

# Notice of our hearings and meetings

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## Overview

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The amount of notice we give depends on the type of hearing, and we count the number of days' notice provided to the nurse, midwife or nursing associate from the day after the notice is sent.<sup>1</sup>

[Our Rules](#) specify how many days' notice we should give and the information the notice should contain.<sup>2</sup>

We will notify a nurse, midwife or nursing associate of any hearing in relation to their fitness to practise and give them the opportunity to attend. We will also notify a nurse, midwife or nursing associate of certain [meetings](#) and give them the opportunity to send in a written response.

## Where do we send notices?

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We have to send the notice of hearing either by post or by email.

Where we send the notice by post, we use recorded delivery and provide the panel with a copy of the recorded delivery details. We send our notice of hearing to the nurse, midwife or nursing associate's address which is held on our register.<sup>3</sup>

Nurses, midwives or nursing associates are required to provide us with an up to date address for our register and they should inform us within 28 days of any change of details.<sup>4</sup> If the nurse, midwife or nursing associate hasn't given us their up to date address, we'll send any notice to the last known address, if it's more likely to reach them there.<sup>5</sup>

We will send a notice by email where we have a confirmed email address.<sup>6</sup> We treat an email address as being confirmed if it is recorded on our register. If there is no email address held on our register, we can still send a notice to an email address which the nurse, midwife or nursing associate has:

- Used to communicate with us in the past
- Told us about in the course of previous correspondence with us
- Provided to us over the phone in response to a request for updated contact details

We do not have to show that the nurse, midwife or nursing associate has read or accessed the notice, only that we sent it to the correct email or postal address, giving enough notice of the hearing in line with our legal requirements. However, where we have sent the notice by email, we will make reasonable efforts to contact the

nurse, midwife or nursing associate where we have not been able to confirm they have accessed the notice. A letter sent by post is treated as being served on the day after it is posted. A letter sent by email is treated as being served on the day it is sent.

If a nurse, midwife or nursing associate informs us that they are unable to receive the notice of hearing electronically, we will serve it by post to their registered address. As with keeping their registered address up to date, it is the responsibility of the nurse, midwife or nursing associate to actively inform us of this in good time, otherwise we will send the notice of hearing electronically. We will, of course, provide paper copies of notices where this is necessary; this will usually be as a reasonable adjustment. Again, it is the responsibility of the nurse, midwife or nursing associate to inform us in good time of any such reasonable adjustment.

We'll make reasonable efforts to serve the notice on the nurse, midwife or nursing associate. However, information from a third party, for example from an employer or the police, won't mean we'll treat a new address as a 'last known address' or an email address as confirmed until the nurse, midwife or nursing associate has confirmed to us that it's the right address for us to communicate with them. We may have to send confidential and sensitive documents and need to comply with data protection requirements.

If we've been told that the nurse, midwife or nursing associate is represented, we'll also send a copy of the notice to the representative by post or email.<sup>7</sup> Sending notice to the representative is not an alternative and we only do this in addition to sending the notice to the nurse, midwife or nursing associate unless we have the nurse, midwife or nursing associate's consent to send correspondence to their representative instead of themselves.

## Notice of interim order

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There's no minimum notice period for an interim order hearing, but the notice we give must be reasonable in the circumstances of the case.<sup>8</sup> There is no definition of what 'reasonable' notice is, but our [interim order guidance](#) gives more details on the approach we take.

We try to give at least seven days' notice of an initial interim order hearing; however, this may be shorter in certain cases where we need to restrict a nurse, midwife or nursing associate's practice as a matter of urgency. For instance, if the allegations are particularly serious, or we feel there are urgent public protection needs, we may need to send the notice less than seven days before the hearing.

If the nurse, midwife or nursing associate does not attend the interim order hearing a panel will decide whether the notice given is reasonable. A panel will consider:

- the nature of the allegation
- the primary objective of public protection, and
- the fairness of the interim order procedure as a whole.<sup>9</sup>

Because we will ask for interim orders only where there's an urgent need to restrict the nurse, midwife or nursing associate's practice, it may be reasonable to continue with a hearing even though the nurse, midwife or nursing associate might only have been given a few days' notice of the hearing.

If a panel makes an order and the nurse, midwife or nursing associate was unable to attend the hearing or provide detailed submissions because of the shorter notice period, we can schedule an early review of the order.

For review hearings we try to give 14 days' notice, but there may be instances where we provide a shorter timeframe. Our guidance on [interim order reviews](#) gives further details.

We will usually review interim orders at private meetings if we are not aware of any changes in circumstances since the order was made. The nurse, midwife or nursing associate will not be sent a notice of this meeting in advance, and if they want their review to take place at a hearing, then we will arrange one.

## Notice of preliminary hearing

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We must send notices of [preliminary meetings](#) to the nurse, midwife or nursing associate no less than 14 days' before the meeting is to take place.<sup>10</sup> The notice gives the nurse, midwife or nursing associate details of the date, time and venue of the preliminary meeting, and that they may attend in person, over the telephone, or provide written responses.

To help the nurse, midwife or nursing associate to prepare for the meeting, this notice will also include our reasons for holding the preliminary meeting, and a copy of any documents that we intend to show the Chair.

## Notice of final, substantive order review or restoration hearings

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We have to send notice of final (or 'substantive') hearings, and [substantive order review](#) or restoration hearings to the nurse, midwife or nursing associate no less than 28 days before the hearing.<sup>11</sup>

### What's in the letter?

The date, time and venue of the hearing. If we have to change the venue for the hearing after the notice has been sent, we'll inform the nurse, midwife or nursing associate in writing where possible.

The letter also gives an explanation of the nurse, midwife or nursing associate's right to:

- attend, be represented and present their own evidence
- call witnesses to give evidence on their behalf
- cross-examine any witnesses that we call to give evidence.

It also states that a panel of the Fitness to Practise Committee (the panel) can [proceed in their absence](#) if they don't attend, and impose an [interim order](#) where appropriate.

We ask the nurse, midwife or nursing associate to tell us within 14 days of the notice being received, whether they plan on attending the hearing, and if they will be represented, or if they aren't attending, whether they'll be represented in their absence. We ask them to tell us this.

### What's in the notice letter?

In cases where the allegations relate solely to a nurse, midwife or nursing associate's health, which mean that we hold meetings in private, the notice letter also gives the nurse, midwife or nursing associate the option to request that their hearing is held in public.

The notice of final hearing will contain a charge that sets out the allegations in detail, including the facts that the panel will consider.

We ask the nurse, midwife or nursing associate to respond to the allegations and let them know that any admissions made will be taken into account by the panel considering their case.

We also tell the nurse, midwife or nursing associate of possible actions that the panel may take at the hearing. This includes the sanctions that a panel may impose on the nurse, midwife or nursing associate if their fitness to practise is found impaired.

For substantive order review or restoration hearings, the notice must contain a copy of the order made against the nurse, midwife or nursing associate at the final hearing, and the panel's reasons for making that order. If an early substantive order review is required, we will inform the nurse, midwife or nursing associate that the order is being held under the panel's [power of early review](#).

In addition to our legal requirements, we include other information that we feel will help the nurse, midwife or nursing associate to prepare for their hearing. This includes links to our website about the hearing process.

## Notice of final, substantive order review or restoration meetings

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As with the notice of hearing, we send a notice of final (or substantive), substantive order review or restoration meeting to the nurse, midwife or nursing associate no later than 28 days before the meeting.

### What's in the notice letter?

The notice doesn't give the exact date of the meeting, but it tells the nurse, midwife or nursing associate the earliest date the meeting could be held.

A charge that sets out the allegations in detail and includes any documents or evidence that we have not already sent to the nurse, midwife or nursing associate.

We ask the nurse, midwife or nursing associate to respond to these allegations within 28 days and inform them that any admissions they make will be considered by the panel considering their case.

We also set out the possible actions the panel may take at the hearing, which includes the panel's power to make an interim order, and the sanctions it may impose on the nurse, midwife or nursing associate if their fitness to practise is found impaired.

In the case of a substantive order review meeting, the notice will contain a copy of the order made against the nurse, midwife or nursing associate at the final hearing, and the panel's reasons for making that order. The meeting will be held before the substantive order expires.

## Notice of resuming a hearing

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Where a hearing has been postponed or adjourned to resume at a later date, we must notify the nurse, midwife or nursing associate of the date, time and venue of the resuming hearing as soon as we are able to do so.

There is no minimum notice period and there is no legal requirement for a resuming hearing notice to be in writing,<sup>12</sup> however, we will send the nurse, midwife or nursing associate confirmation of the date, time and venue following the adjournment, in writing where we can.

Before the hearing adjourns, we will try to agree the date, time and venue of the resuming hearing with the nurse, midwife or nursing associate, if they've attended. If everyone agrees during the hearing, the panel Chair will announce the details of the resuming hearing before the hearing adjourns.

If the nurse, midwife or nursing associate didn't attend the hearing, or it wasn't possible to agree on a resuming date, we'll confirm the details after the hearing, and send people the details as soon as we can.

1 Rule 34(5)(a) the Rules

2 The Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ("the Rules")

3 Rule 34(1)(a) of the Rules

4 General Medical Council v Olufemi Adeyinka Adeogba, General Medical Council v Evangelos-Efstathios Visvardis, [2016] EWCA Civ 162, paragraphs 21-23

5 Rule 34 (1)(c) of the Rules

6 Rule 34(1)(b) of the Rules

7 Rule 34(2) of the Rules

8 Rule 8(4) of the Rules

9 Rule 8(6) of the Rules

10 Rule 18(4) of the Rules

11 Rule 11(1)(b) of the Rules

12 Rule 32(3) of the Rules