

CHRE Performance Review 2009-2010 – Nursing and Midwifery Council

NOTE: For the purposes of publication, the comments made by CHRE, together with our responses (submitted March 2010), have been amalgamated into our original submission of December 2009.

Throughout this submission, references to “the Order” are to the Nursing and Midwifery Order 2001, as amended.

Where available, web links are provided in footnotes as supporting evidence. It should be noted we have launched a new website since the performance review documentation was submitted to CHRE. Where a link is not provided, the document may be unavailable or is being revised; any updates will appear on our website in due course. If you have a specific request, please contact us by email at communications@nmc-uk.org

3. Third function: Fitness to practise

Standard	Pages
3.1 The regulator has an accessible process through which patients, the public, employers and others can raise concerns about registrants. The regulator provides information to those raising concerns about how the matter will be dealt with.	
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Standard		
<p>3.1 The regulator has an accessible process through which patients, the public, employers and others can raise concerns about registrants. The regulator provides information to those raising concerns about how the matter will be dealt with.</p>		
Minimum requirements	2008-2009 Response	2009-2010 Response
<p>3.1 i) The regulator has a process to receive concerns against registrants that is publicly available, easy to understand and use.</p>	<p>Our website provides detailed information for anyone who wishes to refer a nurse or midwife to our fitness to practise procedures¹. This includes information about the procedures, together with examples of documents that may be submitted in support of an allegation. We provide information targeted at employers and managers² and separate information for members of the public³. We provide key information in 11 of the UK's most commonly used ethnic minority languages⁴ and include a link to this on our home page⁵. We also publish information leaflets tailored to the needs of each of the four UK countries³.</p>	<p>During the period January to May 2009, we provided telephone customer care training for all case managers and case officers, administrative staff, the Administration Manager and the Scheduling and External Liaison Managers – a total of 53 staff. The in-depth training, over two days, focussed on verbal and listening skills. Any action learning and development points, arising from the training, are being included in the staff member's annual personal development review. Team managers are doing follow-up assessment monitoring, which will be completed by end of March 2010.</p> <p>We are applying our new house style, with its requirement to use plain English, across the whole organisation and this is being reflected in our letters to fitness to practise participants.</p> <p>Working closely with stakeholders in the NHS and the</p>

¹ Reporting a nurse or midwife to the NMC - http://www.nmc-uk.org/Documents/FtP%20and%20Information/NMC_referral_form.doc

² Making a referral (information for employers and managers) - <http://www.nmc-uk.org/Employers-and-managers/Making-a-referral/>

³ Reporting a nurse or midwife to the NMC (information for the public) - <http://www.nmc-uk.org/General-public/Reporting-a-nurse-or-midwife-to-the-NMC/> [Note – the fitness to practice information leaflets for the public are no longer country specific - <http://www.nmc-uk.org/Publications/Information-for-the-public/>].

⁴ Other languages - <http://www.nmc-uk.org/Other-languages/>

⁵ NMC website – Home page - <http://www.nmc-uk.org/>

		<p>private sector, we have prepared a new guidance leaflet for employers who wish to refer nurses and midwives to the NMC. This will be available on our website in January 2010 and printed copies will be available for distribution in April 2010. (Standard 3.1(iii) provides further information.)</p> <p>We are planning to produce a new leaflet for members of the public during the year 2010-2011. While this will be primarily web based, we will be using the information about making a referral to us in other public leaflets.</p> <p>We will be doing detailed work on developing our customer service standards during 2010-2011.</p> <p>CHRE commented:</p> <p>What progress has been made on publishing leaflets for employers, the public and witnesses?</p> <p>NMC responded:</p> <p>New leaflets for employers, witnesses and members of the public will be published by the end of March 2010 and will also be available on our website. We will provide preview copies at the review meeting on 10 March 2010.</p> <p>CHRE commented:</p> <p>How will the customer service standards be developed? How will they be used by the NMC?</p> <p>NMC responded:</p> <p>Within the fitness to practise directorate, we will carry out some benchmarking, segmentation and activities with our customers. This will enable us to develop more detailed requirements by early 2011. Customer care standards will be developed, against which we'll monitor performance, including ongoing customer satisfaction reporting. In the</p>
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		<p>meantime, we're developing some interim standards in relation to response times.</p> <p>This work will feed into a corporate project, which is looking at improving the customer experience across the whole of the organisation. The project will run until the end of 2010.</p>
<p>3.1 ii) The regulator provides information in different ways to those raising concerns about how the matter will be dealt with.</p>	<p>In addition to the publications described in Standard 3.1(i), we have a range of support mechanisms for those referring registrants to us:</p> <ul style="list-style-type: none"> • Our website includes a referral form that can be completed online and a telephone number, which can be used by anyone needing help with completing the form • Our first point of contact for callers is our Fitness to Practise Administration Centre. There is an escalation process to ensure that calls will be referred to a senior manager where the seriousness or urgency of the underlying issue demands this • We assist callers who cannot make their complaint in writing by arranging for a complaint to be made by telephone or at a meeting • Our website includes a fax number for urgent referrals • We will arrange for translation if the person making the allegation is unable to provide the information in English. <p>We worked with the GDC, GMC and other UK healthcare</p>	<p>We have provided six members of the case management teams with additional training in plain English writing skills. They are now leading the work to prepare all of our template letters for the case management system (CMS).</p> <p>This year, we have also provided additional assistance to visually impaired referrers by preparing a transcription of their verbal concerns.</p> <p>As noted in Standard 3.2(i), we are preparing three new leaflets for witnesses. If a witness has reading difficulties, the case manager will take them through the process and provide further support as necessary.</p>

⁶ *Who regulates health and social care professionals?* - <http://www.nmc-uk.org/Documents/Guidance/WhoRegulatesHealthandSocialCareProfessionals.pdf>

	<p>regulators to provide information about the role of all regulators. The leaflet, <i>Who regulates health and social care professionals?</i> explains to patients and the public the work the healthcare regulators do to protect the public and how they may be contacted. In addition to being available on our website⁶, it has been distributed widely through a number of organisations, including the Patient Advice and Liaison Service, Community Health Councils in Wales and the Citizens Advice Bureau in England and Scotland.</p> <p>We have given all our Case Officers training in telephone communication skills to ensure they provide a responsive service to our callers. The training was devised and provided by external experts. We give specific training in handling difficult calls, especially those from people who are distressed or who may have suffered bereavement. Everyone completing the training has a follow-up action plan and we monitor their performance.</p> <p>We encourage those with concerns about the midwifery care that they have received, to contact their Local Supervising Authority Midwifery Officer (LSAMO) for help and advice. In many instances the matter can be dealt with locally but if the complainant wishes to refer the matter to us, the LSAMO will provide guidance on what information is likely to be required. In the event of a particularly serious matter, the Local Supervising Authority has the power, following an investigation, to suspend a midwife from practice and refer the matter to us.</p> <p>CHRE commented:</p>	
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	<p>We welcome the Case Officers training in telephone communication skills and wondered if we could have further information on what the training covered and how performance is being monitored.</p> <p>NMC responded:</p> <p>The managers' information for our comprehensive telephone training package is attached. Please note that this attachment is commercially confidential and not for disclosure beyond the CHRE staff considering our review.</p> <p>The document includes the rationale and philosophy of the training, an outline of the two day course and an additional section for how managers can ensure that the training is used to best effect. There is also a post course personal development plan for each person who attends.</p> <p>CHRE commented:</p> <p>It would also be helpful to know whether the helpline staff or staff at other parts of the process suggest to complainants that they can approach other organisations for independent support and advice with their complaints e.g. CAB or ICAS. Also is the helpline a local rate or freephone number?</p> <p>NMC responded:</p> <p>It is our standard practice to advise parties to cases that they can seek independent support from other organisations including CAB. This advice would also be given over the telephone when it is considered appropriate to the nature of the call. The telephone number carries a standard call charging tariff.</p> <p>CHRE commented:</p>	
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	<p>We were concerned about the NMC's approach to dealing with complaints about midwifery care. We felt that asking the member of the public to refer the complaint to the LSAMO could be seen as insensitive as well as a barrier to complaining. What is the NMC's rationale for asking the member of the public to refer the complaint to the LSAMO rather than undertaking that task itself?</p> <p>NMC responded:</p> <p>We acknowledge the wording of this paragraph could be misleading. The NMC is often contacted by women who have concerns about the care they received from maternity services. If they wish to make a complaint to the NMC about a specific midwife this information is sent directly to our Fitness to Practise Department and the fitness to practise process to deal with complaints is begun. If they do not wish to pursue this route, we advise them about local systems of complaint handling, including the role of the LSAMO; their complaint is often related to the system of care they experienced or were unable to obtain. This is in line with Government policy on local resolution of complaints. Provided we have the woman's consent to do so, we do inform the LSAMO directly of such complaints.</p> <p>Once the LSAMO is aware of the complaint, a local investigation is carried out. Should serious concerns relating to a midwife's practice be identified, the LSAMO has the option of requiring supervised practice, referral to the NMC or, if very serious, suspension from practice in the UK pending referral to the NMC. If the woman has herself referred the midwife to the NMC, the LSAMO will also keep her informed and advise her of findings and</p>	
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	next steps.	
<p>3.1 iii) The regulator works with employers to help them understand what cases should be referred to them and when this should occur.</p>	<p>The Director of Fitness to Practise regularly meets with NHS Employers to discuss the opportunities for closer working and a more 'joined up' approach between local and national regulation. He also chairs a bi-monthly user group with representatives of the professional bodies to ensure that they are informed about, and engaged with, changes to the fitness to practise process.</p> <p>Senior staff meet directly with employers to explain our fitness to practise processes and provide advice on their use. These meetings are generally arranged in response to an issue or concern being raised by an employer. For example, during the last year, the Head of Case Management has attended seven events, giving presentations and contributing to discussions with stakeholders such as the Regional Directors at NHS Direct and the NHS Employers.</p> <p>We publish articles covering the role of the employer regularly in <i>NMC News</i>.</p>	<p>During this year, we have held a series of five roadshows for employers at various locations across the UK. We used these to explain our processes and gain an understanding of the needs and expectations of the nurse and midwife managers using our services. A total of 88 delegates attended from the NHS, the private sector and agencies. They represented every level of employment from ward staff through to directors of nursing. The workshops were well received with nearly 94 percent of delegates being satisfied or extremely satisfied with the event overall.</p> <p>Our learning from these has informed the production of a new leaflet for employers, which is due to be launched on our website in January 2010.</p> <p>In November 2009, we published the evaluation report of the roadshows on our website, together with a draft of the new leaflet and invited comments on the latter⁷.</p> <p>In September 2009, we held a workshop with representatives from complaints services and patient help lines from England, Wales and Scotland. This event provided them with more information about our fitness to practise processes, enabling them to both advise the public on when a referral to us may be appropriate and what will happen once a referral is made. Participating organisations have been cascading the information internally. Feedback from the event, assessed through written evaluation forms, was positive with all of the participants being either satisfied or very satisfied. We are also using the findings to support our ongoing</p>

⁷ Draft information for employers and managers - [Note – this link is no longer available. The resulting document, *Advice and information for employers of nurses and midwives*, has now been published - <http://www.nmc-uk.org/Documents/FtP%20and%20Information/Advice-and-information-for-employers-of-nurses-and-midwives.pdf>]

		<p>improvements to fitness to practise communications.</p> <p>The Head of Case Management continues to meet with stakeholders. Activities include regular meetings with groups of local supervising authority officers and individual meetings on request; attending conferences for supervisors of midwives and the NHS Employers Federation; speaking engagements at the Open University, patient care groups, patient advisory groups, employers and managers.</p> <p>CHRE commented:</p> <p>What outcomes has the NMC seen as a result of its work with employers?</p> <p>NMC responded:</p> <p>The employer roadshows conducted in 2009, together with the planned ones in 2010, are part of a longer term piece of work of engaging employers and other stakeholders. We have received positive feedback from the events so far. During 2010, we will start a piece of work to determine if this work has had any impact on referral rates to fitness to practise.</p> <p>CHRE commented:</p> <p>What was the outcome of the NMC's liaison with the CQC, Monitor and Dr Foster regarding concerns that patient care may have been compromised at Basildon and Thurrock University Hospitals NHS Foundation Trust?</p> <p>NMC responded:</p> <p>We wrote to the Care Quality Commission (CQC), Monitor and Dr Foster requesting they share any evidence they had relating to concerns about Basildon and Thurrock University Hospitals NHS Foundation Trust (the trust) and</p>
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		<p>received responses from CQC and Dr Foster. We visited the trust to conduct a review on 11 and 12 December 2009. As a result of this, we have made a number of recommendations for improvement to the trust, the Strategic Health Authority and the Local Supervising Authority. The draft report has been shared with key stakeholders for factual corrections before being considered by Council at its meeting in May 2010, following which it will be published on our website.</p> <p>Our experience with the trust has raised a number of issues about the responsiveness of other organisations to our requests for information and cooperation, which we will be pursuing.</p> <p>As reported in Standard 5.2(i) of our main submission, we are working with the system regulators to set up memoranda of understanding that will enable early sharing of information when concerns are identified.</p>
Extra supporting information	<p>We have implemented a fully redesigned triage process for all referrals to us. This new process, with additional staff and systems resource to support it, ensures that matters which are not for us are closed quickly, that further enquiries are made in a timely manner when necessary and, most importantly, that serious cases are identified and fast-tracked for potential interim orders. This is the first time we have implemented formal devolved decision making, enabling case managers to take decisions on cases within strictly defined and audited processes.</p> <p>Standard 3.5(i) gives information about our development</p>	<p>Following the CHRE audit of cases at the initial stages of the fitness to practise process, we are reviewing our triage process, particularly the supporting documentation. We are developing guidelines for staff on making decisions and are planning to have these in place by Spring 2010.</p> <p>We are reviewing our policy on devolved decision making to better describe the range of matters that do not justify referral to the Investigating Committee. The revised policy will be considered by the Fitness to Practise Committee in January 2010.</p>

⁸ *Standards for the supervised practice of midwives* - <http://www.nmc-uk.org/Documents/Standards/nmcStandardsGForSupervisedPracticeofMidwivess2007.pdf>

⁹ *Modern supervision in action, a practical guide for midwives* - <http://www.nmc-uk.org/Documents/Midwifery-booklets/NMC-LSAMO-Forum-Modern-supervision-in-action.pdf>

	<p>of a devolved decision making template. It enables us to refer callers who have issues outside our jurisdiction, to the most appropriate organisation. Similarly, we will assist a complainant to identify any additional information which might be required before an allegation can be referred to a Committee.</p> <p>Our <i>Standards for the supervised practice of midwives</i>⁸ are designed for use by Local Supervising Authorities, these cover the investigation of an allegation of lack of competence and all aspects of supervised practice from criteria for its use through to its structure, monitoring and follow-up. Failure to demonstrate competence following a period of supervised practice will result in referral to our fitness to practise procedures.</p> <p>We published <i>Modern supervision in action, a practical guide for midwives</i>⁹ in January 2008. This is a joint publication with the UK Forum of Local Supervising Authority Midwifery Officers, following a review of guidance previously published by the English National Board. We sent a copy to every midwife when we issued the personalised Intention to Practise notification forms in January 2008.</p>	
Supporting evidence	Provided in footnotes.	Provided in footnotes.

Standard		
3.2 The regulator keeps all parties informed of progress during fitness to practise cases.		
Minimum requirements	2008-2009 Response	2009-2010 Response

<p>3.2 i) All parties are informed of progress at the following stages at least:</p> <p>a) initial consideration</p> <p>b) referral to a fitness to practise panel</p> <p>c) final outcome and preferably on a six - eight week basis.</p>	<p>We keep the registrant and complainant up to date with the progress of the case by:</p> <ul style="list-style-type: none"> • Telling them when an allegation is first referred to the Investigating Committee • Giving them reasons for the Committee's decision • Explaining the final outcome of a case together with the reasons for the decision. <p>We moved to a sole supplier of legal investigations in September 2007; this has significantly improved the quality of our communication with registrants, complainants and potential witnesses during the investigatory stage.</p> <p>Once our new electronic case-management system is fully functional we will issue update letters on a regular basis and we anticipate sending these at 8-week periods, whether or not there are substantive developments to report.</p> <p>We have revised all our standard letters to ensure that they are written in Plain English and meet the needs of the recipient. We are undertaking further work to ensure that we provide comprehensive information, in straightforward language, about our processes and what the complainant and registrant should expect as participants.</p> <p>CHRE commented:</p> <p>We welcome the NMC's intended change to send update letters on an eight weekly basis although this only seems to relate to updating registrants and complainants. Is the same process used for updating employers? We also note that all the NMC's standard letters have been</p>	<p>Earlier this year, we commissioned some research with a sample of those who had participated in the fitness to practise process. Twenty in-depth interviews were conducted with nurses, midwives, referrers and witnesses. The report of the research has been published on our website⁷.</p> <p>In response to that research, we are preparing a series of new leaflets. There will be three for witnesses, covering information needed before, during and after hearings. These will be available on our website in January 2010 and printed copies will be available for distribution in April 2010. As noted in Standard 3.1(ii), case officers provide help and support to any witnesses who have reading difficulties. We are planning to produce a new leaflet for members of the public during the year 2010-2011 (see Standard 3.1(i)). We will also be preparing new leaflets for nurses and midwives who are referred to us, to help them understand the fitness to practise process.</p> <p>The research also informed the preparation of our new leaflets for employers (see Standards 3.1(i) and (iii)). In work planned for next year, we will be using the information to inform our developments in customer service.</p> <p>Our review of fitness to practise correspondence is ongoing and we have recently appointed a Head of Service Improvement to take this work forward. Over the last year, we have reviewed and updated 155 template letters in preparation for the CMS, 10 of these related to the triage stage. We are encouraging staff to suggest further improvements on an ongoing basis.</p> <p>Within the triage team, we schedule work to provide each case officer with one 'protected' work day per week. Calls</p>
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	<p>revised and would like to see copies of a selection of these documents.</p> <p>NMC responded:</p> <p>The case management system (CMS) prompts us to send a regular progress update to all parties, including employers.</p> <p>Copies of ten of our template letters are attached.</p> <p>CHRE commented:</p> <p>We have, however, received five complaints [C1, C2, C3, C4 and C5] in recent weeks alleging that the NMC has failed to respond to correspondence in a timely manner and about staff attitude when responding to telephone calls. In addition, from our section 29 work, we identified that in the case of [R1] the NMC had failed to write to the registrant informing her of her suspension until six months after the hearing. We would like to discuss these matters further with you.</p> <p>NMC responded:</p> <p>We recognise that we did not meet good standards of service in terms of timely and comprehensive correspondence when dealing with these cases. However, we believe that we have made significant improvements in this respect.</p> <p>A number of the cases which have come to your recent attention are ones which were dealt with by us some considerable time ago. In some cases, the information supplied to you by the complainants has not been fully comprehensive and omits a number of detailed responses from the Fitness to Practise team, up to Director level.</p>	<p>are monitored by colleagues, allowing the case officer to focus on processing cases. Case managers are in discussion about rolling this out to their teams in the New Year.</p> <p>We have simplified our letters to complainants by removing a lot of the background information, which has now been incorporated into the new leaflets for sending as enclosures.</p> <p>We have included the provision of regular update letters within our CMS. This will ensure that those referred to us are kept informed of the progress of an investigation, especially when it is delayed for any reason. We currently send letters at the beginning of each stage of the process, indicating how long the stage will take. When there are any extensions to the time periods, we notify everyone and set out the new time-line. CMS has a facility to issue general automatic emails and texts and we will be looking at our options for using this over the next year.</p> <p>CHRE commented:</p> <p>As the NMC is aware concerns have been raised with CHRE about the difficulties in receiving progress updates from the NMC. These have come from registrant organisations and complaints. Why has the responsiveness of the NMC declined over recent months?</p> <p>NMC responded:</p> <p>The implementation of the case management system (CMS) has required input from all fitness to practise staff to develop and test systems, and to participate in training. This redirection of operational staff has, unsurprisingly, had an adverse impact on our responsiveness. Furthermore, the rise in activity of new cases, coupled with</p>
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	<p>We would welcome the opportunity to talk to you about these, and other cases, at our meeting and we will, of course, have the necessary correspondence with us. We feel we have provided a much improved balance between progressing cases and responding to complaints at an appropriate level whilst recognising that we still have much further to go.</p> <p>CHRE commented:</p> <p>The NMC says that using a sole supplier of legal investigations has significantly improved communications with all parties. We are interested to know what benefits the NMC have seen.</p> <p>NMC responded:</p> <p>Our legal investigators, Capsticks, follow the attached Standard Operating Procedures (SOPs) when dealing with parties to cases during investigations. These SOPs, which are audited, have led to an increase in the number and quality of the contacts with all of the parties linked to the cases during the investigatory stage. The information supplied to parties has been improved leading to a better understanding.</p>	<p>the lack of a CMS, has further reduced our ability to respond.</p> <p>Now that the case management system is in place, we will use it to generate reminder letters at key points in the process.</p> <p>We need to be mindful of the number of letters we send to participants, and the impact on operational performance and case progression. We are reviewing the steps within the process and producing a map of when nurses and midwives, and interested parties can expect to hear from us. For example, we would send an update letter if the thirteen week external investigation had been delayed, but not an update at week eight of that investigation, when there would be little to say and the operational costs would outweigh any benefits.</p> <p>We believe that it is more important to issue progress updates that are helpful to the recipients than to issue them at pre-determined intervals. We will publish the results of the mapping process on our website in due course.</p> <p>We can discuss this with you in more detail at our review meeting on 10 March 2010 if that would be helpful.</p> <p>CHRE commented:</p> <p>We were surprised to read that the NMC has 155 template letters. Why are there so many letters?</p> <p>NMC responded:</p> <p>Our fitness to practise processes are complex, with each of the Practice Committees having a range of responsibilities, functions and outcomes. In order to reflect this, whilst maintaining operational accuracy and clarity for</p>
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		<p>the recipient, a range of standard letters has been created. We have benchmarked our practice against other regulators and believe this to be appropriate. The important issue is that our templates meet the needs of the recipients rather than the number of templates we have created.</p> <p>CHRE commented:</p> <p>We would like to hear about how the case management system's facility to generate automatic emails and texts could be used by the NMC.</p> <p>NMC responded:</p> <p>Our case management system (CMS) has the capability to send automatic emails and texts to any party involved in a case. We are currently considering how to use this functionality, which will, of course, be optional. We plan to start with organisational or co-ordination activities (for instance, in reminding panel members of arrangements of upcoming hearings or meetings). We also intend to offer a reminder service to nurses and midwives, together with other interested parties (for non-sensitive information only).</p> <p>We will roll out this approach during 2010-2011 and review each stage, taking into account the views of those who have participated.</p> <p>CHRE commented:</p> <p>CHRE referred an individual to the NMC in January 2009 and received no feedback on this referral until it was asked for in August 2009, is this normal practice?</p> <p>NMC responded:</p> <p>We believe this relates to an occasion when CHRE wrote</p>
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		to us following the conclusion of a case. If that is correct, the matter was dealt with internally on the basis that it was a matter relating to an original case. It was not regarded as being a new referral. We will be happy to discuss this further at our review meeting on 10 March 2010.
3.2 ii) The regulator complies with its publicly available disclosure policy, which sets out what information is available and at what stage it will be shared.	<p>We are preparing a single, consolidated disclosure policy to replace our existing guidance. The policy includes the following key points:</p> <ul style="list-style-type: none"> • In the initial stages, we disclose information only to the registrant concerned. • Once an allegation is referred to the Conduct and Competence Committee or the Health Committee, we notify a number of other interested parties, such as the employer, as required under the Order and the Nursing and Midwifery Council (Fitness to Practise) Rules 2004¹⁰ (Rule 9(3)). The same requirement applies when an allegation relating to a fraudulent or incorrect entry in the register is referred to a panel of the Investigating Committee (Rule 5(7)). • As required under the Order, we publish information about orders and decisions made by the Practice Committees, together with the reasons for the decisions and any decision subsequently given on appeal. We publish the information on our website¹¹ for a period of three months following the conclusion of a case. For Conduct and 	Our disclosure policy is now available on our website ¹² .

¹⁰ Legislation - <http://www.nmc-uk.org/About-us/Governing-legislation-and-external-oversight/Legislation/>

¹¹ Changes to the register - <http://www.nmc-uk.org/Hearings/Changes-to-the-register/>

¹² Operational guidance for sharing fitness to practise information - <http://www.nmc-uk.org/Documents/FtP%20and%20Information/Operational-guidance-for-sharing-fitness-to-practise-information.pdf>

	<p>Competence Committee hearings, the information includes details of the charge, identifies which facts were proved and gives reasons for the decision. For Health Committee hearings we publish only the sanction.</p> <p>CHRE commented:</p> <p>When is the consolidated disclosure policy document likely to be completed?</p> <p>NMC responded:</p> <p>We will provide a draft of the document at the meeting; it is due to be signed off by the end of March.</p>	
<p>3.2 iii)</p> <p>The regulator publishes the outcomes of final fitness to practise hearings, apart from health cases.</p>	<p>As noted under Standard 3.2(ii), we publish information about orders and decisions made by the Practice Committees, together with the reasons for the decisions and any decision given on appeal on our website.</p>	<p>There is nothing to add to our 2008-2009 response.</p> <p>CHRE commented:</p> <p>We have received feedback expressing concerns that the regulators publish conditions of practice in health cases from which it can be inferred that the registrant has a health condition. Is the NMC satisfied that the information it publishes adequately protects the public whilst also maintaining the privacy of the registrant?</p> <p>NMC responded:</p> <p>When making conditions, the Health Committee issues 'public' conditions that allow an employer to understand that the nurse or midwife has conditions of practice that concern their health, and 'confidential' conditions relating to the particular health condition; the latter are confidential to the committee, the nurse or midwife and their medical advisors.</p> <p>A22(9) of the Nursing and Midwifery Order 2001 requires us to publish the particulars of any orders and decisions</p>

		made by a Practice Committee, including the reason why fitness to practise is impaired. As a result of this, reference to health being the cause for impairment will be included in the reasons for any order made by the Health Committee - not just to conditions of practice orders.
Extra supporting information	We contributed to the development of, and are a signatory to, the Memorandum of Understanding (MOU) drawn up by Healthcare Professionals Crossing Borders. This enables us to exchange information (usually relating to fitness to practise) with other competent authorities. We also have MOUs with the Healthcare Commission, Care Quality Commission and the Association of Chief Police Officers (ACPO). We are working with NHS London to develop an MOU, enabling us to share information during investigations and inquiries; this will serve as a template for our work with all strategic Health Authorities.	What was previously an information sharing protocol with the Association of Chief Police Officers, the Crown Prosecution Service and the General Medical Council, has now being formalised into an MOU. We are currently working on preparing an MOU with the Independent Safeguarding Authority.
Supporting evidence	Provided in footnotes.	Provided in footnotes.

Standard		
3.3 Fitness to practise cases are dealt with in a timely manner at all stages.		
Minimum requirements	2008-2009 Response	2009-2010 Response
3.3 i) The regulator has a case management system.	Following the CHRE Special Report, published in June 2008, we accelerated work to introduce an electronic case management system. Through a competitive tendering process we commissioned ICS (providers of the Healthcare Commission case management system) to design and	We implemented our new CMS on 14 December 2009 and have already provided CHRE with a demonstration. The system is extremely comprehensive and proactively manages each case from initial referral through to substantive hearing, including the scheduling of the case. During 2010, as a result of implementing the CMS, we

	<p>help implement a system.</p> <p>This system is currently in development and on schedule to deliver limited functionality from the end of January 2009. From 2 February 2009, all referrals we receive (whether in the form required or as a preliminary enquiry) will be entered into the system.</p> <p>The full software delivery will take place on 31 March 2009, enabling us to carry out additional testing and training before it goes fully live, on 18 May 2009. By this date all existing data will have been migrated into the case management system.</p> <p>Although we initially described this as an interim solution, it is of sufficient scope and quality to provide a permanent solution.</p> <p>CHRE commented:</p> <p>We believe that the NMC's IT case management system is a crucial development. We would like to have an update on the progress of implementation of the IT case management system. What is the NMC's strategy for handling any further slippage in the timeframe for implementation?</p> <p>NMC responded:</p> <p>Release 1a) of the CMS occurred on 2 February 2009 (on time) and was supplemented by release 1b) on 23 February (on time). Currently, 57 users have access to the system and all new cases received after 2 February have been entered onto it. We intend to take delivery of the full product on 31 March but have decided to delay full implementation until mid-May to allow for additional testing and training time. This will ensure that the system</p>	<p>expect to demonstrate a substantial improvement in our administrative quality and process compliance. We acknowledge that delivery of the CMS is around six months behind schedule. This is due to the complexity of the system, with over 7,000 process steps to account for all case pathways.</p> <p>We have prepared a detailed users' manual for the system, which includes screen shots to guide staff through the various processes and more descriptive process manuals are in preparation for all aspects of the fitness to practise process.</p> <p>In the Autumn of 2008, we started scanning internal documents and completed and closed files into the system. Since the beginning of June 2009, we have been scanning all incoming correspondence. All phone calls and emails are also recorded in both the CMS and our own records management system.</p> <p>CHRE commented:</p> <p>We acknowledge that the NMC's Case Management System has now been implemented. What training have staff undergone to use this system?</p> <p>NMC responded:</p> <p>We had an extensive programme, first to 'train the trainers' and then to train the staff. Update and refresher training, either in workshops, drop-in sessions or one to one is currently being provided. We are developing a schedule of training, which will also complement our induction process for fitness to practise staff.</p> <p>CHRE commented:</p> <p>Will the system help to prevent incorrect and sometimes</p>
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	<p>can be fully utilised to maximum effect. The project is being managed using a full PRINCE-2 methodology and is currently on track.</p>	<p>confidential papers being sent out to individuals?</p> <p>NMC responded:</p> <p>The CMS has been configured to prevent these errors occurring. The relevant document bundles are selected from the specific case file within the CMS. When a change of address is notified and updated on our WISER database, CMS refreshes overnight and updates the newest address as the default address. When documents are issued from CMS, the system will only allow the default address to be used.</p> <p>The supplementary information provided in response to the CHRE comment on Standard 5.2(viii) provides more detail about our work on information governance and security arrangements.</p>
<p>3.3 ii)</p> <p>There are ways to identify and prioritise serious cases so that they can be referred to a panel to consider whether it is necessary to impose an interim order.</p>	<p>We have implemented a triage system ensuring that serious cases are prioritised, for example, those cases where patient safety is at risk and an interim order may be necessary.</p> <p>We review cases regularly to identify whether there are new issues, which might affect the risk profile and require us to refer the registrant to an interim orders panel.</p> <p>CHRE commented:</p> <p>It would be helpful if we could have further information on how the triage process is used to ensure that serious cases are prioritised.</p> <p>NMC responded:</p> <p>The triage flowchart and some supporting documents are attached. We believe these are self explanatory.</p>	<p>As noted in the extra information for Standard 3.1, we are reviewing our triage process following the CHRE audit of cases at the initial stages of our processes. We are, of course, disappointed by the outcome of the audit but believe that many of the issues are historic and have already started to be addressed. We have discussed the possibility of the CHRE sharing their audit processes so that we can self-assess at an early opportunity.</p> <p>As noted above in the extra information for Standard 3.1, the Fitness to Practise Committee will be focussing on this area at their meeting in January 2010. Further detailed practical and legal advice is expected to arise from this meeting, for implementation by the end of 2009-2010.</p> <p>As also noted in Standard 3.5(iv), we have recently appointed a Quality Assurance Manager who will join us at the beginning of January 2010.</p>

		<p>CHRE commented:</p> <p>What progress has been made by the NMC on the review of the triage process to ensure that serious cases are prioritised and, where necessary, referred to a panel for consideration of an interim order. What processes are in place to ensure that cases can be prioritised and referred to an interim order panel after they have been triaged?</p> <p>NMC responded:</p> <p>Our Head of Case Management is leading the team reviewing and improving our triage process. We have applied additional resources to review every triage case, and to progress it appropriately.</p> <p>A number of workshops to review and refine the process (and the quality of its outputs) have been held in February 2010. As a result of these, we have reduced the number of steps in initial processing from six to two. Cases are logged on the system on the day they arrive. All are then reviewed by the Triage Case Manager within 48 hours and the risk to public protection is considered. We have doubled Investigating Committee capacity since January 2010, thereby providing for any cases of a serious nature to be heard quickly. We have also made arrangements to ensure business continuity when the Triage Case Manager is absent.</p> <p>A number of standard operating procedures are being developed to cover the triage function. The interim referral procedure, that was deemed to be essential to the business, has already been completed and brought into use. The remaining five procedures are in various stages of development and will be signed off by the end of March 2010. We will provide training to support an early April</p>
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		<p>2010 implementation date.</p> <p>The referral criteria remain the same. This means that if a Case Officer, processing a case that was not of a serious nature, subsequently discovers new information that may impact on the initial view, the case can be referred back to the Case Manager for re-evaluation.</p> <p>Documents for triage cases will be scanned on receipt and we intend to work with these electronic documents until a decision to make a substantive case is taken. This will allow better tracking via our CMS and also eliminate a great deal of manual administrative work, which is not required if we decide to take no further action. The information will be retained in the CMS.</p> <p>This procedure will start in April 2010, once the processes have been finalised and training delivered. We are also reviewing our retention policy as we take this work forward.</p> <p>Our recently appointed Quality Assurance Manager is reviewing cases that have been closed within the last year, to identify emerging quality issues and further improvements that can be made. This will feed into our customer service improvement programme, referred to in Standard 3.1(i) of this supplementary information.</p> <p>As of the beginning of March 2010, we will have a weekly case review meeting for triage cases. We have also identified daily and weekly monitoring tasks to ensure cases remain within the expected timescales. In 2010, we will use data from CMS to analyse the sources of referrals.</p> <p>CHRE commented:</p> <p>What progress has been made on reviewing the devolved</p>
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		<p>decision making policy?</p> <p>NMC responded:</p> <p>At the end of February 2010, the Fitness to Practise Committee discussed devolved decision making and agreed how to take this forward, alongside a range of other guidance, including indicative guidance on interim orders. We will take the committee's decisions forward during this year and are planning to have revised guidance on devolved decision making in place by late summer 2010.</p>
<p>3.3 iii)</p> <p>There are systems and guidance to identify cases that have become delayed so that action is taken.</p>	<p>We moved to a sole supplier of legal investigations in September 2007. We included a contractual requirement that investigations should be completed within 13 weeks; exceptions to this must be authorised by our Head of Case Management, on a case by case basis. Compliance is currently 100% within the 13 weeks or a mutually agreed extension.</p> <p>Each Case Officer is responsible for their cases from receipt of the allegation through to closure; they are responsible for ensuring that their cases progress according to agreed timelines and for escalating any delays to their manager. The first stage of the new case-management system, which we began implementing during January 2009, will enable Case Officers and managers to monitor cases more closely, identify and prevent any potential delays and provide accurate management information.</p> <p>Our fitness to practise managers meet monthly to review and evaluate all cases which have been waiting longer than 12 months for a hearing. Our normal practice is to hold a directions hearing to understand the difficulties</p>	<p>Over the course of the last year, we have implemented significant additional review processes to manage all of our cases and ensure that no undue delays occur at any stage.</p> <p>We have four case teams (triage plus three substantive teams) whose work is reviewed sequentially at a weekly case progression meeting. This means that over the course of every month all of our 2,500 open cases are reviewed for progress. This represents a significant development and is, in part, responsible for our progress against our KPIs. This has been achieved in the absence of the new CMS.</p> <p>In addition to this, we hold fortnightly meetings to ensure that our older cases are not unduly delayed while awaiting scheduling for the substantive hearing (see Standard 3.3(iv)).</p> <p>CHRE commented:</p> <p>We have received feedback that there are still delays in the NMC fitness to practise department. What action is being undertaken to reduce delays identified in team</p>

	<p>with the case and agree an action plan for progress. We have recently implemented a similar process for cases where investigations have taken longer than six months.</p> <p>The Senior Scheduling Manager also reviews the overall waiting list on a weekly basis and directs the team as to how to schedule cases. They will raise issues with one of the senior managers, the Director or the Head of the Legal Services depending on the issues arising.</p> <p>CHRE commented:</p> <p>The NMC said that there is a contractual requirement that investigations should be completed by its solicitors within 13 weeks or within a mutually agreed extension. It would be helpful if we could have further information on how many extensions there have been and their timescales and also on what basis the extensions have been agreed.</p> <p>We believe that the NMC has demonstrated good management of its delayed cases.</p> <p>NMC responded:</p> <p>The draft of the annual management information report from Capsticks is attached. Please note that this attachment is commercially confidential and not for disclosure beyond the CHRE staff considering our review.</p> <p>Extensions can only be granted by the Head of Case Management or, in her absence, the Head of Business Development or the Director. We have identified that a large number of extensions have been requested as a result of difficulties in obtaining signed witness statements. We are implementing a new process to</p>	<p>meetings?</p> <p>NMC responded:</p> <p>We hold case progression meetings for Conduct and Competence Committee and Health Committee cases on a two weekly basis. Cases are reviewed and progress monitored, with appropriate actions or escalations taken.</p> <p>Starting in March 2010, we will be holding a weekly case review meeting of cases in the triage system.</p> <p>All cases in the Investigating Committee stage have been reviewed by the case owner. Case teams review progress on these cases on an ongoing basis by using the CMS to generate progress reports; the focus is on clearing the oldest cases. As a pilot of this approach, a Senior Case Officer has taken responsibility for continually reviewing the oldest 10 cases and offering support to staff to progress issues.</p> <p>More broadly, we have reviewed our staff support structures and staff are having monthly team meetings where they can discuss cases with their peers and escalate actions. We are also holding bi-monthly managers' meetings, where all managers come together and discuss operational issues, changes in legislation or processes, and any relevant learning points.</p> <p>The senior management team meets each fortnight (with a brief catch up meeting on the weeks in between) to review key operational issues and performance. This includes monitoring of progress with the oldest cases. This information is also discussed by our Executive Management Board.</p> <p>We have a weekly meeting between the Chief Executive,</p>
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	<p>ensure that cases are returned to us when a statement is verbally agreed by the statement giver (as documented in a file note) rather than on production of the signed statement (which is not required at the Investigating Committee stage). We believe this will considerably reduce the number of extensions requested and granted.</p>	<p>the Director of Corporate Governance and Organisational Development, the Director of Fitness to Practise and the fitness to practise senior management team. This meeting reviews progress with the action plan, which is designed to deliver excellent service and quality.</p>
<p>3.3 iv) Cases are listed and heard in a timely manner by fitness to practise panels after referral.</p>	<p>Our target is for a case to proceed from joining the hearings list to a hearing within six months. The average time is currently 6.24 months.</p> <p>As at the end of 2008, there were 145 cases that had been on the waiting list for more than nine months. The Head of Business Development and Support leads a separate fortnightly review of these cases.</p> <p>Delays are often outside our control; for instance we may be awaiting the results of a police investigation. We have implemented a review process and now convene panels to consider these cases and identify what, if any, action we can take to bring these cases to a quicker conclusion. Our aim is always to protect the public.</p> <p>CHRE commented:</p> <p>What is the NMC's current performance against its service standard that a case should be heard within six months of joining the hearing list?</p> <p>NMC responded:</p> <p>Please see statistics provided for 3.3(v) below.</p> <p>CHRE commented:</p> <p>Also has there been progress on the 145 cases that had</p>	<p>Increases in the permitted maximum number of members for the Investigating and Health Committees, which came into force on 23 November 2009, will allow the allocation of more panel members to these committees, so increasing the efficiency of case progression. To ensure sufficient numbers for case management needs, we have appointed 181 new panel members during 2009.</p> <p>Our internal performance target for case scheduling is six months between a hearing being ordered and the hearing commencing. During last year's review, the CHRE expressed concerns that 145 cases had been waiting for over nine months. We have focussed on our hearings queue over the course of the last year. We believe we have made good progress in this area and are now routinely exceeding our own six month target by scheduling cases to commence within three to four months of a hearing being ordered.</p> <p>CHRE commented:</p> <p>How many cases are now waiting over six months between a hearing being ordered and the hearing commencing? What percentage of cases are listed within six months of referral to a final fitness to practise hearing?</p> <p>NMC responded:</p> <p>The information provided below represents the situation as</p>

	<p>been on the waiting list for more than nine months?</p> <p>NMC responded:</p> <p>As at 18 February 2009 there were 137 cases waiting longer than 9 months for a hearing.</p>	<p>at 19 February 2010.</p> <p>At the Conduct and Competence Committee stage, we have 131 cases that have been referred to a hearing at the decision making, notice of referral, stage 2. Of these, 48 (37 percent) are older than six months – 33 are scheduled to be heard within the next few months and 15 are yet to be scheduled.</p> <p>These figures include cases that have been adjourned, together with a number of legacy cases where there have been engagement issues or that are awaiting a resuming date.</p> <p>It is also worth noting that we are scheduling new cases rapidly, with some being scheduled and heard within three months, well within our timelines. Therefore, the numbers above do not accurately reflect our progress with scheduling hearings, as they measure the work left in the system, not the work we have progressed in less than six months. However, we wish to make clear that we attempt to progress all cases (whether new to the system or legacy) at the same rate, so as not to have inequality of progression. Once we have cleared the final older cases, we are confident that we will exceed our six month target from request to hearing taking place.</p> <p>We review all cases in the hearings system (whether health or conduct and competence) on a two-weekly basis, with a view to escalating their progress.</p> <p>We can provide you with a more detailed update at our review meeting on 10 March 2010 should you wish.</p>
<p>3.3 v) The regulator has</p>	<p>We have undertaken detailed process redesign work, covering the entire fitness to practise process, as a result of which we adopted a new case timeline in April 2008</p>	<p>Our target timeline for case management (based on 15 months) remains the same as last year. We have agreed a number of KPIs to ensure that we are moving</p>

<p>service standards or equivalent measures for each key milestone of the fitness to practise process and performance is monitored against them. This information is accessible to its stakeholders.</p>	<p>(see Supporting evidence section below). Staff have access to detailed flowcharts, which guide them through the process and identify how to deal with a range of circumstances, including those rarely encountered.</p> <p>We are confident that this timeline can be met and, indeed, is being met for many new referrals since April 2008. Full achievement of the timeline cannot be realised until the historic backlog of cases has been cleared. Significant progress is being made in this respect as a part of the action plan following the CHRE Special Report. Alongside our electronic case management system, we have recruited 12 additional Case Officers.</p> <p>The current performance for substantive case management, using existing measures, is now 24 months, down from 36 months as reported previously.</p> <p>Additional, transparent, KPIs are currently being prepared in association with Price Waterhouse Coopers.</p> <p>CHRE commented:</p> <p>What is the NMC’s current performance for substantive case management and how was this figure calculated? Also what is the median time taken for a case to progress through the NMC’s fitness to practise processes?</p> <p>NMC responded:</p> <p>The attached statistics represent the progress made during the current financial year (1 April 2008 – 27 February 2009). The like for like comparison with the statistics used as the basis of the review last year shows an average case length of 27 months, however, this is the average across the whole year rather than any</p>	<p>towards compliance. These have been shared with, and approved by, the CHRE to ensure that they are both meaningful and holistic in nature. Case length, for example, is measured from receipt of allegation to conclusion of the case.</p> <p>Our headline case management performance is detailed below. Our 15-month target for 2009-2010 is 75 percent with an ultimate goal of 90 percent in 2010-2011.</p> <table border="1" data-bbox="1279 794 1995 1241"> <thead> <tr> <th></th> <th>15 month KPI (%)</th> <th>Average (months)</th> <th>Median (months)</th> <th>90th percentile (months)</th> </tr> </thead> <tbody> <tr> <td>2009/10</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Apr</td> <td>52.6</td> <td>20.3</td> <td>15</td> <td>47</td> </tr> <tr> <td>May</td> <td>56.5</td> <td>17.7</td> <td>13</td> <td>38</td> </tr> <tr> <td>Jun</td> <td>58.2</td> <td>16.1</td> <td>12</td> <td>33</td> </tr> <tr> <td>Jul</td> <td>64.6</td> <td>14.5</td> <td>11</td> <td>31</td> </tr> <tr> <td>Aug</td> <td>65.0</td> <td>14.7</td> <td>11</td> <td>31</td> </tr> <tr> <td>Sep</td> <td>67.2</td> <td>13.3</td> <td>10</td> <td>31</td> </tr> <tr> <td>Oct</td> <td>66.1</td> <td>13.4</td> <td>10</td> <td>31</td> </tr> <tr> <td>Nov</td> <td>66.5</td> <td>13.0</td> <td>10</td> <td>31</td> </tr> <tr> <td>Dec</td> <td>66.4</td> <td>12.9</td> <td>11</td> <td>31</td> </tr> </tbody> </table> <p>This has been achieved despite the delayed</p>		15 month KPI (%)	Average (months)	Median (months)	90 th percentile (months)	2009/10					Apr	52.6	20.3	15	47	May	56.5	17.7	13	38	Jun	58.2	16.1	12	33	Jul	64.6	14.5	11	31	Aug	65.0	14.7	11	31	Sep	67.2	13.3	10	31	Oct	66.1	13.4	10	31	Nov	66.5	13.0	10	31	Dec	66.4	12.9	11	31
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	<p>individual month (as supplied previously). We believe this hides significantly better performance towards the end of the year. As the statistics are only calculated retrospectively on closed cases, our current focus on the 'long end of the tail' actually makes the figures look worse as we are concentrating on closing the oldest cases first.</p> <p>The analysis of open cases is presented for the first time. Further refinement work is needed as our current system shows a number of cases open which we know to be closed. This manual checking exercise is time consuming but progressing well. Revised figures will be available at our meeting. It is pleasing that the median age of all open cases (for the first time including the preliminary enquiry stage) is currently 15 months.</p> <p>The new Fitness to Practise Committee are meeting in March to determine their management information requirements going forward. The CMS will provide the capability to supply this significantly more detailed management information in an appropriate format and timeframe.</p> <p>CHRE commented:</p> <p>Has any progress been made on developing transparent KPIs?</p> <p>NMC responded:</p> <p>The proposed KPIs for fitness to practise are as follows:</p> <p>1.2a – 90% of fitness to practise cases concluded within 15 months.</p> <p>1.2b – Average number of days taken to investigate conduct and competency related allegations</p>	<p>implementation of the CMS and represents significant progress in a relatively short period.</p> <p>These figures are in the public domain and presented to Council at each meeting.</p> <p>We have been producing other KPIs manually but, going forward, they will be produced automatically within the reporting function of the CMS.</p> <p>CHRE commented:</p> <p>Have all the service standards noted in 2008/09 performance review report been introduced? If so, what is the NMC's performance against these standards?</p> <p>NMC responded:</p> <p>The service standards referred to are key performance indicators that are part of our submission to both the Fitness to Practise Committee and the Business Planning and Governance Committee. They are as follows:</p> <ul style="list-style-type: none"> 1.2a – 90 percent of fitness to practise cases concluded within 15 months 1.2b – Average number of days taken to investigate conduct and competency related allegations 1.2c – Average number of days taken to create an interim order for high risk cases 1.2d – Proportion of successful appeals on fitness to practise decisions 1.2e – Number of adjournments in fitness to practise cases 3.1b – Number of complaints about how NMC conducts its business relating to:
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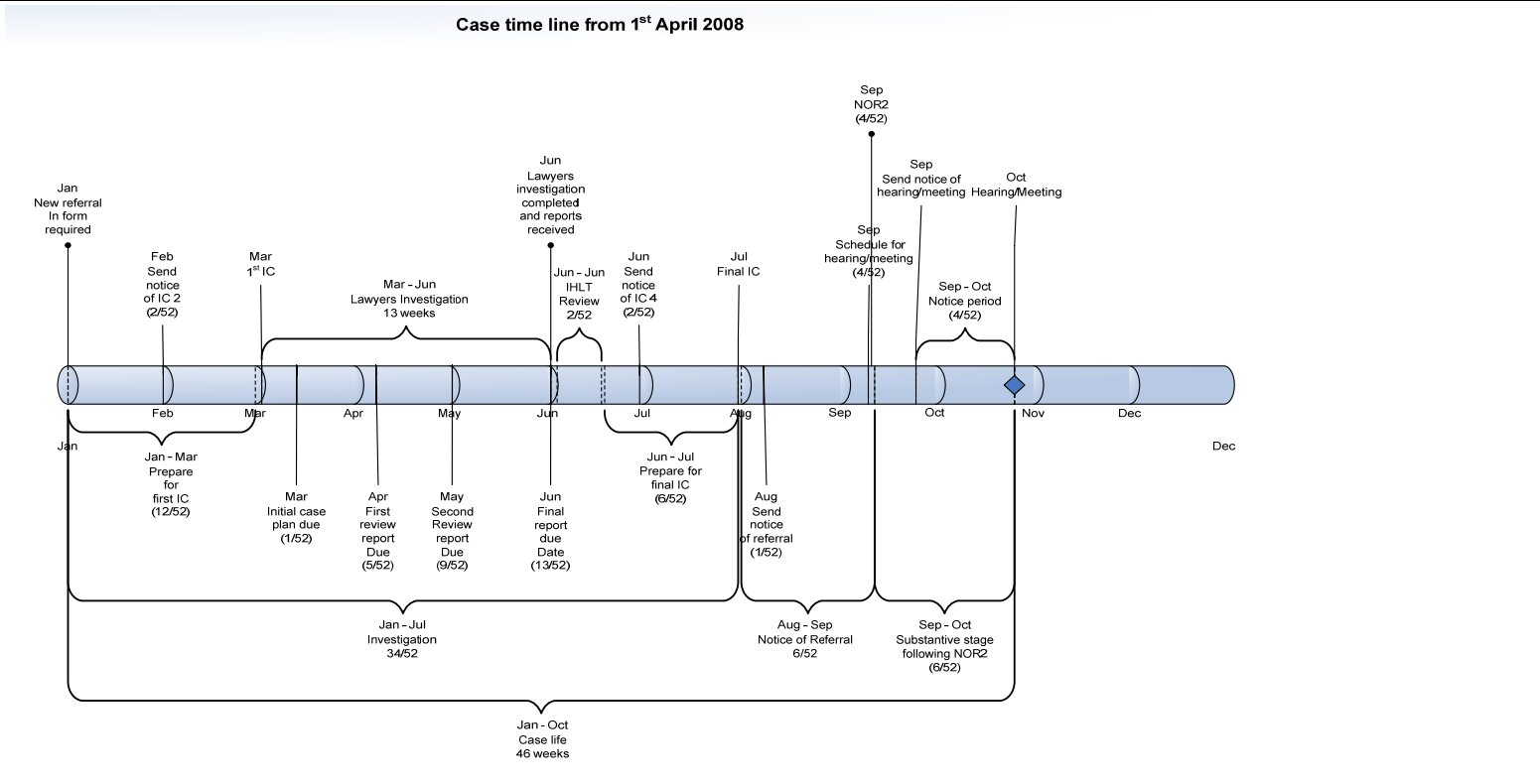
	<p>1.2c – Average number of days taken to create an interim order for high risk cases</p> <p>1.2d – Proportion of successful appeals on FtP decisions</p> <p>1.2e – Number of adjournments in FtP cases</p> <p>3.1b – Number of complaints about how NMC conducts its business relating to:</p> <p>(i) Fitness to Practice cases (as a % of caseload)</p>	<p>(i) Fitness to Practice cases (as a percent of caseload)</p> <p>We have made significant progress in meeting these service standards.</p> <p>In relation to 1.2a, the performance has risen from 52 percent on 1 April 2009, to 69 percent on 1 February 2010. We had aimed to get to 75 percent by the end of March 2010, but the late implementation of the CMS may prevent this. In 2010-2011, we aim to meet the 90 percent service standard as the impact of the CMS takes effect. Not only has the headline figure improved, but the 90th percentile (a measure of the oldest cases in the system) is also decreasing. This means that the longer standing cases are being resolved as they are actively targeted.</p> <p>Service standard 1.2b has a service target of 21 weeks from initial consideration to final consideration at the Investigating Committee (IC). We have had difficulty achieving this standard, and the average time taken for cases is 95 weeks as of 1 February 2010. It should be noted that this statistic is measured only when the case passes through the IC for the final time. We have been working with our external suppliers to manage longstanding cases through IC, and have doubled the number of IC panel meetings held per month since January 2010. This has resulted in the older cases being pushed through the system, and, as they are progressed, more are measured by this service standard. As a result, the measure gets worse as we progress the oldest cases. This analysis is supported by the fact that the 90th percentile is reducing as previously discussed.</p> <p>We believe that performance against this service standard will remain poor over the next few months as the oldest</p>
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		<p>cases are heard, but progress will improve in summer 2010 as the caseload is more normalised in terms of age. It is important, however, that we make progress on the legacy cases if we are to improve our performance overall. Failure to perform against this target is a consequence of the proper use of our resources.</p> <p>We have started some analysis of the impact the oldest cases make on our overall performance and would welcome a more detailed discussion with you at the review meeting on 10 March 2010.</p> <p>In relation to 1.2c, we have moved from an average of 140 days to schedule a new interim order to an average of 19 days, as at 1 February 2010. This means that we are now achieving the target of 21 days between the IC requesting a hearing and the hearing. We have achieved this by major process changes and reallocation of staff to ensure this priority activity starts on the day the hearing is requested. We are confident that we will maintain this service standard from now on.</p> <p>The data relating to the proportion of successful appeals (service standard 1.2d) is collected manually, as this facility has yet to be implemented in the CMS. Since 2006, there have been 48 appeals that have been closed. Of these, NMC lost 12, won 25 and reached a consent agreement for the remaining 11.</p> <p>The number of adjournments in fitness to practise cases (standard 1.2e) has improved from a rolling annual average of 25 percent of cases in the period April 2008 to April 2009, to 20 percent in the period January 2009 to January 2010. The target is 15 percent. On a monthly analysis, the adjournment rate now meets the target, and we are confident that the improvements in case</p>
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		<p>management, and the arrangements of hearings, have reduced the likelihood of adjournment for administrative reasons. Currently, the reasons for adjournment are likely to be due to factors outside of our control, such as requests from nurses and midwives, or their representatives, or their late submissions of evidence.</p> <p>The rate of complaints as a percentage of cases remains low at 1.5 percent. The target for service standard 3.1b is 5 percent. In fitness to practise, we are currently reviewing how we receive, log and respond to complaints to ensure NMC standards continue to be observed and that trends in complaints can be identified and acted upon.</p>
<p>Extra supporting information</p>	<p>We have structured services to give clear accountability.</p> <ul style="list-style-type: none"> • In addition to the single supplier of investigative services, noted in Standard 3.3(iii), we have contracted with a company that maintains a panel of doctors to undertake all the medical examinations required by the Health Committee. Our in-house legal team is responsible for case presentation at all stages of the process and for approving all charges. Taken together these actions have brought consistency at the investigation stage, in the drafting of charges and presentation of the cases, and will ensure more consistency in the decision making at each stage. • We have a protocol in place to ensure that interim order reviews take place as required and at the 15-month stage (the maximum permitted length of an interim order is 18 months). Our in-house legal team are responsible for initiating the process of making an application, to the High Court, for the interim order to be extended. The process requires 	<p>There is nothing to add to our 2008-2009 response.</p>

	<p>them to carry out an evaluation of the current risks posed, the nature of the allegations, the information available and the progress of the case. This is undertaken in sufficient time to enable a High Court hearing to take place before the expiry of the 18 month period.</p> <p>We implemented a dedicated Hearings Reception Service in July 2008, to provide assistance and general support to those attending hearings, including complainants, witnesses and registrants. Initial feedback from witnesses on both sides has been very positive.</p>	
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Extra supporting evidence



Standard		
3.4 There are processes for the appointment, assessment and training of fitness to practise panel members.		
Minimum requirements	2008-2009 Response	2009-2010 Response
<p>3.4 i) The regulator uses competences which reflect the skills and knowledge needed for the role of panellist/chair when recruiting panel members.</p>	<p>All our panel members are recruited by our Appointments Board against competences which are clearly defined and are designed to ensure that all panel members are able to undertake the role. The competences, which we reviewed during 2008, are available to potential applicants as part of the recruitment process; there is an additional set of competences for panel chairs¹³.</p> <p>We are aware that at least two of the other healthcare regulators have used our competences as the basis for their competences for fitness to practice panel members.</p>	<p>Our competency framework for panellists and chairs sets out clearly the skills and knowledge needed. Chairs need to meet the full set of competencies for panellists, as well as the additional competencies for the chair's role. The competency framework provides the structure which underpins recruitment, learning and development and appraisals.</p> <p>Recruitment of panel members is largely competency-based, with competency-based questions at both the application and interview stages. Candidates are also asked about relevant experience.</p> <p>The Appointments Board is currently reviewing the questions used at application and interview, to ensure that they are clear and precise and properly serve as competency-based questions. It is also reviewing other aspects of the recruitment process, such as what other forms of assessment it might be practicable to carry out, with the aim of providing fuller evidence of candidates' skills and abilities. Options could include some form of assessment centre and case study exercises.</p> <p>Chairs can be recruited externally as well as internally from current panellists. Candidates from both routes</p>

¹³ Advertisement for NMC Fitness to practise panellists and panel chairs – [Note – this link is no longer available.]

		<p>undergo a competency-based application and interview process.</p> <p>We are looking at ways to develop our panellists in the chairs' competencies, as part of their learning and development. This would help support individual panellists to become chairs, although they would still need to undergo the application and selection process, as well as the induction training for new chairs.</p> <p>As part of the application process, external candidates have to demonstrate that they have significant chairing experience gained in similar regulatory or tribunal settings.</p> <p>CHRE commented:</p> <p>Concerns have been raised about the expertise of panellists and their ability to reach consistent decisions. How is the NMC addressing this issue? Are panellists now using the decision template?</p> <p>NMC responded:</p> <p>Decision-making and the need to give good reasons are an integral part of learning and development for our panel members (chairs and panellists). These issues are dealt with in detail during the initial induction training and further support and information is provided at annual refresher sessions.</p> <p>The calendars for the last year (April 2009 to March 2010) and the coming year (April 2010 to March 2011) are attached, together with the programmes for the induction and refresher training held during the last year.</p> <p>From April 2010, there is a change to some learning and development events to provide focus on specific panels (as opposed to refresher sessions being for a mix of</p>
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		<p>members from different panels). These will be held more frequently to allow for smaller numbers of attendees, with the intention of providing more time for discussion of questions and concerns arising from the attendees themselves.</p> <p>In addition, panel members receive case law updates in <i>Best Practice</i>; these include criticisms of reasons, which have been directed at regulators, including the NMC.</p> <p>If individual panel members express a concern about decision-making and giving reasons, the Partners' Unit will give individual support as appropriate.</p> <p>We are concerned to ensure that our panel members have the right competencies and the right support to enable them to provide consistent, appropriate decisions which are supported by reasons that are clear and relevant.</p> <p>As part of its continuing work to improve the quality of panels in all senses, the NMC is undertaking various strands of work including an audit of panel decision making processes (see supplementary information for Standard 3.5(iv) below).</p> <p>A decision-making template is currently being drafted and it is expected that it will be in use from the end of April 2010.</p> <p>Other ways of providing learning and support will be piloted over the next year, such as e-learning and a web-based learning and development forum.</p> <p>There will be a review of appraisal outcomes, learning and development provision and the competency framework for panel members over the next year. These reviews will assist the NMC in selecting and appointing panel members</p>
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		<p>with the right skills, knowledge and experience for the role and to support them to maintain those. It will also highlight any weaknesses in these areas which need addressing.</p>
<p>3.4 ii) There is an assessment and appraisal process for fitness to practise panel members.</p>	<p>Our Appointments Board has agreed an appraisal process for panel chairs and panel members and we are starting the programme of those appraisals early in 2009.</p> <p>The appraisal is based on a 360 degree review process. The panel member/chair (appraisee) is required to identify up to three people, from each of four groups, to act as 'raters'(panel members / chairs / legal assessors / hearings officers). The appraisee is also required to undertake the 360 degree review. The process is carried out electronically, using a competence-based questionnaire and the ratings collated by an external provider. The panel member will then have an appraisal meeting with an independent external appraiser, during which the outcomes of the 360 degree review will be considered, together with other information such as panel days sat, training undertaken, the appraisee's view of their own contribution to the work of the panels, and training and development needs.</p> <p>We appoint each panel member for a term of four years and may then re-appoint them for a second term. Once the system is fully up and running, each panel member will be appraised at the end of Year 1 and Year 3, with the second of these feeding in to the re-appointment process. If a panel member is re-appointed for a second term, they will be subject to appraisal at the end of Year 5 and Year 7. Any issues of concern identified during the appraisal process will be addressed initially through the provision of additional, targeted training.</p> <p>We will deal with any behavioural or performance issue</p>	<p>A number of issues have led to a delay in the start of the appraisal process. The recent 2009 recruitment exercise almost doubled the size of the total pool of panel members. Following a review of the role of the Appointments Board, we believed that board members would be best placed to carry out appraisals of panel members. We recruited additional board members so that we now have 12 members who will recruit and appraise all panel members. The recruitment and induction of the new board members was completed in September 2009. There are now sufficient board members to act as appraisers of the panel pool.</p> <p>The new Appointments Board has reviewed the appraisal process and confirmed that it will be as planned except that board members instead of external people will be the appraisers. In December 2009, board members will receive training in 360 degree feedback and conducting an appraisal meeting.</p> <p>The appraisal of the 53 chairs will start in January 2010, with the expectation that they will be completed by June 2010. As well as taking forward the direct learning outcomes for chairs, there will be an evaluation of the appraisal process itself, which will be analysed by the Appointments Board.</p> <p>It is anticipated that the appraisal of panellists will begin in September 2010, with 50 percent completed by the end of March 2011. The remaining 50 percent will be appraised by September 2011.</p>

	<p>regarding a panel member as soon as it arises, whether through a regular appraisal or our complaints process.</p> <p>CHRE commented:</p> <p>We welcome the progress that has been made by the NMC on agreeing an appraisal process for panel chairs and members. It would be helpful if we could have further information on when this process is likely to be implemented and how the appraisal system will work.</p> <p>NMC responded:</p> <p>The appraisal process is as described in our original submission. Because they are integral to the appraisal process for panelists, the chairs will be the first group to be appraised and it is intended that their appraisals will start around June of this year. We currently have approximately 30 chairs but are in the process of recruiting more. Those chairs who have been in post for the longest will be the first group to be appraised. If necessary, the appraisal process will be modified in the light of experience gained in appraising this first group. We anticipate rolling out the process to other panel members in September of this year and, once the system is established would hope to be able to deal with up to 30 appraisals each month.</p>	<p>We will give priority to appraising those panel members whose first term of office ends in September 2011. In this way, appraisal outcomes will inform reappointments.</p> <p>CHRE commented:</p> <p>Has the appraisal of the NMC's 53 fitness to practise chairs commenced?</p> <p>NMC responded:</p> <p>Yes, this started in February 2010.</p>
<p>3.4 iii) Members receive feedback from the regulator and CHRE in relation to the cases they have considered and are aware of any learning</p>	<p>We give feedback to panel members on any of their cases that go to appeal. We also give feedback on general issues, such as the quality of the reasons associated with a determination, through training, induction and newsletters.</p> <p>Our publication <i>Best Practice</i>, which we are re-launching at the end of January 2009, provides all panel members with general feedback, such as learning outcomes</p>	<p>An officer from CHRE attends the refresher training for panel members, to give an update on the CHRE learning outcomes of all regulators, not just those for the NMC, and to share and inform best practice. All training will highlight areas of practice which need improvement, although not necessarily attributed directly to CHRE learning outcomes. As we are often already aware of difficulties and weaknesses in practice, we will address these without</p>

<p>from relevant Court outcomes.</p>	<p>identified by CHRE, together with information about matters such as changes to process and relevant issues arising from appeals against other regulators.</p> <p>CHRE commented:</p> <p>We were disappointed that 'Best Practice' has not been issued in recent months but support the re-launch of the publication.</p> <p>NMC responded:</p> <p>The latest issue of <i>Best Practice</i> is attached and will be produced quarterly. This is the responsibility of the External Liaison Manager, a post created within the last six months specifically to deal with panel member related logistical matters and communication.</p> <p>As noted above, we publish <i>Best Practice</i> for our panel members. It includes general feedback, such as learning outcomes identified by CHRE, together with information about matters such as changes to process and relevant issues arising from appeals against other regulators. The Director of Fitness to Practise also includes information in a monthly e-mail to panel members.</p> <p>Our training includes CHRE learning points and learning outcomes from Section 29 cases, together with broader issues, such as the need for clear reasons. We take up issues with individual panel members as and when necessary.</p> <p>CHRE commented:</p> <p>Whilst we appreciate that the NMC does take action to feedback to panel members about Court outcomes and section 29 reviews, we are concerned about the number</p>	<p>waiting for a specific learning outcome from CHRE.</p> <p>CHRE commented:</p> <p>We have not received responses to our learning points letters since November 2008. What action has been taken to address the points raised? How is learning now shared with panellists?</p> <p>NMC responded:</p> <p>We are grateful to you for raising this and regret not responding to the learning points letters. We will write to you separately setting out how we have used the learning points and the processes we have implemented to ensure that we respond in future.</p> <p>Our aim in using all feedback, including CHRE learning points, is to ensure our decisions protect the public and are fair, consistent and proportionate.</p> <p>As reported in our main submission for Standard 3.5(i), our Partners' Unit continues to focus on decision-making and the provision of reasons in all its learning and development programmes. It continues to use facilitators who are experts in the delivery of this knowledge, from external lawyers and the CHRE. We are increasing the resources we spend on panel member training and improving our processes for using feedback to identify issues for learning and development in this area. For example, issues arising from a chair's report will be discussed with the panel members concerned and, where necessary, extra support will be provided. Where we identify trends we will use the information to provide learning and development opportunities for all panel members. Over the last two years, this has included training from external lawyers on how panels analyse and</p>
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	<p>of learning points we share with the NMC (11.55% of cases reviewed had learning points) and the fact that many of these are repeated in further cases.</p> <p>NMC responded:</p> <p>We take all CHRE learning points seriously and communicate them with panel members, either in general terms or specifically to the individual panel concerned. For procedural matters we have, for example, held a joint workshop between NMC and Capsticks staff to ensure that the drafting of charges is improved. We believe that the number of learning points relating to charges drafted after this training has dropped considerably. We have analysed all of the learning points by panel chair, panel member and legal assessor to look for trends which might highlight individual performance issues however we have found that learning points tend to be evenly spread, subject to the variation of the volume of cases heard by individuals. Our overarching quality improvement programme is specifically aimed, amongst others, at improving this issue and the number of learning points will also be considered as one of our new KPIs.</p>	<p>interpret evidence and how panels draft reasons. An individual case, raised as a learning point, was highlighted by the NMC during at least two CHRE facilitated cross-regulator forum days, to try and establish consistency of approach and ensure that other regulators could also learn from our cases.</p> <p>In Summer 2008, we held a seminar, chaired by an independent counsel, which was attended by our in-house lawyers and the external lawyers who carry out our investigations. This half day seminar was specifically focussed on the drafting of charges in conduct and competence cases. We have also made significant revisions to our charging and scheduling processes for health cases as a result of learning points and High Court cases.</p> <p>Similarly, where the learning points identify issues about the earlier stages of a case (for instance the drafting of charges or case presentation) we will ensure that we use these for staff learning and development and build them into our action plan.</p> <p>As reported in Standard 3.5(iv) of our main submission, a new Quality Assurance Manager (QAM) post was created within fitness to practise, with effect from 1 January 2010. One of the specific functions of this role is to analyse and act upon learning points received from multiple sources, including the CHRE. We have agreed with CHRE that learning points will now automatically be copied to the QAM and the Partners' Unit, who are responsible for the learning and development of panellists.</p>
<p>3.4 iv) There is a training</p>	<p>Panel members are appointed subject to satisfactory completion of the initial training programme. The training programme comprises one day of introduction to the</p>	<p>The induction programme has been extended by a half-day to give more space to essential items.</p>

<p>programme for panel members that, amongst other things, covers equality and diversity issues.</p>	<p>NMC and fitness to practise matters; two days of skills training; and one day observing the work of a panel.</p> <p>We include a specific session on equality and diversity in the initial training, chairs' training and refresher training. In addition to this, equality and diversity is a theme that runs through all our training; we will, for example, look at equality and diversity issues that may arise between the registrant and lay members of the panel.</p>	<p>We appointed a new Learning and Development lead for our fitness to practise work in May 2009. She will be working on new ways of providing learning and development to panel members, including e-learning and workshops. She will also be reviewing outcomes from appraisals, to inform not only the training needs which might arise from them, but also to look back at and review the learning and development that panel members have undertaken prior to appraisal.</p> <p>In relation to equality and diversity, there are specific 'slots' within each induction and refresher training session, and within induction training for new chairs. It is also something which runs as a theme through all learning and development sessions. Panel members are encouraged to discuss and think about specific issues as well as the general issues. For instance, reflecting on how the gender makeup of a panel might affect the responses of witnesses and respondents.</p> <p>There have been two instances in the last two rounds of induction training where a new panellist trainee has been deselected from training (and therefore appointment) because of unacceptable comments made in relation to equality and diversity issues.</p> <p>CHRE commented:</p> <p>What training/guidance has the Learning and Development lead identified/ carried out for fitness to practise panellists?</p> <p>NMC responded:</p> <p>Please see attachments, provided in relation to the supplementary information for Standard 3.4(i), for programme content to date.</p>
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		<p>In general terms, the changes to the learning and development programmes from April 2010 are in response to feedback from previous events. One example of changes being implemented is to increase the numbers of case studies that are used during learning and development sessions; feedback indicates that panel members learn most from using these practical examples. Another is that panel members welcomed the greater time provided at more recent sessions in which they could share experience and knowledge with each other and this will become a standard feature of the smaller refresher days during 2010-2011.</p> <p>The Partners' Unit will be providing a specific session for Health Committee panel members. Although the agenda is not finalised yet, it is likely to include issues such as giving appropriate reasons; what types of medical reports to ask for and why; and conditions of practice orders. These are all issues raised by panel members and officers as being ones where more support will be helpful.</p> <p>The learning and development lead provides a follow-up session for each panel member six months after the induction training has been completed. She identifies any areas where the panel member lacks confidence or understanding and agrees how to address these issues. From the 2009 intake of panellists, the learning and development lead has provided some further support to individuals around issues such as scheduling and other fitness to practise processes and NMC guidance. Areas including legal knowledge, decisions and reasons, equality and diversity are refreshed during the ongoing learning events.</p>
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<p>Extra supporting information</p>	<p>During 2009, we are developing a protocol for providing support for new panel members and chairs. We are also reviewing and re-focusing the role of our Appointments Board and the support it gives to Council in recruiting and developing panelists.</p> <p>Towards the end of 2008, we established a dedicated website (NMC People)¹⁴ to recruit committee members and panel members. When panel members are being recruited, the following information is provided – competency framework, information pack, which includes role specifications, panel information and an application form.</p> <p>CHRE commented:</p> <p>We were interested in the protocol of support that is being developed for new panel members and chairs and would like further information on what this protocol will cover and how it is intended to be used by the NMC.</p> <p>NMC responded:</p> <p>Our proposed protocol of support for new panel members and chairs is in the early stages of development. The unit responsible for training and development, the Partners' Unit, is not part of the Fitness to Practise Directorate and we are looking, as part of the protocol, to further strengthen the links between the two. This will enable us to identify and address concerns at an early</p>	<p>Work continues between the Fitness to Practise directorate and the Partners' Unit to find ways of better supporting, updating and developing panel members. As well as new ways of delivering learning and development, we are also considering regular monthly email updates from the Partners' Unit, some sort of forum or focus group activity and action learning sets.</p> <p>We are aiming to ensure that best practice is shared between the Fitness to Practise directorate and panel members and that information is better disseminated.</p> <p>Meanwhile, we continue to provide informal support by responding to panel members' questions and learning needs as they arise. We also continue to ask new panel members for an evaluation and assessment of their first six months of panel work.</p> <p>In addition, members of the Partners' Unit have, since summer 2009, been spending one or two days each week working within the Fitness to Practise directorate. This has already provided a much better exchange of information and ideas, and has led to quicker resolution of problems that arise.</p> <p>We are not using the dedicated website 'NMC People' at present but it could play a part in future large scale recruitment exercises for panel members. We will also develop and expand the information on our own website, to include information about individual panel members;</p>
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¹⁴ Dedicated website – Nursing and midwifery regulation needs your skills – [Note – this link is no longer available.]

¹⁵ Review of the Terms of Reference of the Appointments Board (NMC/09/23) – <http://www.nmc-uk.org/Documents/Council%20papers%20and%20documents/Council%20papers%202009/March2009/NMC%2009%2023%20Appointments%20Board.pdf>

¹⁶ Terms of Reference of the Appointments Board (Page 22 of annexe 2 to paper NMC/09/22, which is at page 32 of the document accessed via this link.) - <http://www.nmc-uk.org/Documents/Council%20papers%20and%20documents/Council%20papers%202009/March2009/NMC%2009%2022%20Scheme%20of%20Delegation.pdf>

	<p>stage.</p> <p>Currently, we ask newly appointed panel members and chairs to let us know of any difficulties they are experiencing in establishing and developing their competences through sitting on panels. We also ask them to complete an evaluation and assessment of their first six months, indicating if they still have any areas in which they feel the need for further support or training, which we then provide as required. We are looking to develop this process and establish a focus group comprised of panel members to look at ongoing support and other issues. It is likely that the appraisal process, once implemented, will inform the development of the protocol.</p> <p>CHRE commented:</p> <p>We received feedback from a previous member of the NMC's appointment board who raised concerns about the proposed changes to the terms of reference of the board. We would be interested in knowing if and how this situation has been resolved.</p> <p>NMC responded:</p> <p>The proposals for revising the Terms of Reference of the Appointments Board were discussed with the Board in December 2008 and January 2009; they were content to support them. A paper setting out the role of the Appointments Board and its relationship to the Council and other committees was considered by the Council in March 2009¹⁵. The new Terms of Reference are included within an Annexe to a paper reviewing the Scheme of Delegation considered at the same meeting¹⁶. A copy of the previous Terms of Reference is attached.</p>	<p>collective information, such as equality and diversity statistics; information about the work of panel members, the competency framework and role specifications; and how we appoint panel members. Provision of this information is linked to the development of our new website. (The extra supporting information for Standard 5.2 provides more detail.)</p> <p>The Council agreed the changes to the Appointment Board's terms of reference in March 2009. This has enabled us to recruit board members with the knowledge and skills to focus on the recruitment and appraisal of our panel members. The board's role will be focussed on operational areas; strategic issues will remain the responsibility of the Fitness to Practise Committee. The board is building strong links with the committee, through reports between the two and six-monthly meetings of the chairs.</p>
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Supporting evidence	Provided in footnotes.	Provided in footnotes.
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Standard		
3.5 Decisions made at the initial stages of the fitness to practise process (pre-fitness to practise panel stage) and at final fitness to practise panels are well reasoned and focussed on the protection of the public.		
Minimum requirements	2008-2009 Response	2009-2010 Response
<p>3.5 i) Staff and panels involved in taking decisions at all stages receive training and guidance on how to carry out their work.</p>	<p>We provide training to Investigating Committee panel members, which includes:</p> <ul style="list-style-type: none"> • structured decision making • giving adequate reasons • a session led by one of our solicitors on how to structure reasons, including worked examples • a presentation by CHRE, explaining the CHRE perspective and the move to auditing Investigating Committee outcomes. <p>We held a session in November 2008 and will be running another in early 2009.</p> <p>During the last year, we have developed a devolved decision making template, which guides staff in screening out allegations where we have no jurisdiction. This enables us to focus our resources on those cases which fall within our jurisdiction and raise issues about the registrants' fitness to practise. All staff in the triage team were given training on the use of the template and their decision making is always reviewed by the Case</p>	<p>The Partners' Unit continues to focus on decision-making and provision of reasons in all its learning and development programmes. It continues to use facilitators who are experts in the delivery of this knowledge, from external solicitors and the CHRE.</p> <p>We continue to update panel members on learning outcomes, from all regulators, in which reasoned decision-making has been highlighted as an issue. We encourage panel members to look regularly at decisions on our website and to 'critique' them.</p> <p>The Partners' Unit is also working with the Fitness to Practise directorate to develop a drafting tool to help panel members draft the reasons for their decisions. This will ensure a consistent approach, together with the use of available guidance, such as that for indicative sanctions. It will also ensure that reasons are clearly articulated. We plan to release this, with appropriate support, to all panel members in Spring 2010.</p>

	<p>Manager and quality assured by the Head of Case Management.</p> <p>CHRE commented:</p> <p>It is clear that the NMC are working hard to provide appropriate training and guidance to its Investigating Committees. However, we have received a number of complaints from members of the public who feel that the decisions of the Investigating Committees are not well explained.</p> <p>NMC responded:</p> <p>We have recognised that the reasons given by panels at the Investigating Committee stage have not always been sufficiently comprehensive nor sensitive to the needs of the complainant. We have arranged additional training for panel members, provided by a number of external experts including CHRE and Field Fisher Waterhouse. We believe that the standard of the reasons accompanying our decisions has improved considerably and attach an anonymised 'before and after' comparison for your consideration.</p> <p>CHRE commented:</p> <p>I enclose two examples of this from [C2 and C6].</p> <p>NMC responded:</p> <p>We note that the cases cited by you were considered some time ago. During 2009/10 we also intend to implement a decision making pro-forma to assist panels in ensuring that they have addressed all of the salient points with sufficient clarity.</p>	
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<p>3.5 ii)</p> <p>The regulator has guidance on criteria for referral from the initial stages of the fitness to practise process to the final panel hearing which is focussed on protection of the public.</p>	<p>We give advice, to panel members of the Investigating Committee, as to what constitutes a ‘case to answer’ and, therefore, what should be referred for further consideration. We reviewed and updated our advice for the Preliminary Proceedings Committee and the Investigating Committee in December 2008¹⁷.</p> <p>CHRE commented:</p> <p>We can see that advice is given to panel members of the Investigating Committee as to what constitutes a ‘case to answer. It would be helpful if the NMC could clarify whether this is advice or guidance?</p> <p>NMC responded:</p> <p>The ‘case to answer’ documents have been produced by one of our legal assessors and approved by the Investigating Committee, when it had a strategic role. This is the standard legal advice given to panels of the Investigating Committee.</p>	<p>There is nothing to add to our 2008-2009 response.</p>
<p>3.5 iii)</p> <p>The regulator has comprehensive indicative sanctions guidance that facilitates consistent decision making focused on the protection of the public.</p>	<p>We have indicative sanctions guidance¹⁸ which is used by panels of the Conduct and Competence Committee and the Health Committee following a finding of impairment of fitness to practise; it is often referred to in the reasons accompanying a determination. We keep this guidance under review and the next review will take place in the business year 2009/2010.</p> <p>We have a library of drafting options for conditions that may be used when imposing a conditions of practice order. The library is comprehensive and reliable and the feedback from both panel members and legal assessors</p>	<p>We will be reviewing the indicative sanctions guidance in the last quarter of 2009-2010, in accordance with our management plan.</p>

¹⁷ Legal advice to PPC and IC (Annexe 1 to Paper NMC/08/113) - [Note – this link is not currently available.]

¹⁸ Sanctions - <http://www.nmc-uk.org/Hearings/How-the-process-works/Sanctions/>

	<p>ensures that it is reviewed regularly to keep it relevant.</p> <p>CHRE commented:</p> <p>We consider that the NMC has appropriate Indicative Sanctions Guidance, however, we have identified through our section 29 cases, that panel members do not always use it to facilitate appropriate decision making. We raised this in our learning point letters of [D1 and D2].</p> <p>NMC responded:</p> <p>As previously indicated, we intend to revise our Indicative Sanctions Guidance (ISG) in 2009/10. We have shared the CHRE's learning points with panel members and provide training on this point, however the sanctions guidance is indicative and the panels may move away from this where they feel it appropriate (and assuming their reasons are given in full). We are about to survey our panel members on their understanding of the ISG and strongly believe that the QA role will go some significant way to reducing this variation.</p> <p>We are also in the process of recruiting a substantial number of additional panel members from a highly qualified and experienced field of candidates. As you will be aware, we have amended our recruitment policies in respect of panel members since your previous report and we have been very impressed with the quality of those appointed in the last round. We expect as much, if not more, from this round.</p> <p>CHRE commented:</p> <p>We note that the NMC has a library of drafting options for conditions we would like to know whether this is updated following feedback from CHRE?</p>	
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	<p>NMC responded:</p> <p>Yes, it is.</p>	
<p>3.5 iv)</p> <p>There are internal audits of decisions taken that look at, amongst other things, equality and diversity issues.</p>	<p>We will conduct a baseline survey, in February 2009, to establish a QA process for the initial decisions. We have commissioned an independent lawyer, with experience of quality assuring other regulators, to sit in on a number of panel hearings (of all types) and prepare an anonymised report on the quality of decision making and the provision of legal assessor services. We will recruit two quality assurance officers in 2009. We will determine the competences for these posts once the baseline report is completed and we have identified the priority issues for ongoing QA.</p> <p>We record and monitor decisions made by the panels. Our Fitness to Practice Committee will take this work forward in 2009 and will identify any inconsistencies or anomalies in the outcomes of the different types of cases. We also prepare detailed statistical analysis of the outcomes of cases to identify any trends which might require our standards or guidance to be reviewed.</p> <p>CHRE commented:</p> <p>We note that you intend for the internal audits to be undertaken by a solicitor. It would be helpful to have clarity on whether the solicitor is looking at quality of the outcomes as well as the legality of the process and whether is being followed.</p> <p>NMC responded:</p> <p>The QA process, which we are currently commissioning, is intended to provide a baseline for our appointment of an internal QA team. The solicitor, who has held</p>	<p>We have appointed external solicitors to undertake a baseline audit assessment of our hearings process. This will cover the consistency and quality of case presentation, legal assessing and the panel decision-making processes at all stages of the process. This work will be carried out in the final quarter of 2009-2010.</p> <p>We have appointed a Quality Assurance Manager, who will be in post at the beginning of January 2010, and are recruiting a Quality Assurance Officer, to be in post by the end of March 2010.</p> <p>As reported in Standards 2.1(ii) and 5.2(iv), we are in the process of collecting equality and diversity data across the whole of our register. At present, audits can only be conducted on the basis of age and gender and we are in the process of doing the one for the calendar year 2009 (Standard 5.2 (iv) provides further information.).</p> <p>CHRE commented:</p> <p>We are still concerned about the consistency, reasoning and public protection focus of the NMC's fitness to practise decisions. What progress has been made on the baseline audit assessment of the hearings process? Will this be extended to decisions taken at an earlier stage? How will this information be fed into improving the decision making of its panellists?</p> <p>NMC responded:</p> <p>As has previously been discussed with CHRE, an external review of a sample of panels from each of the Practice Committees is being undertaken by an experienced lawyer</p>

	<p>independent roles of a similar nature for other regulatory bodies, will be assuring both the legal advice, due legal process and the subjective decision making processes and reasoning of the panels. This is intended to assure quality as well as compliance.</p>	<p>from an external firm of solicitors. This review involves observing panel members in their public and in-camera sessions, as well as during the reading days associated with the hearings or meetings. The lawyer is not participating in any decision making, and her role is explained to those involved at the start of a hearing.</p> <p>So that the lawyer can review a good cross section of panels, the observations are continuing during February and March 2010. We are establishing an internal group to review and consider the recommendations, which will include staff from the Fitness to Practise directorate and the Partners' Unit. This will ensure that we consider process changes at the operational level, together with the learning points that will be incorporated into future training.</p> <p>We will review the findings that pertain to the Investigating Committee elements of the process and compare with those that have come from the CHRE audit of initial findings, as well as our own internal audit work.</p> <p>The supplementary information provided for Standard 3.4(i) is relevant here also.</p> <p>CHRE commented:</p> <p>Could you please tell us what action the NMC has taken, or intends to take, in response to our report based on our audit of the initial stages of the NMC's fitness to practice decisions.</p> <p>NMC responded:</p> <p>In relation to concerns raised about retention and return of materials when cases were closed at triage, we now check the CMS file is complete and scan in any paper documents that are missing before we close the file. When</p>
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		<p>we move to retaining materials electronically (April 2010), this will be even easier to monitor. There is a quality assurance check in the standard operating procedure to ensure this happens for cases from March 2010 onwards. This will eliminate the potential for error in retaining material relating to closed cases, as it will already be in our systems.</p> <p>We have reviewed and revised all of our standard letters and amended them to improve their clarity and make them more user friendly. We have also trained all staff with an external letter writing course. We are reviewing all letters again as part of our ongoing service improvement and quality assurance action plan. This will be completed by the end of March 2010, with a new process (for which staff are starting training now) going live in April 2010.</p> <p>We are reinforcing (through training in the new standard operating procedure) the use of non-letter forms of communications, to supplement and confirm letters. An example of this is to phone complainants to check they understand that we are awaiting materials and without them, the case may be closed. Further recommendations, on how we support triage staff to identify the best way to progress a case, have been made and are being considered by the Head of Case Management. These will be implemented once the standard operating procedure is embedded. The focus of this will be on moving the case forward, not just processing documents incrementally.</p> <p>We have addressed the delays in response as part of the generic response times; please see the supplementary information provided for Standard 3.2(i).</p> <p>As reported in the supplementary information for Standard 3.3(ii), the devolved decision making criteria are</p>
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		<p>being discussed at a Fitness to Practise Committee seminar in February 2010. The committee will be considering the implementation process, which will follow a formal consultation (if necessary) or some focused workshops. We can talk to you in more detail about this at our review meeting on 10 March 2010.</p> <p>We are in the early stages of planning how best to involve clinical advisors at the triage stage.</p> <p>An action plan detailing this work has been developed, and we are happy to discuss this in more detail at the review meeting on 10 March 2010.</p> <p>CHRE commented:</p> <p>We understand that the NMC is collecting data on the six diversity strands. What percentage is held for each strand? How will the NMC improve the amount of data that they hold? Is the NMC compliant with Northern Ireland's equality legislation? How will the data be used?</p> <p>NMC responded:</p> <p>As reported in Standard 5.2(iv) of our main submission, we launched our diversity data collection with nurses and midwives in July 2009. We are currently asking nurses and midwives about their ethnic origin, sexual orientation, religious beliefs and if they consider themselves to be disabled. (We already have data on age and gender.) The collection process will continue until July 2010, by which time, all those currently on our register will have been invited to complete our questionnaire.</p> <p>As at 11 February 2010, we had received 171,647 responses, of which 3,387 were submitted online. Because of the timing of the registration processes, whereby the</p>
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		<p>nurse or midwife will receive her renewal pack about two and a half months prior to her renewal date, it is not possible to calculate a precise response rate, however, we estimate that it will be between 45 percent and 51 percent.</p> <p>We have a communications plan in place to improve our collection rate, which covers three core activities:</p> <ul style="list-style-type: none"> • Encourage continued participation as registrants receive their questionnaires throughout the year. For example, signposting the questionnaire from all areas of our website; obtaining coverage in the professional press; publicity through our own newsletters and updates. • Use events to maintain awareness of the project among nurses and midwives. For example, identifying key events to be attended by members of our equality and diversity team; ensuring laptops are available at events for nurses and midwives to complete the questionnaire; including leaflets, questionnaires and envelopes with materials sent out to events. • Use code champions to boost participation at ground level. For example, creating publicity packs for code champions; providing code champions with a supply of non-personalised questionnaires for distribution to colleagues and at events. <p>Having, in 2008, sought advice from the Department of Health, Social Services and Public Safety, we are, currently, not gathering information in line with Northern Ireland's requirements. We may conduct separate</p>
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		<p>research and monitoring in Northern Ireland at a later point if we believe there are any particular issues that need to be explored.</p> <p>As reported in Standard 5.2(iv) of our main submission, we are currently analysing gender and age information for those who entered the fitness to practise process during the 2009 calendar year and will produce a report in Spring 2010. The statistics in that report will be compared to the gender and age profile of the register to understand how our processes affect different groups of nurses and midwives. If we discover any variances, we will consider why they are occurring and what action we should take.</p> <p>Once we have completed our data collection exercise we will identify our priorities for analysing the data and how it will inform our work. At that stage we will also look at the collection rate across each of the strands and identify whether we need to do further work to collect information on each strand.</p> <p>Later in 2010, we will explore the possibilities of nurses and midwives using our new website to update their personal data.</p>
Extra supporting information		
Supporting evidence	Provided in footnotes.	Provided in footnotes.