PRACTISING AS A MIDWIFE IN THE UK

An overview of midwifery regulation
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INTRODUCTION

The Nursing and Midwifery Council (NMC) is the professional regulator for midwives practising in the UK. It exists to protect the public. It does this by maintaining the register of qualified midwives and setting standards of education, training, conduct and performance. If an allegation is made that a registered midwife is not fit to practise, the NMC has a duty to investigate and, where necessary, take action to protect the public.

This is an information document for midwives and interested parties which sets out the regulatory framework for midwifery following recent changes to legislation. It is not a regulatory standard but it describes the NMC’s approach to the regulation of midwives. It contains sections relating to each of the NMC’s statutory functions: the education of midwives, registration and revalidation, standards and guidance, and fitness to practise. It should be read in conjunction with the Code and other standards and guidance.

Midwifery is a distinct profession, with its own standards of proficiency and part of the NMC register. ‘Midwife’ is a protected title and there is a protected legal function associated with this title. Midwives have a unique relationship with a distinctive group of service users. The care of women and their babies requires specific expertise as there are health conditions that manifest differently or uniquely through pregnancy and birth. There are also specific considerations around administering medicines and other treatment decisions.
SECTION 1:
EDUCATION
Education standards

The NMC sets standards for programmes leading to the award of midwifery qualifications.

The UK is a member state of the EU, so the standards comply with the minimum standards for the training of midwives set down in EU law.1

The NMC sets proficiency standards for registered midwives known as the Standards for competence for registered midwives. These set out the standards that midwives must meet when they qualify, and continue to meet throughout their careers in clinical practice.

Student midwives and fitness for practice

Student midwives work towards achieving the NMC’s proficiency standards by the time they complete their education programmes. If a student’s progress is a matter of concern, the approved education institution (AEI) providing their education is responsible for offering support and deciding whether the student is making sufficient progress. AEIs are required to have policies in place to address issues such as conduct and health that may affect a student’s fitness for practice as a midwife. AEIs will use the Code as a reference point. The NMC checks that AEIs do this effectively through the quality assurance of midwifery programmes.

Student midwives, particularly on practice placements, may witness or become aware of something that gives them cause for concern. Where this is the case, they can raise that concern locally in the first instance to seek its resolution. Read Raising concerns: Guidance for nurses and midwives.

In respect to medicines legislation, student midwives can only administer medicines on the midwives’ exemptions list (see Annexe A), with the exclusion of controlled drugs, under the direct supervision of a registered midwife. You should also refer to your local trust or health board policies and guidance.
SECTION 2:
JOINING THE REGISTER AND MAINTAINING REGISTRATION
Joining the register

There are a number of different ways for qualified midwives to join the NMC register. All must meet the NMC’s statutory requirements of holding an approved qualification, being capable of safe and effective practice (including meeting the Council's requirements relating to health and character), holding an appropriate indemnity arrangement, having the necessary knowledge of English, and paying a registration fee.

**UK trained midwives** who have successfully qualified will be uploaded by their AEI onto the NMC’s registration database. The AEI will also make a declaration in relation to the midwife’s health and character. Once this has taken place the midwife will make an application to join the register.

**Midwives trained outside the UK** can apply for registration by supplying details and proof of their qualification. Depending on whether the qualification meets the NMC’s standards, and whether their application meets the other requirements as set out above, the person may be entered onto the NMC’s register. Or, they may be asked to undertake a period of adaptation or an aptitude test before they can join the register.

The midwifery part of the register and further entries in the register

Midwifery is recognised in the law as a distinct profession and has its own separate part of the register. The register holds a range of information, for example certain post registration qualifications can be recorded. Not all of the information held on the register is publicly available.

Once registered, all midwives must meet the NMC’s revalidation requirements every three years to maintain their registration.

Midwives whose registration lapses will need to apply to rejoin the register if they wish to return to practice in the UK. They may need to complete a return to practice (RtP) programme in order to demonstrate that they meet the requirements of registration at the point of re-entry.
2: Joining the register and maintaining registration

Revalidation

Revalidation is the process that all midwives in the UK need to undergo every three years to maintain their registration. Revalidation contributes to assurance that midwives on the register remain capable of safe and effective practice. It has requirements about practice hours, continuing professional development, feedback and reflective learning, declarations of good health and good character, and requires an appropriate professional indemnity arrangement to be in place. Revalidation is not an assessment of a midwife’s fitness to practise, nor is it an alternate route for the raising of concerns.

Every year midwives must pay an annual registration fee. A failure to pay could lead to a lapse in registration and prevent midwives from practising.

Protected title

Midwifery is regulated as a distinct profession and the title of ‘midwife’ is protected in law. It is an offence for someone to practise as a midwife while not registered, to falsely claim to have a midwifery qualification, or to use the title ‘midwife’ when not entitled to do so. Only those recorded on the NMC’s register as holding a qualification in midwifery may therefore use the protected title of ‘midwife’.

Scope of practice

The term ‘scope of practice’ is frequently used in relation to professions such as midwifery, but UK health professionals tend not to be regulated with reference to a specified ‘scope of practice’. The proficiency standards and the Code are important factors in thinking about scope of practice. A midwife’s scope of practice may change depending on the nature of their roles and the learning they have undertaken. The Code requires midwives not to practise outside of their skills, knowledge or competence. It is important that providers of maternity services are mindful of this professional duty when they deploy midwives. A midwife’s ‘scope of practice’ might be taken to mean ‘the range of things that the midwife has the skills, knowledge and competence to do’ and it should not be confused with ‘protected function’ which means ‘something that only midwives can legally do’ (see below).
2: Joining the register and maintaining registration

Protected function

There is a protected function associated with the title ‘midwife’. Only the following people may attend a woman in childbirth.\(^3\)

- A midwife;
- A registered medical practitioner; and
- A student undergoing training with a view to becoming a midwife or a medical practitioner, as part of an approved course of practical instruction.

The exception to this is in a case of ‘sudden or urgent necessity’.

Indemnity insurance

In order to hold registration, midwives must declare that they have an indemnity arrangement appropriate for their role and the risks associated with their practice. The cover must be relevant to their scope of practice, so that it is sufficient if a claim is made against them.\(^4\)

If a midwife works for the NHS, they will already have an appropriate indemnity arrangement. The NHS insures its employees for work carried out on its behalf. If a midwife is employed in private healthcare (for example, at a private hospital or birthing centre) it is likely that their employer will have an appropriate indemnity arrangement for them. However, arrangements may vary between employers so midwives should always check to be sure.

If a midwife is self-employed, works as a consultant or through an agency, they will probably be required to have their own indemnity arrangement in place. Professional bodies may offer professional indemnity insurance, or midwives can arrange their own cover directly through a commercial provider. It is important that midwives understand the terms of their insurance policy.
SECTION 3:
STANDARDS
AND GUIDANCE
The NMC’s expectations about how registered midwives will practise their profession are set out in its standards, including the Code. Fitness to practise investigations will consider whether a midwife has breached the Code or other standards.

The Code

*The Code: Professional standards of practice and behaviour for nurses and midwives* sets out the professional standards that midwives must uphold in order to remain registered, and therefore to be able to practise in the UK. It is central to the NMC’s statutory duty to protect the public.

The Code is structured around four themes:

- prioritise people;
- practise effectively;
- preserve safety, and
- promote professionalism and trust.

The Code also sits at the heart of the NMC’s revalidation requirements.

The professional duty of candour

The NMC has jointly produced guidance with the General Medical Council on the *professional duty of candour*. This guidance supports the Code’s requirement to preserve safety. Midwives must be open and honest with women and their families in the event that something goes wrong with their care, or where that care causes (or has the potential to cause) harm or distress.

Midwives must also be open and honest with their colleagues, employers and relevant organisations, and take part in reviews and investigations when requested. They should support and encourage other nurses and midwives to be open and honest, and must not attempt to prevent someone from raising concerns.
Raising and escalating concerns

The NMC has developed guidance for midwives on raising and escalating concerns about poor care and poor practice. It sets out broad principles that will help midwives to think through the issues and take appropriate action in the public interest.

It includes details about the laws that protect whistleblowers and also contains information on organisations that midwives can go to for further advice.

Record keeping

Record keeping is covered by the Code in paragraph 10. The Code has intentionally been drafted at a high level so that it can be applied in a diverse range of working environments.

Midwives should also be aware of and comply with the provisions in the law that cover the creation, handling, storage, retention and sharing of service users’ personal information such as those set out in the Data Protection Act 1998. Most midwives will simply need to meet the requirements of an employer or service provider. Midwives working outside such a structure may wish to take advice about their legal obligations.

Midwives should ensure that the records they complete and that are retained are of a high standard, so if they are needed at a later date they provide a picture of the care provided to women and babies. Midwives employed by the NHS (or its equivalents across the UK) or in private practice will usually create, maintain and store records in accordance with their employer’s or healthcare provider’s formal policy. Midwives working outside of such a structure should ensure that they take appropriate advice and comply with their legal obligations.
Prescribing, supplying and administering medicines⁵

In certain circumstances midwives can lawfully supply and administer pharmacy (P) and specified prescription only medicines (POM). In addition, midwives may supply and administer controlled drugs to named persons by using midwife supply orders (MSOs).⁶

Schedule 17 of the Human Medicines Regulations 2012 and the 2016 update to these regulations govern the ways that medicines can be lawfully sold and supplied in the UK. They outline the provisions in relation to:

- Registered midwives’ exemptions from restrictions on the sale and supply of prescription-only medicines
- Registered midwives’ exemptions from the restrictions on the administration of prescription-only medicines.

Only midwives (including dual qualified nurses/midwives) who have completed the NMC-approved independent and supplementary prescribing qualification (V300)⁷, and have had that qualification recorded on the NMC’s register, may prescribe medicines, within the limits of those qualifications.

Paragraph 18 of the Code requires all nurses and midwives who advise on, prescribe, supply, dispense or administer medicines to do so within the limits of their training and competence, the law, NMC guidance and other relevant policies, guidance and regulations. More detail sits in the Code, Council’s adoption of the Royal Pharmaceutical Society’s Competency framework for all prescribers as our new standards of proficiency for nurse and midwife prescribers and our new prescribing programme standards.
Guidance on using social media responsibly

The NMC has published Guidance on using social media responsibly. It supports the Code.

Conscientious objection by midwives

Paragraph 4.4 of the Code states that if midwives have a conscientious objection to a particular procedure they must tell colleagues, their manager and the person receiving care. They must also arrange for a suitably qualified colleague to take over responsibility for that person's care. The law on conscientious objection varies by country of practice, and it is the responsibility of midwives to ensure that they are aware of the law where they are practising. The NMC has published information about conscientious objection.
SECTION 4:
FITNESS TO PRACTISE
Midwives can be referred to the NMC if concerns arise about their fitness to practise. Referrals can be made by an employer, a colleague, a member of the public, or anyone else. Midwives have a duty to self-refer if they believe their own fitness to practise may be impaired.

The NMC has a statutory duty to consider each referral and where necessary take appropriate action. Allegations that a midwife’s fitness to practise may be impaired include, for example, matters such as:

- **Misconduct** – behaviour that falls short of what can be reasonably expected of a professional midwife. Such cases may relate to conduct in work, or outside of work.
- **Lack of competence** – evidence of a lack of knowledge, skills or professional judgment that raises a question as to whether the midwife is capable of meeting the required standards for safe and effective practice.
- **Health** – a question as to the midwife’s ability to discharge their professional duties arising from a serious, long-term, untreated or unacknowledged health condition.
- **Convictions or cautions** – where a midwife has received a criminal conviction or caution that calls into question their fitness to practise or has the potential to undermine public confidence in the midwifery profession.
- **Not having the necessary knowledge of English** – evidence that a midwife does not have the necessary knowledge of English to practise safely and effectively in the UK.
- **Determinations of other regulatory bodies** – where a midwife has had a finding of impairment made against them by another regulator of a health and social care profession, within or beyond the UK.
SECTION 5: THE LAW
The NMC’s functions and objectives and its regulatory powers are set out in legislation. Midwives must uphold the Code in order to remain on the register and practise as a midwife in the UK. The Code requires midwives to uphold the relevant laws of the country in which they practise, including any laws relating to the notification of births, stillbirths and deaths.

### The law in relation to midwives and medicines

The Human Medicines Regulations 2012 (“the Regulations”) consolidated many of the pre-existing pieces of legislation related to the administration, sale and supply of medicinal products for human use.

The Regulations govern the ways that medicines can be lawfully sold and supplied in the UK.

Schedule 17 outlines the provisions in relation to registered midwives regarding the sale and supply of certain prescription medicines, lists the exemptions on supply of prescription only medicines and lists the exemptions from the restriction on administration of prescription only medicines. An up-to-date version of the relevant parts of schedule 17 is attached at Annex A.

The Secretary of State and the Minister for Health, Social Services and Public Safety can amend the exemptions. They do so in the exercise of the powers conferred by section 2(2) and (5) of the European Communities Act 1972, having been designated for the purposes of section 2(2) of that Act in relation to medicinal products.

In practice the Medicines and Healthcare Products Regulatory Agency (MHRA), an executive agency of the Department of Health and Social Care (DHSC) conducts a regular review on behalf of the Secretary of State and makes recommendations as to changes to be made to this list.

### The relationship between the NMC and midwives exemptions

We do not have a role in the setting of midwives exemptions as we do not have the legislative power to do this. Nor do we have the knowledge regarding prescribing practices. Legislative change in this area can only be made by the Secretary of State for Health and Social Care (see paragraphs 4 and 5). Going forward, we will
continue to act in a consultative role and work closely with the DHSC, MHRA and others with regards midwives exemptions.

This information replaces the information contained within the Circular, “Changes to Midwives Exemptions” (07/2011). For this reason we have provided the link to the relevant section in the Human Medicines legislation to indicate the legislation for midwives and student midwives and the current list of medicines that appear on this list. It is important that every midwife reviews these links regularly as the list can change and it is important that you keep this area of your knowledge and competence up to date. We have also provided an unofficial consolidated version of the legislation related to midwives exemptions in Annexe A. This is accurate as of 18 September 2018. Please consult legislation.gov.uk to identify if any further amendments have been made.

All midwives who support, supervise and assess student midwives should make sure that they are familiar with the law in relation to midwives exemptions in order to safely support and supervise student midwives who may administer medicines to women in their care. Further information can be found on page 5 of this document.
This unofficial consolidated version of the legislation relates to midwives exemptions. This is accurate as of 18 September 2018. Please consult legislation.gov.uk to identify if any further amendments have been made.

**Schedule 17 of the Human Medicines Regulations** details the exemptions for sale, supply or administration by certain persons.

Schedule 17, Part 1 makes the following provision in relation to registered midwives regarding the sale and supply of certain prescription medicines:

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<th>Column 1</th>
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<tbody>
<tr>
<td>Persons exempted</td>
<td>Prescription only medicine to which the exemptions apply</td>
<td>Conditions</td>
</tr>
<tr>
<td>4. Registered midwives</td>
<td>4. Prescription only medicines containing any of the following substances— (a) Diclofenac; (b) Hydrocortisone Acetate; (c) Miconazole; (d) Nystatin; (e) Phytomenadione;</td>
<td>4. The sale or supply shall be only in the course of their professional practice.</td>
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Schedule 17, Part 2 lists the exemptions on supply of prescription only medicines.

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<tr>
<td>Persons exempted</td>
<td>Prescription only medicine to which the exemptions apply</td>
<td>Conditions</td>
</tr>
<tr>
<td>12. Registered midwives</td>
<td>12. Prescription only medicines for parenteral administration that contain— (a) Diamorphine (b) Morphine (c) Pethidine hydrochloride</td>
<td>12. The supply shall be only in the course of their professional practice.</td>
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Schedule 17, Part 3 lists the exemptions from the restriction on administration of prescription only medicines. The following exemptions are listed:

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<td>Persons exempted</td>
<td>Prescription only medicine to which the exemptions apply</td>
<td>Conditions</td>
</tr>
<tr>
<td>2. Registered midwives and student midwives.</td>
<td>2. Prescription only medicines for parenteral administration containing any of the following substances but no other substance that is classified as a product available on prescription only- (a) Adrenaline (b) Anti-D immunoglobulin (c) Carboprost (d) Cyclizine lactate (e) Diamorphine (f) Ergometrine maleate (g) Gelofusine (h) Hartmann's solution (i) Hepatitis B vaccine (j) Hepatitis immunoglobulin (k) Lidocaine hydrochloride (l) Morphine (m) Naloxone hydrochloride (n) Oxytocins, natural and synthetic (o) Pethidine hydrochloride (p) Phytomenadione (q) Prochlorperazine (r) Sodium chloride 0.9%</td>
<td>2. The medicine shall- (a) in the case of Lidocaine and Lidocaine hydrochloride, be administered only while attending on a woman in childbirth, and (b) where administration is- (i) by a registered midwife, be administered in the course of their professional practice; (ii) by a student midwife- (aa) be administered under the direct supervision of a registered midwife; and (bb) not include Diamorphine, Morphine or Pethidine hydrochloride</td>
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3. Article 45 of the Nursing and Midwifery Order 2001.


5. The NMC is currently reviewing its standards of proficiency for midwives. In the future this will reflect any new MSO arrangements.

6. Section 11 of the Misuse of Drugs Regulations 2001, subject to amendment.


8. Student midwives do not appear on the register and do not fall within the regulatory reach of the NMC’s fitness to practise process. It is a function of education institutions to identify and address any concerns about the conduct or health of a student midwife.

9. SI 2012/1916

10. This was amended by Regulation 16(3) of the Human Medicines (Amendment) Regulations 2016/18