the Chair met with the Chief Executive Officer of the Patients Association on 6 December 2012.

Consultations

- 16 We have responded to the following consultations:
 - 16.1 Care Quality Commission – the next phase. Consultation on our strategy for 2013-16.

- 16.2 Health Improvement Scotland – Consultation on scrutiny priorities for healthcare in Scotland (2013-15).
 - 16.3 Health and Care Professions Council (HCPC) – Consultation on service user involvement in education and training programmes approved by the HCPC.
- 17 We are preparing responses to the following consultations:
- 17.1 General Dental Council consultation and patient survey on Continuing Professional Development for dental professionals (submission deadline 31 January 2013).
 - 17.2 Monitor – Consultation on Draft Enforcement Guidance (submission deadline 11 February 2013).
- 18 Responses are available on our website.

Internal challenges

Change management programme

- 19 The purpose of the Change Management Programme is to transform the NMC into an excellent regulator and in doing so enhance public protection and confidence. The Change Management Portfolio Board (CMPB) provides the leadership and is accountable for the success of the programme, ensuring it achieves its vision of creating an NMC which delivers core regulatory functions efficiently and effectively and learns through continuous improvement.
- 20 The Board made key decisions in relation to the delivery of the ICT strategy. A strategic ICT delivery programme has been agreed and work has started to define the programme in greater detail. The Board will be seeking regular reports and will monitor progress. Work has commenced to prepare business cases for projects within the programme. The programme has already delivered upgrades to back end databases of our registration system and this has improved performance and reliability.
- 21 The advertisement for the appointment of Council members is now live and the closing date is midday on 4 February 2013. We have appointed a full time project manager to ensure proper focus on the plan and active management of risks and issues. The Board is monitoring the project on a regular basis.
- 22 The new fee amendment rules were made by Council on 22 November 2012 and were laid in Parliament on 6 December, thus allowing sufficient time before the required 'coming into force' date of 1 February 2013. The fee implementation project will remain open until then.

- 23 We have started a review of the processes in Registrations as part of the improvement plan. The review will identify necessary changes required in Registrations.
- 24 Following the Professional Standards Authority (formerly CHRE) Strategic Review, the NMC committed to undertaking a governance review of the Council and committee structure. A project has therefore been initiated to identify and establish a governance model that is fit for purpose and well placed to effectively support the reconstituted Council in the delivery of its business. The project is due for completion by 25 April 2013.

Causes and remedies of high staff turnover

- 25 A review of staff exit interviews has been undertaken to determine the causes of the high level of voluntary staff turnover over the last 12 months. Of the 138 total number of leavers (which included non-voluntary) 62 exit interviews were conducted, which is higher than the 50 interviews undertaken in the previous 12 months.
- 26 There were some differences between staff working at Portland Place and those working within FtP reflecting the different nature of the functions undertaken. FtP leavers tended to cite lack of career progression, pay, workload, lack of engagement with decision-making and expiry of visas as key reasons for leaving. Leavers from Portland Place tended to cite inconsistency in accountability, tardy inductions, hierarchy and a lack of good and consistent management as reasons.
- 27 Taking the combined results the following represents the reasons for leaving of the 62 individuals who were subject to an exit interview:

Leaving reason given	Total
Career progression	20
Change in career	3
Change in personal circumstances	2
Health related	1
Leaving country	13
Moving area	4
Non-return from maternity leave	2

Returning to education	4
Visa expiry	4
Work related issues	7
Total	62

- 28 Actions to remedy the turnover rate are in hand. These include a review of pay and grading and a review of our pension arrangements. Both have been tendered and will aim to address perceived inequalities in our current arrangements. Through proactive recruitment campaigns we are reducing the number of temporary staff and contractors and are also reviewing our supplier arrangements for the provision of temporary staff. A more open culture is evident with more proactive and personal face to face communication with staff. Staff and managers are also able to access a growing range of learning and development opportunities.

Leadership and culture

- 29 We held our staff conference on 7 December 2012 which was attended by 307 members of staff. The conference focused on bringing the organisation together around our public protection focus, increasing understanding of the work of each directorate and looking at how we can work better across directorates.
- 30 A key theme of the day was putting patients at the heart of what we do and we invited the Centre for Patient Leadership to run a session which explored what public protection means and how we all contribute through our different roles.

Regulatory priorities

Fitness to Practise

- 31 The Fitness to Practise (FtP) performance report, providing full information about activity in FtP, is included on the meeting agenda at item 9.

Registration

- 32 A review of registration policy and process began in November 2012. The first phase of the review focused on an independent external evaluation of current processes and a historic overview or legislation and rules that govern our registration function. A steering group including the Council Chair, Chair of Education Committee, Chief Executive and Acting Director, Registration and Standards was established to provide strategic oversight and scrutiny of the review.

- 33 Most key performance indicators (KPIs) have been met. We continue to experience an increase in applications from EU member states but UK admissions were reduced due to a lower number of newly qualified nurses and midwives at this time of year.
- 34 The operational phase of the fee implementation, voluntary removal and publication of FtP sanctions has been completed and we have systems in place to respond effectively to an increased number of queries to our call centre.
- 35 We held four hearings of registration appeals in December. Five hearings are scheduled for January, February and March and six in April.

Revalidation

- 36 We aim to have a system of revalidation in place by the end of 2015 and are committed to bringing a strategy to Council before the end of June 2013.
- 37 We have arranged high level strategic conversation with representatives from the professions and employers to inform the direction of our work. This will take place on 20 February 2013 and will be attended by the Chair and Chief Executive. We will also be setting up a programme board and a reference group.
- 38 Directors agreed a business case for an Assistant Director of Revalidation, programme manager and officer. Recruitment has started and we expect to have appointed a programme manager by the end of January 2013.

Standards development

- 39 The revised Midwives Rules and Standards have taken effect from 1 January 2013. The Department of Health has notified us that they will need to make a minor revision to reflect the location of local supervising authorities (LSAs) following the abolition of Strategic Health Authorities.
- 40 We held a Twitter chat on 17 January 2013 where the Standards Development Manager answered questions on the new rules and standards.

Standards compliance

- 41 The QA procurement exercise is proceeding smoothly and in accordance with the timetable. Three potential suppliers have been invited to submit bids and Kuldip Bharj is representing the Council in the selection process.

Policy

- 42 The Department of Health consultation on the draft legislation for the introduction of professional indemnity insurance is due to be published in January 2013. A full update on latest developments and NMC action to date is presented elsewhere on the agenda.

Corporate Services

ICT

- 43 The majority of our main databases have been migrated onto a more stable platform (SQL 2008). The status of the remaining databases will be considered as part of the overall review of the ICT infrastructure in the first quarter of 2013.
- 44 A new version of the CMS and updates to WISER are currently in test prior to the release of these updates of the key software systems to improve efficiency and to implement the fee changes.
- 45 The initial tranche of projects included in the ICT delivery programme have been presented and approved by the CMPB. Work has commenced on the preparation of individual business cases for this work. This will include projects to roll out Windows 7, Office 2010 and to upgrade the telephone system software.

Human Resources

- 46 During November and December 2012 we appointed to a number of director and assistant director roles. The Director of Corporate Services, Assistant Director Registrations, Assistant Director Standards and Education and Assistant Director Adjudication are now in post. The Assistant Directors for HR and OD, and ICT will be joining us in January 2013. Following the assessment centre procedures for FtP roles, we recruited 74 candidates of which 54 have joined us during November and December 2012. During November and December we had a total of 67 new starters. We currently have a total of 59 active vacancies in the NMC.
- 47 A new e-learning platform is currently in development and will go live at the beginning of January 2013. A bespoke e-learning module on 'Indicative sanctions' has been developed in house for panellists and a module on information security is being worked on to replace the current face to face training. The new e-learning platform will have more interactive modules and will be able to generate reports more quickly.
- 48 A number of learning programmes are running to support the development of our managerial capability. These include training sessions on financial management, HR policies workshops, recruitment and selection and a training programme through the

Institute of Leadership and Management (ILM) which will take 12 managers through the qualification.

- 49 A business case on the new approach to delivering training for the panellists, which will use a blended learning method (consisting of face-to-face, e-learning, case studies, and webinars followed by assessments) has been approved by the Appointments Board. The training plan for the new registrant panel members who will be recruited in January is currently being worked on.

Public protection implications:

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

Resource implications:

- 51 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:

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

Stakeholder engagement:

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

Risk implications:

- 54 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 on the meeting agenda.

Legal implications:

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

Change management portfolio delivery

Council - Set strategic direction and hold the executive to account in delivery of public protection

Directors Group - Lead delivery of public protection effectively, efficiently and economically

Governance
 Putting robust systems, procedures and decision-making at the heart of everything we do
 Corporate Goals 2&3
 Owner: Director Corporate Governance

Leadership
 Changing the culture
 Corporate goals 1,2&3
 Owners: Directors Group

Delivery
 Delivering world class regulatory functions
 Corporate goal 1
 Owners: Directors of Fitness to Practise, Registrations & Standards

Enabling
 Strengthening our capability and capacity
 Corporate goal 3
 Owner: Director Corporate Services

Delivery 6 months (January 2013)

Management of risk ▲
 Engagement strategy ▲

Vision and strategic aims ▲

FtP improvement plan Phase I ▲
 Voluntary removal and public register changes ▲

Fee rise ▲
 New Ways of Working ▲

Delivery within 12 months (July 2013)

Quality Assurance framework △
 Preparing for new Council ▲

Learning and performance improvement △

FtP improvement plan Phase II △
 Review of Standards △

Data quality & integrity ▲

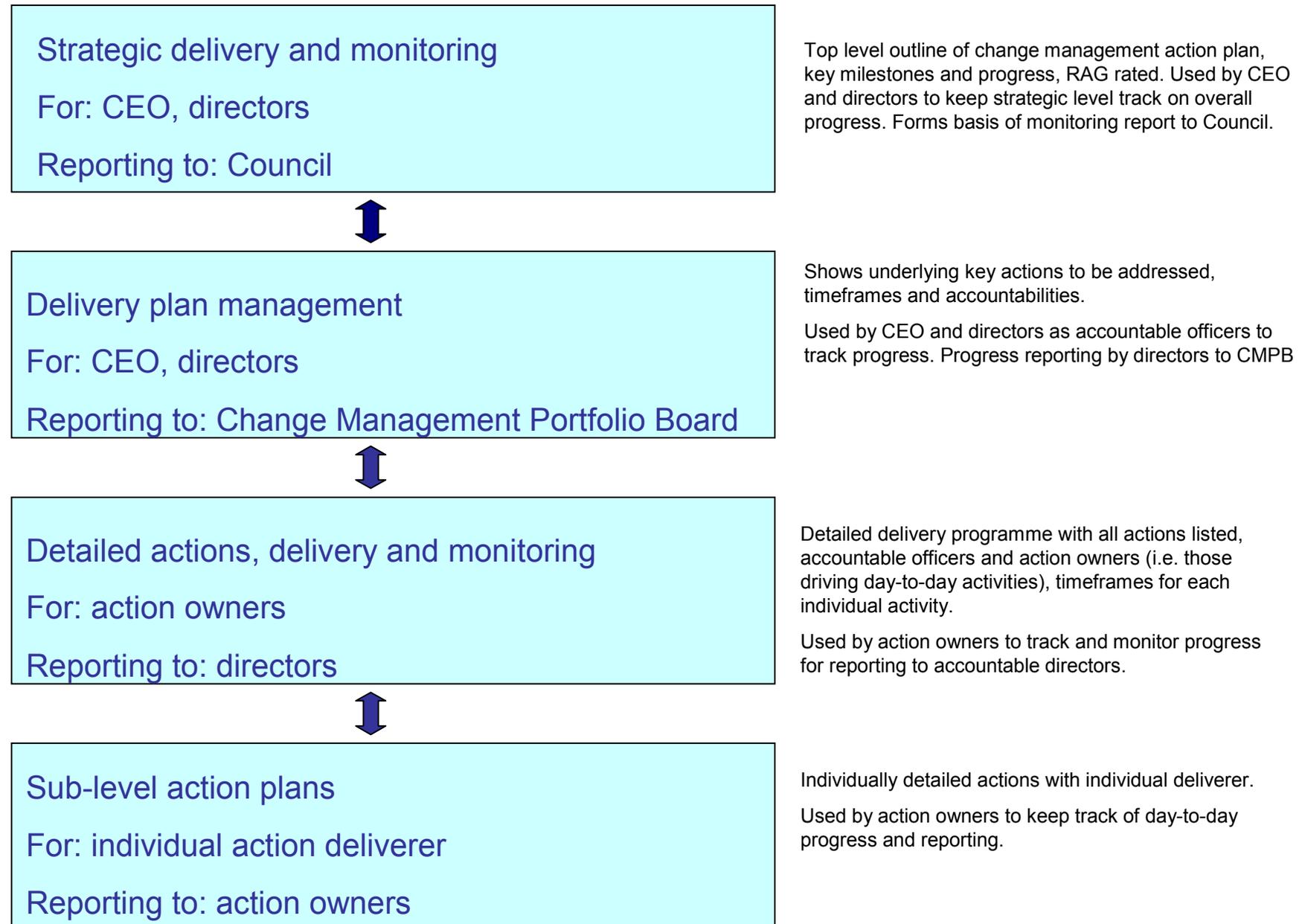
Delivery 24 months plus (July 2014/2015)

Key
Priority and risk
 ■ High risk, high priority
 ■ Medium risk, work scoped or to be scoped
 ■ Achieved and maintaining
Progress
 ▲ No progress or significant issues
 ▲ On track, some issues
 ▲ On track, milestones met
 △ No action yet

Quality assurance of Education and LSA ▲
 Engagement strategy delivery △
 FtP improvement plan Phase III △
 Revalidation ▲
 Registration Improvement plan ▲

ICT strategy delivery ▲
 Financial strategy ▲
 HR strategy ▲

Change Management Portfolio Delivery framework



Council

Update on thresholds for investigation of fitness to practise cases

Action: For information and decision.

Issue: This paper provides an update for the Council on the work undertaken since the previous Council paper in July 2012 and the further research planned in this area.

Core regulatory function: Fitness to Practise/Setting standards

Corporate objectives: This paper supports NMC 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: Council is recommended to:

- Agree to carry out a further review and audit of referrals involving alcohol and drug related offences before March 2014 in order to monitor any future related referrals and to inform any future review of the current Council policy on cases involving drugs and alcohol (paragraph 21).
- Approve further research and data-analysis in relation to the development of further guidance around the meaning of impaired fitness to practise including the possibility of a recalibration of our current approach (paragraph 33).

Annexes: The following annexe is attached to this paper:

- Annexe 1: Previous Council paper – Item 15, NMC/12/109/July 2012 – “Thresholds for investigation or early closure of Fitness to Practise cases”

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 July 2012, Council received a paper outlining a number of options for revising and reviewing the current thresholds for investigations and early closure of Fitness to Practise cases (see **Annexe 1**).
 - 2 The background and detailed reasons for those proposals were set out in paragraphs 5 to 12 of that paper.
 - 3 Council agreed the proposed immediate changes to the current cautions and convictions policy and the screening closure criteria in relation to minor motoring offences and other minor cautions and convictions not involving alcohol and drugs or dishonesty set out in paragraph 31.1 of the previous paper.
 - 4 Council also approved further evidence gathering and consultation work in relation to:
 - 4.1 a potential revision of the current Council policy on cases involving use of alcohol or illegal drugs; and
 - 4.2 the development of further guidance around the meaning of impaired fitness to practise including the possibility of a recalibration of our current approach.
 - 5 Council did not agree the proposals in relation to minor dishonesty cases set out in paragraph 31.2 of the previous paper and indicated that, if this avenue were to be pursued further, it would wish to see further detailed guidance.
 - 6 Council also did not agree to the proposed expansion of the use of the Refer to Employers procedure to appropriate referrals from members of the public as outlined in paragraph 37 of the previous Council paper.
 - 7 This paper now provides the Council with an update on the outstanding issues.

Discussion and options appraisal:

Minor motoring offences

- 8 Council should note that the agreed amendments to the current cautions and convictions policy; and the screening closure criteria in relation to minor motoring offences and other minor cautions and convictions not involving alcohol or drugs or dishonesty have now been implemented in line with its previous recommendation.

Minor dishonesty cases

- 9 Taking into account the concerns expressed by Council, no further work has been done on this issue at this stage as it is felt that any guidance would be best prepared following the wider review of our thresholds for investigation and early closure and any consultation work then undertaken to ensure that any guidance is risk-based and

focused on our core functions of public protection and is consistent with any wider recalibration of our thresholds.

Referrals involving alcohol and drug related offences

- 10 Since July 2012, we have undertaken some initial research to inform the Council about the potential revision of the current Council policy on referrals involving alcohol and drug related offences.
- 11 As part of this work, our new research and evidence team were commissioned to undertake an audit of fitness to practise cases involving offences related to the use of alcohol or illegal drugs since the commencement of the new policy on 31 March 2011.
- 12 The primary purpose of the audit was to identify whether there was any evidence of further referrals for alcohol or drug-related offences following closure of an initial referral upon receipt of medical evidence from a GP or Occupational Health doctor in line with the current Council policy.
- 13 Data was captured from October 2011 to September 2012 and 100 cases falling within the policy were reviewed. In only 3 of the 100 cases had there been another referral to the NMC about the same registrant. All three cases falling within the policy were for first drink-driving convictions and each referral post-dated the other NMC referral. None of the earlier referrals were for an alcohol or drug related offence. Two of the other referrals remain open and one had already been closed before the index drink-driving referral was received. Under our new approach to linked cases, these referrals would have been linked up at an earlier stage, making reporting of such related referrals easier.
- 14 The audit did not identify any instances of further referrals for alcohol or drug-related offences following closure of an initial referral in line with the current Council policy.
- 15 The audit indicated that panels feel able to make decisions to close cases involving drug and alcohol related cautions and convictions based on the current policy and in the interests of public protection.
- 16 The audit results also demonstrated that the policy was being routinely followed and that the Investigating Committee was seeking further independent medical evidence when the initial medical report from the GP or occupational health service raised any concerns.
- 17 The conclusion of this initial audit was that as the new policy has been in effect for less than two years it was too early to identify any pattern of further alcohol or drug related referrals which could have provided an evidence base to justify a change in policy.
- 18 As was outlined in the previous paper, any change to the current policy would require a significant increase in resources to cover the

additional costs of seeking an independent medical report from a suitably qualified psychiatrist specialising in substance abuse in every such case. Given that the current policy was arrived at following a consultation, the Council may also consider that such a change should not be undertaken lightly.

- 19 The Council is invited to conclude that such a change in policy cannot be warranted at present on the basis of limited data available about the impact of current policy and the absence of any evidence of repeat referrals following closure of cases in line with the current policy.
- 20 To ascertain the longer term impact the policy is having on public protection for these referral types, it is suggested that there should be periodic review and audit of such cases to monitor any future related referrals.
- 21 **Recommendation: Agree to carry out a further review and audit of referrals involving alcohol and drug related offences before March 2014 in order to monitor any future related referrals and to inform any future review of the current Council policy on cases involving drugs and alcohol.**

Wider threshold work

- 22 The new research and evidence team have been commissioned to carry out an initial scoping exercise for this important area of work.
- 23 They have identified that the key purpose of the planned research work must be to gain a better understanding of how thresholds for action in fitness to practise referrals impact on public protection.
- 24 This can be broken down into three areas:
 - 24.1 What is already known about the relationship between fitness to practise processes, outcomes and the professional practice of nurses and midwives?
 - 24.2 How are fitness to practise thresholds managed by different regulators?
 - 24.3 How can intelligence provided by NMC data about (1) cases closed at the Investigating Committee stage with no case to answer and (2) cases at final hearing that reach a no impairment outcome, offer insight into risk-based and proportionate fitness to practise decision making in relation to nurses and midwives ?
- 25 The issue at 24.1 would require a literature review. However this would be very time consuming if carried out internally or very costly if commissioned externally. We are aware that there is some public consultation work currently being undertaken by HCPC on public

protection and fitness to practise issues (by Picker Institute Europe) and we understand that GOC are planning some research on effectiveness of regulatory interventions in Summer 2013. This work may include a literature review.

- 26 We are also aware that the GDC has recently undertaken a targeted consultation on new Indicative Outcomes Guidance for its Investigating Committee which is due to be published in early 2013 and that the Law Commission is likely to be including recommendations about definitions of fitness to practise and thresholds in its draft statute.
- 27 We are also aware of a number of private individuals who are currently undertaking academic research projects using NMC data which may provide a further source of relevant material.
- 28 The findings from these various reports and consultations are likely to have considerable bearing on the scope of any public consultation work undertaken by the NMC and on the final decisions to be made by Council in this field but are unlikely to affect the necessary internal data analysis.
- 29 Given the financial constraints facing the NMC we consider that the best use of our resources would be for us to undertake our internal data analysis between January and April 2013 so that we have a clear evidence base about our own fitness to practise caseload and the impact of our current thresholds and guidance.
- 30 Thereafter we will move on to a review of the fitness to practise thresholds used by different regulators and a review of the outcomes of the various reports outlined above. We will also explore the possibility of undertaking some of this work on a cross-regulatory basis.
- 31 Realistically, we should be in a position to come back to Council with the outcome of this initial analysis work and the reports then available together with any broad proposals for changes in our thresholds or guidance by July 2013 with a view to a period of external consultation and engagement thereafter in relation to any proposals approved in principle by the Council.
- 32 The outcome of the internal data analysis work will also be shared with our colleagues in Standards to ensure that the data is also used to inform their work. Further details of the other data into evidence work being planned will be brought to the Council in due course.
- 33 **Recommendation: Approve the suggested further research and data-analysis in relation to the development of further guidance around the meaning of impaired fitness to practise including the possibility of a recalibration of our current approach.**

Public protection implications:	34	The work outlined in this paper will have direct implications in respect of public protection as it will ensure that our fitness to practise work is properly risk-based and public protection focused.
Resource implications:	35	The cost of the initial internal data analysis work is covered within the existing research and evidence team budget. The number of staff hours involved will depend on the scope of the sample and the quality of the data.
Equality and diversity implications:	36	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.
	37	As part of the second stage of this work, once the internal data analysis work has been completed, we will be undertaking an equality impact assessment in order to inform the appropriate proposals.
Stakeholder engagement:	38	We will be engaging with other regulators as part of our research work outlined above. Any future proposals to amend our current policy and guidance in this field will include appropriate plans for consultation and stakeholder engagement.
Risk implications:	39	There are no risks associated with adopting the recommendations set out above, The risk of not adopting the recommendations above are that we would miss the opportunity to ensure that our fitness to practise work remains risk-based and public protection focused,
Legal implications:	40	None identified.

Annexe 1

Thresholds for investigation or early closure of Fitness to Practise cases

Issue

- 1 Determining the thresholds for referral for further investigation or closure of Fitness to Practise cases at the screening stage.

Recommendation

- 2 The Council is recommended to agree:
 - 2.1 Immediate changes to the current cautions and convictions guidance and the screening closure criteria in relation to minor cautions and convictions (paragraph 31)
 - 2.2 Expansion of the use of the Refer to Employers procedure to appropriate referrals from members of the public (paragraph 37).
 - 2.3 To approve further evidence gathering and consultation work with a view to a potential revision of the current Council policy on cases involving use of alcohol or illegal drugs (paragraph 43)
 - 2.4 To approve further evidence gathering and consultation in relation to the development of further guidance around the meaning of impaired fitness to practise including the possibility of a recalibration of our current approach. (paragraph 47)

Annexes

- 3 No annexes are attached to this paper:

Further information

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

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Background

- 5 As the Council is aware, there has been a significant increase of approximately 48 per cent in the number of fitness to practise referrals to the NMC over the past two years. More than 40 per cent of those referrals are closed after an initial assessment by the Screening team and a further 30 percent are closed at the Investigating Committee following an investigation. Our current fitness to practise caseload stands at nearly 4,500 cases. This includes nearly 800 at the screening stage.
- 6 Expenditure in this financial year on our fitness to practise work will amount to a significant proportion of the overall NMC budget. In this context it is important that we find more efficient and effective ways of working without compromising the quality of our decisions or putting the public at risk. We can achieve this by ensuring that our initial assessment of referrals is robust, that any investigation work we carry out is proportionate and that we focus our adjudication resources on the most serious cases where action may be needed to protect the public or maintain public confidence in the profession.
- 7 In January 2011 a new Screening team was created with responsibility for carrying out an initial assessment of all new referrals received by the NMC. This work includes the often painstaking task of identifying the correct registrant, assessing whether the referral includes an allegation of impaired fitness to practise and if so, determining whether the allegation is in the form required by Council for referral to a Practice Committee. The Screening team also carries out a risk assessment in relation to each case to determine if an interim order might be needed. Once an allegation of impaired fitness to practise has been received in the form required, it must be referred to a Practice Committee as soon as reasonably practicable in accordance with Article 22(5) of the Nursing and Midwifery Order 2001 (the Order)¹. It follows that cases can only be closed by the Screening team where they are unable to identify the registrant, where they do not raise an allegation of impaired fitness to practise, or where the allegation is not in the form required by Council.
- 8 In October 2011 we implemented a new process in screening (called Refer to Employers) of liaising with employers where we consider that the concerns raised in the referral do not appear on their own to raise an allegation of impaired fitness to practise so as to warrant an NMC investigation. In these cases we write to the nurse or midwife's employers, disclosing the referral and asking for details of any local investigations that have already been undertaken. We ask employers to confirm to us that they have no concerns about the nurse or midwife that might require action by the NMC.
- 9 These preliminary enquiries are designed to obtain reassurance that there are no wider concerns of which we should be aware. If on the basis of the employer response we are satisfied that a full NMC investigation is not required, we write to the referrer, employer and the nurse or midwife concerned to explain the outcome and confirm that the NMC case will be closed.

¹ SI 2002/253

- 10 In February 2012, we implemented changes to our existing Fitness to Practise rules² which were designed to improve the efficiency and effectiveness of our processing of fitness to practise referrals. These rule changes allow us to undertake an investigation before the case is considered by the IC for a case to answer decision. Over time, these rule changes will reduce our timescales for dealing with fitness to practise cases but the full effects of these changes have yet to be realised. Early indications are that a greater proportion of cases are being closed after a shorter period of investigation.
- 11 In the light of the continuing increase in referrals and corresponding need for greater efficiency described above, it was thought appropriate to consider what further steps can now be taken to ensure that our initial assessment of referrals by the Screening team is as robust as possible and that only appropriate cases are referred for a full investigation.
- 12 At the end of May 2012, two senior members of staff undertook detailed reviews of 40 cases to assess whether there were any lessons in terms of the threshold we are currently applying at the initial stages of the fitness to practise process. This included 11 cases closed at screening, 19 cases closed by the IC and 10 cases which had proceeded to investigation.

Discussion

- 13 The primary purpose of our fitness to practise procedures is protection of the public. Although fitness to practise procedures may have a punitive effect, by preventing registrants from practising, it is not our role as a regulator to punish registrants. Our role should always be to protect the public, uphold standards and maintain public confidence in the profession and the system of regulation.
- 14 The threshold for referring cases for investigation lies at the heart of our fitness to practise work. It is important that we get this right both to protect the public and ensure the most effective use of our resources. It is also necessary for us to work within the limits of our current legislative framework.
- 15 If we set the threshold for proceeding to full investigation too high there is a risk that we will fail to protect the public by closing cases that we should not. This would be unacceptable and we must continue to ensure that this does not happen. If we set the threshold for a full investigation too low there is a risk that cases where there is no realistic prospect of a finding of impairment of fitness to practise will proceed further through our fitness to practise process than is proportionate or necessary. This is an inefficient use of resources and unfair to both the registrant, who may be under investigation for a considerable period of time, and the referrer who may have false expectations about the eventual outcome as a result of the case not being closed earlier in the process.

Closure points

- 16 There are two stages at which cases can be closed without referral to a final Practice Committee. These are:

² Nursing and Midwifery (Fitness to Practise) Rules 2004 Order of Council 2004 (as amended)

- 16.1 At the initial screening stage, where decisions can be taken by NMC staff on the limited grounds set out in paragraph 8 above.
- 16.2 By the Investigating Committee where a decision is made by independent panel members as to whether there is a case to answer.
- 17 In terms of ensuring that we are using our resources effectively and proportionately and improving the timeliness of our processes, it is important for us to ensure that the initial assessment of referrals by the Screening team is as robust as possible and that cases are closed by the Screening team rather than the IC when the referral does not raise a genuine allegation of impaired fitness to practise. It is also important that cases are only referred for a full investigation when the allegation is such that, if proved, there is a realistic prospect of a finding of impairment of fitness to practise at any final hearing.
- 18 The challenge is therefore to identify whether there are any particular groups of cases that could have been appropriately closed at an earlier stage by the Screening team without a full investigation or consideration by the IC.

Learning from case review exercises

- 19 Despite the relatively small number of cases considered, some important issues were raised by the review. Four areas of potential change in the current criteria for closure or referral for investigation in screening were highlighted:
- 19.1 Minor motoring offences
- 19.2 Other caution and convictions cases including dishonesty offences
- 19.3 Refer to employer cases
- 19.4 Offences involving the use of drugs or alcohol
- 20 We outline below in paragraphs 22 to 24 details of some cases that would typically be closed by the IC at present which we feel it might be appropriate to close in screening and invite the Council to approve the recommendation that these cases should not be regarded as raising allegations of impaired fitness to practise and can thus be appropriately closed by the Screening team.
- 21 We outline in the paragraphs 25 to 30 certain instances where it must be accepted that an allegation of impaired fitness to practise has been made within the meaning of the Order but where it is not considered likely that the IC will find that there is real prospect of establishing that the registrant's fitness to practise is impaired. In such cases the Council is asked to approve the recommendation that these cases should be referred directly to the IC by the Screening team without a full investigation with a recommendation that the case is closed. This approach will ensure that decisions are made on these cases by the appropriate tribunal and that such matters can be re-opened by the IC if necessary under rule 7 in the event of another allegation being received within three years. It is suggested that this approach strikes the correct balance between protecting the public and allocating our investigation resources appropriately.

Minor motoring offences

- 22 In May 2011 the Council agreed a revised cautions, convictions and determinations policy. This set out criteria on the types of cases which could be closed at the screening and Investigation Committee stages and those which could be referred directly to the Conduct and Competence Committee (CCC). The criteria for closure at screening and IC stage was defined as:

”Cases arising solely out of the following types of caution and conviction can (unless there are any exceptional aggravating factors) normally be concluded at the screening stage or by the Investigating Committee, as they are unlikely to amount to an allegation that a nurse or midwife’s fitness to practise is impaired:

- ii) any offence committed in the UK which is a fixed penalty offence for the purposes of the Road Traffic Offenders Act 1988 or any statutory modification or replacement thereof for the time being in force, such as a minor traffic offence not involving drugs and/or alcohol and not resulting in disqualification.
- iii) an offence committed in the UK or abroad which is dealt with by a procedure substantially similar to that applicable to such a fixed penalty offence.
- iv) an offence the main ingredient of which is the unlawful parking of a motor vehicle.

The Screening team and the Investigating Committee should only conclude these cases where a preliminary investigation has been undertaken to confirm the nature of the caution or conviction and there are no other matters requiring further investigation.”

- 23 At present only a very limited range of caution, conviction and fixed penalty cases are closed by the Screening team at the initial assessment stage. Those closed mainly involve very minor traffic offences, not involving alcohol or drugs and exclude all motoring offences resulting in a disqualification (including totting up cases) and also exclude offences for no insurance or MOT, driving an un-roadworthy vehicle, and absence of a driving licence.
- 24 It is suggested that the current cautions, convictions and determinations policy and the screening closure criteria should be amended so that any referrals relating to minor motoring offences can be closed in screening where they do not involve drugs or alcohol and have not resulted in a custodial sentence on the grounds that such offences would not ordinarily constitute an allegation of impaired fitness to practise. The Screening team would still be advised that each referral must be considered on its own facts and that care should be taken in reaching a closure decision in cases involving irresponsible behaviour where the registrant’s actions would have put the public at risk.

Other minor caution and conviction cases including dishonesty offences

- 25 The reviewers noted that some cases had proceeded through screening to the IC in circumstances where they felt there was no realistic prospect of a finding of impairment of fitness to practise. These included a case of a caution for stealing £13 of goods from a shop and a caution in relation to the registrant's child not attending school. There were no aggravating circumstances or previous history and both cases were closed by the IC. The reviewers questioned whether these cases could properly have been closed in screening under our current legislative framework.
- 26 In our view, a distinction has to be drawn between minor cautions and convictions involving dishonesty offences and other minor cautions and convictions for offences which are not related to the registrant's practice, do not evidence any risk of harm to patients and where there is no public interest in taking the case forward.
- 27 On the basis of the current case law (including the approval of Dame Janet Smith's four-part test of impairment in *CHRE v NMC and Grant* (2011 EWHC 927) it would be difficult to suggest that any conviction involving criminal dishonesty did not at least constitute an allegation of impaired fitness to practise. It follows that such cases cannot properly be closed by the Screening team at the initial assessment stage. Furthermore, if a case is closed by the Screening team, it cannot be reopened by the IC if we receive a fresh allegation within three years.³ This would mean that if someone was convicted of a subsequent similar offence we could not take account of the original conviction if the case was closed before being referred to the IC.
- 28 We also note that CHRE have previously raised concerns about how the regulators deal with cases involving dishonesty and have referred cases to the High Court under Section 29 where they feel that outcomes have been unduly lenient. That said, it is clear that CHRE are predominately concerned about dishonesty where this relates to the registrant's practice and/or suggests a risk to the public.
- 29 Given that the purpose of fitness to practise proceedings is not to punish, it is suggested that discretion should be given to the Screening Team to close referrals relating to minor cautions and convictions not involving dishonesty, for offences which are not related to the registrant's practice, do not evidence any risk of harm to patients and where there is no public interest in taking the case forward to the IC. Such cases could include the example referred to above of a caution in relation to the registrant's child not attending school. It is acknowledged that further work will be needed in relation to the preparing of appropriate criteria for the Screening team should this recommendation be approved by the Council.
- 30 The Council is also asked to approve the proposal that referrals for minor cautions and convictions involving dishonesty but not related to the registrant's clinical practice and not resulting in a custodial sentence should not routinely be sent for a full investigation. In such instances, where there is no evidence of any risk of harm to patients and no other evidence that the registrant's fitness to practise is

³ Under rule 7 of the Fitness to Practise rules

impaired, it is suggested that the case should be referred directly to the IC with a recommendation to close the case.

31 **Recommendation:** Council is recommended to agree that:

31.1 The current cautions, convictions and determinations policy should be amended so that discretion is given for closure of a wider range of minor caution and conviction cases at the screening stage, including motoring offences, where they do not involve drugs or alcohol and there has not been a custodial sentence.

31.2 All cautions and convictions involving dishonesty must continue to be referred to the IC. However, minor cautions and convictions involving dishonesty which are not related to the registrant's clinical practice, do not evidence any risk of harm to patients and have not resulted in a custodial sentence should not routinely be sent for a full investigation. Where there is no other evidence that the registrant's fitness to practise is impaired, such cases may be referred directly to the IC with a recommendation to close the case without further investigation.

Refer to employer cases

32 It was noted by the reviewers that some cases had proceeded to investigation notwithstanding that the registrant's employer had said that they did not believe that the registrant's fitness to practise was impaired. The reviewers were concerned that this might mean that the registrant was subject to an unnecessary investigation, when there was no real likelihood of the case resulting in a finding of impaired fitness to practise at the CCC.

33 We considered whether it would be possible or advisable to introduce a policy that all cases where the employer confirmed that they did not have concerns about the registrant's current fitness to practise could be closed in screening. However, it is recognised that before any such decision to close is made it is necessary to be assured that the employer's opinion is justified. In particular, we need evidence that they are aware of the issues and we need to be satisfied that they have, where necessary, completed a sufficiently robust investigation and that the outcome of that investigation was reasonable. Such steps may involve some investigation work.

34 At present the Refer to Employers (RTE) process (outlined in paragraph 8 above) is only used when the concerns raised in the initial referral do not appear on their own to raise an allegation of impaired fitness to practise. It is now suggested to the Council that this procedure could be expanded and used by the Screening team in relation to some referrals from members of the public to explore whether the allegation is properly one that raises an issue of impairment. Currently, when an allegation from a member of the public raises an allegation which, on the face of it, could on its own amount to impairment, it will be treated as being in the form required and referred directly for an investigation.

35 Under the new arrangements, a referral from a member of the public which raises an apparent allegation of impaired fitness to practise relating to the registrant's clinical practice would be referred to the registrant's employers for comment

before a decision was made by the Screening team about referring it for further investigation. This would potentially lead to a larger number of cases referred to employers under this process but may result in less cases being referred forward for a full investigation on the grounds that, following some initial enquiries, the referral did not in fact constitute a genuine allegation of impaired fitness to practise.

- 36 In other cases there may be an acceptance by the employer of clinical failings on the part of the registrant but the information provided by the employer indicates that the risk posed by the registrant has already been mitigated by the actions of the employer and insight has been shown by the registrant. With the registrant's co-operation the employer has been able to put in place arrangements that allow the registrant to continue to practise in a safe way. In such cases it must be recognised that it is very unlikely that a finding of impaired fitness to practise would be made at a later CCC hearing, particularly bearing in mind High Court judgments in recent years, such as in the case of *Cohen*. However, as such cases do clearly raise allegations about impairment of fitness to practise they would not be suitable for closure in screening, especially as the issues of remediation and insight would require careful scrutiny. These types of cases should therefore continue to be referred to the IC. Where they involve less serious and remediable clinical failings and there is cogent evidence of remediation and insight and evidence that the employer is managing the situation locally available to the Screening team, consideration should be given as to whether the case could be referred to the IC with evidence from the employer and a closure recommendation without a full investigation.
- 37 **Recommendation:** Council to agree that:
- 37.1 The current Refer to Employer process can be expanded to be used by the Screening team in cases in which the referral from a member of the public includes information which might constitute an allegation of impaired fitness to practise. If the Screening team is satisfied, following appropriate enquiries with the employer, that the referral does not in fact constitute a genuine allegation of impaired fitness to practise then the matter can be properly closed by the Screening team.
- 37.2 Some cases in which an allegation of impaired fitness to practise is raised in the referral can be referred to the IC with a recommendation for closure where the employer has mitigated the risk so that there is no risk of harm to the public and the registrant has demonstrated insight and is complying with the employer's actions, provided there are no other public interest grounds for a finding of impairment.

Cases relating to offences involving alcohol or drugs

- 38 When undertaking the reviews the reviewers noted that some cautions and convictions relating to substance misuse had been closed in the early stages of the fitness to practise process. This included a case of a caution for possession of cocaine. It was noted that an independent medical report had not been obtained to ascertain whether the registrant had a substance misuse problem which could impair their fitness to practise, although a GP report was available which did not disclose any evidence of substance misuse.

- 39 It was noted that this approach was in accordance with the policy adopted by the Council in March 2011 in relation to cautions and convictions for alcohol or drug related offences, following a targeted consultation. The policy adopted a consistent approach to such offences across the Registration and Fitness to Practise directorates. It required a GP report to be obtained in relation to “first offences” and an independent medical report to be obtained in relation to any “second or subsequent” offences. This was believed to represent a proportionate and “right touch” approach to this issue.
- 40 The reviewers raised concerns that the current policy may not be sufficiently robust to ensure that all instances of substance misuse are identified following a first conviction or caution for a drug or alcohol-related offence and this may result in the public being unprotected from a registrant with a health issue of this nature.
- 41 Any change to the current policy would require a significant increase in resources to cover the additional costs of seeking an independent medical report from a suitably qualified psychiatrist specialising in substance abuse in every such case. Given that the current policy was arrived at following a consultation, the Council may consider that such a change should not be undertaken lightly and that it would be appropriate in the first instance to review the costs and effectiveness of the current policy and the likely impact of any possible changes. Such a review could include exploring what other regulators do in such cases and seeking views from CHRE. It will also require careful consideration of the approach taken to applicants for admission, renewal and readmission in Registrations.
- 42 Should a revision of the current policy appear justified it is also suggested that further work would be needed to ascertain the impact of such a change on those likely to be affected, including consultation with key stakeholders and an equality impact assessment.
- 43 **Recommendation:** to approve further evidence gathering, consultation and impact assessment work with a view to a possible revision of the current Council policy on cases involving drug or alcohol-related offences.

Further work

- 44 The proposals outlined above in this paper mark the further steps that can be taken immediately towards ensuring that our approach to the investigation of fitness to practise cases is efficient, effective and proportionate. In the longer term we need to review what we understand by impaired fitness to practise in the context of nursing and midwifery. Impairment is not defined in our legislation but guidance on its meaning has been provided by the courts and a number of definitions have been attempted, including that suggested by Dame Janet Smith in her Fifth Shipman Inquiry Report.
- 45 All the commentators are united in their understanding that a finding of impairment should not be arrived at by considering solely any ongoing risk to the public but also by considering the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession and the system of regulation. Where the bar should be set by any particular regulator in order to achieve those aims is however a matter for debate.

- 46 The Law Commission work towards harmonisation is already in progress, and given the continuing pressure on our resources, it would seem to be a sensible time to take a step back and consider how our current approach to allegations and findings of impairment compares to that of other regulators and reflects our primary regulatory functions.
- 47 **Recommendation:** to approve further evidence-gathering and research in relation to the development of further guidance around the meaning of impaired fitness to practise in relation to nurses and midwives including the possibility of a recalibration of our current approach.

Implementation

- 48 If the Council agrees the recommendations above and the move to closing some cases at the screening stage that previously would have been referred to the IC, it will be very important to ensure that such a change is implemented effectively and thoroughly. It is crucial that all the staff members involved are clear about the implications of the change and understand the guidance and are given training on the revised threshold.
- 49 Most importantly it is necessary to ensure that there are sufficient management and quality checks in place to ensure that the guidance and training on the revised thresholds have been understood and applied properly. In addition, we will need to put in place a robust system to quality assure the decisions made by the Screening team at an early stage through case audits.

Resource implications

- 50 It is anticipated that if the Council agrees to the recommendations in this paper, there would be a reduction in the number of cases going forward for full investigation.
- 51 However, in the short term there will be necessary costs associated with the implementation of the changes in the criteria, including the development of guidance and the training required for all relevant staff.

Equality and diversity implications

- 52 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.
- 53 The revised criteria should mean that we will assess referrals in a more even handed and proportionate manner. It will mean that we will be taking all relevant factors into account at an earlier stage with the result that some referrals will be closed sooner. This should reduce the negative impact on registrants in such cases and not raise false expectations for referrers.
- 54 Clear guidance and processes for decision-making should result in more consistent decision making.
- 55 It is not anticipated that the immediate proposals will have any negative impact on any particular equality strands although it is recognised that a further equality

impact assessment will be needed in the event of any proposed revision of the current drug and alcohol-related offences policy

Stakeholder engagement

- 56 The implementation strategy for the revised screening criteria should include engagement with patient and public groups, employers and registrant representational groups among others.
- 57 Further consultation and stakeholder engagement work will be needed in relation to the two proposals for further exploratory work.

Council

Financial Strategy

Action: For approval.

Issue: The approval of the NMC's financial strategy.

Core regulatory function: Supporting functions.

Corporate objectives: The financial strategy underpins the delivery of the Corporate objectives and the Corporate Plan overall. The development and maintenance of the financial strategy is consistent with Objective 7 of the Corporate Plan for 2012-2015, namely 'We will develop effective policies, efficient services and governance processes that support our staff to fulfill all our functions'.

Decision required: The Council is recommended to approve the financial strategy (as per paragraph 13 of the report.)

Annexes: The following Annexes are attached to this paper:

Annexe 1: Chart showing the monthly reserves from 2012-2013 until the achievement of the financial targets in 2015-2016.

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 purpose of a financial strategy is to deliver the overall organisational strategy by ensuring that financial resources are provided to support the strategic objectives of the organisation. In the NMC's case, our organisational strategy has been determined to be to focus on and to deliver our core regulatory functions.
- 2 A financial strategy should:
 - 2.1 Provide a view of our long term resource needs and ensure adequate funding is available to support them.
 - 2.2 Establish how we will manage and maintain our financial position and approach future risks and uncertainties.
 - 2.3 Establish the financial framework within which the NMC should operate, and the capability levels required to maintain it.
- 3 There are three essential elements to the resourcing aspects of our financial strategy. They are:
 - 3.1 Expenditure – revenue expenditure plus capital expenditure requirements.
 - 3.2 Reserves – the amount of funds to be held at a point in time, to mitigate against future risks and uncertainties, and to provide financial capacity in periods where income exceeds expenditure.
 - 3.3 Income – principally from registrant fees.
- 4 Expenditure plus reserves requirements will determine the level of income required and therefore the fee which individual registrants will need to pay.
- 5 A fee strategy and the determination of an appropriate reserves policy and level are outcomes of the financial strategy.
- 6 The previous financial strategy was agreed by Council in March 2010 and endorsed in March 2011 as part of the budget approval process for 2011-2012.
- 7 Since that point, there has been a significant shift in focus and expenditure requirements, particularly in relation to the volume and quality of delivery in Fitness to Practise. During this financial year, Council have approved expenditure levels above our income and the utilisation of reserves beyond planned usage in anticipation that a fee rise would fund increased expenditure levels and restore reserves in time.
- 8 The elements of our financial strategy relating to the fee level and reserves level were therefore expedited during this financial year in order to determine and secure the funding we require to deliver our

regulatory functions to the standard required.

- 9 Council approved a revised risk-based reserves policy at their meeting on 13 September 2012, and approved an increase to the registration fee and acceptance of a grant from the Department of Health at their meeting on 25 October 2012.
- 10 Whilst these key decisions were made in the context of a revised financial strategy, this paper pulls the various elements of the strategy together in order that Council can consider the financial strategy as a whole.
- 11 The development of the financial strategy has been guided throughout by the Council's Finance Review Group (now the Finance and IT Committee) and was reviewed by the FRG at their meeting on 21 November 2012.

Discussion:

- 12 The recommended NMC financial strategy is to:
 - 12.1 Secure and manage the financial resources, generated through a supporting fee strategy, to deliver our core regulatory purpose of delivering public protection.
 - 12.2 Ensure the long term financial sustainability of the NMC.
 - 12.3 Ensure optimal use of those resources at all times to maximise the value obtained from registrants' fees.
 - 12.4 Manage the financial risks which threaten delivery of the strategy.
 - 12.5 Ensure that we have the right level of financial capability at trustee and staff level.
 - 12.6 Ensure that management and Council is provided with the right quantity and quality of financial information to enable decision making on a timely and well-informed basis.
 - 12.7 Ensure that the NMC has a sound financial control environment to guarantee the security of our assets.

Recommendation: To approve the financial strategy.

- 13 Each of these components is considered below, in terms of what has been done, or is planned to be done, to deliver them.

Secure and manage the financial resources, generated through a supporting fee strategy, to deliver our core regulatory purpose of delivering public protection

- 14 This is delivered by:
- 14.1 The review of the activity and expenditure requirements to focus on Fitness to Practise (FtP) and other core regulatory functions earlier this year.
 - 14.2 The development and external review and endorsement of the strategic financial models and the assumptions underlying the activity and expenditure plans.
 - 14.3 The development of the fee strategy, in liaison with internal and external stakeholders.
 - 14.4 The presentation of a range of fee options to Council, based on the expected expenditure required to achieve our objectives and the achievement of the target level of reserves, including flexed options to accommodate the option of a government grant.
 - 14.5 At the Council meeting on 25 October, Council approved a fee of £100 and the acceptance of a grant of £20 million. The strategy assumes fees of £100 for two years rising to £120 in 2014-2015, in order to allow the clearance of the historic caseload and the achievement of FtP KPIs by 2014-2015, and the target level of reserves by 2016.
 - 14.6 Fee levels and reserves will now be reviewed on an annual basis, together with the key underlying cost drivers, perceived risks, required reserve levels, and the time taken to achieve the minimum target reserve level. Regular review allows 'early warning' of any requirement to increase funding.
 - 14.7 Ongoing monthly regular and 'rolling' expenditure forecasting with all directorates, providing a detailed view of requirements for at least twelve months, at any point in time.
 - 14.8 Three-year and annual business planning and budgeting processes, and regular monitoring of performance against plan.
 - 14.9 Continuing the work to understand and link activity with costs, across all departments. This includes the ongoing development of the FtP activity and financial models.
 - 14.10 Operation of a 'Central Pool' contingency fund to finance developmental or strategic activity, on completion and approval of a robust, costed business case.
 - 14.11 Robust programme and project management, with clear project methodology and training of staff in its use. This is currently being considered at the Change Management Portfolio Board.

Ensure the long term financial sustainability of the NMC

15 This is delivered by:

15.1 The planning activities outlined above at 15.6 to 15.9.

15.2 The review of the reserves policy, which was revised so that it is now based on the identification and quantification of specific financial risks facing the NMC, plus an amount to cover the pension deficit. Council approved a new reserves policy on 13 September with the target level of reserves set at a range of £10 – 20 million. This should allow the NMC to have the financial capacity to operate in a period where expenditure needs to exceed income, before the requisite funding is put in place, without raising issues in relation to the NMC as a 'going concern'.

Ensure optimal use of those resources at all times to maximise the value obtained from registrants' fees

16 This is delivered by:

16.1 driving through efficiencies so that underlying cost pressures can be more than offset by smarter 'ways of working'. The cost assumptions underpinning the fee proposal identified efficiencies of £25 million over three years.

16.2 Establishment of the Corporate Efficiency Board which is charged with:

16.2.1 Identifying opportunities for improved efficiency and effectiveness across the NMC.

16.2.2 Monitoring and driving progress to achieve efficiencies and cost savings.

16.2.3 Ensuring 'value for money' is achieved via rigorous procurement processes, both for new and existing suppliers, and strong contract management.

16.2.4 Ensuring benefits realisation arising from investment decisions.

16.3 Making better use of our assets is key to being more productive, including getting more out of:

16.3.1 IT – together with improved processes, investment in IT can enable significant efficiencies to be achieved. However significant investment in money and time is needed to make the current IT estate fit for purpose before it can act as a platform for improvement. Management will identify ways in which early gains can

be derived from 'quick wins' without detracting from the stabilisation of the existing IT platform. The strategy supports a significant investment in IT over the next three years.

16.3.2 Premises – the strategy supports additional investment in our premises in order to meet the demand for hearing facilities. The use of office space will also be reviewed. Although this is likely to be reviewed in this plan period, existing lease commitments mean that decisions are likely to be needed beyond the planning period of the existing strategy.

16.3.3 Pension provision – the existing scheme provision will be reviewed with a view to containing the cost of past and current pension liabilities.

16.3.4 Cash balances – ensuring we maximise returns from cash holdings (which largely represent our deferred income balances), within the parameters of our investment strategy.

16.3.5 Other income streams – keeping current and potential income streams under review, within the bounds of our legislation.

Manage the financial risks which threaten delivery of the strategy

17 This is delivered by:

17.1 Regular review of the specific financial risks facing the NMC on which the revised reserves policy is based, and taking action to mitigate.

17.2 Ensuring risks are captured and monitored appropriately via the corporate risk register.

Ensure that we have the right level of financial capability at trustee and staff level

18 This is delivered by:

18.1 Embedding financial responsibility and accountability across the organisation, with directors now being held directly to account for their directorate plans and expenditure.

18.2 The responsibility for individual cost centre management is being driven down to a lower level to support business ownership, underpinned by a targeted programme of financial training which is currently being designed for delivery in November 2012. This will also help to improve the accuracy of

forecasts and budgets.

- 18.3 Ensuring that Council membership includes those who are appropriately financially qualified. We currently have an independent 'partner member' to provide financial assurance to Council.
- 18.4 Ensuring that all Council members have a suitable level of training to enable them to understand and make appropriate decisions on the basis of financial information.
- 18.5 Review of financial issues and performance by the Finance Review Group, to allow greater time and scrutiny to be devoted to financial issues before coming to Council.
- 18.6 Ongoing review of performance of the finance function via regular performance and structural review, focussing on strategic planning and directorate support in particular.

Ensure that management is provided with the right quantity and quality of financial information to enable decision making on a timely and well-informed basis

19 This is delivered by:

- 19.1 improving the accuracy and timeliness of our financial reporting across the organisation. This has been significantly improved in the year to date and we will continue to refine this. Monthly management results, forecasts and analysis are completed by working day ten, with Council now being provided with the latest set of results at their monthly meetings. Monthly reporting packs have also been refined to provide comprehensive information to all levels of management.
- 19.2 Ensuring that our financial models are kept up to date and used consistently to inform the financial information provided to management. The financial model is updated monthly with the latest forecasts.
- 19.3 Ensuring that Council papers include an appropriate and accurate level of financial information including options appraisal where relevant.
- 19.4 Upgrading the finance system to ensure that base financial information is robust and readily available to budget holders in an accessible format.

Ensure that the NMC has a sound financial control environment to guarantee the security of our assets.

20 This is delivered by:

- 20.1 Regular review and update of financial policies, including the NMC Financial Regulations. Policies are reviewed annually by the Audit Committee.
- 20.2 Training for staff in their responsibilities in relation to financial control and in accordance with financial policies. This is being updated and included as part of the financial training being delivered in November.
- 20.3 Regular review of processes and controls.
- 20.4 A robust audit framework that provides comprehensive review and suggestions for improvement to align with best practice.
- 20.5 Upgrading the finance system to a newer version which will provide an enhanced control environment. This is planned for 2013.
- 20.6 Maintenance of asset registers.
- 20.7 Maintenance of financial and procurement manuals.

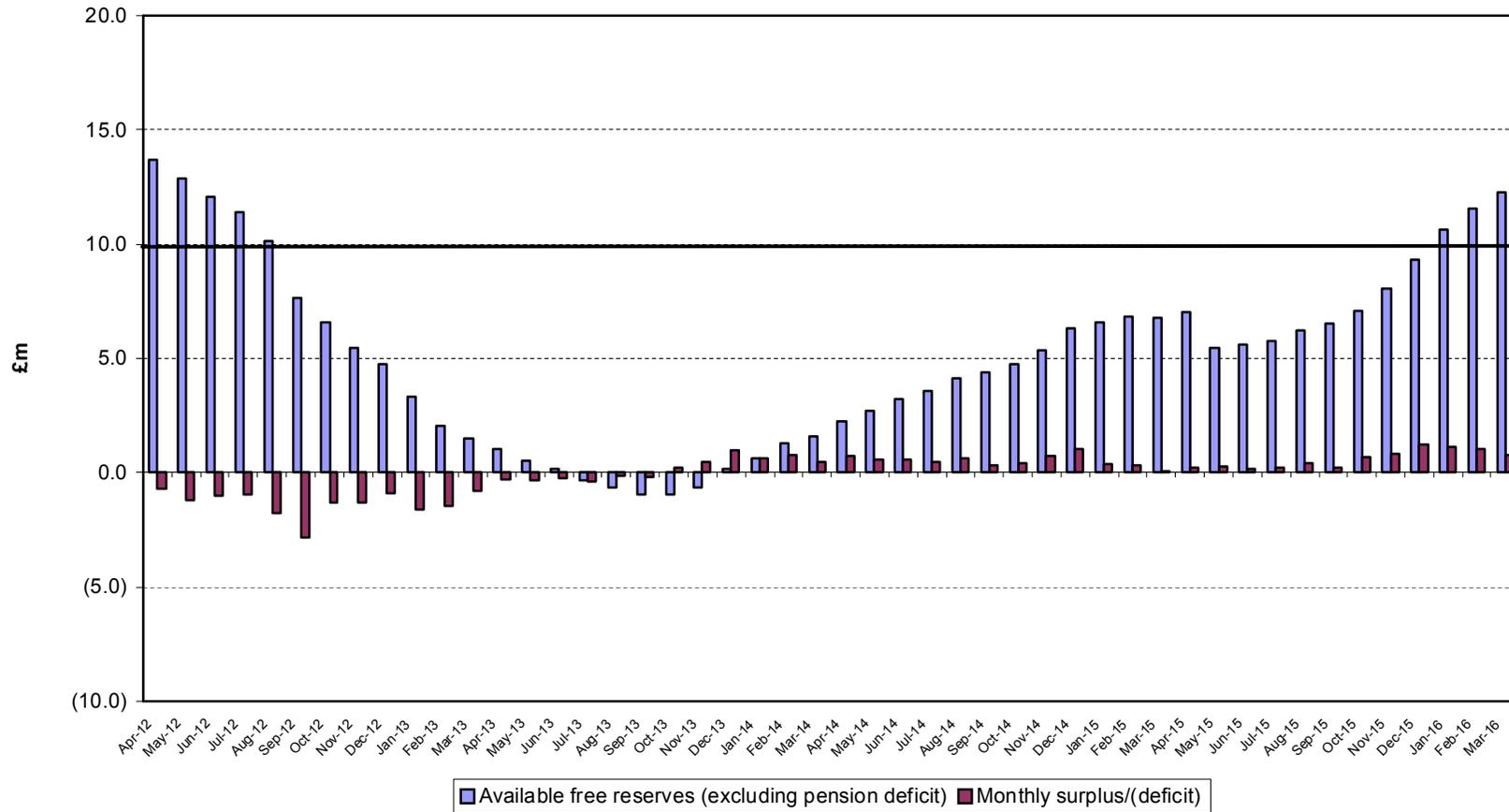
Measuring success

- 21 Successful implementation of the financial strategy will result in an organisation in which:
 - 21.1 Internal and external stakeholders including Council, CHRE, nurses and midwives, patients and the public, have confidence in the financial management of the NMC.
 - 21.2 Fee levels and reserves policy are reviewed on an annual basis.
 - 21.3 All levels of management have a sound understanding of their responsibilities, are trained and capable to deliver the right level of financial management and scrutiny.
 - 21.4 Clear, accurate and appropriate financial information is provided on a timely basis to enable decision-making.
 - 21.5 A culture prevails in which value for money and productivity is considered by all as an integral part of processes and procedures.
 - 21.6 Activities are clearly linked to costs.
 - 21.7 Management have clear and costed corporate plans and are held to account for their delivery.
 - 21.8 All statutory financial requirements are successfully achieved in

a timely manner with 'clean' audit reports.

Options appraisal:	22	A number of resourcing options were presented as part of the fee proposal and the reserves policy.
Resource implications:	23	This paper is primarily concerned with how we determine and manage our required resources overall. The resource implications of the strategy are outlined in the attached annexe , which charts the planned progress to achieving our financial goals.
Equality and Diversity implications:	24	The financial strategy in itself does not have consequences that impact equality and diversity. A full equality impact assessment was carried out and presented as part of the fee proposal.
Stakeholder engagement:	25	The strategy has been communicated indirectly to the Department of Health, registrants and other key stakeholders through the consultation and case for the increase in annual registration fees. We have been communicating the financial strategy to employees, through informal team and induction briefings.
Risk Implications:	26	We have sought to manage the resourcing risks around the financial strategy by ensuring that the fees and reserves are reviewed annually, which will include a review of the key cost assumptions and trends.
	27	In addition, we report on a regular basis to Directors Group, Council and the Finance and IT Committee, which should identify any emerging issues in sufficient time for them to be addressed.
	28	There remains a risk to the financial strategy if there is a delay in implementation of the legislation to increase the fee to £100 with effect from 1 February 2013.
Legal Implications:	29	None.
Public protection implications:	30	The financial strategy supports the achievement of our corporate objectives which are intended to deliver our core regulatory purpose of public protection.

Monthly reserves to 2016



Council

Corporate Complaints

Action: For decision.

Issue: The terminology to be used when describing the findings of corporate complaints, an update on positive feedback about NMC services and the plan to seek Council approval for the unreasonable behaviour policy in February 2013.

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:

- To consider the wording of the categorisation of complaints (paragraph 8).
- To note a sample of the positive feedback received by NMC staff since September 2012 and to suggest how information should be presented in future reports (paragraph 12).
- Note the proposal to seek Council's approval on the unreasonable behaviour policy in February 2013 (paragraph 14).

Annexes: There are no annexes 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 Since 2009, Council has received regular reports in the public session on complaints that have been received about NMC services. The third report of the complaints received in the 2012/2013 period will be presented to the February 2013 Council meeting.
 - 2 Information on our responsiveness to complaints features as a key performance indicator and the NMC director team continue to review complaints information on a monthly basis. The most recent consideration of complaints by directors was in January 2013.
 - 3 At the November 2012 Council meeting, members raised the issue of the current terminology used to articulate the findings of complaints.
 - 4 At the September 2012 Council meeting, members raised the issue of the positive feedback that is currently received from NMC service users and asked that, in future, this feedback is relayed to Council members on a regular basis.
- Discussion and options appraisal:**
- 5 Whilst the approach to reporting on whether we have found substance in complaints has been a relatively recent introduction, it has already become well-established and has the benefit of helping us to quantify the number of issues and themes that we need to address in order to help improve our services.
 - 6 When reviewing the November 2012 complaints report, members commented on the appropriateness of the terms 'upheld', 'partially upheld' and 'not upheld' in relation to the outcome of complaints. Members were concerned that using this terminology was confusing to our service users, particularly as the NMC is an organisation which deals with fitness to practise complaints where the use of these terms has a potentially different meaning.
 - 7 Alternatives to the current terminology could include 'accept' or 'partially accept' or 'agree or partially agree' the issues raised in a complaint. Given that we refer to learning points arising from complaints, Council may wish to consider whether, when recording the outcome of complaints, we refer to whether an investigation has raised any 'actions' or 'learning points' that need to be captured and acted upon. These could include an apology and/or an explanation through to a review of a process. Referring to complaints outcomes in this way could be used to finesse how we track and report on the actions arising from complaints in the future.
 - 8 **Recommendation:** Council is recommended to consider the wording of the categorisation of complaints.
 - 9 At the September 2012 meeting, Council discussed the collection of positive feedback about NMC staff and services. Members were keen to ensure that NMC staff felt that, in addition to reviewing

issues that had raised potential concerns, members were also being made aware of instances where their contribution had been recognised and commented upon favourably.

- 10 As has been reported to Council subsequently, we have asked colleagues to share examples of customer feedback via an appeal on the staff iNet. Since September 2012, staff have shared 46 separate examples of positive feedback from service users. These include:
 - 10.1 A number of instances where registration colleagues have been praised for their speedy and helpful resolution of issues, including the handling of registrants returning to practice.
 - 10.2 Thanks to FtP staff for their assistance during the preparation of a case and at a hearing.
 - 10.3 Several examples where service users have provided positive feedback on the handling of a complaint about NMC service.
 - 10.4 Appreciation of the external affairs colleagues responsible for organising an external stakeholder event.
 - 10.5 Thanks to NMC colleagues for their contribution to the annual QA reviewer event.
 - 10.6 Thanks from members of the public to the records and archives team for their help with handling FoI and DPA requests and historical research.
- 11 The views of Council are sought on whether additional, more detailed information on positive feedback is required in future reports.
- 12 **Recommendation: Council is recommended to note a sample of positive feedback received by NMC staff since September 2012 and to suggest how information should be presented in future reports.**
- 13 At the February 2013 meeting, Council will also be asked to approve the unreasonable behaviour policy. A draft of the policy has been discussed by directors and will be presented to Council for formal approval.
- 14 **Recommendation: Council is recommended to note the proposal to seek Council's approval on the unreasonable behaviour policy in February 2013.**

Public protection implications:	15	This paper has no direct public protection implications. However, members of the public and registrants would 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.
Resource implications:	16	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.
Equality and diversity implications:	17	The development of an Equality Impact Assessment will be encompassed in the work to develop the unreasonable behaviour policy.
Stakeholder engagement:	18	No external engagement is planned at this time.
Risk implications:	19	None from this paper.
Legal implications:	20	None from this paper.

Item 14
MMC/13/11
31 January 2013



Council

Terms of Reference – Remuneration Committee

- Action:** For decision.
- Issue:** The Remuneration Committee have proposed a change to their terms of reference, which has been supported by the Audit Committee. This report advises members on the justifications for the amendment.
- Core regulatory function:** Supporting functions.
- Corporate objectives:** **Strategic objective 7:** We will develop effective policies, efficient services and governance processes that support our staff to fulfil their functions.
- Decision required:** Council is asked to approve the updated versions of the terms of reference of the Remuneration Committee (as set out in Annexe 1) for inclusion in the NMC Standing Orders.
- Annexes:** The following annexes are attached to this paper:
- Annexe 1: The terms of reference of the Remuneration Committee (with suggested amendment marked as a tracked change).
- Further information:** If you require clarification about any point in the paper or would like further information please contact the author or the director named below.
- | | |
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|---|--|

Context:	1	The Remuneration Committee is seeking to take on an additional responsibility with regards to redundancy payments and special severance payments. These changes are sought in order to address historic weaknesses in member oversight of senior redundancy payments. These changes were endorsed by the Audit Committee at its meeting in December 2012, and require formal adoption by Council prior to the amendment of NMC Standing Orders.
Discussion:	2	The Remuneration Committee requested that a change to its terms of reference be made. The proposed alteration can be found in section 1.2 of Annexe 1. The Audit Committee has endorsed this proposal, and has asked for the matter to be resolved as swiftly as possible.
	3	Given the priority being given to this matter, this amendment is being requested in advance of the broader governance review that will commence shortly.
	4	Recommendation: The amended terms of reference, as set out in Annexe 1 of this report, to be adopted by Council for the Remuneration Committee.
Public protection implications:	5	By ensuring that governance arrangements are clear and fit for purpose, Council will ensure that the NMC conducts business in a transparent and accountable way. This will help reinforce public protection and increase public confidence in the NMC's operations.
Resource implications:	6	The committees which are the subject of this paper are already in place. Any additional work arising will be managed under existing resources.
Equality and diversity implications:	7	By improving the clarity of decision making within the NMC, the organisation will support increased access to decision making processes and the rationale for policies for all sections of the general public.
Stakeholder engagement:	8	Increasing the clarity and transparency of governance arrangements will help support engagement with external bodies and the wider public.
Risk implications:	9	The adoption of the proposed terms of reference will help the avoidance of risk associated with unclear or unsuitable redundancy payments being made, and the issues connected with accountability that such issues raise.
Legal implications:	10	None.

Remuneration Committee Terms of reference

- 1 The terms of reference of the Remuneration Committee, which is a committee of the Council established under the powers in Article 3 (12) are:
 - 1.1 advising the chair on the appointment, remuneration and termination of the Chief Executive and Registrar
 - 1.2 advising the Chief Executive and Registrar on the appointment, remuneration and termination of directors and be consulted on redundancy payments, including special severance payments for senior staff.
 - 1.3 monitoring the remuneration of the Chief Executive and Registrar and directors of the NMC to ensure that it is competitive yet not excessive when compared with other similar organisations
 - 1.4 agreeing remuneration arrangements for Council members
 - 1.5 the committee will have the power to seek external advice in order to monitor remuneration packages
- 2 The Remuneration Committee will report to Council.

Council

Professional indemnity insurance as a requirement for registration with the NMC

Action: For discussion.

Issue: This paper provides an update on new legislation that will place a requirement on all nurses and midwives to have an indemnity arrangement as a prerequisite for registration with the NMC.

Core regulatory function: Registration, Fitness to Practise.

Corporate objectives: **Strategic 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.

Strategic objective 4: 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: None.

Annexes: None.

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

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- Context:**
- 1 The UK Government has long stated that nurses and midwives, along with other healthcare professionals, would ultimately be required to hold an individual indemnity arrangement. This intention has been outlined in a number of different forms including most notably the Independent Review Group study into indemnity insurance¹ and subsequently the 2011 Command Paper *Enabling Excellence*.² Currently all regulators, apart from the NMC and the Health and Care Professions Council (HCPC), have the ability to require an indemnity arrangement as a pre-requisite for registration, though the degree to which they enforce this differs.
 - 2 In March 2011 new EU legislation relating to cross border healthcare provision came into force.³ This legislation requires that by 25 October 2013 the UK must have transposed into domestic law a requirement for an indemnity arrangement. Consequently the Department of Health, England (DH) will shortly issue a consultation on draft legislation⁴ that will make holding an indemnity arrangement a mandatory requirement for professional registration. The consultation is expected to run from January until March 2013.
 - 3 The consultation document outlines that it will be the responsibility of the registrant to ensure that they have the appropriate type and level of cover to suit their particular role. It will be for the regulator to determine the information that will be required from each applicant in order to meet the basic requirement for registration.
 - 4 The legislation will provide regulators with enabling powers to make appropriate rules relating to the following topics:
 - 4.1 A power to require relevant information to be provided to the Registrar in order to determine whether a registrant, or applicant for registration, has cover, including where appropriate a declaration that cover is provided by an employer.
 - 4.2 A power to require registrants to inform the Registrar if cover ceases.
 - 4.3 A power to refuse to grant registration to an applicant who fails to comply with a request for information or fails to demonstrate that they have, or will have, cover.
 - 4.4 A power to withdraw registration (via administrative removal

¹ Independent Review Group (2010), Independent Review of the requirement to have insurance or indemnity as a condition of registration as a healthcare professional. (Also known as the 'Scott Report').

² Department of Health England (2011), *Enabling Excellence: Autonomy and Accountability for Healthcare Workers, Social Workers and Social Care Workers*.

³ Directive 2011/24/EU of the Parliament and of the Council on the application of patients' rights in cross-border healthcare.

⁴ SI 2013/TBC Health Care and Associated Professions (Indemnity Arrangements) Order 2013 (draft version)

as opposed to fitness to practise procedures) from a registrant who fails to comply with a request for information or fails to demonstrate that they have, or will have, cover.

- 4.5 A power to refer a registrant into fitness to practise procedures if the cover is alleged to be inadequate or inappropriate to the registrant's practice.
- 4.6 A power to prevent a registrant avoiding Fitness to Practise proceedings by letting their cover lapse.
- 5 A key innovation to highlight is that under most circumstances the withdrawal of an effective registration due to a registrant failing to hold an indemnity arrangement will be via an administrative mechanism based within the registration function. Only under specific circumstances would an individual be referred to fitness to practise.

Discussion

- 6 The registration department will be most significantly affected by the introduction of this new requirement. The ICT, corporate communications, media and strategic engagement teams will also be closely involved during the period of development. An exercise will be carried out to scope the impact of the new legislation and propose appropriate processes in terms of:
 - 6.1 Initial entry to the register from the UK, EU and overseas countries.
 - 6.2 Periodic renewal of registration.
 - 6.3 Readmission to the register.
- 7 An important and challenging part of the new legislation concerns those nurses and midwives who may not hold an indemnity arrangement at the point that they initially apply for registration. This would include new UK graduates and new registrants from EU and non-EU countries. The legislation introduces the possibility that the NMC could register such individuals with the understanding that they would provide evidence that they had subsequently secured insurance cover by a certain deadline of the NMC's choosing. This could mean the NMC offering 'conditional' or 'partial' registration for a short period; for example until an individual has secured a job with an associated indemnity arrangement.
- 8 Alongside the changes to the NMC's governing legislation (see paragraph 18) a key deliverable of the project will be the creation of operational policies and, where appropriate, standard operating procedures (SOPs) for the registration team. These will outline the documentary evidence required, the timescales for the return of documents, and the process for administrative removal from the

register and referral to the fitness to practise procedures where needed. Public and registrant facing information, including registration forms and booklets, and the registrations section of the website will be updated.

- 9 The NMC code⁵ currently recommends that registered nurses and midwives hold professional indemnity insurance. As part of this piece of work the code will be amended to reflect that having an indemnity arrangement is a mandatory requirement.

Next steps

- 10 Beginning in January 2013 a number of pieces of preparatory work will be undertaken including:
- 10.1 Establishment of a project plan and risk register.
 - 10.2 Attendance at a DH convened meeting of all UK healthcare regulators to discuss the implications of the legislation.
 - 10.3 Formulation of a communications plan beginning with mapping of relevant stakeholders.
 - 10.4 Formulation of the NMC response to the DH consultation.
 - 10.5 Developing policy and process options to be brought to Council for a decision in March or April 2013.
 - 10.6 Preparation of a business case to make the necessary changes to the Wiser system.

Public protection implications:

- 11 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:

- 12 A business case for this project will be developed to include resource for a project manager as well as changes to the Wiser system, publications and templates, and the required stakeholder engagement process.

Equality and diversity implications:

- 13 A comprehensive equality impact assessment is being developed along with a wider impact assessment.

⁵ The code: Standards of conduct, performance and ethics for nurses and midwives. NMC 2008.

- Stakeholder engagement:**
- 14 A substantial piece of work in relation to the project will be a comprehensive communication strategy. Although the new requirement for an indemnity arrangement is derived from EU legislation and is non-negotiable there are a number of different groups who may be affected disproportionately. These may include:
- 14.1 Independent nurses and midwives working outside contractual employment. This is a major issue of discussion and constitutes one of the main groups whose current ability to practise may be affected. We are aware that some nurses, such as practice nurses, are no longer able to secure an indemnity arrangement from their professional body. The case of independent midwives and their inability to secure an indemnity arrangement has been the subject of considerable discussion and study. It is vital that independent practitioners are fully engaged at an early stage and are able to secure arrangements to allow them to remain on the register.
 - 14.2 Nurses and midwives entering the register for the first time who have not yet secured employment.
 - 14.3 Nurses and midwives returning from a period of non-practice due to maternity leave, illness or other break in employment.
 - 14.4 Nurses and midwives who are between jobs and who usually rely on employer indemnity arrangements.
 - 14.5 Nurses and midwives who wish to remain on the register but who currently may not hold the appropriate indemnity arrangement because, for example, they work in academia or research with no contact with patients.
- 15 An effective communication strategy is therefore required to raise general awareness that the new requirement is being introduced, and to provide targeted advice and, where applicable, sources of information for those groups who may be disproportionately affected.
- Risk implications:**
- 16 A full risk analysis will be carried out as part of the initial scoping period. However some risks highlighted to date include:
- 16.1 The risk that specific groups of nurses and midwives, including those practising independently, are no longer able to remain on the NMC register and are thus deprived of the ability to practise.
 - 16.2 As a result of this the risk that the incidences of women “free birthing” may increase if they do not have access to an independent midwife.
 - 16.3 The risk that the NMC does not meet the eventual introduction deadline due to the necessary rules, policies or IT

requirements not being in place.

16.4 The risk of a potential loss of income for the NMC should registrants who do not currently hold insurance decide that they no longer wish to remain on the register.

17 A project risk register will be established which will outline potential risks to the public as well as risks related to the delivery of the project itself. These risks will be managed in accordance with the corporate risk management framework and within the NMC's programme management reporting system.

Legal implications:

18 The introduction of the new requirement is a direct result of EU legislation. As a result, the UK government will publish transposing legislation to make changes⁶ to the Nursing and Midwifery Order 2001 (the order).

19 The new Indemnity Arrangements Order will also require changes to the NMC Education, Registration and Registration Appeals Rules 2004. The amended rules will specify the evidence to be provided by applicants for registration and provide for the administrative removal of a registrant's name from the register.

20 The process for making the new rules will be the same as at present and will include an obligation for the NMC to carry out a public consultation, obtaining DH and Privy Council approval and laying in Parliament.

⁶ Enabled through Section 60 of the Health Act 1999.

Council

Professional Standards Authority initial stages audit

Action: For information.

Issue: The purpose of this paper is to inform members about the outcome of the Council for Healthcare Regulatory Excellence (CHRE) (now the Professional Standards Authority (PSA)) 2012 audit of the NMC's initial stages fitness to practise process and the actions arising.

Core regulatory function: Fitness to Practise.

Corporate objectives: 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: None.

Annexes: The following annexe is attached to this paper:

- Annexe 1: Audit of the Nursing and Midwifery Council's initial stages fitness to practise process - December 2012.

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

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- Context**
- 1 The PSA carry out a programme of audits each year across the nine health regulators that it oversees to review the initial stage processes of each regulator. The audits are scheduled according to risk and each regulator will be audited at least once every three years.
 - 2 The purpose of the audit is to ensure that the regulator has not closed cases that should have been referred for a formal hearing before a fitness to practise panel.
 - 3 The focus of the audit is to make sure that the regulator does not expose patients (or service users) to unacceptable safety risks and that public confidence in the regulation of the professions is maintained.
 - 4 The audit process is limited to looking at individual cases for the purposes of 'general reports' and to making general recommendations affecting future cases.
 - 5 In June 2012, CHRE audited 100 cases closed by the NMC at its initial stages. These cases were all cases that had been closed between 1 November 2011 and 30 April 2012.
 - 6 The report makes 11 recommendations.
- Discussion**
- 7 A number of changes introduced in FtP over the past 12 months, such as the amendments to the FtP rules and the introduction of an improved system of risk assessment, were not in place for many of the sample cases and therefore these significant improvements were evident in only a small number of cases closed towards the end of the audit period.
 - 8 A full review of the audit findings and the recommendations has already taken place and action plans for both the Screening team and the Investigations teams have been created and approved.
 - 9 Each of the areas of weakness has been designated a category according to whether it is fundamental, significant or minor and an action with a date for completion has been assigned.
 - 10 In respect of a number of the concerns highlighted by CHRE, remedial action had already been taken and targeted review (of cases closed in November and December 2012) has already begun to ensure that the measures in place have been effective.
 - 11 An overview of the action plans and the proposed preparation for next year's audit was shared with the Fitness to Practise Committee at its meeting on 17 January 2013.
 - 12 Progress against the action plans will be a standing item on the FtP

Committee agenda.

- | | | |
|---|----|--|
| Public protection implications: | 13 | The initial stages report did not highlight any areas where the public had been put at risk. The work outlined in this paper will have direct implications for public protection as it will ensure that processes are in place for risk assessment at the initial stages of case progression are effective. |
| Resource implications: | 14 | The resource implications of carrying out case audits and monitoring action plans is 151 management hours per month across all case management teams. This will be managed within existing resources. |
| Equality and diversity implications: | 15 | There are no equality and diversity implications. |
| Stakeholder engagement: | 16 | In August the FtP team was provided with an opportunity to comment in respect of a number of specific issues on individual cases, and at the end of September the first draft of the audit report was sent with an invitation to the NMC to make general comments. Through October and November correspondence was exchanged with the PSA review team. |
| Risk implications: | 17 | The risk of not responding to the findings of the audit is that we would miss the opportunity to ensure that the initial stages of the fitness to practise process are effective. |
| Legal implications: | 18 | There are no legal implications, |

Audit of the Nursing and Midwifery Council's initial stages fitness to practise process

December 2012

About CHRE

The Council for Healthcare Regulatory Excellence promotes the health and well-being of patients and the public in the regulation of health and care professionals. We scrutinise and oversee the work of the nine regulatory bodies¹ that set standards for training and conduct of health and care professionals.

We share good practice and knowledge with the regulatory bodies, conduct research and introduce new ideas about regulation to the sector. We monitor policy in the UK and Europe and advise the four UK government health departments on issues relating to the regulation of health and care professionals. We are an independent body accountable to the UK Parliament.

Our aims

The Council for Healthcare Regulatory Excellence works to raise standards and encourage improvements in the registration and regulation of people who work in health and social care. We do this in order to promote the health, safety and well-being of patients, service users and other members of the public.

Our values

Our values and principles act as a framework for our decision-making. They are at the heart of who we are and how we would like to be seen by our partners. We are committed to being:

- focussed on the public interest
- independent
- fair
- transparent
- proportionate

Our values will be explicit in the way that we work; how we approach our oversight of the registration and regulation of those who work in health and social care, how we develop policy advice and how we engage with all our partners. We will be consistent in the application of our values in what we do.

We will become the Professional Standards Authority for Health and Social Care during 2012.

¹ General Chiropractic Council (GCC), General Dental Council (GDC), General Medical Council (GMC), General Optical Council (GOC), General Osteopathic Council (GOsC), General Pharmaceutical Council (GPhC), Health and Care Professions Council (HCPC), Nursing and Midwifery Council (NMC), Pharmaceutical Society of Northern Ireland (PSNI)

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1. Overall assessment

Introduction

- 1.1 In June/July 2012 we audited 100 cases that the Nursing and Midwifery Council (NMC) had closed at the initial stages of its fitness to practise (FTP) processes during the six month period 1 November 2011 to 30 April 2012.
- 1.2 In the initial stages of their FTP processes, the nine health and care professional regulatory bodies decide whether complaints received should be referred to a hearing in front of an FTP panel, whether some other action should be taken, or whether they should be closed.
- 1.3 Our overriding aim in conducting audits is to seek assurance that the health and care professional regulators are protecting patients and the public and maintaining the reputation of the professions and the system of regulation. We assessed whether the NMC achieved these aims in the particular cases we reviewed against the Casework Framework. We considered whether weaknesses in handling any of these cases might also suggest that the public might not be protected, or confidence not maintained, in future cases.
- 1.4 In our last audit report of the NMC dated November 2011, we summarised our findings as follows:

“...we found continuing areas of significant weaknesses in [the NMC’s] handling of cases at the initial stages of the fitness to practise process. Many of the weaknesses are ones that we identified in previous audits. These weaknesses create risks for public protection and public/professional confidence in the regulatory process. We consider that there is some evidence of improvement in the quality and efficiency of the NMC’s fitness to practise process in the last year....However we remain concerned about the extent of the weaknesses...”
- 1.5 Our performance review report for 2011/2012 was also consistent with these findings and noted concerns related to the fitness to practise function in the areas of timeliness and progression of casework, the quality of decisions made and recorded, the quality of customer care, the quality of record keeping, the consistency of the on-going monitoring of risk and the quality of investigations. We said in this report that significant improvement would need to be achieved as a matter of urgency.
- 1.6 Since our last audit we have undertaken a strategic review of the NMC at the request of the Parliamentary Under Secretary of State at the Department of Health. The Strategic Review was not an audit. The Strategic Review report documents the troubled history of the NMC and also looks forward to make recommendations which aim to help the NMC tackle weaknesses in governance, decision-making and operational management. We anticipate that implementing the recommendations from the Strategic Review will therefore lead to improved findings in future audits.

- 1.7 We note that over the last two years the NMC has introduced numerous changes to its procedures aimed at improving quality assurance (see para 1.15 below). The cases we audited were subject to different internal procedures and those were not always consistently applied.
- 1.8 We hope that this audit report will be useful to the senior leadership team and operational staff with their programme of improvement aimed at raising standards in the FTP department.

Summary of findings

- 1.9 Many of the weaknesses from this year's audit are the same weaknesses that we identified in earlier audits. In response to our earlier audits the NMC said that it had implemented improvements and assured us that we would see improvements in later audits. We saw examples of better record keeping and correspondence in some cases, however we are concerned about the extent of the weaknesses identified during this audit including in cases opened since the NMC initiated its improvement programme in January 2011. In our view, our findings mean that we have not yet seen evidence that the improvements that have been initiated since January 2011 have resolved the problems we previously identified.
- 1.10 We found weaknesses in many areas of the Casework Framework (see Appendix 2). In our view the weaknesses we have identified in this audit, together with the evidence that improvements have not been entirely successful in resolving problems identified in previous audits, have the potential to create risks for public protection and damage public confidence in the NMC as a regulator. Full details of our findings are set out below, but in summary our findings are:
- Inadequate information gathering, giving rise to the risk that a robust investigation was not carried out before closing individual cases
 - Insufficient explanations or inaccurate details being provided in decision letters sent to registrants and complainants, with the result that some may not have fully understood the reasons for the decisions made by the NMC and some may have been left with the perception that the quality of the investigation was not robust
 - Poor examples of customer service and complaint handling. This damages the NMC's reputation and it might give rise to a concern that the NMC is not handling cases properly
 - Failures to consistently follow the NMC's own policies and procedures
 - Inconsistent approaches to record keeping, with the result that information on individual cases is not necessarily either easily accessible or held in one place
 - Delays in the progression of cases and a lack of active case management resulting in avoidable delays.

- 1.11 We did see documented risk assessments in the eight cases we audited that were opened after the NMC changed its process in February 2012. We hope to see consistent compliance with this process for documenting risk assessments in future audits.

Method of auditing

- 1.12 We reviewed 100 cases that had been closed by the NMC between 1 November 2011 and 30 April 2012. These were selected from the cases that the NMC closed in this period without referring them for a hearing by either the Conduct and Competence Committee (CCC) or the Health Committee (HC)².
- 1.13 We selected 50 cases at random, which proportionally reflected the numbers of cases closed at each closure point within the initial stages of the NMC's fitness to practise (FTP) processes. The other 50 cases were selected at random from categories of cases that we considered to be 'higher risk'. That is to say that, in our view, there was a higher risk to the safeguarding of public protection if proper procedures were not followed in these cases. When auditing regulators we base our assessment of the risk associated with each case on the information we have gathered during previous audits, on the information we are provided with during our annual performance review of the regulators, on concerns that we receive about the performance of the regulators, as well as any other relevant information that comes to our attention.
- 1.14 In March 2010 the CHRE led a meeting of representatives from the nine health professional regulators to agree a 'Casework Framework'. This was a description of the key elements that should be present in the different stages of a good FTP process. A copy of this is at Appendix 2. When auditing a regulator, we assess the handling of a case against the elements of the Casework Framework.
- 1.15 In this year's audit we also looked for evidence of the effectiveness of the changes that have been introduced by the NMC since 2010 with the aim of improving its performance at the initial stages of the FTP process. These changes were: -
- November 2010 – the introduction of full case audits every two to four weeks, and monthly reviews of the oldest open cases to prevent delays in cases
 - November 2010 – introduction of a new centralised filing system with a standard operating procedure to improve record keeping
 - January 2011 – the introduction of the screening team comprising case workers, screening lawyers and clinical advisers, responsible for cases from receipt to their first consideration by the investigating committee. The case workers in the team review the case within 48 hours of receipt and if an interim order application is required, they refer the case to the screening lawyer

² We note that at least one of the cases was closed at a pre-meeting of the CCC

- January 2011 – the introduction of a new risk assessment process which introduced a formal and consistent approach to recording risk assessments
- March 2011 – the implementation of the policy to request a GP / nurse / occupational health reference and an employer reference in cases concerning criminal offences involving drugs and/or alcohol (where it is the registrant's first offence)
- March 2011 – the introduction of procedures to quality assure correspondence twice, return telephone and voicemails within 24 hours, acknowledge emails within 24 hours, provide a date for a substantive response within 20 working days, acknowledge letters and faxes within three working days and provide a date for a substantive response within 20 working days
- April 2011 – the introduction of closer monitoring of investigations carried out by external bodies
- May 2011 – the introduction of timeframes for solicitors undertaking investigations
- August 2011 – the implementation of the customer service pledge to improve customer care
- February 2012 – the introduction of an amended risk assessment procedure, requiring risk assessments to be documented.

The NMC's FTP framework

- 1.16 The structure of the NMC's FTP process means that there are two points at which cases may be closed without referral to a formal hearing in front of an FTP panel:

By NMC FTP staff without referral to the investigating committee

- 1.17 Rule 22 (5) of the NMC's statutory rules (The Nursing and Midwifery Order 2001 as amended) says that the NMC must refer to the relevant committee or person any allegation that is made to it 'in the form required'. The rules do not define what that phrase means. However, the NMC has defined it to mean that an allegation must identify the registrant (with contact details and PIN if possible), describe the incidents and be 'supported by appropriate evidence'. The NMC's processes permit staff in its FTP department to close cases which are not 'in the form required'. Decisions to close cases on that basis are made by the screening team. The screening team case workers make a recommendation to close a case - which is then reviewed and agreed by the screening team manager and screening team lawyer.

By the investigating committee (IC)

- 1.18 The IC's role is set out in legislation. The Nursing and Midwifery Order 2001 (section 26 (1) and (2)) explains that the committee's role is to:

‘...consider in the light of the information which it has been able to obtain and any representations or other observations made to it under sub-paragraph (a) or (b) whether in its opinion in respect of an allegation of the kind mentioned in article 22(1)(a) [misconduct, lack of competence, conviction or a caution in the UK for a criminal offence, physical or mental health, or a determination by a body in the UK responsible under any enactment for the regulation of a health and social care profession to the effect that their fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect], there is a case to answer...’

- 1.19 The NMC IC’s membership is made up of members of the nursing and midwifery professions and lay people.
- 1.20 In order to carry out its role, the IC assesses whether or not there is a ‘realistic prospect’ of a fitness to practise panel deciding that the registrant’s fitness to practise is impaired, should the matter be referred to a formal panel hearing. To help the IC with this assessment, the committee can request that an investigation is conducted.
- 1.21 In the event that the IC decides not to refer a case for a hearing by an FTP panel, it may inform the registrant that the case may be taken into account in the consideration of any further allegation about them that is received by the NMC within three years of the decision not to refer the case for a hearing.³

³ NMC (Fitness to Practise) Rules Order of Council 2004 Rule (6)(1)

2. Detailed findings

Risk assessment

- 2.1 Robust risk assessment on receipt of a new case, and updating that risk assessment on receipt of new information, is an important part of public protection within a risk based regulatory approach. Unless the regulator has conducted a proper evaluation of risk, it is difficult to make sound judgements about whether regulatory action is necessary. In the context of the NMC's remit, risk assessments are required to support decisions about whether to take immediate action (to put in place an interim order) to prevent the registrant from practising without restriction while the allegation that their fitness to practise is impaired is being investigated. Robust and prompt risk assessment can also prompt the regulator to make a disclosure to an interested third party (e.g. another regulator) in order to safeguard public protection.
- 2.2 In our last audit we reported that the NMC introduced a formal and consistent approach to recording risk assessments in January 2011. We stated that we had seen evidence that this process was being followed in some, but not all, of the cases that we audited. In response to last year's audit, the NMC said that it had changed the screening assessment form to require staff to record the reasons for their decisions to alert/not to alert the investigating committee (IC) that an interim order might be required. In this audit we did not find a recorded risk assessment in 11 of the cases we reviewed that were opened after January 2011.
- 2.3 In response to our audit findings the NMC have said that the absence of a record does not mean that a risk assessment was not undertaken. In three of these 10 cases, for example, alerts on the case management system refer to an interim order being considered. The NMC have explained that between November 2011 and February 2012 risk assessments were being conducted but not necessarily recorded. For the avoidance of doubt we consider that, in the absence of a record, there is no evidence that the activity took place.
- 2.4 In one case that we audited we noted that a risk assessment had been conducted and while we do not disagree that an interim order was not required we do consider that there were insufficient reasons for the decision not to impose the interim order. The screening lawyer appeared to have ruled out an interim order because a year had passed since the incident leading to the referral to the NMC. In response to this the NMC have told us that comprehensive reasons for that decision were not recorded at the time but that, the time since the referral was only referenced as a factor and, the delay could not have been the reason for not proceeding with an interim order application. In the absence of documented reasons, it is not possible to determine the reasons an interim order was not applied. Failing to document reasons for key decisions means that the regulator may not be able to justify those decisions if challenged, nor will it be able to learn from any errors in its decision-making process.
- 2.5 The NMC have told us that formal risk assessment forms were introduced in February 2012 and that standard operating procedures have been amended,

with the result that staff now formally document the risk assessment of each case throughout its lifetime. We did see documented risk assessments in the eight cases we audited that were opened after February 2012. We will look for evidence of consistent compliance with this process in our next audit.

Gathering information/evidence

2.6 Information and evidence must be gathered at the correct point in the FTP process to enable effective decision making. The regulator must operate proactive processes for gathering information in order to ensure that the right information is available to be considered by the decision makers at the appropriate time. Our findings in this section of the audit report concern failings in three main areas (i) gathering sufficient information; (ii) acting on relevant information; and (iii) closing a case before sufficient information has been received.

(i) Gathering sufficient information

2.7 We found several cases where the NMC had failed to follow a robust process for gathering information/evidence. In these examples the failure to gather sufficient information meant that there was either a risk of the wrong decision being made, or a risk that the decision might have been based on inadequate reasons:

- In one case that we audited the NMC had contacted the registrant's employer to request the registrant's PIN number (a unique identifier for each nurse/midwife) so that the NMC could check its register. The employer refused, relying (without justification) on its duty of confidentiality to its employee. The NMC accepted the employer's refusal, rather than pursuing the request. The NMC accept that it was not right for the staff member to accept this refusal and have said they will deliver training to address this. In our view the appropriate action would have been for the case worker either to explain the reasons for the request and the NMC's remit, or to escalate the request
- Following the receipt of a report by a midwifery supervisor which related to the outcome of disciplinary proceedings about three midwives, the NMC failed to seek clarification about which recommendations in the report related to each of the three midwives. In addition, a letter from the employer said that one of the midwives had not yet completed her practice recommendation but did not specify which one. The NMC said that the available information suggested that there were no matters giving rise to an allegation of impaired fitness to practise. If the midwife had failed to complete the practice recommendation and the employer had concerns regarding her FtP, they would expect that such concerns would be highlighted. In our view it would be better regulatory practice for the NMC to have clarified this before closing the case
- In two cases that we audited better attempts could have been made by the NMC to clarify the facts and allegations in our view. The IC concluded that the evidence available was not sufficient to establish that there was a 'case to answer' in terms of there being a real prospect that the registrant's FTP

was currently impaired (see para 1.18). In one of these cases, the NMC had trouble with obtaining contact details despite repeated attempts. We also note that in the case of one witness, the NMC made unsuccessful attempts to make contact. Nonetheless, in both cases there were witnesses, who may have had relevant evidence to give, who did not provide statements. In our view, the IC would have been in a better position to reach a robust decision about whether or not there was a 'case to answer' if the NMC had attempted to clarify the facts and allegations from as many sources as possible

- In another case the NMC had not followed up on the outcome of a referral that had been made to the Independent Safeguarding Authority. We consider that this information would have been of benefit to the IC, particularly as the case involved a registrant who was employed to care for patients who were particularly vulnerable.

(ii) Acting on relevant information

2.8 Four cases we audited raised concerns about the NMC failing to act on information. They demonstrated that the NMC had failed to follow up on enquiries or had not passed on information appropriately. Conducting a robust investigation must involve ensuring that the right information is available to be considered by the decision makers at the appropriate.

- One case that we audited demonstrated that the NMC failed to instruct its solicitors to complete an investigation by carrying out the IC's instructions to investigate new and old allegations. It appeared from the audit of this case that this had been an error, rather than an intentional decision. We consider that systems should be in place to prevent such errors from occurring. Failing to follow the instructions of the IC may affect the quality of the investigation and also cause preventable case adjournments and delays
- In two cases that we audited the NMC had failed to provide the IC with the registrant's response to the allegations. This meant that the IC did not have all the information it needed in order to reach a robust decision. It was also a breach of the NMC's documented process, and a procedural failing that could have led to a successful legal challenge to the IC's decision on the grounds of unfairness to the registrant. Errors of this nature have the potential to damage confidence in the regulator
- In one case we audited the NMC had not provided its external lawyers with important information – that the registrant was currently subject to an interim suspension order. The NMC also failed to amend the allegations (which were wrongly recorded) despite the fact that the need for such amendment had been brought to the NMC's attention twice by IC members.

(iii) Closing a case before full information has been obtained

- 2.9 In our previous audit we identified five cases which had been closed prematurely. We expressed concern that the NMC could not reasonably have assured itself of the level of risk posed by the registrants before the decisions were taken to close the cases.
- 2.10 In this audit we identified four cases where we consider that the NMC should have obtained further information before taking the decision to close the case. Deferring the decision to close a case, pending receipt of sufficient information may be necessary in order to ensure that the right decision is made.
- In one case that we audited the NMC closed the case because the complainant did not wish to proceed with their complaint. The NMC's standard operating procedures require that in such circumstances it must consider whether it should proceed with the case in the public interest, whether there are any other lines of enquiry that could be pursued and whether the complaint could proceed without the complainant's cooperation. These are appropriate questions for a regulator to ask itself, given that its primary role is public protection and that requires the regulator to be proactive in investigating once it is aware of information indicating that a registrant's fitness to practise is impaired. There is no evidence that these issues were considered. In response to our feedback the NMC have told us that the amended version of its screening audit form requires case workers to document reasons for decisions taken. It is not clear to us how that measure will prevent a similar issue recurring in future, unless there is robust quality assurance of case workers' and screening lawyers' compliance and evaluation of the reasons they have documented for such decisions
 - In one case the NMC lawyer had recommended closure of a case because the NMC could not access documents required to assess the case. In response to our feedback about this case the NMC have told us that they cannot investigate allegations without the consent of the relevant member of the public unless it considers there is an immediate risk to public protection. In our view the appropriate action for the NMC to take in this case would have been to use its statutory powers to gain the information it needed to fully consider the issues
 - One case that we audited had been closed before the NMC had received a requested response from the registrant's employer and before the clinical records had been reviewed (even though one of the allegations was about whether appropriate treatment had been given). We acknowledge that when the clinical records were reviewed, they showed that there was no evidence to substantiate the allegations. Nonetheless, by failing to conduct the review before closing the case the NMC risked closing the case before it had gathered sufficient information and potentially reaching the wrong decision
 - In one case that we audited the registrant had received a police caution for the offence of destroying and causing damage to property. The case was

closed by the IC on the basis that the matter did not relate to professional practice, the registrant had showed remorse and no concerns had been raised about the registrant in the reference from her employer. There was no evidence on the file that the NMC contacted the police to check the registrant's explanation about the offence. While the NMC did conduct a Police National Computer⁴ (PNC) check in order to find out whether the registrant had any previous convictions, that did not provide any background information about the circumstances of the offence. In our view, the NMC should have contacted the police to obtain background information about the registrant's offence, in order to assess any risk to public protection.

Evaluation and giving reasons for decisions

- 2.11 A regulator's decisions must be able to stand up to scrutiny. We reviewed the quality of decision making in all the cases that we audited. We set out details about these cases in this section of the report.
- 2.12 We found areas for improvement in relation to (i) the reliance placed on other organisations' investigations; (ii) the use of clinical advice and; (iii) ensuring that decisions are not based on factual inaccuracies.

(i) Over-reliance on other organisations' investigations

- 2.13 The following three cases demonstrate the NMC's over-reliance on other organisations' investigations. We realise and accept that public bodies should be able to rely on each other and that it is proportionate to accept evidence and findings from external bodies. Since another organisation's investigation will have a different purpose or standards it cannot be fully relied on to address public protection considerations related to the fitness to practise of a registrant. This is an issue we have identified in previous audits. Two of the three cases below were closed after the publication of our last audit report and we are concerned that this indicates that the learning from our audit report has not been fully implemented.
- In the first case the IC referred to the findings that had been made during an employer's disciplinary process as a reason not to refer the case on to a hearing before the CCC or HC. In responding to our feedback about this case, the NMC have acknowledged that in principle panels must take their own decisions. The NMC said that it will continue to reinforce this message at training for panel members
 - In the second case the NMC did not take action because the employer was initiating formal capability proceedings and had agreed to contact the NMC if any relevant concerns were raised. The employer was carrying out an assessment of the registrant's practice because concerns had been raised about their drug administration (which was relevant to the allegation being considered by the NMC). The IC closed the case and asked the employer

⁴ Police National Computer: database containing information about people who have been convicted, cautioned or recently arrested

to contact the NMC once its formal capability proceedings had concluded if there were any concerns relevant to the NMC's remit. In response to our feedback on this case the NMC has confirmed that in these circumstances it would not monitor or follow up the outcome of the employer's proceedings and it would wait to see if the employer reported any concerns. We consider that, given the potential risks to public protection and the relevance of the employer's assessment of the registrant's practice to the allegations, it would have been better practice to have kept the case open until the NMC could satisfy itself that all the risks had been dealt with. We note that if the registrant had changed employer before the conclusion of the employer's capability proceedings there is no guarantee that the NMC would be notified to enable it to address risks to public protection arising from the registrant's lack of competence

- In the third case the NMC received a complaint about the registrant from the employer's safeguarding team at the outset of its investigation. The complainant provided a report at the end of the investigation which concluded that the allegations were unfounded. The NMC therefore closed the case on the basis that there was no evidence to support an allegation that the registrant's fitness to practise was impaired. When we audited the case we noted that the employer's report was brief and that its 11 appendices (including staff statements, care notes and police interviews) were not attached. In addition we noted that the employer's report did not refer to an interview with the patient (which we consider to be significant because there was a conflict of evidence between the registrant and another member of staff). In our view, there was insufficient information available at the date the NMC closed the case. The NMC should have requested the appendices to the report before a final decision was reached. In response to our feedback on this case the NMC told us that it would have no grounds to investigate if the complainant's investigation established that the allegations could not be substantiated. However the NMC must reach its own decision about whether or not there is evidence that a registrant's fitness to practise is impaired and it must base that decision on sufficient information.

(ii) The use of clinical advice

- 2.14 In January 2011 the NMC established a screening team which comprises case workers, screening lawyers and clinical advisers. This team is responsible for cases from the point of receipt. In this audit we looked for evidence that case workers were asking for clinical advice in relation to cases that were opened after January 2011. Clinical advice is likely to be useful in cases concerning allegations of impairment arising from lack of competence and in some cases concerning allegations of impairment arising from misconduct. It may be necessary for the purposes of conducting risk assessment in the early stages of an investigation and it may also help to inform decision makers considering issues relating to public protection and /or professional standards.
- 2.15 We audited three cases, opened since January 2011, that indicated the process for obtaining clinical advice and ensuring that the advice is used to inform decision making could be improved:

- In the first case the clinical advice report strayed from comments on clinical matters and expressed the advisor's personal view about the effect the case might have had on the registrant's behaviour, "*I don't believe that any of the registrants involved are likely to be faced with such a case again and if they are, they will know now the importance of antibiotics*". This statement was an assumption made by the advisor, rather than an evidence-based finding. As such, it may indicate that the adviser was not properly briefed prior to producing their report. The fact that it was not identified as an issue by the NMC also raises queries about the effectiveness of the quality assurance processes that are in operation
- In the second case the complainant had made allegations about the care provided to her mother by four nurses. We reviewed cases involving two of the four nurses involved (one of them concerning the ward manager and the other the matron). The clinical advice on the other two cases indicated that serious failings were made by the nurses in the two cases we audited (the ward manager and the matron). This clinical advice was not filed on the files of those two cases nor did it appear that any other clinical advice had been requested in respect of those cases. It is not evident that the IC, when considering the cases involving the ward manager and matron, were ever aware of the clinical advice or took it into account in making their decision although this was clearly relevant information
- In the third case the decision was based on the outcome of the registrant's employer's investigation and no clinical advice was obtained because the NMC screening lawyer took the view it was unnecessary as it was unlikely the case would result in a finding of impairment of the registrant's fitness to practise. We are of the view that the decision that clinical advice was not needed was wrong because the allegations related to a potential misdiagnosis and it therefore appears that a clinical adviser's opinion on the case would have been valuable.

(iii) *Decisions based on factual inaccuracies*

2.16 We reviewed four cases where we were concerned that decisions were unsound, because they were based on factual inaccuracies.

- In the first case the registrant had been convicted for possession of two bladed articles in a public place. The IC concluded that the registrant had addressed the concerns about her psychological wellbeing although there was no evidence to support that conclusion other than a GP report indicating the registrant had been referred for counselling (without any information as to the outcome of that referral). We also note that the IC had misinterpreted the GP report – wrongly stating that it established that the registrant had been subjected to a sexual assault. From our reading of the GP report we concluded that while the registrant had alleged that they had been the subject of a sexual assault, there was no evidence to substantiate that claim. The IC reached the conclusion that there was no real prospect of a finding of impairment of fitness to practise if the case was referred to a hearing, based in part on these inaccuracies. We were troubled by this given that, the registrant could also be said to have failed to demonstrate

insight as she had failed to surrender to custody, had expressed no remorse and in fact denied any wrongdoing

- In the second case the IC concluded that the registrant had undergone a period of supervised practice. While some evidence of supervised practice was provided to the IC, the report to the IC stated that, *“documentary evidence regarding ... the extent to which the registrant completed the supervision required of her following the final written warning, is still missing”*
- In the third case we noted that the screening audit form (which is used to document reasons for closing cases at that stage) recorded that the reason for closure was that the employer had investigated the circumstances leading to the complaint. When we reviewed the file, it was evident that the employer was unaware of the circumstances leading to the complaint and had not investigated them. In response to our feedback on this case the NMC have told us that its processes have been amended to ensure that relevant information is received in response to requests for information. We are unclear about how that activity would prevent a future recurrence of this problem given that the nature of the employer’s involvement was evident from the file and the case officer appears simply to have misunderstood the information
- Similarly, in the fourth case, the complainant had been advised in writing by the screening team that the concerns had been dealt with at a local level and therefore the NMC did not intend to take any action – however from our review of the file we were not able to identify any information indicating that the concerns had been dealt with locally.

2.17 The NMC advised us that these four letters were sent prior to training delivered to the IC in 2012, targeted training delivered to the screening team and the implementation of a process to ensure more detailed closure letters are sent out by the screening team following completion of a quality assurance audit. We would therefore expect to see effectiveness of this training in future audits.

2.18 Our feedback from this audit identified a need for improvements in relation to (i) the extent of the reasons provided for decisions and also (ii) the way that decisions are communicated in decision letters.

(i) Reasons for the decisions made

2.19 We found eight cases where, in our view, the reasons provided for the decisions reached were inadequately detailed:

- In three cases we audited the NMC decided that there was ‘no case to answer’ without setting out its reasons in sufficient detail. We note that we made a similar finding in relation to eight cases we reviewed in our last audit. In the first of these three cases the NMC did not explain how it had drawn its conclusion or set out what information had been weighed up. In the second case the IC appears to have accepted the legal advice that the evidence available was not sufficient to establish that there was a ‘case to

answer'. There is no further explanation of the reasons behind the decision that was reached (that there was 'no case to answer'). In the third case the decision letter noted that the NMC's external lawyer had advised that as the NMC had been unable to obtain witness statements, there was no real prospect of the CCC making a finding of misconduct leading to impairment of fitness to practise. However the IC decision itself did not set out the reasons for the case closure

- In the fourth case the IC noted that it had been presented with two conflicting legal reports from internal and external solicitors. We noted that the decision letter did not set out the reasons why the IC preferred one report over the other
- In the fifth case the IC's decision letter did not document all the allegations that had been considered. This means it is possible that full reasons were not provided for all the decisions taken
- In the sixth case the IC did not explain the reasons for its conclusion that the registrant was not personally accountable for the failings identified, it did not outline which evidence it found persuasive, it did not explain why the realistic prospect test was not met, it did not explain why it had concluded that the registrant's failings had been remediated, it failed to reference the employer's investigation and it did not provide reasons for its conclusion that the registrant had demonstrated insight. The NMC said that training has been delivered to the IC and its ICs now sit with permanent IC secretaries. It is therefore hoped that this will resolve this issue.

2.20 In response to our findings in relation to these cases the NMC has said that it will deliver training to panel members in respect of their decision making. We note that in our progress review of the NMC that was published in January 2011 we reported that the NMC expected to complete a training needs analysis in March 2011, including providing training and events for FTP panel members (including IC members) focusing on drafting decisions and providing reasons. We recommend the NMC evaluates the success of this previous training initiative before implementing further training in response to this audit report and that it considers whether other measures may also be required.

(ii) Decision letters

2.21 In our audit we checked that decisions were properly communicated to complainants, registrants and other stakeholders. We identified delays with sending decision letters out (see Appendix 1) as well as issues with the content of the letters. We think it is particularly important to ensure decision letters are well-drafted and comprehensive because they are a key communication point between the regulator and the complainant, witnesses and the registrant(s) involved. Poorly drafted decision letters can be an indicator of inadequate quality control at the time of dispatch, as well as inadequate quality assurance. Poorly drafted letters may also damage the confidence of registrants, complainants and witnesses in the quality of the NMC's investigation.

- 2.22 In one case we audited, a letter we reviewed did not provide full information to the registrant about the decision to impose an interim order, nor did it provide full information about the requirements of the interim order. In particular, the letter omitted a particular recommendation, with the result that the registrant was unaware that she was required to undertake further medical testing until she herself reviewed the transcript of the hearing. This is a particularly serious concern given the potential impact for any review of the interim order of a failure to notify the registrant of the requirements that had been put in place. We note that the letter referred to above was sent out before March 2011.
- 2.23 The NMC has previously advised us that in March 2011 it introduced changes to ensure correspondence is quality checked twice before being sent out. We did see some examples of clearer correspondence in some cases. We highlight below some examples, related to cases closed after 1 November 2011, where the quality of correspondence could have been improved:
- One decision letter contained typographical errors and from which it appeared that words were missing
 - One decision letter did not set out each allegation. We noted that the decision letter would have been improved if it had adopted the detail set out in the lawyer's report on the case
 - One letter that was sent to the complainant in June 2010 to advise that the complaint was being referred to the IC and that clinical records were being sought. This would have raised an expectation that some form of investigation was taking place. A further letter was sent three months later, in September 2010, stating that the case was being passed to the case progression team for referral to the IC. However, the closure letter that was sent in November 2011 did not explain why the complaint was not in fact considered by the IC and in particular did not set out the reasons for the decision to close the case (and we noted that the decision appeared to have been based on advice from nursing and legal advisors)
 - Two decision letters did not make it clear that the text of the letter been copied and pasted directly from the decision and reasons of the IC. The letters were therefore not tailored for their recipients and were not drafted in a user-friendly manner
 - One decision letter, sent in April 2012, did not fully detail and address the allegations. When the complainant drew the NMC's attention to this, the NMC drafted a response indicating that further investigations would be initiated. We note that this correspondence was sent in August 2012
 - One decision letter did not refer to the case being reopened or a record being placed on the WISER system (see para 2.26) if the registrant ever applied to be restored to the register. The NMC said that staff would be provided with refresher training on this issue and the case closure form would be amended to provide a prompt to staff to include this information in decision letters.

- 2.24 In this year's audit we saw some examples of better explanations and more detail provided in correspondence, therefore our findings (above) raise queries about the effectiveness of the quality checks introduced in March 2011. The NMC has told us in response to our feedback that it has amended its processes to achieve improvement in the quality of the decision letters it sends out. We will look for evidence of improvement in our next audit.

Links between the NMC's FTP and Registration departments

- 2.25 The NMC only has power to investigate fitness to practise concerns against individuals who are on its register. Preventing individuals who may not be fit to practise from being registered is an important aspect of the NMC's role in safeguarding public protection.
- 2.26 Information about the registration status of each registrant is stored on the WISER computer system. If a nurse/midwife has already left the register by the time the NMC hears about an allegation, the NMC has no power to take action unless they apply to re-join the register. In those circumstances, the NMC's procedure requires an 'under investigation' flag to be added to the individual's WISER record. The purpose of this is to ensure that the individual is not permitted to re-join the register until the allegation has been investigated. In our last audit report, we expressed concern about the interaction between the NMC's two main computer systems and the implications that this had for enabling it to deal adequately with allegations. In response to this, the NMC said it had put in place screening procedures to prevent a repeat of the problems our audit had identified. In this year's audit we saw one case where this new procedure did not appear to be working effectively (see para 2.30, 2nd bullet).
- 2.27 In addition, we found three cases which indicate the need for improved collaborative working between the Registration and FTP departments. We highlight these three cases below:
- In the first case the NMC staff had not complied with the request made by the Registrar's Advisory Group to obtain character references and a more in-depth statement from the registrant
 - In the second case, the screening paralegal in the FTP team had contacted the Registration department to enquire whether a matter referred by the registrant's employer had been formally reviewed by the Registration team. It was confirmed that there had been an application for admission to the register and the matter was considered at the Registrar's Advisory Group. It was not apparent that the Registration team would have proactively informed the FTP team of the application for registration had the screening paralegal not contacted them
 - In the third case the failure of the Registration team to respond to requests for information from the screening team meant that the screening team failed to meet their deadline.
- 2.28 In response to these issues the NMC have advised us that a training programme and consolidated standard operating procedure that deals with amendments to

the register will be devised. The NMC have also informed us that it is currently considering ways to improve and strengthen cross-directorate working. We will report further on this in our performance review of the NMC for 2012/2013.

Protecting the public

- 2.29 In our audits we look to see that the regulator's decision making at the initial stages of its FTP process is focussed on protecting the public, declaring and upholding professional standards and maintaining confidence in the profession and the system of regulation.
- 2.30 In the first two cases set out below, we concluded that the NMC failed to ensure the protection of the public. All the cases we highlight below raise particular concerns about risks to public protection (as well as other concerns):
- The regulator should have a system in place to ensure it can identify if complaints about fitness to practise are received while the registration process is going on. In one case it was alleged in December 2011 that a nursing graduate (working as a healthcare assistant who was applying for registration) had committed a serious act of dishonesty. The NMC carried out a check of the WISER system on 17 February 2012 and it was noted that the individual was not registered. The NMC therefore did not take action at this point because the individual was not a registrant. The Registration department then registered the individual on 23 February 2012, but this did not trigger a re-opening of the investigation in the FTP department. The NMC was notified by the complainant in April 2012 that the individual was now registered and seeking employment. The complainant contacted the NMC a month later claiming that the individual had recently been sectioned under the Mental Health Act and therefore should not be working with children. An alert (or flag) was only placed on WISER in June 2012 when a new referral was received, some four months after the individual had registered and two months after the complainant had contacted the NMC. This case indicates that the NMC failed to take appropriate action promptly on a number of different occasions once the individual was registered and this had the potential to lead to risks for public protection
 - In the second case there were three different sets of allegations against the nurse, held on separate case files. The registrant had been made subject to an interim order of suspension as of October 2010 in relation to the first set of allegations, which concerned sexual misconduct. The Primary Care Trust (PCT), while investigating a separate matter, checked the NMC's register and noted that the nurse was suspended. In February 2011 the PCT made a complaint to the NMC that the registrant had been working as a nurse while subject to the suspension order. The NMC did not open an investigation into this matter until March 2011, although we note the PCT had first alerted the NMC to it in December 2010 and it made the formal complaint in February 2011. While this interim order was still in force, the third set of allegations was closed with a finding of 'no case to answer'. Following this closure, the NMC erroneously amended its register to remove the reference to the interim suspension order. The NMC did not

amend the register to correct this error until the PCT contacted them again the following day. It is not clear that the NMC would have identified the error itself. Incorrect amendment of the register could have exposed patients to the risk that a nurse who had previously worked while not eligible to do so (because they were under an interim suspension order) would have done so again. Following the audit, the NMC advised us that exception reports are now being run daily and a project has been commenced to ensure consistency between the case management system and WISER. Both of these measures are intended to enable such a situation to be identified and addressed immediately

- In another case we audited the IC appeared to have focussed its decision solely on the risk of repetition of the misconduct and did not appear to have properly considered the extent to which it might be necessary for a sanction to be imposed in order to declare and uphold professional standards or to maintain public confidence in the profession. The lawyer in the NMC's regulatory team flagged this up as part of the NMC's own internal systems for raising such concerns. The lawyer's view was that the IC had given undue weight to the fact that the registrant had repaid the money they had dishonestly obtained and that the IC had failed to take due account of the wider public interest, which meant that the case should properly have been referred for a hearing before the CCC. From our review of this case we agree with the lawyer's conclusions. The NMC's response to our feedback about this case is that it will flag up such cases to the IC. We recommend that the NMC considers whether there are other steps it might take to ensure that similar problems do not recur in future
- In another case we audited the NMC failed to advise the complainant that she might wish to refer her concerns to the Care Quality Commission (CQC) (her concerns would have fallen within the remit of this regulator). Our view is that the NMC should also have considered referring the matter to the CQC itself. In another case we audited the NMC notified the complainant that the NMC was referring the matter to the CQC but it is not evident that this referral ever took place. This means that two matters related to the quality and safety of patient care may not have been investigated as a result of the NMC's actions. The NMC have advised us that it is working on a central process to coordinate referrals to other regulatory bodies
- In another case that we audited there was an inordinate delay of 4.5 years. This was of particular concern as it was a high risk case. The documentation showed that no action had been taken by the NMC between July 2006 and January 2011. It is unclear how or why the delay with progressing this case was not identified by the NMC during this period. The regulatory legal team was instructed to investigate the case in January 2011, by which time the prospects of being able to gather all the required evidence had diminished due to the closure of the premises where the issues had occurred and the unavailability/unreliability of the witnesses' evidence, given the passage of time. Indeed the NMC's own legal advice stated: *"...even if all records were now available the delay caused thus far is of an order where witness recollection is likely to be compromised"*

- In the same case we noted that the complainant had alleged that the registrant was involved in two other issues relating to the death of service users and poor care delivery and had been referred to the NMC previously. The complainant said that considerable support and training had been offered to the registrant but there were continuing areas of serious concern. It is not clear if these other allegations were ever investigated by the NMC, which is a matter of serious concern as they may have indicated a pattern of incompetence/misconduct that might have put patients at risk.

Customer care

2.31 Good customer care is linked to maintaining confidence in regulation. In this section we outline our findings in relation to the contact the NMC has with registrants, complainants and other key stakeholders, such as witnesses, employers and PCTs. In particular we found areas for improvement in the timescales within which the NMC updated these stakeholders (see Appendix 1). We also found continued deficiencies in the content and tone of the NMC's communications.

2.32 Examples of poor customer care towards registrants included:

- A failure to notify the registrant that a case was open against them for five months
- A failure to apologise for the delay in progress in three cases
- A delay of four weeks in responding to correspondence from the registrant involved in one case who was complaining about the delays in her case being handled. We note that an apology was provided in the response from the NMC for the inactivity on the case for one year
- In one case that we audited the NMC had advised the registrant that the case would be considered by the IC when, in fact, the registrant had been already been struck off the register some months previously as the result of a different set of allegations and therefore, the NMC had no jurisdiction to take any further action against them
- Failing to provide an explanation for the IC meeting, at which the registrant's case would be considered, having been delayed in the same case.

2.33 Examples of poor customer care towards complainants include:

- A failure to apologise for the delay in progress in three cases
- Asking the complainant to help the NMC request an employment reference for the registrant and to help obtain a response from the registrant in one case, when this was clearly something the complainant (the registrant's sister) would not have been in the position to help with

- A failure to provide a written response to an enquiry about whether a complaint would be investigated. In this case, the NMC closed the case because the registrant was no longer on the register however, the complainant contacted the NMC when they became aware that the registrant had re-registered and asked whether the complaint would now be considered. The complainant contacted the NMC by telephone twice in one week to make this enquiry. The complainant was advised in the second call that the Registrar's Advisory Group was dealing with the matter, there were no FTP issues and the matter would not therefore be re-opened. It would have been better customer care for the NMC to have provided the complainant with a written response which would have prevented the complainant from having to contact the NMC to obtain an update
- A failure to respond to a complainant's letter in another case
- Advising the complainant to contact the CQC in circumstances where the original complaint letter had been copied to the CQC in the first place
- A failure to tailor standard letters which led to a request for one complainant's consent being repeated, although they had in fact already provided their consent. The standard letter advised the complainant that the case would not be progressed if consent was not provided and we note that, in any event, that statement is not correct as the NMC acknowledges that it can progress cases without consent where it is in the interests of public protection to do so. In the same case a letter sent to the bereaved complainant was not properly tailored and referred to the 'details of the experience and events' the complainant had provided, although she had in fact provided no such information. This was a case where the patient had died at the age of eight weeks. When cases involve particularly sensitive matters such as the death of a complainant's grandchild, it is particularly important to ensure that the regulator's communications are both sensitive and entirely accurate – the risk of failure is that the complainant may conclude that the regulator has not handled the case properly. In response to our feedback on this case the NMC have told us it will deliver training to staff about tailoring standard letters
- A failure to update the complainant's email address as per their request, with the result that information was sent to the wrong email address in one case.

2.34 Examples of poor customer care towards **other key stakeholders** include:

- A failure in one case to provide full information to the registrant's employer to enable them to respond to the request for information which led to a delay of several weeks. In response to our feedback about this case the NMC have told us that it has reviewed its approach to seeking this kind of information and now ensures it receives relevant information in response to requests for information from third parties
- Failure to tailor standard letters, leading to confusing information being sent out in three cases. In response to our feedback about this the NMC have

told us that staff will be trained on the importance of amending template letters as appropriate (See para 2.33 6th bullet). As this is an issue on which the NMC have previously provided training to staff, we recommend that they evaluate whether or not additional measures are necessary

- Providing inaccurate information to witnesses in one case. This included advising the witnesses that the IC had decided to refer the matter to the CCC, when the case had in fact been closed. The NMC wrote to apologise for this error two weeks later but unfortunately that letter contained further factual errors, despite having been through a quality assurance process. One of the witnesses subsequently wrote to the NMC to provide their availability for a future hearing. This indicated that the witness had not received the apology letter from the NMC explaining that the case had been closed. The NMC did not follow this up to confirm to the witness that attendance would not be required
- Delays in advising witnesses that they would not be required to attend a hearing. In one case this was done two months after the case had been closed and in another case, it was done 5 weeks after closure to one of the witnesses and it appears that one of the witnesses was in fact never informed. The NMC said that this occurred because staff misunderstood which letters the IC team were sending. This has now been identified and addressed
- A failure to provide updates to a registrant's employer following three separate requests; and, in another case, a failure to notify the employer of the outcome
- Delays in responding to a request for clarification of a decision letter. The IC had concluded that there was no evidence that the registrant had behaved inappropriately and therefore that, there was no real prospect that a finding of impairment would be made if the case were referred for a hearing. However the decision letter said, "*while the NMC does not condone [the Registrant]'s behaviour ...*" implying that the registrant had behaved inappropriately. The employer wrote to the NMC to complain, because they found this statement unfair and misleading, given the IC's finding. The NMC did not respond for seven weeks. In its response the NMC apologised and said it had reviewed its practices to prevent similar recurrences.

2.35 Following our previous audit the NMC told us it had trained staff (during June and July 2011) on customer service, prior to implementation of the NMC's customer service pledge on 1 August 2011. This pledge had been sent out to registrants and complainants to explain the level of service they should expect and to signal the NMC's commitment to improving its customer service.

Guidance

2.36 It is good practice to have staff guidance documents and tools setting out the established policies and procedures, in order to ensure consistency and efficiency in case management. Our findings in this section of our report relate to

two particular aspects of case-handling. Firstly two areas where we identified that the NMC's established procedures could be strengthened particularly related to: the handling of linked cases and sharing the registrant's response with the complainant. We, secondly, comment on the evidence of the impact of the procedures that the NMC put in place following our last audit.

(i) Areas where procedures could be strengthened

Linked cases

2.37 Two or more cases may be linked because the allegations are brought by the same complainant, or because they involve the same registrant. The NMC have told us that linked cases are usually handled by the same case worker, but that it is inevitable that multiple case workers would need to handle a case at different stages of the FTP process. During our audit we noted the absence of a procedure (written or otherwise), to manage linked cases, which affected four of the cases we audited:

- In one case an alert had been placed on the case management system noting that the registrant had been the subject of a similar allegation the previous year. A request was therefore made for the case to be linked to the previous case so that the IC would be alerted to the other case. However that request was not complied with and the two cases were not linked on the case management system
- In one case the complainant became confused by the fact that she was corresponding with different case workers working on linked complaints
- In one case the complainant was written to by multiple members of staff who provided conflicting information about which issues were being taken forward by the NMC. (Further details about this case are provided at para 2.15, 2nd bullet)
- In one case correspondence with the complainant was saved on a case linked to the one we were auditing. This meant that the full chain of correspondence with the complainant was not saved in one place.

2.38 We note that the NMC has told us that it is currently considering the handling of linked cases and we hope that it will take account of our audit findings as part of that process.

Sharing the registrant's response with the complainant

2.39 We have previously reported on the benefits of sharing the registrant's response with the complainant. These include helping to bring information to light, establishing an accurate record of events to decide if a case should proceed to a fitness to practise hearing and potentially the early resolution of a case by providing clarification to the complainant. In two cases we audited we noted that information from the registrant had not been disclosed to the complainant in circumstances where there was a dispute about the facts. In response to our feedback the NMC have told us that they are considering their policy on

disclosure of the registrant's response in order to determine whether any amendment is required, bearing in mind its need to balance the impact on case progression with the need to have a fair process. We would invite the NMC to review whether or not the current policy is being complied with, in light of our findings, before considering whether or not any amendments to the policy are necessary. We would also invite the NMC to review our report on the benefits of sharing the registrant's response in considering its current policy further.

(ii) Inconsistent compliance with policies and procedures

2.40 Failure to monitor compliance effectively means that a regulator is not in the position to either identify systemic problems, or to take action about individual cases that have not been progressed appropriately and to take prompt remedial action. In this year's audit we considered the extent of compliance with established policies and procedures by the NMC's casework staff. In order to improve both the quality of its case-handling and stakeholder confidence in its processes, the NMC needs to improve by monitoring staff compliance with its own policies and procedures. We note below examples of cases where the NMC had inconsistently followed policies and procedures:

- In one case our own checks showed that the registrant had failed to disclose a caution when she registered and for up to four years afterwards. The NMC acknowledge that it failed to follow its own policy with regard to investigating failures to disclose criminal convictions and cautions in this case. In response to our feedback about this case the NMC have said that refresher training will be provided for staff
- In March 2011, the NMC changed its policy in relation to investigating 'first offences' of drink driving. Under the new policy, the NMC requests an employer and a GP/nurse/occupational health reference in order to confirm that the registrant is fit to practise. We welcome the NMC's commitment to introducing this policy, which is an area of good practice. We note one case where this policy was applicable and the policy was implemented. In our audit we found two cases that had been opened since this policy was put in place where such references had not been requested. We note that in both cases, the IC requested these references and one of the cases was opened in January 2011 and one in March 2011 when the policy was being embedded. Given this, we trust that we will see consistent compliance with this policy in future audits
- Decision letters do not appear to have effectively been quality checked twice (in line with procedures introduced in March 2011 (See para 2.23 - 2.24) leading to letters being sent out with inaccurate or incomplete information
- The NMC implemented a policy that customer service feedback forms should be sent out for cases that were closed or opened after 1 August 2011. The NMC told us, however, that staff had not routinely been sending the forms out and during our audit we identified at least three cases where forms had not been sent in relation to cases opened since 1 August 2011.

The NMC have addressed this matter by including a prompt in the decision letter to act as a prompt for staff

- Inconsistently meeting the requirement for acknowledging correspondence within 48 hours in line with procedures introduced in January 2011 (See Appendix 1)
- Inconsistently meeting the NMC's customer standard for updates to be provided every six weeks. (See Appendix 1)

Record keeping

- 2.41 We consider good record keeping to be essential for effective case handling and good quality decision making. In response to previous audits the NMC told us that new procedures were introduced in November 2010 to improve consistency in record keeping. In our last audit we found that these procedures were being inconsistently applied and we have similar findings to report in this audit.
- 2.42 During this audit we looked for evidence that information on each case was accessible from a single place and that there were comprehensive, clear and coherent case records.
- 2.43 We found 16 cases which had been recorded as closed on the case management system before the parties had been notified about the closure. In one additional case there was a delay of five months before the NMC notified the complainant about the closure of the case. In response to our feedback about these cases the NMC commented that in May 2012 it has made efforts to prevent recurrence. This included:
- Reminding staff that they must not send a decision letter until the case is closed on the case management system
 - Introducing a KPI that states that a case should only be closed on CMS within five days of the event occurring and only when the decision letter has been sent
 - Introducing a KPI that states that paper files should be archived within 10 days of the event and only where the decision letter has been sent
 - Asking staff to advise managers when they identified that a decision letter has not been sent 10 days or more after the event in order that the delay can be recorded as a serious event review and investigated
 - Requiring staff to complete the closure form which requires confirmation that a decision letter has been sent.
- 2.44 We found 17 cases in which there were inconsistencies in the dates of paper records and the dates recorded on the case management system. This mirrored one of the findings in our previous audit. In our previous audit report we commented on the wider impact of inaccurate data on the case management system, given that data from the system forms the basis of the NMC's reports to

its Council about its performance in the FTP function. In response to our feedback from this audit the NMC have said that it has already identified that this is an area where we need to focus attention. It is being addressed by managers and reinforced by focused quality assurance checks.

- We found 14 cases where either none or only some of the signed letters could be found on the case management system. We are concerned that without such scanned letters being on the case management system it is not possible to be certain about which letters have been sent
- We saw a number of cases where there had been a failure to keep copies of all relevant information on the case files. We made a similar finding in our previous audit – in response to which the NMC said that it would be too resource-intensive for staff to print and save documents from the case management system on to the paper file. In two cases we saw there was a failure to store all relevant information on the case management system in one case, and on the paper file in the other case. Of more concern is that we audited five cases that been opened after November 2010 where all relevant information had not been kept on the paper file and in one case, on either the paper file or the case management system.

2.45 In our previous audit we recommended that the NMC should take steps to expand its quality assurance of records management to ensure that performance in this area improves. While we saw some examples of better record keeping than in previous audits we reiterate this recommendation again this year.

Timeliness and monitoring of progress

2.46 It is essential to manage workflow evenly, because delays in one part of the process that cause backlogs will stress the system unless relieved quickly. In our previous audit we concluded that active case management could have avoided many of the delays identified in the cases we audited. Our findings in this section relate, firstly, to failings in active case management, resulting in delays and, secondly, the effectiveness of the recently introduced case audits and reviews in reducing delays.

(i) Active case management

2.47 We audited a number of cases where avoidable delays had occurred because the cases had not been actively managed. We set out below examples of these failings, which occurred both once cases were under consideration by the IC and at earlier stages of the investigation process:

Earlier stages of the case management process

- In one case we audited the NMC had failed to fully explain the reasons for its request for information to the employer it was requesting information from. This in turn led to an ambiguous response being received (which we note was not clarified prior to the IC reaching a decision). In response to our feedback about this case the NMC said that it has reviewed its

processes for seeking information and references from third parties, to ensure that requests are clear and unambiguous

- In another case there was a failure to request the next of kin's consent to obtain clinical records and this led to an avoidable delay. We recognise that this case was opened in 2006 and that the NMC has put in place different systems and processes since then to try and prevent these kinds of delays from happening. In another case the Chief Executive's office failed to respond at all to two requests for advice from the case worker about the next steps that should be taken on the case, which may also have contributed to the delay
- We audited five cases in which repeated requests for the same information (that had already been received) were made, which led to unnecessary delays. In one of these cases the same information had been requested on four occasions.

The Investigating Committee (IC) stage

- One case (which was opened in 2009) in which failure by NMC staff to follow the IC's instructions, led to repeated requests being made for the same information and avoidable delays
- Delays in the IC's consideration of cases, for various reasons:
 - Due to the unavailability of a midwife member of the IC (in one case). The NMC has told us that it has increased the pool of midwife IC members to prevent such delays recurring in future
 - Due to the case officer requesting that a case was not scheduled for an IC meeting before a certain date, to fit in with her annual leave, so she would have time to carry out the necessary redactions to the large bundles of evidence. In response to our feedback about this case the NMC have told us that it will direct staff not to make such requests in the future and ensure the manager works with the case officer to assist with workload management
 - Due to the case not being on the agenda in one case which led to a six week delay
 - In one case the reason for the delay remains unclear.

(ii) Timeliness

- 2.48 The NMC has taken action aimed at addressing this issue of timeliness by introducing full case audits every two to four weeks, as well as monthly reviews of the older cases. These measures were introduced with the aim of reducing delays and helping the NMC to identify cases where there had been a failure to take action within six weeks, or to progress the case every 12 weeks.

- 2.49 In this audit we looked at cases opened prior to the introduction of the additional monitoring measures introduced in November 2010, as well as cases opened since then. For cases opened both before and after November 2010 we noted delays in the following areas:
- Acknowledging correspondence
 - Gathering information to commence or progress an investigation
 - Progressing cases once new information was received
 - Periods of inactivity
 - Providing updates
 - Chasing information
 - Sending decision letters
 - Notifying the registrant of the outcome of the IC
 - Informing interested parties and witnesses of the outcome of the IC
 - Notifying parties of the decision to close the case.
- 2.50 In addition, we list some additional areas of delay which occurred in five cases opened after November 2010.
- A delay of three months in verifying the identity of registrants in one case
 - Delays caused by failing to follow up on a PNC check which led to needlessly requesting further information in one case
 - In one case the registrant was suspended following an interim order hearing. The registrant was subsequently cleared of all police charges and the interim order was lifted. The NMC did not notify the registrant for a month that the interim order was lifted and that she could therefore practise unrestricted. In response to our feedback on this case the NMC have said that this delay was due to the high volume of cases it had at the time
 - A delay of four weeks in responding to a request for an update to the registrant's representative.
- 2.51 We note that in one case we audited the NMC wrote to the registrant to apologise for the *“serious delay in the way in which matters have been progressed by the NMC”* and advised that they would arrange for a review to be carried out in order to establish why the delay had occurred. When the NMC looked into the case again in response to our audit findings, it was established that this review never took place. The failure to conduct this review undermines the NMC's commitment to prevent errors and delays from occurring. It is regrettable that the NMC did not have an effective system in place to make sure that such reviews took place. The NMC said that such an incident would now amount to a serious event review which is conducted whenever a required action is not undertaken in six weeks on a case and whenever no action is taken on a case for 12 weeks.
- 2.52 The NMC acknowledges some, but not all, of the delays we found in the audit and has not been able to provide explanations for many of the delays we identified. It is reasonable to assume, on balance, that the delays are indicative of delays across the NMC's entire caseload. It is not yet possible to make a finding about whether the learning has been properly implemented from the case

audits and reviews that have occurred, or whether the case audits and reviews have been effective in reducing delays in the progression of cases. This is because we have not seen enough cases to make this finding and in this year's audit we have continued to see delays in cases introduced before and after the case audits and reviews.

- 2.53 We summarise at Appendix 1 our detailed findings about delay.
- 2.54 Given our audit findings we consider that the timeliness and progression of casework is an area of improvement that the NMC should continue to prioritise. We hope to see marked improvements in this area in our next audit.

3. Recommendations

- 3.1 We recommend that the NMC reviews the impact of the case audits and serious event reviews that it introduced in 2010 and their effectiveness in driving improvements.
- 3.2 We recommend that the NMC reviews all our audit findings and implements robust remedial action. In particular we recommend that the NMC reviews:
- The consistency of information and evidence gathering – to ensure there is greater consistency around gathering sufficient information, that the right information is available to be considered by the decision makers at the appropriate time and to ensure that cases are only closed once full information has been obtained
 - The evaluation and decision making processes – to ensure that decisions are made with consideration of the NMC’s remit, clinical advice is properly taken into account and decisions are based on the correct facts
 - The improvements that need to be made in relation to the reasoning provided for decisions that are made, as well as, in relation to the overall quality of decision letters
 - Any improvements that can be made to the way that the registration and FTP functions work together
 - The cases we have highlighted that raise concerns about public protection, in order to ensure that similar errors do not recur in future cases
 - Ways in which procedures for dealing with linked cases and sharing the registrant’s response with the complainant might be strengthened
 - Ways to achieve improvements in the consistency of compliance with the NMC’s own policies and procedures. This includes consistent issuing of customer service feedback forms
 - How improvements can be made to customer care in light of the findings of this audit and the NMC’s customer service pledge
 - Methods of improving the standard of record keeping, in light of our findings
 - Ways in which the NMC’s case management can be improved in order to ensure cases are actively managed and delays are reduced or avoided altogether.

4. Appendix 1

Table comparing delays in cases opened before and after the NMC's case audits in November 2010

	Cases opened before November 2010	Cases opened after November 2010
A. Delays in acknowledging correspondence	Three weeks in one case and two months in another case	Failure to acknowledge in one case from 2012
B. Delays in gathering information to commence or progress an investigation	One year in one case	Three to six months in five cases
C. Delays in progressing cases once new information was received	Six months in one case	One month in three cases
D. Periods of inactivity	Two – eight months in seven cases from 2010 Of these seven cases, two experienced more than one period of inactivity so that the total delay in two of these cases was 10 and 19 months	Two weeks in one case from 2012 and two – 11 months in eight more historical cases Of these eight cases, two experienced more than one period of inactivity so that the total delay in two of these cases was five and six months
E. Delays in providing updates (where the customer service standard is for an update to be provided every six weeks)	Seven months to the registrant in two cases Almost one year to the registrant in two cases	Three months in one case Seven months to the registrant and complainant in two cases Eight months to the registrant in one case Eight months to the complainants in two cases
F. Delays in chasing for information	13 weeks in one case	Six and 12 weeks in three cases Failure to chase for requests for information leading to periods of inactivity on two further cases
G. Delays in sending decision letters	Seven and eight weeks in two cases	Five days to four months in three cases
H. Delays in notifying the registrant of the outcome of the IC (over the target of five days)	Four days in one case	Two days and four days in two cases

I. Delays in informing interested parties and witnesses of the outcome of ICs	Four weeks and seven months in two cases	Three weeks - seven months in five cases
J. Delays in notifying parties of the decision to close the case	12 months in one case	One – five months in five cases

5. Appendix 2: Fitness to practise casework framework – a CHRE audit tool

The purpose of this document is to provide CHRE with a standard framework as an aid in reviewing the quality of regulators' casework and related processes. The framework will be adapted and reviewed on an on-going basis.

Stage specific principles

Stage	Essential elements
Receipt of information	<ul style="list-style-type: none"> • There are no unnecessary tasks or hurdles for complainants/informants • Complaints/concerns are not screened out for unjustifiable procedural reasons • Provide clear information • Give a timely response, including acknowledgements • Seek clarification where necessary.
Risk assessment	<p><u>Documents/tools</u></p> <ul style="list-style-type: none"> • Guidance for caseworkers/decision makers • Clear indication of the nature of decisions that can be made by caseworkers and managers, including clear guidance and criteria describing categories of cases that can be closed by caseworkers, if this applies • Tools available for identifying interim orders/risk. <p><u>Actions</u></p> <ul style="list-style-type: none"> • Make appropriate and timely referral to Interim Orders Committee or equivalent • Make appropriate prioritisation • Consider any other previous information on registrant as far as powers permit • Record decisions and reasons for actions or for no action • Clear record of who decided to take action/no action.
Gathering information/evidence	<p><u>Documents/tools</u></p> <ul style="list-style-type: none"> • Guidance for caseworkers/decision makers • Tools for investigation planning. <p><u>Actions</u></p> <ul style="list-style-type: none"> • Plan investigation/prioritise time frames • Gather sufficient, proportionate information to judge public interest • Give staff and decision makers access to appropriate expert advice where necessary • Liaise with parties (registrant/complainant/key witnesses/employers/other stakeholders) to gather/share/validate information as appropriate.

Evaluation/decision	<p><u>Documents/tools</u></p> <ul style="list-style-type: none"> • Guidance for decision makers, appropriately applied. <p><u>Actions</u></p> <ul style="list-style-type: none"> • Apply appropriate test to information, including when evaluating third party decisions and reports • Consider need for further information/advice. • Record and give sufficient reasons • Address all allegations and identified issues • Use clear plain English • Communicate decision to parties and other stakeholders as appropriate • Take any appropriate follow-up action (e.g. warnings/advice/link to registration record).
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Overarching principles

Stage	Essential elements
Protecting the public	<ul style="list-style-type: none"> • Every stage should be focused on protecting the public and maintaining confidence in the profession and system of regulation.
Customer care	<ul style="list-style-type: none"> • Explain what the regulator can do and how, and what it means for each person • Create realistic expectations. • Treat all parties with courtesy and respect • Assist complainants who have language, literacy and health difficulties. • Inform parties of progress at appropriate stages.
Risk assessment	<ul style="list-style-type: none"> • Systems, timeframes and guidance exist to ensure on-going risk assessment during life of case • Take appropriate action in response to risk.
Guidance	<ul style="list-style-type: none"> • Comprehensive and appropriate guidance and tools exist for caseworkers and decision makers, to cover the whole process • Evidence of use by decision makers resulting in appropriate judgements.
Record keeping	<ul style="list-style-type: none"> • All information on a case is accessible in a single place. • There is a comprehensive, clear and coherent case record • There are links to the registration process to prevent inappropriate registration action • Previous history on registrant is easily accessible.
Timeliness and monitoring of progress	<ul style="list-style-type: none"> • Timely completion of casework at all stages • Systems for, and evidence of, active case management, including systems to track case progress and to address any delays or backlogs.

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Council

ICT strategy and implementation update

Action: For information.

Issue: The purpose of this paper is to update members on progress on developing the NMC's IT systems. The original draft strategy was approved by Council which included stabilising the current IT systems and evolving solutions for the future.

Core regulatory function: Supporting functions.

Corporate objectives: The subject of this paper contributes to the following objectives:
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.
Objective 7: We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions.

Decision required: Council are asked to note this interim report on the delivery of the ICT strategy.

Annexes: Annexe 1: Detailed descriptions of the rationale for the proposed actions necessary for the delivery of the first phase of the ICT strategy.

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 Council approved a draft strategy in September 2012 and have asked for regular updates on progress.
 - 2 The strategy comprised of three stages:
 - 2.1 Stabilisation: fix the existing systems and bring them up to date.
 - 2.2 Evolve: design the systems needed for the future.
 - 2.3 Transform: implement the new systems and ways of working.
 - 3 Council approved plans to stabilise the existing systems with the expectation that the management would report on the specification for new systems between June and November 2013 (the exact timing will be dependent on when the business users will be ready to specify their needs, following the recruitment of management introduction of new ways of working and the streamlining of business processes).
 - 4 This is the first programme update on the progress of the IT developments to Council.
 - 5 The Finance and ICT Committee discussed this report at their meeting on 24 January 2013.
- Discussion:**
- 6 Following approval of the ICT strategy in September, work has commenced to design, develop and deliver the separate projects and other elements in line with the agreed strategy to ensure that they meet both the current and future requirements of the NMC. This paper addresses the work that has now been completed and the future work planned for each of these areas. Further detail on the proposed actions are included in **Annexe 1**.
 - 7 The approach described in the recently approved ICT strategy includes three key stages of stabilisation, evolution and transformation. Whilst it is accepted that these are all essential, it is important to recognise that some activities from each of these stages will need to be carried out concurrently rather than the stages being completed in a consecutive step-wise fashion.
 - 8 This approach will enable the more rapid introductions of solutions that will be developed over time rather than adopting a “big bang” approach of replacing entire systems with the associated greater risk. Much of the work to date has concentrated on “stabilisation” activities; however, where possible, the output of such work will be reused to form the basis of the evolve phase of the strategy.

Discussion: 9 In the following table, the “Current Position” column details the issues included in the original strategy paper (shown in italics) together with further information that has been added subsequently. The other columns detail: the actions taken to date, the identified next steps; start date & timescales and the estimated level of expenditure in 2012/13 and 2013/14.

Key area to be addressed	Current Position	Actions Taken	Next Steps	Start Date	Costs 2012 - 13	Costs 2013 - 14
10 Registration system -	<p><i>The Wisser system is technically obsolete. The underlying code is no longer supported and the workflow engine was never released into production and has never been supported. This element is responsible for the processing of incoming documents and the management of automated processes such as handling payments</i></p> <p>The proposal was to rewrite WISER in modern coding language whilst retaining the current functionality and replacing the workflow engine.</p> <p>The system remains end of life however; further research has shown that the current coding system will be supported by Microsoft under Windows 7 until</p>	<p>Issues of stability have been resolved by the migration of the database on to a modern database platform – Completed</p> <p>Work commissioned to determine whether current application can be supported under Windows 7 - Completed</p> <p>Work commissioned to review benefits & costs of code rewrite and replacement of current workflow Business Process Management System (BPMS) – Completed</p>	<p>A project will be initiated to determine business requirements, select & procure alternative software</p> <p>This work will then document & migrate current processes into the new BPMS - estimated effort required 1200 days, estimated project time 9 months</p>	Feb '13	<p>£50,000 (resource costs)</p> <p>£10,000 (WISER Windows 7 work)</p>	<p>£700,000 (resource costs)</p> <p>£125,000 (software costs)</p>

	<p>2015. The immediate requirement to carry out the code rewrite is therefore reduced.</p> <p>The bigger issue is that posed by the unsupported but stable workflow or business process management system (CRMC). The replacement of this component of the registration system should therefore be regarded as the higher priority</p>					
11 CMS / WISER integration	<p><i>Keeping the two systems 'in sync' is a labour-intensive process, which is prone to error. Migrating the underlying databases to a common open platform with common reporting tools will make it much easier to keep the systems 'in check' and reduce the risk of error considerably.</i></p>	<p>Work has been carried out to investigate the options for integrating these two key operational systems and determine the most appropriate approach to the required for the underlying information and system architecture – Initial report completed</p> <p>This will involve the use of an existing CRM database and the modification of the data sources within WISER and CMS to ensure:</p> <ul style="list-style-type: none"> • data is accurate and consistent • data is not duplicated across systems 	<p>Upgrade the current CRM system to the latest version – estimated time 3 months</p> <p>Analyse and design changes required to the WISER & CMS applications - estimated time 6 months</p>	Mar '13 Apr '13	£75,000	£60,000

		<ul style="list-style-type: none"> • data is accessible, enabling a central view of data from multiple source systems across the enterprise • duplication of effort to keep systems synchronised is eliminated • system interdependencies are minimised 				
12 Management information	<p><i>Another labour-intensive process that is prone to error. By using common reporting tools to interrogate the common databases of CMS and Wiser, we should see an improvement in the speed and accuracy of information.</i></p>	<p>A review of the options for the development of a Business Intelligence (BI) and Management Information platform (MI) was included in the work to investigate the integration of WISER & CMS – Completed</p>	<p>Select and procure appropriate software to deliver BI/MI platform – 3 months</p> <p>Analysis of data sources and development of data warehouse & reporting requirements – 2 months</p> <p>Selection & procurement of suitable presentation software for the delivery of reports to end users</p>	<p>Jan '13</p> <p>Mar '13</p> <p>May '13</p>		<p>£140,000</p> <p>£80,000</p>
13 Network infrastructure	<p><i>Many of the desktop and operating systems are either very near the end of their commercial life, i.e. they will soon be unsupported, or they have already exceeded it and</i></p>	<p>In order to alleviate this problem a comprehensive audit and dependency review has been carried out – Completed</p> <p>The following elements will</p>	<p>Projects will be initiated to</p>	<p>Feb '13</p>	<p>£50,000</p>	

	<p><i>are already unsupported.</i></p> <p>The NMC effectively outsourced a “problem” in that the infrastructure was already nearing “end of life” at the time the outsourcing was put in place. Little investment has been made to rectify this situation in the subsequent two year period. Despite this, the infrastructure remains largely stable.</p> <p>Nevertheless, the age of many of the individual hardware and software components now precludes the use of more modern technologies and the identified upgrades are essential in order to allow the organisation to introduce new ways of working</p>	<p>need to be replaced to provide a robust modern platform:</p> <ul style="list-style-type: none"> • Telephone software – (current version of software now out of support and not compatible with Windows 7) • TRIM (Document management system) upgrade to version 7.1 • Desktop software - upgrade from XP to Windows 7 – includes the replacement of PC hardware as necessary • Office upgrade software from 2003 to 2010 • Exchange upgrade software from 2007 to 2010 <p>Considerable effort is being devoted by the Interim CIO and ICT team to improving the relationships with the current outsource service providers to deliver the level of service required by the NMC. A series of meetings has been arranged and project deadlines agreed for the delivery of outstanding work</p>	<p>deliver these upgrades. These will be developed together with the accompanying business cases for approval by the Change Management Project Board.</p> <p>To be combined as desktop refresh project</p>	<p>Jan '13 – 6 months</p> <p>Mar '13 – 3 months</p> <p>May '13 – 4 months</p> <p>Jun '13 – 6 months</p>	<p>£50,000</p>	<p>£200,000</p> <p>£250,000</p> <p>£450,000</p> <p>£400,000</p>
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<p>14</p> <p>Programme & Project resource capacity</p>	<p>In order to deliver the stabilisation and evolve phase of the strategy it will be necessary to increase the resource capacity for the following skill sets:</p> <ul style="list-style-type: none"> • Programme management • Project management • PMO • Business analysis • System analysis • Testing 	<p>The capacity required has been identified and a resource plan created for the delivery of the ICT programme The costs for 2012/13 and 2013/14 are estimated at £221,970 and £979,690 respectively. The costs for the resources are included in the estimates for each of the individual projects – Completed</p> <p>Recruitment of the required staff is already in progress</p>	<p>Additional resources will be recruited on the basis of the phased requirements</p>			
					<p>£235k</p>	<p>£2,405k</p>

- 15 As stated above, much of this work has been related to the stabilisation and modernisation of the current ICT infrastructure. However, it is expected that some of the outputs will help inform the “evolve” stage of the strategy and will assist in the design for the blue print for future investment in IT.
- 16 An important component and driver for this stage will be determining the long term vision for the organisation with a degree of certainty and detail. We will want to explore how we want to work in the future and design high quality/low cost processes that support the new ways of working, using technology as an enabler.
- 17 The current strategy will continue to be refined in line with the developing needs of the organisation and Corporate Services business plan. Key to this will be the development of a clear information and applications architecture. This document will provide the underlying description of the services provided by the future state of the ICT infrastructure. It will provide the basis to support evolution of all the NMC systems and enhance the ability to provide public protection. The need for such ICT architecture was described in the KPMG report (NMC Review of the ICT Strategy – 07 August 2012) and it is an essential element in describing both the approach and detailing the individual components that will constitute the new NMC ICT landscape.
- 18 In defining the architecture the aim will be to consider the applications and services to be delivered and will also explore opportunities for how they are delivered including: cloud technologies, shared services models and the potential further outsourcing of ICT functions.
- 19 As the ICT systems are stabilised and modernised, work will also be carried out to define and test new ways of working with a view to completing the design work in QIII 2013. By this point we should have reached the point of knowing what we want and be in a position to come back to Council with findings and to seek approval for the next stage of investment.
- 20 The expected cost of the Evolve stage was originally estimated at £400k over two years. Some further allowance may be needed to free up key resource from the business. It is also expected that some resource may be freed up from the current proposed expenditure by the implementation of cost effective solutions wherever possible.
- 21 In line with the original paper, costs have not been estimated in this

paper for the Transform stage.

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|---|------|--|
| Public protection implications: | 22 | Providing assurance around the security and accuracy of the register is a key element of providing protection to the public. |
| Resource implications: | 23 | Resources have been identified at a high level and approved at the Council meeting in September. The organisation has set aside a significant sum over three years from 2013/14 – 2015/16 for investment in IT, as part of the organisation’s longer term financial plans. |
| | 24 | The proposed costs given in the original paper for 2012/13 and 2013/14 have been reviewed. These have been re-phased and are now estimated to be £235,000 and £2,405,000 respectively. |
| Equality and diversity implications: | 25 | We do not believe that this programme of work will have any implications for equality and diversity. |
| Stakeholder engagement: | 26 | Staff from the key business areas (Registration & ICT) have been engaged in the discussions regarding the approach to WISER and the issues have also been discussed at the Change Management Programme Board. |
| | 27 | Staff have been made aware of Council’s desire to raise the profile of IT in the organisation and their approval of additional investment. |
| Risk implications: | 28 | The risks and mitigating actions highlighted in the original strategy paper were: |
| | 28.1 | Delays in getting the approval needed - Decision brought forward to September Council – Completed. |
| | 28.2 | Delays in securing a replacement Associate Director of IT - An interim is being sought. Position filled from 13/11/2012 |
| | 28.3 | Lack of effective project management - Additional resource has been allowed for in the proposal. The Change Management Programme Board will have oversight of this work. – Additional programme & project resources have been identified and all project business cases are being submitted to Programme Board for approval |
| | 28.4 | Lack of internal resource required for the Evolve stage. |

- 29 The following additional risks have been identified:
- 29.1 There is a risk of slippage due to the need to first upgrade dependent systems before being able to move forward with the main system developments.
 - 29.2 The selection and procurement of suitable software / applications may delay the delivery of elements of the strategy.
 - 29.3 Difficulties in attracting the calibre of resources required to deliver the work will result in delays in implementing the strategy.

Legal implications: 30 None as yet identified.

Annexe 1

- 1 The provision of a core modern, secure and stable platform on which all the NMC's ICT services can be built is the first priority.
- 2 The current desktop infrastructure is based around the Windows XP operating system, which whilst still viable, offers little in the way of future development and is now hindering the future development of the NMC ICT systems as newer versions of software are not compatible with the current desktop. This prevents the adoption of newer ways of working.
- 3 The move to Windows 7 is therefore a key initial step in the stabilisation and subsequent transformation processes in moving towards the future strategy. However, there are a number of dependencies resulting from aging technologies that need to be resolved in order to allow this first stage of the new strategy to be implemented.
- 4 For example, the current telephone call centre software used by Registration and the WISER system are not compatible with Windows 7. Work is therefore in progress to resolve the latter of these two issues and the upgrade to the call centre telephone software is currently being scoped out as a distinct but related project to the upgrade of the base operating system.
- 5 It is anticipated that the work required upgrading the dependent software and the subsequent roll out of Windows 7 across the organisation, some of which can be carried out concurrently, will take 6 – 9 months. This is in line with the current plans.
- 6 A second major theme of work is around the key WISER registration system. It is recognised that the current WISER system which has been in place for the last decade is rapidly approaching end of life. Nevertheless, the system continues to perform a vital function for the organisation but its continued use does present a significant risk for the NMC.
- 7 In common with many systems of its age, WISER actually consists of a number of separate but closely linked modules that provide the range of functionality needed.
- 8 Three major issues have been identified with the application which the current strategy is due to address:
 - 8.1 The stability and security of the current application due to the old versions of the underlying software code used.
 - 8.2 The lack of integration with the Case Management System (CMS) and the issue this creates for data integrity across the NMC and
 - 8.3 The inability to generate accurate, consistent and , timely key management information from either system
- 9 The WISER software itself consists of two key components:
 - 9.1 The database and user interface and

- 9.2 A workflow system which is used to automate and manage certain business processes within the system (CRMC) - In many respects it is this latter element which presents the key risk for the NMC.
- 10 The workflow system is primarily used by the registration system WISER to process incoming scanned documents and store them in a repository and provide workflow services. Although to date the application has remained remarkably stable, should a major failure occur the NMC would not be able to undertake core functions such as take payments, process new entrants onto the Register, or deal with the large number of documents arriving at the NMC each day for the registration system.
 - 11 All of the WISER software is written using Visual Basic 6. Visual Basic 6 is supported on both Windows 7 and Windows 8, for the lifetime of the Operating System.
 - 12 What this means in practice is that Microsoft have committed to ensuring that VB6 applications will work on Windows 7 until Microsoft withdraw Windows 7 support, currently this will be in 2015. At that point VB6 deployments on Windows 8 will still be supported for some time to come.
 - 13 The previously stated position regarding the security risk posed by retaining this old code is therefore not as great as perhaps originally perceived. Furthermore, the rewrite of the code would have to be on a strict like-for like basis to facilitate the testing of the new code and there would be no opportunity for improving any of the underlying business processes as a result of this work.
 - 14 There remains however, the issue of finding experienced VB6 developers – most developers have moved onto newer platforms and there is the secondary issue that it takes a longer time than perhaps expected to develop using VB6 when compared to newer languages. The impact of this can be mitigated by restricting changes to the current system by minimising any further changes to the application.
 - 15 As part of the current strategy, a new registration system is planned to be in place two years from now and therefore redevelopment of the existing system will provide little tangible benefit unless substantial parts of it can be reused in the new redesign. Moreover, this approach does not address the risk of the workflow system becoming unexpectedly inoperable.
 - 16 If the development of a new system takes significantly longer to develop than currently planned – for example five years – then a decision to move the existing system to a new platform by porting the VB6 code becomes more relevant.
 - 17 The current perception that a wholesale rewrite of the WISER code from VB6 to .NET on a like for like basis will provide a greater level of security is therefore not really appropriate and does little to either mitigate the potentially largest risk or move the organisation forward in the development of new functionality.
 - 18 An alternative approach to the delivery of the desired end state and the reduction of the greatest risk is therefore proposed. Rather than rewriting the WISER software, this will include:

- 18.1 The selection and gradual implementation of a replacement of the current workflow system with an enterprise standard Business Process Management System (BPMS). As well as providing the basis of such functionality in terms of registration processes this software would be selected on the basis of becoming an enterprise-wide tool to ultimately deliver similar functionality within the CMS and to support business processes across other organisational systems e.g. finance & HR etc.
 - 18.2 The selection and implementation of an intermediary database to include common information from WISER and the CMS which will both support the creation of management information and serve to improve the quality and integrity of data held within the two systems regarding registrants. It is proposed to use the Microsoft CRM database application to provide this function. There are number of advantages of selecting this particular technology, namely: It already exists within the NMC (albeit that it needs to be upgrade to the current version); it is designed in a more open format to enable it to be integrated with other technologies more easily; its widespread use will enable external recourses to support any future development to be procured more easily.
 - 18.3 The selection and implementation of a business information management tool to enable data to be extracted from WISER and the CMS (and ultimately all the organisation's key systems) and facilitate the development of appropriate suites of management information reports
- 19 The immediate concerns regarding the stability of the WISER database have already been addressed as a result of the upgrade of the underlying database. Further work is now being specified with the aim of improving performance by reviewing the current configuration of the storage infrastructure. Similar work will also be carried out on the CMS.
 - 20 It is recognised that this proposal represents a variation in approach to delivering the initial changes to the WISER application however, it is believed that it will deliver a more appropriate outcome and one that better fits with the longer term development of the overall NMC ICT strategy whilst minimising risk and making best use of resources.

Strategy Delivery Timeline

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
IT estate audit																
CMDB development																
Service catalogue																
Wiser - Windows 7																
BPMS																
CRM upgrade																
WISER CMS integration																
Management information																
Product selection																
Data analysis																
Presentation software																
Telephony upgrade																
TRIM upgrade																
Desktop refresh																
XP to Windows 7																
Office upgrade to 2010																
Exchange 2010 upgrade																
Unified communications																
Finance system upgrade																
HR system upgrade																
SharePoint upgrade																
Infrastructure analysis																
Business process transformation																
Requirements gathering																
Security management																

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Council

Proposed framework for the quality assurance of education and local supervising authorities for midwifery

Action: For discussion.

Issue: The new QA procurement project is underway and is on target. The paper discusses the actual QA framework post September 2013.

Core regulatory function: Education and statutory supervision of midwives

Corporate objectives: 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: Members are asked to note the report.

Annexes: The following attached to this paper:

- Annexe 1: Right touch QA regulation continuum.
- Annexe 2: Executive summary of stakeholder feedback.

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 QA framework was introduced in 2007 when QA of education was originally outsourced. Quality assurance services across the UK will continue to be delivered on our behalf by Mott MacDonald until 31 August 2013.
 - 2 Articles 15 - 19 of the Nursing and Midwifery Order (2001) set out our statutory responsibilities in relation to approval of new programmes, re-approval and modifications of existing programmes, programme monitoring and endorsement of programmes approved in the UK for delivery in specified locations outside the UK institutions and their practice partners.
 - 3 Articles 42 - 43 of the Nursing and Midwifery Order (2001) set out rules for midwifery practice and the function of the local supervising authorities (LSAs). Having set the rules and standards for the supervision of midwives via the function of LSAs, the NMC has a duty to verify these are being met in order to safeguard women and their families.
 - 4 The Professional Standards Authority (PSA, formerly CHRE) has described our framework as not proportionate and so our new framework needed to continue to protect the public but to be demonstrably 'right touch'. The changes we are proposing also anticipate the findings of the Francis Report, due in early 2013, into failings at Mid Staffordshire NHS Foundation Trust. We also want to make changes that improve stakeholder relations between the NMC and the higher education sector.
 - 5 We currently operate an in house LSA review function. Council has agreed the inclusion of LSA QA in the tender as a way of testing the market for widening the scope of QA activity undertaken on our behalf for the next contract.
- Discussion and options appraisal:**
- 6 This paper proposes a three year continuum of refinements over the life of the new contract. The methodology used to inform this paper included the costs, risks and benefits to public protection across six relevant QA functions, namely:
 - LSA requirements
 - NMC criteria for being an approved education institution
 - Programme approval
 - Programme monitoring
 - Lay reviewer involvement in QA
 - Self reporting and self declaration

- 7 These proposals also incorporate a series of task and finish projects across the three year timeline.
- 8 We need to develop and publish transparent guidelines that support the QA framework for all stakeholder groups. This will include guidelines for educational audit as this will inform the management of risk in the practice placement environment to ensure consistency of messages as well as responsibility and accountability.
- 9 LSA reviews and QA of education measure different requirements so it is important that the new framework reflects the two separate functions in all communications. It is important however to learn from both statutory functions and align operations where sensible.

Local Supervising Authorities function (LSAs)

- 12 LSA review visits were introduced in 2007 and are conducted using a risk based / rolling programme approach. 3 - 6 review visits have occurred in any given year across the 14 LSAs.
- 13 In 2011 the NMC introduced quarterly LSA performance reporting and overall this process has been well received by the LSAs and LSAMOs. The data provided has enabled the NMC to accurately review risks and respond appropriately.
- 16 In addition LSAs submit an annual report to the NMC and the NMC produces an annual report based on findings across the LSAs. We will want to review the purpose and timing of this report because it is 18 months out of date when published.
- 14 We will also create a single extraordinary incident process encompassing the two extraordinary review approaches governing LSA and education.

Criteria for being an AEI

- 17 The landscape of higher education and nursing and midwifery education commissioning has changed significantly since 2007. Frequent requests come in from private universities, further education colleges, NHS Trusts and others to become a programme provider. We need transparent, objective criteria for becoming a NMC approved education institution.
- 18 The development of these criteria, which will be ratified by the new education committee, will provide assurance that those institutions approved by NMC can deliver programmes that meet our standards and protect the public.
- 19 This will reduce the burden for AEIs because we can approve them once as AEIs and then have more streamlined and focused processes for approving individual programmes.

Programme approval

- 20 Currently programmes are approved for a maximum of five years so AEs and their practice placement partners have to repeatedly redevelop a programme, even if the relevant standards for education have not changed.
- 21 Indefinite approval presents a significant change to the current position as the NMC would move from a regular cyclical assurance methodology to a delegated assurance methodology. The Health and Care Professions Council operates indefinite approval, and places more weight on self-reporting as a feature of annual desk based monitoring.
- 22 In the event of indefinite approval, programmes would still need to be reapproved in response to new NMC standards. Our feedback suggested that stakeholders do not believe our relationship with the sector is ready to support this level of delegated responsibility at this moment in time.
- 23 We recommend that the NMC aspires to indefinite approval in 2016 following the end of the proposed outsource contract. If we have a mature relationship with AEs and they are committed to honest and timely self-reporting we believe that indefinite approval would allow us to refocus our resources on risks to public protection. It would also make the prospect of managing QA in house more manageable if this had Council approval in the future.

Programme monitoring

- 24 The original framework led to high numbers of monitoring visits each year (between 49 and 84). In 2012/13 criteria were developed to enable a risk based selection of AEs for monitoring visits and the number reduced to 16. This change demonstrated a more proportionate approach to programme monitoring that has been commended by stakeholders.
- 25 We agree with the PSA that our previous high level of monitoring visits was not proportionate. However, there are good reasons not to target monitoring solely on the basis of risk. Firstly, there is the possibility of monitoring activity being focused on a few AEs, at which point the volume of scrutiny may impede improvement. Conversely, some providers may never receive a visit. Secondly, a regulator needs to know what 'good' looks like in order to be able to benchmark provision. Thirdly, the prospect of periodic monitoring is an encouragement to providers to remain vigilant about the quality of their provision. Finally, monitoring a range of providers enables the NMC to test the accuracy of self-reporting.
- 26 We propose a rolling programme that also incorporates the potential to select AEs based on emerging risk. The total predicted number of

monitoring visits planned will be 17 per annum. Stakeholders overwhelmingly were in favour of a hybrid approach to monitoring.

- 27 This would enable the NMC to have a published rolling programme schedule over a six year period which correlates with the approach taken by the GMC. We would also retain the agility to target AEs which may pose a risk.

Lay reviewer involvement in QA

- 28 Currently education QA does not involve lay reviewers although we do require service user and carers' involvement in programme design, delivery and evaluation.
- 29 LSA reviews have successfully used lay reviewers for some years and this will continue. We propose a phased introduction of lay reviewers into education QA.
- 30 Lay involvement in education QA is common practice among other regulators. Their presence signals transparency and openness and as disinterested parties they can ask probing questions about public protection.
- 31 We propose two stages: from September 2013 we will involve lay reviewers in programme monitoring activity and this initiative will be evaluated in order to inform the introduction of lay reviewers in programme approval activity.

Education self reporting and self declaration

- 32 There is evidence to indicate that some AEs underperform when self reporting to the NMC so in 2012/13 we have introduced a new process of self reporting and self declaration.
- 33 We will evaluate this approach and see whether it requires further strengthening. We are clear that Council will need to be confident about the quality of self reporting before it approves a move to indefinite approval of programmes.

Public protection implications:

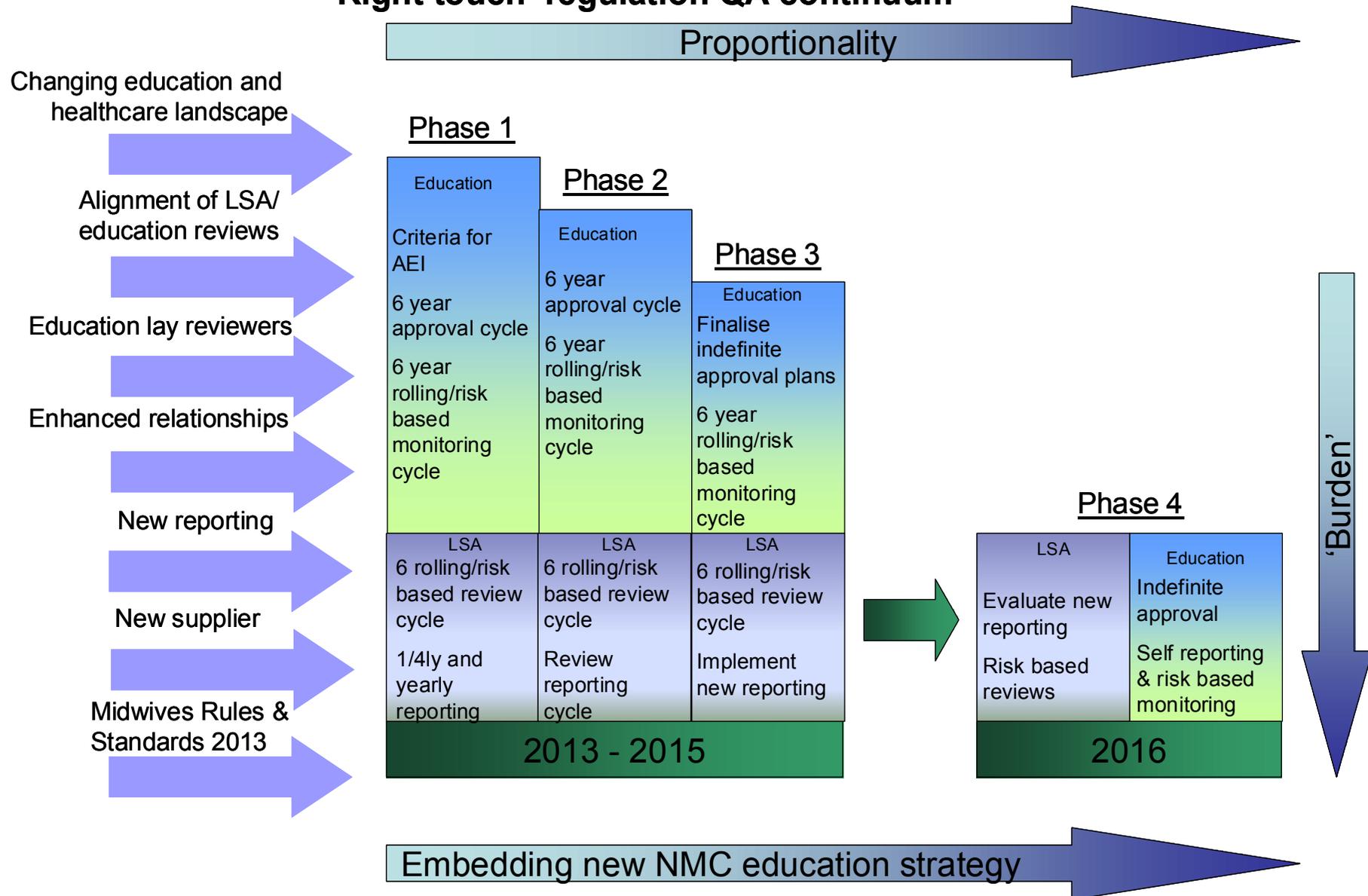
- 43 The central tenet of the proposed QA framework is public protection.
- 44 We are enhancing the focus on risk and integrating our response to serious concerns across education and LSA.

Resource implications:

- 45 We are currently tendering for a new supplier to undertake the QA framework on our behalf; as such the contractual costs are as yet unknown. QA services with our current provider have cost approximately £1m per annum (exclusive of NMC staff costs).

- Equality and diversity implications:** 46 The existing QA framework is compliant with the Equality Act 2010 however we are undertaking a full EqIA against the new requirements.
- Stakeholder engagement:** 47 We have sought views from key stakeholder engagements: C21 Fox report (2011), QA annual reviewer conference (September 2012), QA reference group (October 2012), and analysis of the QA stakeholder questionnaire that went to the Council of Deans for Health, Chief Nursing Officers, education commissioners, official correspondents, LMEs, LSAMOs, LSA reviewers, QA of education reviewers and public and patient forum members. (see Annexe 1)
- Risk implications:** 48 This proposal presents a QA framework that continues to protect the public while addressing the criticisms from PSA and other stakeholders and anticipating recommendations that may emerge from the Francis report.
- Legal implications:** 49 None.

'Right touch' regulation QA continuum



Annexe 2: Executive summary of stakeholder feedback on the future QA model

50 In November 2012 the NMC canvassed opinion using a questionnaire format via SurveyMonkey which attracted 143 responses. This was not a formal consultation but it provided an opportunity to test opinion. Respondents were invited to agree or disagree with a series of statements in these areas:

- Programme approval – indefinite versus fixed duration
- Programme monitoring – risk based versus rolling programme
- Composition of review teams – using lay reviewers in education as well as LSA
- Self reporting and self declaration
- LSA reviews - risk based versus rolling programme

There was also an opportunity to provide free text commentary.

Programme approval

51 There is little appetite for indefinite approval at this stage reflecting that there is work to do in establishing mature relationships with AEs and partners.

Programme monitoring

52 The responses welcomed a combined risk based / rolling programme approach to programme monitoring that focuses on learning in practice.

Composition of review teams

53 The use of due regard registrant reviewers in LSA and programme monitoring is considered necessary to assist with compliance.

54 The responses to whether the use of lay reviewers in programme monitoring will ensure that public protection at the heart of QA of education was equally split between agree /disagree. However the responses indicate that using lay reviewers in review teams to test compliance in meeting the standards was more positive.

Self reporting and self declarations

55 Although many respondents agreed that self reporting and self declaration would be a proportionate approach they also implied that this could not replace fixed term approval and solely risk based monitoring.

LSA reviews

56 The responses welcomed a combined risk based / rolling programme approach.

Meeting of the NMC Council

to be held at 9.30am on Thursday 21 February 2013 in the Council Chamber at 23 Portland Place, London W1B 1PZ

Draft Agenda

Mark Addison CB
Chair of the NMC

Maggie Wood,
Interim Assistant Director,
Corporate Governance
(Secretary to the Council)

- | | | |
|----------------------------|---|-----------|
| 1 | Welcome from the Chair | |
| 2 | Apologies for absence | |
| 3 | Declarations of interest | |
| 4 | Minutes of the previous meeting | NMC/13/xx |
| | Minutes of the public session of the Council held on 31 January 2013 | |
| 5 | Summary of actions | NMC/13/xx |
| | An action list detailing matters arising from the minutes of the public session of the Council held on 31 January 2013 and outstanding actions from previous meetings | |
| 6 | Report of decisions taken by the Chair since the last Council meeting | NMC/13/xx |
| Corporate reporting | | |
| 7 | Risk Register | NMC/13/xx |
| | Director of Corporate Governance | |
| 8 | Chief Executive report | NMC/13/xx |
| | Chief Executive and Registrar | |

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|----|---|-----------|
| 9 | FtP Performance report
Director of Fitness to Practise | NMC/13/xx |
| 10 | Monthly financial monitoring
Director of Corporate Services | NMC/13/xx |
| 11 | Corporate Complaints
Chief Executive and Registrar | NMC/13/xx |

Matters for decision

- | | | |
|----|--|-----------|
| 12 | Five year rule
Director of Registration and Standards | NMC/13/xx |
| 13 | “Vexatious” complaints policy
Chief Executive and Registrar | NMC/13/xx |
| 14 | Update on the consultation on interim order guidance and panel composition
Director of Fitness to Practise | NMC/13/xx |
| 15 | Engagement strategy
Director of Corporate Governance | NMC/13/xx |
| 16 | Questions from observers
LUNCH: (12.45 – 13.30) | |

Matters for discussion

- | | | |
|----|---|-----------|
| 17 | Standards update
Director of Registration and Standards | NMC/13/xx |
| 18 | Pensions review
Director of Corporate Services | NMC/13/xx |

19 **Minutes and feedback from committee chairs of meetings held since last Council:** NMC/13/xx

Midwifery Committee
Chair of Midwifery Committee

Education Committee
Chair of Education Committee

Audit Committee
Chair of Audit Committee

Finance and IT Committee
Chair of Finance and IT Committee

Fitness to Practise Committee
Chair of Fitness to Practise Committee

Remuneration Committee
Chair of Remuneration Committee

Appointments Board
Chair of Appointments Board

20 **Draft agenda for the Council meeting on 21 March 2013** NMC/13/xx

Director of Corporate Governance

The next public session of the Nursing and Midwifery Council will be held on Thursday 21 March 2013 at 9.30am at the Nursing and Midwifery Council, 23 Portland Place, London W1B 1PZ.

