Being a witness
Attending an NMC hearing
Who we are

We are the independent regulator for nurses, midwives and nursing associates in the UK.

We hold a register of all the 690,000 nurses and midwives who can practise in the UK, and nursing associates who can practise in England.

Better and safer care for people is at the heart of what we do, supporting the healthcare professionals on our register to deliver the highest standards of care.

We make sure nurses, midwives and nursing associate have the skills they need to care for people safely, with integrity, expertise, respect and compassion, from the moment they step into their first job.

We want to encourage openness and learning among healthcare professions to improve care and keep the public safe. On the occasions when something goes wrong and people are at risk, we can step in to investigate and take action, giving patients and families a voice as we do so.

Your role as a witness

As a witness, your role in an NMC hearing is very important. You will help a fitness to practise panel build a picture of what happened so that it can make a decision in the case. The information you give will help us fulfil our duty in protecting the public.

We understand that acting as a witness can sometimes be worrying for those involved. We have developed this guide to help you understand the hearings process and what to expect when acting as a witness. It also provides information about the support available to you before, during and after the hearing.
The fitness to practise process

Employers, colleagues, patients and members of the public can let us know if they have any reason to be concerned about a nurse, midwife or nursing associate’s fitness to practise. Anyone who is concerned can make a referral to us in writing.

When we receive a referral this is first examined by our Screening team. They assess whether there is an allegation of impaired fitness to practise.

Once the Screening team is satisfied there is a matter to investigate, it will pass the case onto our Investigations team. A case investigation officer (CIO) will prepare the case by interviewing witnesses, gathering evidence and drafting, as necessary, witness statements or reports. All of the information we receive or obtain will be sent to the nurse, midwife or nursing associate so they have an opportunity to comment.

The person investigating the case will then prepare the case for presentation to the case examiners. The case examiners will decide whether or not there is a case to answer and where necessary, they will pass the case to the Conduct and Competence Committee (CCC) or Health Committee (HC).

At this stage a fitness to practise hearing or meeting is held so that a final decision can be made in the case.

A case examiner can be either a nurse, midwife, nursing associate or lay person. They have the power to decide if there is a case to answer. A lay person is someone who is not a registered nurse, midwife or nursing associate.

‘Fit to practise’ means a nurse, midwife or nursing associate is able to remain on the register without any restrictions.
Preparing for a hearing

Do I really need to come to the hearing?

We will only ask you to act as a witness if we believe your involvement is necessary to the case.

I’ve given a witness statement and I have nothing to add.
If you have given a witness statement it is likely you will have to come to the hearing. It is important for the panel to hear your evidence first-hand as it helps them get a better understanding of the case and gives them a chance to ask you questions. Giving your evidence in person also allows the opposing side, if present at the hearing, to ask you questions and test your evidence. This is vital to ensure a fair and thorough hearing.

Occasionally certain witnesses may not have to go to the hearing, for example, if the nurse, midwife or nursing associate admits the allegations against them. In these circumstances, the statement can sometimes be given to the panel to read instead.

I’m nervous – where can I go for information and support?
If you are worried about giving evidence you can speak with a witness liaison officer, who can let you know about:

• what to expect at the hearing
• support available to you at the hearing
• arrangements we can make for you to be able to give evidence (for example, if you need an induction loop for your hearing aid)
• other organisations which can provide further support.

A witness liaison officer is an NMC employee who can discuss any concerns or queries you may have.

You can contact the Witness Liaison team on 020 7681 5390 or at witness.liaison@nmc-uk.org

Please note that the team can’t discuss your evidence or details of your case. It can only provide general support and information.
What if I don’t want to come?
We will only ask you to come to the hearing if we believe your involvement is necessary to the case. If you are worried about giving evidence we would encourage you to speak with your scheduling officer or a member of the Witness Liaison team for information and support.

We have a duty to protect the public and to protect the health and wellbeing of anyone who comes into contact with nurses, midwives and nursing associates. Because of the nature of nursing and midwifery, this includes vulnerable people such as children, the elderly, adults with learning disabilities, and people whose ill health has made them vulnerable. We need your help to make sure all nurses, midwives and nursing associates are competent and safe to carry out their professional duties.

We hope that, like us, you would want to play your part in protecting the public and would want to engage in our investigation.

If you are a nurse, midwife or nursing associate, you are required to cooperate fully with NMC investigations as part of The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates (the Code). Failure to do so may result in your own registration being called into question. If you are a healthcare or medical professional, your own professional code of conduct may carry a similar requirement.

In exceptional circumstances, a witness can be served with a formal summons. This is something we would only consider if all other avenues have been explored. The summons is a legal requirement for a witness to appear at a hearing. If a summons is ignored, legal action can be initiated for contempt.

When and where will the hearing take place?
We will write to you to let you know when the hearing will take place, giving you as much notice as possible. Please ensure you are available on the dates you are required to attend. There are many people involved in the hearing, including other witnesses, so changing dates causes problems and inconvenience.

The scheduling officer is an NMC employee who is responsible for scheduling the hearing and liaising with witnesses.
Hearings normally take place in Belfast, Cardiff, Edinburgh or London depending on where the person under investigation lives. You can find full information about our hearings centres, including directions and maps on our website at www.nmc.org.uk/how-to-find-us.

We also have an interactive virtual tour of our hearings centre available on our website. The tour will help you familiarise yourself with the hearings environment before coming to give evidence. You can access the tour at www.nmc.org.uk/witness.

**Attending the hearing**

**Do I have to attend the hearing every day?**
Your scheduling officer will confirm with you the days you are required to attend. It is unlikely you will be required to attend the hearing every day, however, witnesses may be needed at any time while the hearing is taking place. You should ensure you are available at all times during the hearing.

**What if I can’t get the time off work?**
In these circumstances please contact your scheduling officer to discuss. Your scheduling officer can speak to your employer to explain the importance of the NMC’s proceedings and why you must attend the hearing.

**What if I become unavailable after the date the hearing has been fixed?**
You should not make appointments or travel arrangements on dates that you have said you are available. If there is an unavoidable change to your availability you must tell your scheduling officer as soon as possible. If you are ill, you will need to send us a medical certificate or a note from your doctor confirming your condition and when you are likely to be well enough to attend. If you can’t make the hearing for another reason you will need to send evidence of this also. For example, if you need to travel unexpectedly, you will need to send us copies of your travel documents.

We need to see this proof because the person presenting the case on behalf of the NMC may decide to apply to postpone the hearing. If they do this, they will need to show evidence of why you cannot attend the hearing. Members of the public and journalists will be asked to leave the room if any private medical information relating to a witness is to be discussed.
Who and what can I bring along?

What should I bring with me?
You should bring your witness statement and exhibits with you to the hearing. You will be given time to read through them before you are called in to give evidence. If you use reading glasses please ensure you bring these with you as well.

You might want to bring a book or magazine with you, or some work to do, as you may have to wait some time before you are called to give evidence. We do try to stagger the attendance of witnesses, to reduce waiting time, but this is not always possible. If you wish to do some work you should be aware that you will be sharing the witness room with other witnesses, and that these rooms may become crowded during busy periods.

Our main hearing centres have Wi-Fi access, and tea and coffee are provided for refreshment.

Can I bring someone with me for support?
You can bring someone with you for support and they can wait with you in the witness waiting area. They can also accompany you in the hearing room while you give your evidence but play no other role in the hearing.

We do not routinely pay the expenses for someone attending as support apart from in exceptional circumstances. We can discuss this with you in more detail before the hearing.

Can I bring my children to the hearing?
You should not bring children to the hearing if you can avoid doing so. We can assist with childcare costs so please discuss this with the scheduling officer if required before the hearing.

If you have no other option than to bring children with you, you will also need to bring another adult to look after them while you are giving evidence. We don’t have childcare available on site and, for health and safety reasons, our staff can’t take responsibility for children, even for short periods. We will only agree to pay an accompanying person's expenses in exceptional circumstances (for example, if you need to bring your baby with you as you are breastfeeding).

What should I wear to the hearing?
You should wear clothes that you feel comfortable in but should remember that fitness to practise hearings take place in a formal environment. Most people choose to wear clothing that is neat and smart. We would ask that you don’t wear denim, sportswear or trainers.
What if I need an adjustment because I have a disability or extra needs?
All of our hearings centres are wheelchair accessible and hearing aid induction loops are available upon request. If you have a disability, communication difficulties or other specific needs, please tell us before the hearing so that we can make the necessary arrangements.

Expenses

Will you organise my travel and accommodation?
Yes. Your scheduling officer will contact you about travel, and if required, hotel arrangements. If you have any special requirements that you would like us to consider in relation to travel and accommodation, please let your scheduling officer know.

We will send you travel tickets and, if required, a hotel booking confirmation, about a week before the hearing.

Please bear in mind the NMC is funded by the fees of nurses, midwives and nursing associates so we try to keep costs down wherever we can. We ask you to use public transport instead of your own car or taxis wherever possible. If you feel you need to use your own car or a taxi you should discuss this with the scheduling officer before the hearing.

Will you cover my expenses and lost earnings?
Normally you will be able to claim back expenses and lost earnings if you were meant to be at work on the day of the hearing, but you should raise this with your scheduling officer before the hearing starts as claims are considered on a case-by-case basis.

At the back of this leaflet there is a witness expenses claim form. If your claim has been approved by the scheduling officer you should complete and return this form to us as soon as possible after the hearing.

What about meals?
Sandwiches, salads or soup are provided for all witnesses in the witness waiting room. If you have any special dietary requirements please tell your scheduling officer before the hearing and we will do our best to accommodate this.

If you want to leave the offices to go out for lunch, please let the hearings receptionist know so they can make a note of it and ensure the hearing won’t be disrupted. You should leave a contact telephone number with them so they can call you if necessary. Please note that we will not reimburse the cost of lunch taken outside.

If you are staying overnight in a hotel, your breakfast and dinner will be charged to your hotel room so that we can pay for them.
On the hearing day

What if I am unwell or delayed on the day of the hearing?
You will need to contact your scheduling officer as soon as possible so they can let the panel know. If you are unwell on the day of the hearing you will need to provide us with a medical certificate or a note from your doctor confirming your condition and when you are likely to be well enough to attend.

Can I discuss the case with other people?
You must not discuss the case with anyone until you have given evidence. This important rule is to ensure that the evidence given by each witness is their own recollection of what happened. If you discuss the case with another witness, this might affect the proceedings.

Arriving at the hearing

Who should I report to on the day?
Please go to reception first. They will note that you have arrived and direct you to the witness room. The hearings receptionist will be happy to help you and answer any questions you might have during the day.

The case presenter, the lawyer working on behalf of the NMC, the witness liaison officer and the panel secretary will introduce themselves once you arrive.

Will the nurse, midwife or nursing associate in question be there?
The nurse, midwife or nursing associate under investigation is entitled to attend the hearing, but they don’t have to do so. Some choose to be represented at the hearing, but again this is not essential. There will be a separate waiting area for them to use.

If you would like to know whether the person under investigation is going to attend your case, you should check with the witness liaison officer, case presenter or panel secretary at the start of the day.
Who will be in the hearing room?

The panel

There will usually be three panel members present. They are independent of the NMC and completely impartial. At least one member of the panel will be a nurse, midwife or nursing associate. There will also be at least one lay member on the panel; this means they are from outside the profession and not on our register.

The panel also includes a chairperson who is an experienced panellist and is responsible for the proceedings.

The chair and the panel members are solely responsible for making the decision.

Legal assessor
The legal assessor is an independent and experienced barrister or solicitor. The legal assessor advises the panel on the law.

Case presenter
The case presenter sits opposite the panel. They will act as prosecutor in the case, on behalf of the NMC, and will be calling the witnesses.

Panel secretary
The panel secretary is a member of NMC staff. They help the panel to run the hearing and draft its decision. The panel secretary will be a key contact for you throughout the day.

Shorthand writer
There may be a shorthand writer or logger present throughout the hearing, in both public and private sessions, to record the proceedings.

Observers
If the hearing is open to the public, members of the public and the press may choose to observe.
Is the hearing public?

Will journalists try to speak to me?
There may be a journalist in the hearing room observing the hearing, and a few other journalists in the building during the course of the day. Please bear this in mind during any conversations that you have outside the witness room.

You don’t have to speak to journalists if you do not want to. They can request a transcript of the public proceedings if they need to confirm anything that has been said in the hearing.

Will the hearing always be in public?
Normally hearings of the Conduct and Competence Committee take place in public. Sometimes the panel may decide that the hearing should be held in private. For example, if personal health details about the nurse, midwife or nursing associate in question, or a witness, are due to be discussed. During private sessions journalists, and any other observers, will be asked to leave.

Will my name be made public during or after the hearing?
Vulnerable witnesses and third parties and patients who are granted legal anonymity to protect their identity will remain anonymous throughout the hearing, and their full names will not be released to the public or the media.

The names of all other witnesses and third parties are not anonymised during the hearing, but will be anonymised in the decisions and reasons published on the NMC’s website after the hearing. However, names of witnesses and third parties who are not granted legal anonymity will be available on request from the NMC and can be reported freely within the media.

Giving your evidence

When will I be called to give evidence?
At the beginning of the day, the case presenter will let the panel know the order in which witnesses will be called to give evidence. This order may need to be changed to reflect any unexpected issues that arise during the course of the hearing.

Witnesses can be called at any stage of the hearing. The panel secretary will come and collect you from the witness room when it is time for you to give your evidence.

What happens when I give my evidence?
When you are called to give evidence the panel secretary will take you to the hearing room and show you to the witness table. Before you sit down to give your evidence the panel secretary will ask you how you want to take an oath or affirmation to tell the truth. You can take an oath on a holy book of your choosing.
The following oaths are available:

- Christian (on the new testament)
- Hindu (on the Gita)
- Jewish (on the old testament)
- Muslim (on the Quran)
- Sikh (on the Gutka)

If you don't want to take a religious oath you can read out an ‘affirmation’ to confirm that the evidence you are about to give will be the truth.

Once you have taken the oath or affirmation you will be asked to sit down. The chair will then introduce themselves and everyone else in the room.

Will I be allowed to look at my statement while giving evidence?
Each case is different. Usually witnesses have their statement with them when they give evidence. They may refer to it or be asked to read the statement in full to the panel. However, on occasion the panel may require the witness to recall as much as possible without reference to their statement. The case presenter will explain this to you in more detail on the day of the hearing.

Who will ask me questions?
The first person to ask you questions will be the case presenter. The case presenter will ask you questions about what happened and you should answer truthfully. The questions will be based on the content of your NMC witness statement. The case presenter may also refer you to any documents produced as exhibits in your statement.

If the nurse, midwife or nursing associate is present, either they, or their representative if they have one, will then ask you questions. The purpose of their questions is to make sure your account is accurate and to test your evidence. Their questions may focus on the parts of your evidence they don’t accept. This is called ‘cross-examination’. Cross-examination can be challenging for witnesses but please remember it is a necessary process to ensure a fair hearing.

The final set of questions will be put by the panel. These are designed to clarify and better understand the evidence that has already been given.

If you don’t understand any of the questions that you are asked, please say so or ask for them to be repeated.
How long will my evidence take?
The time taken for witness evidence varies from case to case. The case presenter will give you as much information as possible about what to expect on the day.

Will I definitely finish my evidence on the day I am called for?
We try to ensure that you finish your evidence on the day you are called for, but this is not always possible. If the hearing is due to continue on the next day, you may be asked to come back.

If you haven’t finished giving your evidence by the final hearing date, we will usually ask that you attend again on new dates booked for the hearing to resume. We will make sure that you can make the new dates before these are confirmed.

What happens next?

What happens after I have given my evidence?
The case presenter will ask the panel to confirm whether you can be released from your witness duty. At this stage most witnesses are released.

If there is a chance you may be needed later to give further evidence you will not be released until you have given that evidence.

When you are released, you are free to go home, or you can stay and watch the rest of the hearing if you prefer. It is unlikely that the NMC will pay for you to keep your hotel room after your release unless it is too late for you to travel home.

How does the hearing work in general?
There are three possible stages to a fitness to practise hearing. We call these stages ‘facts’, ‘impairment’ and ‘sanction’.

At the ‘facts’ stage the panel is building up a picture of what happened using all of the evidence put before it. This includes any documentary evidence, the live evidence of witnesses and live or documentary evidence put forward by the nurse, midwife or nursing associate under investigation. The panel will then decide if the allegations are found proved. If the panel does not find the allegations proved, the hearing ends there.

Cross-examination is the legal term used to describe the process of asking questions to witnesses on the opposing side.

Allegation is the accusation made against the nurse, midwife or nursing associate.
If some or all of the allegations are proved, the panel will then move on to the ‘impairment’ stage. At this stage the panel considers whether the person can remain on the register without any restrictions. The panel has to decide if the person’s fitness to practise is impaired on the date of the hearing, not whether it was impaired at the time when the event took place. In view of this the panel may need to know more about what has happened since the event occurred. At this stage they are not considering whether any specific sanction should be imposed, just whether or not a restriction is required. If the panel does not find impaired fitness to practise the hearing ends there.

If the nurse, midwife or nursing associate’s fitness to practise is found to be impaired, the panel will go on to the final stage: ‘sanction.’ At this stage the panel will be considering what sanction, if any, is appropriate in the case. The panel may hear further evidence about the person’s history and personal circumstances. It must take into account the public interest as well as the interests of the nurse, midwife or nursing associate under investigation. The public interest includes the protection of members of the public, the maintenance of public confidence in the professions and the NMC, and declaring and upholding proper standards of conduct and performance.

The options open to the panel at the sanction stage of a Conduct and Competence Committee hearing are outlined below.

The Conduct and Competence Committee is made up of nurses and/or midwives and lay people. The committee has the power to make the final decision about an FtP case.
Sanction options

**Take no action**
The nurse, midwife or nursing associate will have no action taken against them and the matter will not remain against their name on the register.

**Issue a caution**
This cautions the nurse, midwife or nursing associate without preventing them from practising. It is a formal record to show there have been some concerns. It will stay on the register for at least one year and up to a maximum of five years. All employers should check the registration of a nurse, midwife or nursing associate before offering them a job. If there is a caution against their name, the employer will be made aware of this, and can then get an explanation as to why that person received the caution.

**Make a conditions of practice order**
This order restricts a nurse, midwife or nursing associate’s practice from between one to three years. They must comply with the restrictions in order to practise. For example, they may be restricted from working in a particular setting, or from carrying out some aspects of the job without supervision. An order will always be reviewed by an NMC panel before it expires. This means a panel will look at the order and decide whether to extend, change or remove the order, given the particular facts of the case.

**Make a suspension order**
This suspends the nurse, midwife or nursing associate from practising for a set period of time, up to one year in the first instance. The order must be reviewed by an NMC panel before it expires. A reviewing panel will look at the order and decide whether to extend, change or remove the order, given the particular facts of the case.

**Making a striking-off order**
This removes the nurse, midwife or nursing associate’s name from the register, which means they are not allowed to work in these professions in the UK (or in England for nursing associates).

The nurse, midwife and nursing associatee can apply to be readmitted to the register five years after the striking-off order is made. In those circumstances an NMC panel will decide at a hearing whether or not to allow the former nurse, midwife or nursing associate to be readmitted to the register. The committee will take into consideration the initial charge, the nurse, midwife or nursing associate’s understanding and insight into their past behaviour and any action they may have taken since being struck off.

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**The Charge** is the list of allegations against the nurse or midwife.
After the hearing

Can I talk about my evidence now?
Once the hearing has finished completely you can talk about what you saw and the evidence you gave. If you have finished giving your evidence, but the hearing is still continuing, please don’t discuss the case with any of the other witnesses who are still waiting to be called.

How will I find out about the outcome?
The outcome and reasons document of the hearing will be published on our website at www.nmc.org.uk/concerns-nurses-midwives/hearings

A hearings manager will also write to you to tell you the outcome.

Any sanction imposed by the panel will be displayed against the nurse, midwife or nursing associate’s name through our online ‘search the register’ facility.

Can the outcome of the initial hearing be appealed?
The nurse, midwife or nursing associate can appeal against the outcome of a hearing to the High Court of Justice in England and Wales, the High Court of Justice in Northern Ireland or the Court of Session in Scotland (depending on where their case was heard).

The Professional Standards Authority (PSA) reviews all substantive fitness to practise outcomes. The PSA can also refer outcomes to the High Court if they consider that a decision by a panel is unduly lenient.

Where there is an appeal there will be an appeal hearing, after which the court will decide whether or not the decision was correct. Witnesses don’t have to attend these hearings, but they are public hearings, so you could choose to attend.
If an appeal is successful, the Court has the power to substitute its own decision or refer the case back to the NMC for all or part of the case to be reheard. This happens very rarely. You will be given more information in the unlikely event it happens in your case.

**Can I give feedback?**
We recognise the valuable contribution you have made as a witness and we would welcome your feedback on how we can improve the experience of witnesses in the future.

You will find our witness feedback survey on our website at www.nmc.org.uk/witness-feedback

If you would like a hard copy please speak with your scheduling officer or witness liaison officer at the hearing.

**Will the NMC need me again?**
In most cases the NMC won’t need your help after you have given your evidence.