



Our framework for delivering our Fitness to Practise hearings & meetings

Our framework

An important part of our role is administering Fitness to Practise hearings and meetings. At these events, panels consider the concerns raised about the nurse, midwife or nursing associate, make decisions and provide reasons for their decisions.

How our hearings and meetings are conducted is important to us. It's in everyone's interests that they're well managed and progressed fairly, swiftly, and safely.

Our framework is relevant to hearings and meetings undertaken by the Fitness to Practise Committee and the Investigating Committee. It sets out our expected approach to the case management of our events, what everyone's role is, and what they can expect.

What's in our framework?

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Preparing for our hearings and meetings

Everyone involved in our hearings and meetings should prepare in advance. Case preparation ensures everyone has a good working knowledge of the case and that, as much as possible, issues are identified and resolved in advance.

1. The panel, including the chair, are encouraged to:

- Read any documents given to them in advance of the hearing or meeting by the NMC. This includes documents given to the NMC by the nurse, midwife or nursing associate, or their representative.
- Notify the NMC of any issues relating to the documents they've received, such as missing pages, photocopying errors, etc. Where the issue relates to documents given to the NMC by the nurse, midwife or nursing associate, or their representative we'll contact them and try to resolve the issue.
- Note if the nurse, midwife or nursing associate plans to attend the hearing, if they're represented, and if they have any needs that may require them to adjust their approach to case management.
- Where applicable, note the attendance of witnesses to be called by the NMC and, where known, witnesses to be called by the nurse, midwife or nursing associate, and if any witnesses have any needs that may require them to adjust their approach to case management.
- Consider any relevant case law or guidance, including guidance in the [Fitness to Practise library](#).
- Check the location, start time and length of the hearing or meeting, and prepare for their attendance.
- The panel must notify the NMC of any conflicts of interest which may impact their ability to consider the case at the hearing or meeting.

2. The chair or legally qualified chair is encouraged to:

- Consider the overall time scheduled in which to complete the hearing or meeting. They'll decide how best to manage the panel's time to ensure the hearing or meeting is well managed and concludes on time.
 - The chair may produce a timetable for the hearing or meeting.
- Identify matters that may impact or delay the hearing or meeting and prepare to discuss these with the panel members, the legal assessor or legally

qualified chair and the hearings coordinator before the hearing or meeting starts.

3. The NMC will:

- Where we've been able to agree documents to be considered by the panel with the nurse, midwife or nursing associate or their representative, give these to the panel before the hearing or the meeting.
- Where we're aware or have been notified of any specific needs of the nurse, midwife or nursing associate, or any witnesses to be called, inform the panel of these needs before the hearing.
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- **We will update on the compliance with any case directions.**

4. The nurse, midwife or nursing associate, or their representative should:

- Read any documents provided by the NMC before the hearing or meeting.
- Check the notice of hearing for the location, start time, and length of the hearing and prepare for their attendance.
- Prepare any documents for the panel's consideration and send these to the NMC before the hearing or meeting starts.
- Where applicable, tell the NMC about any witnesses they plan to call to give evidence. This includes information about the day and time they've told their witnesses to attend, and how long they expect their witnesses to give evidence for.
- Tell the NMC about any reasonable adjustments they, or any of their witnesses may require.

Case management during our hearings and meetings

The panel's case management continues through all stages of the hearing or meeting. The chair may set out how they expect the NMC case presenter and

the nurse, midwife or nursing associate, or their representative to assist the panel in the efficient and effective management of the hearing, to ensure that it's completed on time.

Before the hearing or meeting starts

1. The panel are expected to:

- Arrive in good time to participate in any pre-hearing or pre-meeting discussions about the case and case management.
- Assist the chair by discussing the time available in which to complete the hearing or meeting, any issues they've identified that may impact on this and will avoid insofar as possible scheduling any appointments or other work commitments during the hearing.
- Ensure any pre-hearing or pre-meeting discussions, considerations and administrative matters are concluded before the hearing or meeting starts.

2. The chair or legally qualified chair is expected to:

- Convene panel members for any appropriate pre-hearing or pre-meeting conversations to discuss any matters related to the case and case management.
- Meet with the relevant parties to discuss any matters related to the case and case management.

3. The NMC case presenter will:

- Arrive in good time for the start of the hearing.
- Ensure any additional documents for the panel are prepared in advance and are ready to be given to the panel at the start of the hearing.
- Meet with witnesses to be called by the NMC before the hearing starts.
- Where applicable, meet with the nurse, midwife or nursing associate's representative before the hearing starts.
- Ensure all pre-hearing conversations and administrative matters are completed before the hearings starts.

4. The NMC hearings coordinator will:

- Where the nurse, midwife, or nursing associate is unrepresented, meet with them to provide administrative support and to answer questions about the practice and procedure of the hearing.

5. The legal assessor may:

- Where the nurse, midwife, or nursing associate is unrepresented, meet them at their request.

- Where appropriate, meet with the NMC case presenter and or the nurse, midwife, or nursing associate's representative at their request.

6. The nurse, midwife or nursing associate, or their representative should:

- Arrive in good time for the start of the hearing.
- Ensure any additional documents for the panel are prepared in advance and are ready to be given to the panel at the start of the hearing.
- Where appropriate, meet with the NMC's case presenter before the hearing starts.
- Ensure all pre-hearing conversations and administrative matters are completed before the hearings starts.

Managing delays

1. The chair or legally qualified chair is encouraged to:

- Proactively engage in case management to resolve any delay to the start of a hearing. The chair is encouraged to:
 - Start the hearing at the time given in the notice of the hearing. They'll ask the NMC case presenter and the nurse, midwife or nursing associate, or their representative to join the hearing. We expect the chair to be mindful of the overall hearing scheduling and ensure timetabling is aimed at concluding within that period.
 - Ask the NMC case presenter and the nurse, midwife or nursing associate, or their representative to address the panel on the nature and expected length of the delay.
 - Facilitate questions from the panel about the delay.
 - Give reasonable directions to the NMC case presenter and the nurse, midwife or nursing associate, or their representative to minimise delays.
 - Advise the NMC case presenter and the nurse, midwife or nursing associate, or their representative of the time the panel expects them to be ready to start the hearing.
 - Advise the NMC case presenter and the nurse, midwife or nursing associate, or their representative to provide updates to the panel through the hearings coordinator.

- Where delays continue, resume the hearing and ask the NMC case presenter and the nurse, midwife or nursing associate, or their representative to address the panel on the reasons for the continued delay.
- Where delays persist, continue to give reasonable directions to the NMC case presenter and the nurse, midwife or nursing associate, or their representative to minimise or reduce further delays to the start of the hearing.

2. The NMC case presenter and the nurse, midwife or nursing associate, or their representative will:

- Take all reasonable steps to minimise delays to the hearing starting on time.
- Follow the chair's reasonable directions to manage delays and reduce the length of them.

Case presentation and case management

1. The chair or legally qualified chair is encouraged to:

- During the opening of the hearing, set out how the panel will exercise its case management powers. This may include but is not limited to:
 - Addressing the NMC case presenter and the nurse, midwife, or nursing associate, or their representative on the available time for the panel to consider the case and emphasise the need for cooperation to ensure the hearing finishes on time.
 - Where applicable, telling the NMC case presenter and the nurse, midwife or nursing associate, or their representative the panel has an agenda with other cases to consider within the time available.
 - Asking the NMC case presenter and the nurse, midwife or nursing associate, or their representative to follow instructions on start, finish, and break times for the hearing.
 - Asking the NMC case presenter and the nurse, midwife or nursing associate, or their representative to focus their submissions on key points relevant to the panel's considerations.
 - Asking the NMC case presenter and the nurse, midwife or nursing associate, or their representative to prepare any written submissions in their own time and not during hearing time.

- Telling the NMC case presenter and the nurse, midwife or nursing associate, or their representative that the panel may not necessarily pause the hearing to read on-table documents and that they may be asked to direct the panel to the relevant documents and explain their significance to the panel's considerations and decisions. The panel may seek the advice of the legal assessor or legally qualified chair on how best to proceed with on-table documents.
- Referring the NMC case presenter and the nurse, midwife or nursing associate, or their representative to this framework and asking them to review and follow it.
- Use their judgment as they consider appropriate to interject during case presentation and submissions of either the NMC case presenter, or the nurse, midwife or nursing associate, or their representative to remind them of the need to:
 - Adjust or focus their case presentation or submissions.
 - Make their point more succinctly and concisely.
- Where there's any objection to the panel's case management, or the chair's interjection in case presentation or submissions, seek the advice of the legal assessor or legally qualified chair.

2. The NMC case presenter, and the nurse, midwife or nursing associate, or their representative will:

- Listen to and follow the case management directions given by the chair.
- Raise any objections to the panel's case management, or where the chair interjects in their case presentation or submissions and listen to the advice of the legal assessor or legally qualified chair
- They shall not use the time during the hearing to prepare written submissions for the chair or panel.

3. The legal assessor or legally qualified chair may:

- Where an objection is raised, give advice on the panel's case management powers, directions, and interjections.

Taking breaks during hearings

1. The chair or legally qualified chair is encouraged to:

- Be mindful of the need to take break through the hearing to maintain levels of concentration and comfort. As a guide, it's suggested that a 10-minute break

is taken every two hours. It's also suggested that a 45-minute break is taken for lunch.

- Grant requests for breaks from any party to the hearing.
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Providing support to witnesses during our hearings

The panel are expected to ensure all witnesses, including the nurse, midwife or nursing associate can give their best evidence. Questions asked by either party in an aggressive, hostile, or inappropriate manner should not be tolerated. This could include the interruption of a witness when they're answering a question, repeatedly asking the same question, or asking questions which lack relevance.

We expect everyone to follow our guidance on [Supporting people to give evidence in hearings.](#)

1. The chair or legally qualified chair is expected to:

- Ensure the hearings coordinator keeps witnesses updated where there's delays in calling them to give their evidence.
- Ensure that the witness takes an oath or affirmation prior to giving their evidence.
- Welcome the witness to the hearing and facilitate introductions.
- Ensure the witness understands how they'll give their evidence, explaining who'll be asking them questions, their right to ask for questions to be repeated, as well as their right to request breaks.
- Ensure the witness has access to the documents relevant to their evidence.
- Intervene where the panel considers the question or questions being asked by the NMC case presenter, nurse, midwife or nursing associate, or their representative are:
 - Aggressive.
 - Hostile.

- Discriminatory.
- Inappropriate.
- Lacking in relevance.
- Repetitive.

Or

- Where the witness hasn't been given the opportunity to answer the question.
- Where the witness is otherwise upset or distressed.
- Where either the NMC case presenter, nurse, midwife or nursing associate, or their representative object to the chair's intervention in their questioning, seek advice from the legal assessor.
- Where a break's taken during a witness's evidence, remind them they're under oath or affirmation and advise them not to discuss their evidence with anyone else.
- Where the witness is being supported by the Public Support Service, Witness Liaison Officers, or other intermediary or support service, invite the person providing support to introduce themselves and to explain their role. They'll also ensure the witness always has access to these services throughout their evidence.
- Thank the witness for attending the hearing and assisting the panel.

2. The panel should:

- Conduct their own questioning of witnesses in line with the expectation placed on the parties to proceedings.
- Where they consider a witness isn't being enabled to give their best evidence, raise their concerns with the chair.

3. The legal assessor or legally qualified chair may:

- Where an objection is raised, give advice on the panel's case management powers, interjections, and directions in relation to witnesses.

4. The NMC case presenter will:

- Show kindness, dignity, and respect to all witnesses.

- Meet with witnesses to be called by the NMC before the hearing starts. They'll introduce themselves, explain their role and tell the witness the time they're expected to be called to give their evidence. They'll also ensure the witness has the documents relevant to their evidence.
- Focus their questioning on matters relevant to the panel's considerations.

If the chair intervenes during their questioning of a witness, comply with any directions given. Where appropriate, they may raise concerns about the intervention or directions and should have regard to any advice provided by the legal assessor or legally qualified chair.

5. The nurse, midwife or nursing associate, or their representative should:

- Show kindness, dignity, and respect to all witnesses.
- Focus their questioning to matters relevant to the panel's considerations.
- If the chair intervenes during their questioning of a witness, comply with any directions given. Where appropriate, they may raise concerns about the intervention or directions and should have regard to any advice provided by the legal assessor or legally qualified chair.

6. The hearings coordinator will:

- Meet with witnesses to be called by the NMC or the nurse, midwife or nursing associate. They'll introduce themselves, explain their role, and answer questions related to the procedure of giving evidence.
- Ask the witness if they'd like to take an oath or an affirmation, explaining why this is required and the differences between them.
- Administer the oath or affirmation before the witness gives their evidence. (In Scotland, the chair will do this)

Decision-making, reasoning, and determinations

The determination is an important document. It sets out the panel's considerations, decisions and reasoning. Since decisions are made privately, the determination serves as the only record of the panel's decision and reasons.

To ensure confidentiality, decision-making discussions must only take place in

the physical hearing room or the breakout room of Microsoft Teams. The panel's decision-making process is supported by the legal assessor or legally qualified chair and hearings coordinator. They support the panel but don't take part in the decision-making.

The determination isn't a transcript of the hearing but highlights key positions of the NMC, the nurse, midwife or nursing associate, or their representative, and the panel's decisions and reasons.

Before making the decision

1. The chair or legally qualified chair is expected to:

- Tell the NMC case presenter and the nurse, midwife or nursing associate, or their representative the panel is going in private to make their decision and when they should expect to return to the hearing.
- Ask the hearings coordinator to update to the NMC case presenter and the nurse, midwife or nursing associate, or their representative should the expected return time change.
- Remind the NMC case presenter and the nurse, midwife or nursing associate, or their representative they should remain contactable whilst the panel is in private.

Decision-making and reasoning

1. The chair or legally qualified chair is expected to:

- Oversee and manage the time allocated for decision-making and reasoning. They're expected to ensure the panel remains focused on the task, is productive, and mindful of any further matters they may need to consider within the time available to them.
- Set out the structure of the decision-making process. They're expected to remind the panel of the key considerations and the focus of their decision-making and reasoning.
- Remind the panel of the relevant guidance set out in the Fitness to Practise Library, asking them to have regard to it during their discussions, decision-making, and reasoning.
- Ask each panel member to reach decisions and to provide reasons.
 - Where necessary, they're expected to challenge panel members to focus their reasoning and explanations for their decisions.

- Where necessary, they're expected to challenge panel members to explain why their decisions and reasons deviate from case law or guidance.
- Contribute to the decision-making and reasoning to the same standard as other panel members.
- Summarise the panel's decision and reasons for the hearings coordinator.
- Facilitate questions from the hearings coordinator that assists them in drafting the determination.
- Discuss and agree the time required by the hearings coordinator to produce the first draft of the determination.
- Remain contactable should the hearings coordinator need further information, advice, or assistance with producing the first draft of the determination or where it's produced ahead of time.
- Where the hearings coordinator takes longer than expected to produce the first draft, contact them to seek an update and provide further assistance as required.

2. The panel are expected to:

- Assist the chair in managing the time taken on decision-making and reasoning by following instructions as to the structure and approach to be taken to the decision-making and reasoning.
- Follow the relevant guidance set out in the Fitness to Practise Library.
- Focus on articulating high-quality reasons for the decisions reached.
- Refer to key submissions, and documentary and oral evidence in their reasoning.
- Be open to challenge and challenge constructively during decision-making discussions.
- Answer questions from the hearings coordinator to better clarify the reasons for the decisions made.
- Remain contactable should the hearings coordinator needs further information, advice, or assistance with producing the first draft of the determination or where the draft determination is produced ahead of time.

3. The hearings coordinator will

- Take notes of the panel's decision-making and reasoning.
- Ask questions that better clarifies their understanding of the decision and reasoning for the benefit of drafting the determination.
- Use their knowledge and experience to provide an estimate of how long it'll take to produce the first draft of the determination.

Determination drafting

The hearings coordinator will:

- Produce the first draft of the determination.
- Contact the chair where they need further information, advice, or support with producing the first draft of the determination.
- Recall the panel, and where attending, the legal assessor, where they produce the determination ahead of time.
- Print or email a copy of the determination for each panel member and where in attendance, the legal assessor..

Editing the determination

1. The chair or legally qualified chair and panel are expected to:

- Read the draft determination, noting their task is to ensure its decisions and reasons are sufficient, succinct, clear, and written in plain English.
- Where applicable, have regard to previous decisions they've made seeking to ensure there's no disjuncture in their decision-making and reasoning.
- Focus on explaining how their decisions and reasons protect the public, maintain public confidence, and declare and uphold proper professional standards.
- Focus on ensuring their decisions and reasons align with relevant case law and guidance. If they deviate from this, clearly explain their reasons for doing so.
- Discourage the inclusion of extensive submissions made by the NMC case presenter or the nurse, midwife or nursing associate or their representative noting that the determination need only contain the key points.

- Discourage amendments to the draft where changes are superficial and add nothing of substance to what's already contained within it.
- The chair is expected to manage the editing of the draft determination. They'll ensure the hearings coordinator understands what parts of the determination need to be amended and that amendments are made accurately.
- Panel members will make amendments to the draft determination through the chair.

2. The legal assessor or legally qualified chair should:

- Review the draft determination to ensure it's compliant with the Nursing and Midwifery Order, relevant Rules, case law, and guidance.

3. The hearings coordinator will:

- Edit the draft determination and take direction on changes through the chair.
- Where applicable, draw to the panel's attention to revisions to the draft determination which are inconsistent with earlier findings or contrary to case law or guidance.
- Discourage the inclusion of extensive submissions made by the NMC case presenter or the nurse, midwife or nursing associate or their representative noting that the determination need only contain the key points.
- Focus the panel on ensuring that their decision and reasons are in plain English and readily accessible to a wide range of people.

Announcing the decision

1. The chair or legally qualified chair is expected to:

- Announce the panel's decision. They won't read out the reasons for the decision unless asked to by the NMC case presenter, or the nurse, midwife or nursing associate, or their representative.
- Where a substantive or interim conditions of practice have been made, read out the specific conditions imposed.
- Ask the hearings coordinator to provide a digital or paper copy of the panel's determination to the NMC case presenter and the nurse, midwife or nursing associate, or their representative.