Being a witness
Your part in an NMC investigation
Who we are

We’re the independent regulator for nurses, midwives and nursing associates. We hold a register of all the 690,000 nurses, midwives and nursing associates who can practise in the UK.

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 professionals 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 investigation is very important. You’ll help us build a picture of what happened so that we can make a decision in the case.

We understand that acting as a witness can sometimes be worrying for those involved. We have developed this guide to help you understand the investigations process and what to expect when acting as a witness. It also provides information about the support available throughout the process.
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. Any information we rely on to support our case will be sent to the nurse, midwife or nursing associate who is the subject of the allegation so they have an opportunity to comment.

Case examiners will then decide whether or not there is a case to answer. This requires case examiners to assess whether there is a realistic prospect that a panel of the Conduct and Competence Committee (CCC) or Health Committee (HC) could find the nurse, midwife or nursing associate's fitness to practise to be currently impaired.

Where there is a case to answer they will pass the case to the CCC or the HC, depending on the nature of the allegation. A CCC or HC hearing or meeting is then held and it is the job of the panel at that hearing/meeting to make a final decision 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.
Being a witness

When we investigate an allegation we speak with witnesses to build up a picture of what happened. A witness is usually a person who saw the alleged event, or some part of it.

What’s involved

What does it mean to be a witness?
Witnesses provide a written and/or oral account of what they know about the matter being investigated. We may also speak with people who did not see the incident in question but might be able to provide background information or documents relating to the case.

Why do you want me to be a witness?
The person investigating the case will have studied all of the evidence. They have asked to speak with you because, at this stage, they need you to tell us what you saw or did in relation to the event. We may also need you to give us any relevant documents you might have.

Referrals made to the NMC often relate to matters which occurred in the workplace, so our witnesses are often colleagues of the person under investigation, including fellow nurses, midwives, nursing associates or care assistants. Some of our witnesses are patients or members of the public. Before speaking with patients we will usually consult the professionals involved in their care so that we can decide whether or not to make contact. We will not speak to patients if doing so could harm their health or wellbeing in any way.

Even though you may not think that you saw anything important, you might still be able to help with the investigation, so a conversation with you will help ensure that our investigation is thorough and fair.
I’m nervous

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

Where can I go for information and support?
We understand that some witnesses find the process of giving evidence worrying. You can speak with your CIO, who will answer any questions you have about the investigation.

You can also get support and information from our dedicated Witness Liaison team. In particular, a witness liaison officer can provide you with information about:

• What to expect during an FtP investigation
• What to expect should the case end in an FtP 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

What if I don’t want to act as a witness?
We have a duty to protect, promote and maintain the health, safety 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’re 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 that 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, and, if a summons is ignored, legal action can be initiated for contempt.

If you are worried about acting as a witness we would encourage you to speak with your CIO or a member of the Witness Liaison team for information and support.

Giving evidence

How will I give my evidence?
A CIO, or a legal firm acting on our behalf, will contact you to make arrangements for an investigation interview. They will arrange the interview at a time convenient for you so that you are able to discuss the matter in private without being disturbed. Most interviews are conducted over the telephone.

If we conduct a face-to-face interview, this may take place at the hospital or care home where the alleged incident took place. Usually, we ask one of the people working there to make arrangements for the interviews. If you feel uncomfortable about meeting the CIO at work, we will try to find an alternative location.

If you are a member of the public, we try to organise a convenient and neutral place to meet. We will also reimburse all reasonable travel expenses.

What if I need an adjustment because I have a disability or extra needs?
We can make the necessary arrangements before you give your evidence. Please tell your CIO at the earliest opportunity.

Can I discuss the case with other people?
You must not discuss the case with anyone else involved while the investigation is ongoing. It is important that the evidence given by each witness is their own, individual recollection of what happened. If you discuss the case with another witness, this might affect the investigation.

Case investigation officer (CIO) is responsible for the administration and management of the case and carrying out the NMC legal investigation; conducts interviews with witnesses, drafts witness statements and reports.
The investigation interview

What will happen during the interview?
During the interview the CIO will ask you questions about what you saw or did. They will take notes of what you say and then may need to type these up on your behalf into a document called a witness statement. The CIO will let you know if this is necessary in your case.

Any documents that are mentioned in your witness statement may be attached to it. These will then be known as ‘exhibits’. Exhibits help tell the story of what happened and contain useful information that can be read alongside your witness statement.

What will I be asked

What questions will I be asked?
You will be asked about what you saw, or did, in relation to the incident. You may be asked why the incident caused you concern. You may also be asked to provide relevant documents.

Remember, we are not investigating you, your actions or those of the other witnesses. We need to have the clearest picture possible of what took place, so that our investigation is fair. To help us achieve this, we will need you to tell us as much as you can about what happened.

You may be asked about your employment history, experience and qualifications, but only if this is relevant to the case. You will also be asked if you have any criminal convictions or cautions.

We will also need your contact details, so that we can keep in touch with you throughout the case. If you are planning to move home or you are changing your place of employment please tell us as soon as possible; there is a change of address form at the back of this booklet.

Why will I be asked about convictions or cautions?
We are required by law to investigate cases in a fair and neutral way.
This means that we have to find out about anything that might help the person being investigated, or that might undermine our case. Very occasionally, witnesses have criminal convictions or cautions that are relevant to the case.

When this happens, the person under investigation has to be told about them. If the conviction or caution is not relevant to the case, we will not tell anyone about it. For instance, we do not usually tell anyone about driving offences.

**Can someone sit in with me during the investigation interview?**
Yes, we would be happy for you to have a friend or colleague sitting in with you during the meeting if it makes you feel more comfortable. However, this should not be another witness in the case.

The person who comes with you will not be allowed to have any input into the conversation about the events and must keep all information confidential, given the private nature of NMC investigations. The information you give us must be your own and must come from you.

Remember that you decide whether or not you want someone to come with you. If you are uncomfortable with a colleague sitting in with you, but your employer wants this to happen, you should tell the interviewer so that they can make your feelings clear.

**The events took place a long time ago. How am I supposed to remember what happened?**
The CIO taking your statement will not expect you to remember every detail of what took place. They will understand that time has passed and that you may need to refresh your memory. The CIO will know what they want to ask you about, and they will have copies of documents which may help you remember. These will be documents that you saw at the time of the incident. It might be the statement you wrote for your employer, the incident report form that you filled in, a completed medication administration record or the patient’s care plan. If you are a member of the public and you made the initial referral, you may be shown a copy of your original letter of complaint to help you remember.
After the investigation interview

My witness statement

When will I receive my witness statement?
If it’s necessary to draft a formal witness statement the CIO will send it to you as soon as possible after the interview. You should read it carefully to make sure that it accurately reflects what you saw, or did. If any areas of your statement do not reflect your account you should change it or add to it accordingly.

As soon as you are satisfied that it is correct, you should sign, date and return it to the CIO. You must do this as quickly as possible, so that the investigation is not delayed.

What will happen to my witness statement?
A copy of your witness statement, alongside the other witness statements in the case and an accompanying report from the CIO, will be passed to the case examiners. A copy will also be sent to the nurse, midwife or nursing associate under investigation.

Why does the person under investigation have to see a copy of my witness statement?
It’s very important that the nurse, midwife or nursing associate under investigation knows what information we have about them, and how we are going to use it in a case against them. This gives them a fair chance to answer the case and give their own explanation of events.
What happens next?

How long will the investigation take?
We aim to conclude cases within 15 months, including a final hearing if one is required. Many cases are completed in less time but sometimes they take longer if we have problems identifying or locating witnesses, or getting the evidence we need.

We will keep you up to date with any developments in the case, but we need your help to make sure we can finish our investigation as quickly as possible.

What happens after the investigation?
Two case examiners decide if there is a case to answer on the basis of the evidence gathered during the investigation. This requires the case examiners to assess whether there is a realistic prospect that a panel of the CCC or HC could find the nurse, midwife or nursing associate’s fitness to practise to be currently impaired.

One case examiner will be a nurse, midwife or nursing associate. The other will be a ‘lay’ person. Case examiners will read the evidence and decide what action to take. Their four main choices are to:

• close the case
• recommend the NMC carry out further investigations
• refer the case to a panel of the Conduct and Competence Committee
• refer the case to a panel of the Health Committee.

We’ll write to let you know the case examiners’ decision.

Made up of people on our register and lay people, the Conduct and Competence Committee (CCC) and Health Committee (HC) have the power to make the final decision about a fitness to practise case.
What if there’s a hearing?

What happens if there is a case to answer?
A panel of the CCC or HC will first decide whether the case should be dealt with at a hearing or a meeting. Hearings are held in public and witnesses are called to give live evidence before the panel. Meetings take place in private and the outcome of the case is decided using only the case documents, including the witness statements. A meeting is suitable for simple cases where the nurse, midwife or nursing associate admits their actions fully. As meetings are held in private witnesses do not attend.

If there is a hearing, do I have to attend?
If there is a hearing of the CCC it’s likely you will have to attend to give evidence in person. It’s 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 cross-examine you on your evidence. This is vital to ensure a fair and thorough hearing.

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

If there is a hearing of the HC it is unlikely you will be required to attend to give evidence as the charges will relate only to the health of the nurse, midwife or nursing associate under investigation.

Where might a hearing take place?
The majority of hearings will normally take place in Belfast, Cardiff, Edinburgh or London, depending on where the person under investigation lives. There may be circumstances where the hearing will be held elsewhere. You will be notified of the location of the hearing when you are asked to attend as a witness. You can find full information about our hearings centres in Belfast, Cardiff, Edinburgh and London, including directions and maps on our website at www.nmc.org.uk/contact-us/how-to-find-us

Cross-examination is the legal term used to describe the process of asking questions to witnesses on the opposing side.
We also have an interactive virtual tour of our hearings centre available on our website. The tour should help you to familiarise yourself with the hearings environment before coming to give evidence. You can access the tour at www.nmc.org.uk/witness.

**Where can I obtain further information about attending a hearing as a witness?**

If the case is referred to a CCC hearing, you should refer to our leaflet Witness information: Hearings, also available on our website at www.nmc.org.uk/concerns-nurses-midwives/customer-service.

**How do I give feedback?**

We recognise the valuable contribution you are making as a witness and we would welcome your feedback on how we can improve the experience of witnesses in the future.

Once you have given your witness statement you can complete our witness feedback survey on our website at www.nmc.org.uk/concerns-nurses-midwives/what-we-do/our-customer-service/witness-feedback-form.

If you would like a hard copy please speak with your CIO.
Witness expenses claim form

Use this form to claim back any expenses incurred while acting as a witness. Please write clearly and answer all questions.

Please note: We pay all expenses claims by BACS. You must send proof of all expenses by providing itemised purchase receipts (not just credit or debit card receipts). Please agree all expenses with your Case Investigation Officer. The NMC is a charity, funded by the fees of nurses and midwives so we must try to keep costs down wherever we can.

**Personal details**

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**Details of the case**

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**Mode of transport**

Train/Taxi/Tube/Bus/Air If you provide no reason, the claim may be rejected.

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Names of people who shared taxi with you (if any)

**Car travel** Mileage is paid at the rate of 45 pence per mile

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### Loss of earnings

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<th>Rate of pay</th>
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Please make sure you send a letter from your employer which states the number of hours lost, hourly rate of pay and that you did incur loss of earnings for the hours claimed. If you are self-employed, confirm the number of hours lost and please send us a letter from your accountant confirming your hourly rate of pay.

### Subsistence (meals/snacks)

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### Other expenses

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### Total amount claimed

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### Bank details

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### Signed

__________________________ Date _____________

I confirm the information above is correct and I have provided the necessary documents and/or receipts to support the claim.

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**Return your form**

**By post:** Business Support, Nursing and Midwifery Council, 1 Kemble Street, London WC2B 4AN

**By email:** witness.expenses@nmc-uk.org
# Change of address form

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<th>Case name</th>
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<tr>
<th>Case reference number</th>
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<tr>
<th>Name of case officer as shown on the letters and documents we sent you</th>
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Have you already been asked to tell us some dates when you would be available to attend the hearing?  
- [ ] Yes  
- [ ] No

Have you already had a letter telling you the date of the hearing at which you will be giving evidence?  
- [ ] Yes  
- [ ] No

If you have changed your home address, please fill out Section A. If you have changed your work address, please fill out section B (overleaf)

## A. I am changing my home address

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<th>Date you moved to new address</th>
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B. I am changing my work address

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<th>Date you moved to new address</th>
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Signed ___________________________ Date _____________

Return your form

Service Quality Manager, Nursing and Midwifery Council,
1 Kemble Street, London WC2B 4AN

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