

NMC guidance on publication of fitness to practise and registration appeal outcomes

Introduction

- 1 This guidance explains our approach to the routine publication of, fitness to practise information about nurses, midwives, and nursing associates on our register and the publication of outcomes of registration appeal hearings or meetings. In this guidance we refer to the nurses, midwives and nursing associates on our register as ‘registrants’ and those appealing a decision by the Registrar as ‘appellants’.
- 2 We have a statutory duty to publish details of substantive orders and decisions made by our practice committees as soon as is reasonable. This includes orders made on review, restoration hearings, and any order to remove or amend a fraudulent or incorrect entry on the register. We must also publish the reasons that these orders are made, and details of any decision given on appeal.¹
- 3 We also have a statutory duty to publish decisions made by the Registration Appeal Panel which are unfavourable to the appellant as soon as reasonably practicable ²
- 4 We are subject to a range of statutory obligations relating to how we handle information. These include general duties under data protection legislation³ to process data:
 - 4.1. fairly;
 - 4.2. lawfully;
 - 4.3. transparently;
 - 4.4. accountably; and
 - 4.5. proportionately.
- 5 We have duties under our governing legislation and processes to disclose information at particular stages in our regulatory processes. We also have a general power⁴ to disclose information relating to a registrant’s fitness to practise. This guidance sets out our approach to the publication of fitness to practise information and registration appeal hearings or meetings. For information about

¹ Article 22(9) of the Nursing and Midwifery Order 2001 (‘the Order’)

² Article 37(11) of the Order

³ Including the General Data Protection Regulation and the Data Protection Act 2018

⁴ Article 22(10) of the Order

how we handle fitness to practise and registration information more generally please see our information handling guidance⁵.

- 6 We do not usually publish any information relating solely to the health of a registrant or appellant in order to protect their confidentiality as a patient and their privacy rights. This information is treated as confidential and will only be published in exceptional circumstances.
- 7 We have balanced the public interest in publishing fitness to practise information and registration appeal hearing or meeting outcomes with the privacy rights of the people on our register, and have set out within this guidance when we will publish this information, and for how long.

Key principles

- 8 We are committed to being transparent and open about our processes and the outcomes of our fitness to practise investigations and registration appeal hearings or meetings. We are also committed to protecting the confidentiality of registrants, witnesses, appellants and other people where necessary.
- 9 We are committed to providing information in a form that is accessible and in line with our values of fairness and transparency.

Publication of information

- 10 Fitness to practise information is published in three places:
 - 10.1. via the 'search the register' online search facility on the NMC website
 - 10.2. via the 'Employers Confirmation service' on the NMC website
 - 10.3. in the list of 'latest hearings and sanctions' on the website
- 11 Decisions on registrations appeals are published within the registrations section on the NMC website.

Online search the register facility

- 12 Our online published register is a list of all registrants who have a current and effective registration with the NMC. This means that their registration fees have been paid and their registration is up to date. If a registrant's registration has lapsed, it will not appear in the online search results. Some personal details we hold, such as the registrant's date of birth and address are not displayed online.

⁵ https://www.nmc.org.uk/globalassets/sitedocuments/ftp_information/ftp-information-handling-guidance.pdf and <https://www.nmc.org.uk/globalassets/sitedocuments/data-protection/registration-and-revalidation-information-handling-guidance.pdf>

- 13 Our online published register also contains details of a registrant's fitness to practise information. If a registrant has restrictions placed on their practice, including interim restrictions, this will appear against their entry on our register. Details of action we have taken in the past may also appear on the register, including where someone has been removed from the register by a fitness to practise panel. There are time limits on the publication of this information which are set out later on in this guidance.
- 14 All registration status details displayed online are fully explained in an online glossary. This is linked to from the results page and the individual entry pages.
- 15 No information will be displayed about deceased individuals once we have received formal notification of their death.
- 16 We keep a record of all sanctions imposed by any of the practice committees, including interim orders, striking-off, suspension, or conditions of practice orders and all voluntary removal decisions. We also keep a record of warnings and undertakings issued by the Case Examiners. These may be disclosed to employers and other enquirers on request where it is in the public interest for us to do so. The only exceptions to this are where the information relates to a registrant's health, or where an interim order was imposed but the case is subsequently closed without a finding of impairment.
- 17 The online search results will not indicate whether a registrant is the subject of an ongoing fitness to practise investigation as this information remains confidential until the case is referred for adjudication or an interim order is scheduled.

Case Examiner outcomes

- 18 Once we have carried out a fitness to practise investigation into a registrant, the Case Examiners consider their case and will decide whether it should be referred to the Fitness to Practise Committee for a full hearing.
- 19 Instead of referring to the Fitness to Practise Committee, the Case Examiners may decide that there are alternative ways of addressing concerns with a registrant's practice, for example by issuing a warning or agreeing undertakings.
- 20 When a registrant's case is dealt with in this way we will publish details of the action taken and any restrictions placed on their practice next to their entry on our online register.
- 21 We publish details of Case Examiner disposals⁶ subject to the following time limits:

⁶ Article 22(9) of the Order 2001 requires us to publish all decisions made by a practice committee to agree undertakings under Article 26(5A), and to issue a warning under Article 26(7)

Case Examiner disposal	Specified publication period
Advice	Not published
Warning	12 months
Undertakings	For the duration the undertakings are in force

- 22 Where a request has been made to review the Case Examiners' decision to issue a warning, the warning will continue to appear against the registrant's entry on the register with the status 'Under Review'.

Upcoming hearings

- 23 We publish information about upcoming substantive hearings on our website, under the heading 'Latest hearings and sanctions'. We update this twice a month, publishing details of hearings listed in the first half of the month on the 15th of the month before, and details of the hearings in the second half of the month of the 1st of that month. We publish the following information:
- 23.1. The registrant's name, PIN and the part(s) of the register on which they appear.
 - 23.2. The date and venue of the hearing.
 - 23.3. The local authority area where the events that are the subject of the allegation took place.
 - 23.4. The type(s) of allegation against the registrant which will be the subject of consideration by the panel. This information is uploaded approximately a week before the listed hearing.
- 24 We do not (and are not obliged to) publish detailed charges against a registrant before the hearing starts. We consider that putting such information into the public domain at this stage is disproportionate and can be prejudicial to a registrant, in that the charges may be subsequently amended and / or not ultimately proved by the NMC.

Substantive hearing outcomes

- 25 Hearings before the Fitness to Practise Committee are generally held in public and members of the public such as journalists are permitted to attend the parts of the hearing heard in public.
- 26 There will be times when Fitness to Practise Committee hearings are not held in public because the panel orders that all or part of it should be heard in private due to confidentiality reasons. This is usually when matters relating to the registrant's health are being discussed.⁷
- 27 Some cases involve a number of different factors, such as convictions, health, conduct or performance. When they are heard by the Fitness to Practise Committee, the panel hearing the case will try to hold as much of the hearing as possible in public. They will only go into private session for specific reasons. One example of this would be while dealing with matters relating to the registrant's health. Another could be when vulnerable witnesses are giving evidence, or when the health of a witness is being discussed, or if there is a serious risk that their identity or the identity of another anonymised person might be revealed. The published reasons will also follow this approach. Further information on how panels will decide when to go into private session can be found in our online Fitness to Practise Library⁸.
- 28 Members of the public are not able to attend hearings when they are in private.
- 29 At the end of a substantive hearing before the Fitness to Practise Committee, the 'latest hearings and sanctions' list on our website is updated to show the decisions and reasons in cases where a sanction is imposed. Recent decisions remain listed on our website for four months.
- 30 Where a panel decides that a registrant's fitness to practise is impaired and imposes a sanction, the details of the sanction and the full panel reasons will be published⁹ against their entry on the register with a link to the full reasons, subject to the following time limits:

Sanction	Specified publication period
Caution order	For the duration of the order
Conditions of practice order	For the duration of the order
Suspension order	For the duration of the order

⁷ Rule 19 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004

⁸ <https://www.nmc.org.uk/ftp-library/case-management/public-and-private-guidance/>

⁹ Article 22(9) of the Order 2001 requires us to publish all decisions by a practice committee which resulted in a substantive order being made under Article 29(5). The full panel reasons will be published including details of the charges, decisions on points of law, and any matters not proved.

Striking off order	5 years from the date the order takes force.
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- 31 Where a striking off order has been made, the registrant will continue to appear on our online register with the status 'Removed by a Fitness to Practise panel' next to their entry.
- 32 Where an order is reviewed at a substantive order review hearing, any extensions and / or variations to the order will be published against the registrant's entry on the register subject to the same time limits set out above.
- 33 There is no statutory requirement to publish the outcome of a hearing that has resulted in a finding of no impairment or a finding of impairment where no sanction is imposed. We will therefore not normally publish decisions in these cases.
- 34 Where a panel concludes that an allegation is not well founded, the registrant can ask for it to make a declaration to that effect¹⁰. There may also be cases where we think this decision should be published, and in such cases we will ask if the registrant consents to a declaration being made.
- 35 In these circumstances, the decision will be published on the latest hearings and sanctions section of our website for four months. Otherwise, all reference to the case will be removed from the website after the hearing.
- 36 The decision and reasons for publishing the decision will not include any information relating solely to the registrant's health, unless they have explicitly agreed to this information being included. Where necessary, the Panel will prepare private reasons for disclosure to the registrant, and public reasons for publication and wider disclosure.

Interim order hearings

- 37 Details of upcoming interim order hearings are not published on our website, although interim order hearings before any of our practice committees are held in public.
- 38 When an interim suspension or conditions of practice order is imposed the outcome and public conditions are published via the latest hearings and sanctions section on our website. Detailed decisions of interim order hearings are not published, and no information is published when an interim order is not made.

¹⁰ Article 29(1) and Article 29(2) of the Order

- 39 Details of the interim order will also appear against a registrant's entry on our online register for the duration the order remains in force¹¹.

Voluntary removal and lapsing whilst impaired

- 40 Where a nurse, midwife or nursing associate leaves our register through agreed removal we will record this against their entry on our searchable online register with the status 'removed by agreement – outstanding fitness to practise question'. The Assistant Registrar's reasons for agreeing removal will also be published against the entry on our online register for one year¹², after which the entry on our register will be removed.
- 41 The published reasons for agreeing removal will normally include a brief summary of the nature of the regulatory concerns and the professional's response but will not include details of the allegations considered. We'll share a draft of what we're proposing to publish with the professional in advance, so that they can comment on it before it is finalised and placed on the website.
- 42 Where agreed removal was applied for and granted during a final fitness to practise hearing, it may, depending on how far the hearing had progressed when the removal application was received, be appropriate to publish the panel's reasons along with the removal decision.
- 43 Professionals subject to a final sanction, can apply to a fitness to practise panel for the substantive order to be lifted so that they can lapse or be removed from the register¹³.
- 44 In cases where the panel decides to lift a substantive order to allow a professional to lapse or be removed from the register, it is in the public interest that we publish the panel's decision¹⁴. The panel's full reasons will be published against the professional's entry on our searchable online register, along with the status 'Lapsed whilst impaired' or 'Removed whilst impaired', for a period of one year, after which the entry on our register will be removed. The reasons will also be published on the 'latest hearings and sanctions' page for four months.

¹¹ There is a public interest in publishing the fact of an interim order, using our powers under Article 22(10) of the Order.

¹² Where a fitness to practise case did not progress to a final hearing however impairment is admitted as part of the VR process, or a finding of impairment is made by a FtP panel before VR is allowed, there is a public interest in publishing the decision to allow VR under Article 22(10) of the Order.

¹³ <https://www.nmc.org.uk/ftp-library/reviews/substantive-order-reviews/allowing-orders-to-expire-when-a-nurse-or-midwives-registration-will-lapse/>

¹⁴ Article 22(10) of the Order.

Incorrect & Fraudulent Entry

- 45 We publish decisions made by a panel of the Investigating Committee where they have found that an entry was incorrectly made or fraudulently procured¹⁵. In most cases the appropriate outcome will be that an order is made for the Registrar to remove the registrant's name from the register. The Investigating Committee may also make an order for the entry to be amended or take no further action¹⁶.
- 46 Where the Investigating Committee has made a finding of incorrect or fraudulent entry, the reasons and details of the order made (if any) will be published on the 'latest hearings and sanctions' page, and will remain on our website for four months.
- 47 If an order for removal is made, the registrant's entry will be removed from our online register after the appeal period has ended. If an interim order is made then this will appear against the registrant's entry on the register until removal.

Restoration to the register

- 48 Where a registrant has been struck off our register following a fitness to practise sanction, this information will remain published against their entry on the register for 5 years. After 5 years a registrant may apply to be 'restored' to the register if they can show that they meet the necessary registration requirements and that they are now fit to practise despite having been struck off.
- 49 Following a restoration hearing before a Fitness to Practise panel, we'll publish the outcome and full determination on the 'latest hearings and sanctions' page of our website for four months, whether the application for restoration is successful or not¹⁷.
- 50 Where restoration is granted and the panel make a conditions of practice order, the conditions of practice will be published against the registrant's entry on our online register for the duration of the order.

Appeals following a fitness to practise hearing

- 51 Following a fitness to practise hearing, registrants have 28 days to appeal the outcome. If an appeal is lodged then we'll still publish the panel decision on the 'latest hearings and sanctions' page, identifying that the sanction is not yet effective and subject to an appeal. Details of any active interim order pending the outcome of an appeal will be published. This information will also be published

¹⁵ Article 22(9) of the Order requires us to publish all decisions by a practice committee where there was a finding of incorrect or fraudulent entry under Article 26(7).

¹⁶ <https://www.nmc.org.uk/ftp-library/sanctions/what-orders-are-available-for-fraudulent-or-incorrect-entry/>

¹⁷ Under Article 22(9) of the Order we are required to publish all restoration decisions made under Article 33.

against the registrant's entry on our online register until the appeal has been resolved.

Changes to the register spreadsheet

- 52 The monthly 'changes to the register' spreadsheet published on our website details the sanctions and interim orders imposed by the Investigating Committee and the Fitness to Practise Committee in the last calendar month.

Registration Appeal hearings and meetings

- 53 Where the Registrar makes a decision which carries with it a right of appeal under Article 37(1) of the Order an appeal made by an appellant will be heard by a Registration Appeal Panel.
- 54 Upon the conclusion of a registration appeal hearing or meeting we'll publish the outcome and full determination of the hearing or meeting within the registrations section of our website for four months, if the appeal has been unsuccessful.
- 55 If an appellant is subsequently successful in a registration application during those 4 months whilst a decision is published, we will remove the unfavourable decision from the website when their registration application is accepted by the Registrar.

Information we don't publish

Information about the registrant's or appellant's health

- 56 We do not publish any information relating to the health of a registrant or an appellant, unless they explicitly consent to this information being published. This information is treated as confidential regardless of when the case was heard or whether the case was heard by the Investigating Committee, Fitness to Practise Committee or a Registration Appeal Panel.
- 57 This means we will not publish any reasons that relate solely to a registrant's or appellant's health. If information about a registrant's or appellant's health is disclosed during any part of a hearing that is held in public, it will be redacted from the published decision and reasons. However, if the registrant or appellant has expressly consented to the information being disclosed, then subject to meeting other legal obligations, such as under the General Data Protection Regulation, this may be disclosed. Where necessary, the panel will prepare private reasons for disclosure solely to the registrant or appellant concerned and public reasons for publication and wider disclosure.
- 58 We will also not publish any undertakings or conditions of practice that relate to a registrant's health.

Witnesses and other third parties

- 59 We will not usually publish the names of witnesses who have given evidence as part of a fitness to practise case or registration appeal hearing or meeting, or the names of other third parties who may have been identified during a fitness to practise or registration appeal case, for example patients, family members, and other healthcare professionals. Our published decisions and reasons will refer to these parties by an anonymised identifier, such as 'Witness 1', 'Patient A', 'Person 2', etc.
- 60 Where witnesses or third parties may have particular vulnerabilities, for example children, or complainants in cases where the allegation against the registrant is of a sexual nature, we will take care to ensure that individuals cannot be readily identified from the published reasons.

Information protected by the Gender Recognition Act 2004

- 61 We are committed to ensuring all people on or applying to join our register are treated lawfully and fairly, regardless of their gender identity or gender expression. We will not publish information that would disclose the fact of a person's transition to their affirmed gender¹⁸, unless they consent for us to do so, it is necessary to fulfil our statutory duties (for example if it is integral to the fitness to practise concerns) or we are otherwise permitted/required to do so by law¹⁹.
- 62 If we are notified that a registrant or appellant has transitioned to their affirmed gender, we will not publish any information which would disclose details of their sex assigned at birth. Where information has already been published about a registrant or appellant, we will review this to consider whether it would disclose their sex assigned at birth (for example by reference to their birth name and/or use of personal pronouns), and if so we will usually withdraw this information from publication subject to the exceptions above. Details of any restrictions on a registrant's practise will still be published against their entry on the online register.
- 63 We also apply these principles to other people involved in fitness to practise or registration appeal proceedings, including staff, witnesses and patients. In some cases it is possible to fully anonymise the details of people in a way that does not disclose the fact of their transition. In other cases we may need to consider redaction or withdrawal of publication of information, to protect that person's privacy.

¹⁸ 'Affirmed gender' includes 'acquired gender' as defined by the Gender Recognition Act 2004 ("the GRA")

¹⁹ Exceptions set out in section 22 of the GRA

Requests not to publish fitness to practise or registration appeal hearing or meeting information

- 64 We're required by law to publish details of all sanctions imposed by our Fitness to Practise Committees and unfavourable decisions following a registration appeal hearing or meeting. There's also generally a strong public interest in publishing the reasons why a Fitness to Practise Committee has imposed a sanction or why an appellant has been refused registration for the periods already set out in this guidance. We consider the publication periods set out in this guidance strike the right balance between us fulfilling our functions as a transparent and accountable regulator and the rights of the individuals involved in our fitness to practise or registration appeal proceedings.
- 65 For this reason registrants or appellants won't generally have the right to object to the publication of the findings of a Fitness to Practise Committee or a registration appeal panel. However there may be exceptional circumstances where the impact of publication on an individual would justify departing from our general approach. Any objection to publication would need to be supported by evidence of the exceptional circumstances resulting from publication²⁰; we would review this evidence and decide whether the circumstances justify not publishing the decision.

This guidance sets out the approach we'll usually take when publishing FtP or registration appeal hearing outcomes. We have separate information about how to make data protection and information requests on our [website](#)²¹.

²⁰ In *General Medical Council v X* [2019] 1 WLUK 255, it was held that the outcome of a doctor's FtP hearing should not be published due to the real and immediate risk of suicide, which was evidenced by a psychiatrist's report.

²¹ <https://www.nmc.org.uk/contact-us/data-protection/>

Revision History

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1.	1 August 2017	Director of Fitness to Practise 1 August 2017
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3	21 October 2019	Director of Fitness to Practise 14 August 2019 Director of Registrations 7 August 2019
4	26 June 2020	Director of Fitness to Practise 14 January 2020
5	3 February 2021	Head of Professional Regulation Policy and Legislation 20 January 2021
6	3 May 2022	Assistant Director of Fitness to Practise 27 April 2022
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