

Covid-19 Temporary Registration Removal Guidance

Introduction

1. The Coronavirus Act 2020 gives the Registrar a new emergency power to temporarily register a person or group of persons as registered nurses, midwives or nursing associates if the Secretary of State advises that an emergency has occurred, is occurring or is about to occur¹. The Registrar can register people that she considers to be fit, proper, and suitably experienced to be registered as a nurse, midwife or nursing associate, with regard to the emergency.
2. The Registrar has also been given the power to remove people from the temporary register. Under the emergency legislation, our normal registration requirements and fitness to practise processes do not apply to individuals on the temporary register².
3. The legislation sets out that the Registrar can remove people from the temporary register where:
 - The Secretary of State advises the Registrar that the circumstances that led to them declaring an emergency no longer exist³; and
 - For any other reason, including where the Registrar suspects that a person's fitness to practise may be impaired⁴.
4. The Registrar has also been given a power to make someone's temporary registration subject to conditions, which can be added, removed, or varied at any time.⁵
5. The guidance below sets out the approach that the Registrar⁶ will take in deciding whether to remove someone from the temporary register.

Removal when the emergency no longer exists

6. As soon as the Secretary of State advises the NMC's Registrar that the circumstances which led to temporary registration no longer exist, the Registrar **must** revoke the registration of everyone on the temporary register. This means

¹ Schedule 1 of the Coronavirus Act 2020 adds a new Article 9A to the Nursing and Midwifery Order 2001 ('the Order'), providing powers for temporary registration in an emergency. "Emergency" means an emergency of the kind described in section 19(1)(a) of the Civil Contingencies Act 2004, read with subsection (2)(a) and (b) of that section i.e. one that involves, causes or may cause loss of human life, or human illness or injury.

² Article 9A(10) of the Order

³ Article 9A(7)(a) of the Order

⁴ Article 9A(7)(b) of the Order

⁵ Article 9A(4) and (5) of the Order

⁶ For the purposes of this guidance, any references to the Registrar include any Assistant Registrar authorised to make these decisions by the Registrar under Article 4(5) of the Order.

that as soon as the emergency is over, individuals who have been temporarily registered and whose registration has now been revoked will no longer be entitled to practise as registered nurses, midwives and nursing associates. If they wish to join the permanent register they will need to go through the normal registration application process.

Removal “for any other reason”

7. The Registrar may remove someone from the temporary register for any other reason, including where they suspect a person’s fitness to practise may be impaired.
8. Our over-arching objective is to protect the public, and any decision which the Registrar takes will need to balance the need to support the health and care workforce to manage the increased risks of an emergency situation with the importance of minimising any risks to safety for patients and people using services.
9. We recognise the valuable contribution that people make by joining the temporary register at a time of emergency, and any decision to remove someone from the temporary register will be taken on a risk-based approach during the emergency period. When making these decisions the Registrar will take into account the unprecedented nature of this Covid-19 emergency and the challenging circumstances in which people are working when concerns are raised.

Fitness to practise concerns

10. Where a concern is raised with us⁷ about a nurse, midwife or nursing associate on our temporary register, we will consider whether that concern is about something which may impair that person’s fitness to practise during the Covid-19 emergency.
11. The type of concerns which may be sufficiently serious to affect an individual’s fitness to practise on the Covid-19 temporary register include⁸:
 - Health concerns which are not properly managed⁹;
 - Criminal convictions and cautions;
 - Misconduct;
 - Lack of clinical competence;
 - Not having the necessary knowledge of English;
 - Determinations by other health or social care organisations.

⁷ This includes where we identify concerns about an individual ourselves, through intelligence we have received.

⁸ <https://www.nmc.org.uk/ftp-library/understanding-fitness-to-practise/fitness-to-practise-allegations/>

⁹ <https://www.nmc.org.uk/globalassets/sitedocuments/registration/guidance-on-health-and-character.pdf>

Other reasons

12. In addition to concerns about fitness to practise, there may be other reasons for the Registrar to remove someone from the temporary register. These will need to be assessed on a case by case basis, but will include:

- Where an individual asks to be removed from the register;
- Where an individual's application for permanent registration or readmission is approved by the Registrar¹⁰;
- Mistakes of fact relating to the original decision to allow registration, for example where it appears that the individual registered did not meet the eligibility criteria of the group in which they were registered;
- Breach of any conditions of practice on their registration¹¹
- Where an individual misuses their temporary registration, for example, by practising in a way which is not linked – directly or indirectly – to Covid-19¹²;
- Any other matters about the individual which were not previously considered, and mean the individual would not have been considered fit, proper, and suitably experienced at the point of registration.

Assessing any concerns raised

13. We may be able to reach a decision on the basis of the information provided to us by the person raising the concern. In some cases it may be necessary to carry out enquiries to gather information for the Registrar to make their decision. We won't in any cases carry out a full fitness to practise investigation¹³.

14. In most cases the Registrar's decision will be based on information provided by the employer of the temporarily registered nurse, midwife or nursing associate about whom the concern is raised. We will ensure that wherever possible this information factors in any relevant contextual issues, equality and diversity issues, and patient concerns¹⁴.

¹⁰ Individuals with permanent registration are not eligible for temporary registration. "Permanent registration" means registration following an application under Article 9 of the Order.

¹¹ Temporary registration can be granted subject to conditions under Article 9A(5) of the Order. These conditions may be varied or revoked, or new conditions added, at any time by the Registrar.

¹² Registrants may be working in front-line health or social care roles in the Covid-19 emergency or working in other nursing or midwifery roles which support or backfill other registered professionals. We will only be usually be concerned where there is no connection to the emergency situation, for example using temporary registration for commercial purposes.

¹³ For example, we will not take formal witness statements.

¹⁴ Including any information provided by the employer or the temporary registrant about concerns they have raised previously including whistleblowing concerns.

15. We will make reasonable enquiries into the facts of any case which may result in removal, although where the individual wishes to be removed from the temporary register it will be sufficient that they have requested this in writing or by phone.
16. Once we've been notified of a concern about an individual on our temporary register we'll notify them of this and will indicate the date we expect the Registrar to make their decision. We'll provide the temporary nurse, midwife, or nursing associate with details of the concerns which have been raised, and give them the opportunity to respond by email or telephone whilst we conduct our enquiries and before the decision is made.

Making a decision

17. After making any additional enquiries to obtain any further information needed, the Registrar will be asked to make their decision.
18. In some cases we may be able to make a decision immediately on the information we receive because it is clear there are no concerns about that person's temporary registration, and we do not need to take action.
19. There may also be rare cases where the concerns raised are so serious that the Registrar needs to take immediate action to remove someone from the temporary register without allowing them an opportunity to make representations¹⁵.
20. As the Registrar is acting in an emergency, there is no formal process for removal from the temporary register. Individuals on the temporary register will not have the opportunity to attend a hearing or make formal representations. If they do provide us with any relevant information before the Registrar makes their decision this will be taken into account.
21. Where the temporary nurse, midwife or nursing associate has indicated they wish to be removed from the temporary register for any reason, we will confirm this with them and the Registrar will direct that their temporary registration is revoked.
22. Where someone is granted permanent registration or is readmitted to the register for the same profession that they are temporarily registered for, their temporary registration will automatically be revoked to allow for permanent registration¹⁶. We will write to them once their application for registration or readmission has been granted, letting them know that they have been removed from the temporary register and confirming the date their permanent registration began.
23. Where someone is granted permanent registration or readmission for a different profession on our register¹⁷, we will notify them of our intention to remove them from the temporary register, and inform them once this has been done.

¹⁵ This will usually only be where we have evidence of an immediate risk of serious harm or damage to public trust, for example a criminal conviction.

¹⁶ It is not possible to have both temporary and permanent registration on the same part of the register.

¹⁷ For example where someone temporarily registered as a nurse becomes a permanently registered midwife, or vice versa.

Fitness to practise concerns

24. The Registrar will consider all relevant factors, and on the information available decide whether to remove someone from the temporary register because the Registrar *suspects* that their fitness to practise *may* be impaired. This is a low threshold, and in making this decision the Registrar will consider:

- a) Whether the concern is serious enough to suggest that the nurse, midwife or nursing associate may not be fit to practise during the Covid-19 emergency;
- b) Whether we would be able to obtain credible evidence to support the concern¹⁸;
- c) Whether the concern has already been addressed and we are confident there is no longer any serious risk of harm to members of the public, or to public trust and confidence in the professions.

25. If the Registrar suspects someone's fitness to practise *may* be impaired, they will go on to consider what action to take, if any. Even where a potential concern has been identified, it will not necessarily lead to removal.

Possible outcomes

26. The Registrar has the power to:

- Remove someone from the temporary register;
- Add, vary, or remove conditions on someone's temporary registration; or
- Take no action.

27. When deciding whether removal is the appropriate outcome, the Registrar will take into account the risk identified, as well as having regard to the Covid-19 emergency situation and whether that risk can be managed safely. At all times the Registrar will have regard to our overarching objective of protecting the public from risk of harm.

28. The Registrar has the power to take no action and allow continued temporary registration, and may choose to do so where they are satisfied that any risk can be appropriately managed and the temporary nurse, midwife or nursing associate can continue to work safely during the Covid-19 emergency.

29. Alternatively, the Registrar may add, vary, or remove conditions on a temporary nurse, midwife or nursing associate's registration. This will only be done in limited circumstances, for example to require the temporary nurse, midwife or nursing associate to work under the direction of a more senior permanently registered professional.

30. Where the Registrar is not satisfied that the temporary nurse, midwife or nursing associate can remain temporarily registered and practise safely with regard to the

¹⁸ As we will not be conducting a full investigation we will not always obtain all relevant evidence, but it will be sufficient for us to be satisfied that it would be available to us.

Covid-19 emergency, they will revoke temporary registration and the individual's name will be removed from the public temporary register.

Notification of the decision

31. Once the Registrar has made a decision, we will notify the individual on our temporary register and their employer in writing. If a decision was made to remove someone from the temporary register, reasons will be given for this. The decision letter will also explain the circumstances in which they could return to the temporary register¹⁹. A decision to add, vary, or remove conditions of registration will be communicated in the same way. The outcome of the Registrar's decision will also be communicated to the person who raised the concern, if this is not the temporary nurse, midwife or nursing associate's employer.
32. We will not publish our decisions publicly, however we will share information about temporary registration, including a decision to revoke registration, with the health and social care providers across the UK with whom we have previously provided details of the people on the Covid-19 temporary register.

After the Registrar's decision

33. There is no right to appeal or review the Registrar's decision to remove someone from the temporary register²⁰. However, there may be circumstances where someone can re-join the temporary register once removed. This will usually only be where:
 - The individual was removed from the temporary register at their own request, and no concerns were raised about their practice or the original decision to register them. In these circumstances the individual will be allowed to return to the temporary register if they wish to at a later date provided they are still fit, proper, and suitably experienced; or
 - It is identified there was a mistake of fact relevant to the Registrar's decision to remove someone from the temporary register, meaning the decision should be revoked, for example where there was a mistake of identity; or
 - There has been a material change in circumstances which mean the individual can now be considered by the Registrar as fit, proper and suitably experienced, and can be readmitted to the temporary register²¹. An example may be where someone was removed due to unmanaged health concerns, but their health has since improved.

¹⁹ See paragraph 31 below.

²⁰ Article 37(2C) of the Order, as amended by the Coronavirus Act 2020.

²¹ Article 9A(2)(a) of the Order allows the Registrar to consider whether an individual is fit, proper and suitably experienced to be registered as a nurse, midwife or nursing associate with regard to the emergency.

Applications for permanent registration

34. If people who have been removed from our temporary register wish to join or re-join the permanent register in future they will need to satisfy our full registration requirements²². When considering an application for registration, the Registrar will consider whether an applicant meets our health and character requirements²³, and whether the applicant is capable of safe and effective practice.
35. It is important that the Registrar is able to take into account any information relevant to an application for registration or readmission, and this may include concerns raised about someone whilst on the temporary register, so we will keep a record of these and conduct an investigation into what happened before making a decision. However, we recognise that any concerns which arise during the emergency period are likely to have occurred in exceptionally challenging circumstances, and all relevant context will be taken into account by the Registrar, including the unprecedented nature of this Covid-19 emergency²⁴.

Review and monitoring

36. As with all of our processes, this guidance and process will be kept under review to assess its impact, and revised where appropriate. In line with our Public Sector Equality Duties we will also seek to monitor equality, diversity and inclusion (EDI) data in respect of our temporary registrants where possible, to assess the impact of this policy on people with protected characteristics.

²² <https://www.nmc.org.uk/registration/>

²³ <https://www.nmc.org.uk/globalassets/sitedocuments/registration/guidance-on-health-and-character.pdf>

²⁴ If the application for registration were refused, the applicant would be entitled to a registration appeal hearing where a panel would consider the case afresh. At this hearing evidence can be called, and the applicant has the opportunity to attend and make representations.