

Meeting of the NMC Council

to be held at 10:00 on Wednesday 29 January 2014
in the Council Chamber at 23 Portland Place, London W1B 1PZ

Agenda

Mark Addison
Chair of the Council

Matthew McClelland
Secretary to the Council

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|----|--|-----------|-------|
| 1. | Welcome from the Chair | NMC/14/01 | 10:00 |
| 2. | Apologies for absence | NMC/14/02 | |
| 3. | Declarations of interest | NMC/14/03 | |
| 4. | Minutes of the previous meeting | NMC/14/04 | |
| | Chair | | |
| 5. | Summary of actions | NMC/14/05 | |
| | Secretary | | |

Corporate reporting

- | | | | |
|----|--|-----------|-------|
| 6. | Performance and risk report | NMC/14/06 | 10:10 |
| | Director of Corporate Services | | |
| 7. | Monthly financial monitoring: December 2013 results | NMC/14/07 | 10:45 |
| | Director of Corporate Services | | |
| 8. | Update on Francis report and other related healthcare reviews | NMC/14/08 | 11:00 |
| | Assistant Director, Strategy | | |

Refreshments: 11:15

Matters for discussion

- | | | | |
|----|---------------------------------|-----------|-------|
| 9. | Chief Executive's report | NMC/14/09 | 11:20 |
| | Chief Executive and Registrar | | |

- | | | | |
|-----|--|-----------|-------|
| 10. | Corporate plan and budget 2014 – 17: initial discussion | NMC/14/10 | 11:35 |
| | Director of Corporate Services | (verbal) | |
| 11. | Reports from Chairs of the Committees | NMC/14/11 | 12:20 |
| | Chair of the Audit Committee
Chair of the Midwifery Committee | | |

Matters for decision

- | | | | |
|-----|---|-----------|-------|
| 12. | Midwifery supervision and regulation: PHSO recommendations for change | NMC/14/12 | 12:30 |
| | Assistant Director, Strategy / Chair of the Midwifery Committee | | |
| 13. | Competency test for overseas applicants: consultation results and next steps | NMC/14/13 | 12:45 |
| | Director of Registration | | |
| 14. | Governance matters | NMC/14/14 | 13:00 |
| | <ul style="list-style-type: none"> • Appointments Board • Senior independent director role • Reviewing effectiveness • Code of conduct • Complaints procedure • Recruitment and selection of the Chair of the Council | | |
| | Secretary | | |
| 15. | Legislation changes to improve the efficiency of fitness to practise and registration processes | NMC/14/15 | 13:15 |
| | Chief Executive and Registrar | | |
| 16. | Questions from observers (for discussion) | NMC/14/16 | 13:30 |

Lunch: 13:45

Matters for information

Matters for information will normally be taken without discussion. Members should notify the Chair or the Secretary to the Council in advance of the meeting should they wish for any item to be opened for discussion.

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|-----|--|-----------|
| 17. | Chair's report | NMC/14/17 |
| | Chair | |
| 18. | Chair's actions taken since the last meeting of the Council | NMC/14/18 |
| | Chair | |
| 19. | Business assurance framework and quality assurance update | NMC/14/19 |
| | Director of Corporate Services | |
| 20. | Schedule of business | NMC/14/20 |
| | Secretary | |

The next public meeting of the Council is scheduled to be held on Wednesday 26 March 2014 at 9.30 at 23 Portland Place, London, W1B 1PZ.

Meeting of the Council
Held at 09:30 on 21 November 2013
at 23 Portland Place, London W1B 1PZ

Minutes

Present

Members:

Mark Addison	Chair
Maura Devlin	Council Member
Professor Judith Ellis	Council Member
Maureen Morgan	Council Member
Quinton Quayle	Council Member
Louise Scull	Council Member
Carol Shillabeer	Council Member
Elinor Smith	Council Member
Amerdeep Somal	Council Member
Stephen Thornton	Council Member
Lorna Tinsley	Council Member
Dr Anne Wright	Council Member

NMC officers:

Jackie Smith	Chief Executive and Registrar
Katerina Kolyva	Director of Continued Practice
Sarah Page	Director of Fitness to Practise
Alison Sansome	Director of Registration
Phil Shoosmith	Assistant Director, ICT (Item 8 only)
Mark Smith	Director of Corporate Services
Matthew McClelland	Assistant Director, Governance and Planning (Secretary to the Council)
Paul Johnston	Council Services Manager (minutes)

The meeting of the Council commenced at 09:30.

The Chair of the Council agreed that item 17, "Reports from Committees" be raised 'above the line'. The minutes reflect the order in which items were considered.

Minutes

NMC/13/157 Welcome from the Chair

1. The Chair welcomed all attendees to the meeting. The Chair extended a particular welcome to Maura Devlin, who was attending her first meeting as a Council member.

NMC/13/158 Apologies for absence

1. No apologies for absence were received.

NMC/13/159 Declarations of Interest

1. Professor Judith Ellis declared an interest in Item 9, “Key themes to inform the Education strategy”, by virtue of being Executive Dean, Faculty of Health and Social Care at London South Bank University.

NMC/13/160 Minutes of previous meetings

1. The minutes of the previous meeting of the Council held on 12 September 2013 were agreed as a correct record.

NMC/13/161 Summary of actions

1. The Council noted progress on responding to actions arising from previous meetings of the Council. It was agreed that all actions bar the action on 13/146 (which was not yet due) had been completed and could be removed from the log.

NMC/13/162 Performance and risk report

1. The Council received a report detailing progress against quarter 2 of the Corporate Plan 2013 – 16, progress against key performance indicators, and the corporate risk register.
2. In discussion on progress against the Corporate Plan 2013 – 16, the following points were noted:
 - a) Ongoing proactive engagement, including with the professions, would be crucial. The Executive would continue to develop the engagement model, which the Council would have the opportunity to consider before the end of the financial year. It was agreed that the Council would consider a ‘risk deep dive’ on profile and proactivity at its January meeting.
 - b) Other critical areas included embedding of the NMC behaviours within the organisation and a revised data strategy.

3. In discussion on the Key Performance Indicators, the following points were noted:

- a) The dip in performance in KPI1 had been forecast given that August and September were historically busy months for the Registration team and that the team had recently focussed on resolving complex overseas cases. Performance in October 2013, which was not available to report at the time of submitting the paper, had improved significantly. The forecast remained that the year end average target of 90% was not likely to be achieved.
- b) On KPI2, performance was consistently on or above target. The year end forecast should be amended to reflect anticipated performance rather than on the basis of achieving the KPI target for the remainder of the year.
- c) On KPI 3, performance in October 2013 was above forecast. A dip in performance was still anticipated due the number of older cases due to come through at investigation stage in the short-term.
- d) On KPI 4, performance was forecast to improve at an increasing rate in forthcoming months.
- e) The dashboard attached as Annexe 3 suggested that the length of hearings for historic cases remained high. For other cases the average length of a hearing was in line with the budget assumption. The high percentage of cases closed at the Investigating Committee was noted. It was noted that in addition to the information currently presented, future reports would include details of those cases between 18 – 24 months; 2 – 3 years; and 3 – 5 years of age.
- f) The Council welcomed the comprehensiveness and clarity of the information provided, but remained concerned about the rate of improvement on KPI4 required to meet the December 2014 target. The Council would benefit from further discussion and information on contingency options at the January meeting.
- g) Reporting on KPI6 had been amended to reflect the average staff turnover over the current financial year and was considered to be moving in the right direction.

4. On the Corporate Risk Register, the following points were noted:

- a) Risk CR8 had sufficient mitigations in place and consideration should be given to removing the risk from the Register.

- b) Further work was required around engagement. The Council would consider at seminar session engagement with patients and the public; and with the professions.

Action:	Add risk deep dive on profile and proactivity to the January Council session programme
For:	Secretary to the Council
By:	29 January 2014
Action:	Amend the year end forecast for KPI2 to reflect anticipated performance rather than on the basis of achieving the KPI target for the remainder of the year
For:	Director of Fitness to Practise
By:	29 January 2014
Action:	Provide further information on contingency options on KPI4 at the January meeting
For:	Director of Fitness to Practise
By:	29 January 2014
Action:	Consider removing Risk CR8 from the Risk Register and report to the Council on the outcome of those considerations
For:	Assistant Director, Governance and Planning
By:	29 January 2014
Action:	Add “engagement with patients and the public” to the Council agenda for January 2014
For:	Secretary to the Council
By:	29 January 2014

NMC/13/163 Monthly financial monitoring – September 2013 results

1. The Council received the monthly monitoring information for current and future reporting periods. Available free reserves at year-end were forecast at £7.4m. There were however some risks to achieving this as set out within the report.
2. It was noted that there were some areas where efficiency goals had been realised and others where they had not been fully realised. In addition efficiency savings had been recognised. Future information should include whether efficiency savings were recurrent or non-recurrent.

NMC/13/164 ICT Strategic Plan 2013 - 16

1. The Council received a presentation from the Assistant Director, ICT, which set out the potential future options for ICT development within the NMC, key outcomes being sought through the developing strategy and the key corporate risks that the strategy sought to address.

2. In discussion, the following points were noted:
- a) Improved ICT provision within the organisation brought with it a number of benefits, including the opportunity to improve the use and sharing of data and to facilitate wider engagement with a range of stakeholders, and to encourage higher staff morale.
 - b) Ongoing work in ICT should continue to seek to enhance the functionality and reliability of core systems, and much had been done in this area already. There remained a key strategic question about the extent to which future ICT provision should be transformational within the NMC, and the risks and costs associated with such a transformational approach would need to be explored more fully by the Council.
3. The Council welcomed the broad direction of travel and noted that it would need to formally re-explore short-term and long-term plans associated with the strategy in early-2014 as part of the approval of the business plan and budget.

Action:	Add ICT strategic plan to a future Council seminar programme
For:	Secretary to the Council
By:	29 January 2014

NMC/13/165 Key themes to inform the Education strategy

1. The Council received a presentation from the Director of Continued Practice which set out the potential key themes behind the education strategy.
2. In discussion, the following points were noted:
- (a) Engagement would form an important piece of the strategy. Networks were already in place that allowed for engagement with certain parties, but there was a need to further develop networks with, for example, Directors of Nursing, education institutions and students.
 - (b) Ward practice settings played a critical role in student nurses and midwives' education, and the strategy should enable further focus on this area.
 - (c) Quality assurance (QA) of education institutions was an important piece of work that tied in with evaluation of education standards. QA would need to be streamlined to be managed within existing resources and would need to add demonstrable value.
 - (d) The Education Advisory Group, which fed into the Executive

Board and included Council member representation, would play an important role in further development of the strategy.

3. The Council noted that further consideration needed to be given to how the Education strategy fed into the Council's wider strategy, and both the financial and human resources that would be necessary to ensure successful delivery of the Education strategy. The Council asked that the Education Advisory Group (EAG) in the first instance consider recommendations around short and longer term priorities and would consider a further report in open session at the March 2014 Council meeting.

Action:	Report EAG discussion on Education Strategy to the March 2014 Council meeting
For:	Director of Continued Practice
By:	26 March 2014

NMC/13/166 Update on Francis report and related healthcare reviews

1. The Council considered the report, which set out progress on implementing recommendations from the Francis report and further considered implications arising from related healthcare reviews.

NMC/13/167 Standards and guidance on the requirements for the five year rule

1. The Council considered a report, which set out the draft guidance on the requirements for the five year rule and the consultation process that had been undertaken to further inform the draft guidance.
2. **Decision: The Council confirmed the standards and approved the guidance on the requirement for the five year rule, as set out in Annexe 1 to the report.**

NMC/13/168 Standing orders

1. The Council considered a report proposing revised Standing Orders. The proposed revisions were designed to ensure simplicity, clarity and had been shaped on the basis of a comprehensive benchmarking exercise. An additional paper was tabled setting out a number of amendments to the proposals.
2. In discussion, it was noted that further clarity was required on the role that Deputy Chairs would play in the absence of the Chair at a meeting of the Council' and what scope existed for appointing a Senior Independent Director.
3. **Decision:**

1) The Council agreed the amendments and approved the revised Standing Orders with effect from 1 December

2013.

- 2) **The Council approved the delegations set out in the report and authorised the Chair of the Council, on the advice of the Secretary, to approve consequential amendments to the terms of reference of the Appointments Board.**

Action:	Add discussion on proposals for a Senior Independent Director (or equivalent) to the January 2014 Council agenda
For:	Secretary to the Council
By:	29 January 2014

NMC/13/173 Reports from Committees

1. The Council received a presentation from Dr Anne Wright, Chair of the Midwifery Committee, detailing the Committee's discussions at its meeting on 20 November.
2. The following points were noted:
 - a) The Midwifery Committee had considered and recommended the approval of the Local Supervising Authority (LSA) Annual Report in its final form. The Annual Report would be signed off by Chair's Action, which would be included in the January Council papers for information.
 - b) The Committee had endorsed, subject to the incorporation of minor amendments, the standards for preparation and supervision of midwives. The Standards would be signed off by Chair's Action, which would be included in the January Council papers for information.
 - c) The Committee had considered the principles for the revised Code to be published in 2014. This work had been necessitated by the need for completion prior to the commencement of revalidation, and also fits in with the regular cycle of updating the code and the impact of the Francis report and other NHS reviews. The Committee would consider this again in February 2014.
 - d) To engage more widely with the midwifery sector, the Committee would be receiving a series of presentations from representatives of the four UK nations as part of its work programme in 2014.
3. The Chair of the Council thanked Dr Wright for the update and thanked members of the Midwifery Committee for attending the joint seminar on 20 November, which had been insightful and productive.

NMC/13/169 Questions from observers

- 1. The Chair of the Council invited questions from observers.
- 2. The following points were noted in discussion:
 - (a) The discussions at the Council had been interesting and the importance of building the NMC’s profile to demonstrate the value provided to nurses and midwives was raised.
 - (b) The possibility of testing for intangible qualities such as care and compassion had been discussed at the Midwifery Committee. While the Committee had acknowledged that this was inherently a difficult area to test, it was felt that it was possible to quantify caring behaviours and how those might most effectively be trained as part of a nurse or midwife’s education.
 - (c) The importance of proactive engagement with the professions and nursing and midwifery students was reiterated and this was something that the Council was committed to further improving upon.

NMC/13/170 Chair’s report

- 1. The Council received and noted the report.

NMC/13/171 Chair’s actions taken since the last meeting of the Council

- 1. The Council received and noted the report.

NMC/13/172 Chief Executive’s report

- 1. The Council received and noted the report.

NMC/13/174 Overseas registration

- 1. The Council received and noted the report.

NMC/13/175 Council and committees’ schedule of business

- 1. The Council received and noted the report.

The date of the next meeting is to 29 January 2014.

The meeting ended at 13:08

SIGNATURE (CHAIR):

DATE.....

Council

Summary of actions

Action: For information.

Issue: A summary of the progress on completing actions agreed by the meeting of Council held on 21 November 2013 and progress on actions outstanding from previous Council meetings.

Core regulatory function: Supporting functions.

Corporate objectives: Corporate objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."

Decision required: To note the progress on completing the actions agreed by the Council.

Annexes: None.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Summary of actions outstanding (Council)

Actions arising from the Council meeting on 21 November 2013

Minute	Action	For	Report back to: Date:	Progress
13/162	Add risk deep dive on profile and proactivity to the January Council session programme	Secretary to the Council	Council 29 January 2014	Complete
	Amend the year end forecast for KPI2 to reflect anticipated performance rather than on the basis of achieving the KPI target for the remainder of the year	Director of Fitness to Practise	Council 29 January 2014	Complete
	Provide further information on contingency options on KPI4 at the January meeting	Director of Fitness to Practise	Council 29 January 2014	The Director of Fitness to Practise will provide a verbal update to the Council (January 2014)
	Consider removing Risk CR8 from the Risk Register and report to the Council on the outcome of those considerations	Assistant Director, Governance and Planning	Council 29 January 2014	This risk has been closed and removed from the Corporate risk register.

	Add "engagement with patients and the public" to the Council agenda for January 2014	Secretary to the Council	Council 29 January 2014	Complete. Added to the agenda for the private session in January 2014
NMC/13/164	Add ICT strategic plan to a future Council seminar programme	Secretary to the Council	Council 29 January 2014	Complete
NMC/13/165	Report EAG discussion on Education Strategy to the March 2014 Council meeting	Director of Continued Practice	Council 26 March 2014	Not yet due
NMC/13/168	Add discussion on proposals for a Senior Independent Director (or equivalent) to the January 2014 Council agenda	Secretary to the Council	Council 29 January 2014	Complete

Actions arising from the Council meeting on 12 September 2013

Minute	Action	For	Report back to: Date:	Progress
NMC/13/146	Report on the cost-benefit analysis undertaken with the Department of Health	Director of Continued Practice	To be confirmed with Department of Health in 2014	Not yet due. The Council will be updated once the timing for the analysis is confirmed

Council

Performance and risk report

Action: For discussion.

Issue: Embedding performance and risk management across the NMC.

Core regulatory function: All of our core regulatory functions.

Corporate objectives: The NMC corporate objectives provide the context for performance and risk management.

Decision required: No decision is required but the Council is invited to:

- Note the summary of performance for Quarter 3 (paragraph 15).
- Note the amendments to the FtP performance dashboard, and amendment to KPI 2 (paragraph 18).
- Note and discuss the assessment and management of risks on our Corporate risk register.

Annexes: The following annexes are attached to this paper:

- Annexe 1: Q3 progress report against Corporate Plan 2013-2016
- Annexe 2: Progress against our key performance indicators (KPIs)
- Annexe 3: FtP performance dashboard: October-December 2013
- Annexe 4: Corporate risk register

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Context:

- 1 This paper reports on progress against our key performance indicators (KPIs) and the assessment and management of risks on our Corporate risk register.
- 2 This paper also reports on the progress we have made, in the third quarter of the financial year 2013, towards the delivery of our planned activities for 2013 as stated in our Corporate Plan 2013-2016.
- 3 The information in this paper collectively provides an overview of our current position in achieving outcomes and the actions we are taking to mitigate key risks.
- 4 Relevant key points on performance and risk from the November 2013 Council meeting are noted here:
 - 4.1 In discussing the Quarter 2 progress report, ongoing proactive engagement, in particular with the professions, was flagged as important for the NMC. This is linked to the 'Profile and proactivity' corporate risk.
 - 4.2 For KPI 2, the year end forecast should be amended to reflect anticipated actual performance rather than on the basis of achieving the KPI target each month for the remainder of the year.
 - 4.3 With regard to KPI 4 the Council had asked for further information on contingency actions, in order to address their concerns about the rate of improvement towards meeting the December 2014 target.
 - 4.4 The FtP dashboard should be amended to include further detail on cases older than 18 months.
 - 4.5 Risk CR8 had sufficient mitigations in place and the Council advised that the risk could be removed from the Register.

Quarter 3 performance report

- 5 The Quarter 3 (Q3) report at Annexe 1 provides an assessment of progress against our Corporate Plan commitments for 2013-2014 during October to December 2013. Assessment is based on a red/amber/green rating system.

Key performance indicators (KPIs)

- 6 Annexe 2 provides information on November and December progress against our key performance indicators (KPIs). Supplementary information about Fitness to Practise (FtP) performance for the period October to December is provided on the 'dashboard' at Annexe 3.

Risk

- 7 Since the November 2013 Council meeting, directorates have continued to review and update their respective risk registers and the Corporate risk register was considered by the Executive Board at its meeting in January 2014.
- 8 Corporate Governance is continuing to undertake a monthly scrutiny of the Corporate, Change Management and Portfolio Board (CMPB) and directorate risk registers. The outcomes of these meetings are being shared with directorates and the CMPB, in order to strengthen our risk management and ensure compliance with our agreed approach.
- 9 Risks are scored on a 5 x 5 matrix on the basis of impact and likelihood, and a traffic light system is used for reporting. Risks scored at eight or below are green rated. Risks scored between nine and 15 are amber rated. Risks scored at 16 and above are red rated.
- 10 On the Corporate risk register, the 'inherent risk scoring' column does not take into account any mitigation. The 'post-mitigation scoring' involves taking into account the mitigation in place, but not the planned action.
- 11 Phase one of an internal audit review has been undertaken on our risk management framework. The outcome was reported to the Audit Committee on 10 December as detailed in the report of the Audit Committee to the Council. Follow up management actions are now in hand.

Discussion and options appraisal:

Quarter 3 report

- 12 A summary of performance for Quarter 3, broken down by corporate goal, is provided on the first page of the report at Annexe 1.
- 13 There are 33 commitments in our Corporate Plan for the current business year. Of these, 25 have been rated green and, as at 31 December 2013, were on course for delivery as originally specified. Five have been rated amber, where an issue or potential problem has been identified but action has been taken to resolve it and overall the activity was expected to be completed by the end of the business year. Three commitments have been rated red where the activity will not be completed within the business year.
- 14 In summary, the report indicates that, as at 31 December 2013, we were on track to deliver on all our public commitments for 2013-2014, as set out in our Corporate Plan, with the exception of:
 - 14.1 the website refresh, which is now scheduled for launch by Quarter 3 of 2014 – 2015;

14.2 the review of our overseas registration policy and process;

14.3 the development of a corporate data strategy.

15 **Recommendation: Note the summary of performance for Quarter 3.**

KPI report

16 Another section has been added to the FtP performance dashboard, to show a breakdown of FtP cases older than 18 months. The format of the dashboard has also been slightly revised, to now show a year to date average line on graphs rather than two sets of averages.

17 The year end average forecast figure for KPI 2 is now based on actual forecast figures for the remainder of the year, rather than on the basis of achieving the KPI target each month for the remainder of the year.

18 **Recommendation: Note the amendments to the FtP dashboard, and the amendment to KPI 2.**

19 Looking across the six KPIs, there was generally better performance in November than in December. Below is a summary of performance:

19.1 **KPI 1 (registrations):** Performance exceeded the 90% profile/target for November, but fell in December.

19.2 **KPI 2 (IOs):** There was improved performance during November upon the previous month but performance fell in December. However, for both months we still exceeded the 80% year end average target.

19.3 **KPI 3 (investigations):** Over November we achieved our best performance of the year so far. In December, we saw a slight fall in performance although it still exceeded the profile figure for the month.

19.4 **KPI 4 (adjudications):** Performance has closely tracked the forecast profile over the past four months, with notable improvement in December.

19.5 **KPI 5 (available free reserves):** Our overall level of available free reserves increased over November and December and we met the targets for those months.

19.6 **KPI 6 (staff turnover):** The turnover rate has continued on a downward trend and we saw the lowest monthly turnover of the year so far, with the 23.4% figure for November exceeding our expectations. Turnover was slightly higher in December and was closer to our expectations, but still better than

previously profiled.

Corporate risk register

New risks

- 20 Since the November 2013 Council meeting, no new risks have been added to the Corporate risk register.

Increased risks

- 21 Since the November Council meeting, no scorings for any of the risks on the Corporate risk register have increased.

Reducing risks

- 22 Risk CR1A (Integrity of the register – Current) is down by four to an amber rating of twelve due to the appointment of an ID verification officer and recruitment for a second post being underway.
- 23 Risk CR10 (Profile and proactivity) is down by three to a green rating of six, as work has recommenced on the website development. Our current website continues to be updated with new and enhanced content.

Closed risk

- 24 At its November 2013 Council meeting, risk CR8 (Leadership, governance and management) was deemed to have sufficient mitigations in place and the Council advised that this risk could be removed from the Corporate risk register. This risk has therefore been closed and removed from the Corporate risk register.

No change

- 25 There is no change to the rating of other risks, although mitigating and planned actions have been updated where relevant.
- 26 In line with internal audit recommendations, directorates have been asked to identify and incorporate fraud, bribery and contractor risks into their respective directorate risk registers by 11 February 2014.

Public protection implications:

- 27 Public protection implications are considered when reviewing performance and the factors behind poor or good performance, plus also when rating the impact of risks and determining mitigating actions.

Resource implications:

- 28 Internal staff time has been accommodated as business as usual.

Equality and diversity implications:	29	Equality and diversity implications are considered when rating the impact of risks and determining action required to mitigate risks.
Stakeholder engagement:	30	The Corporate risk register, KPI information and FtP dashboard are in the public domain.
Risk implications:	31	The impact of risks is assessed and rated on the risk register. Future action to mitigate risks is also described.
Legal implications:	32	Failure to identify and effectively manage risks potentially exposes the NMC to legal action.

Annexe 1

Assessment of quarter 3 progress against the Corporate Plan 2013-2016 1 October to 31 December 2013

This report outlines the progress we have made, in the third quarter of the financial year 2013, towards completing the work that we said we would do in 2013-2014 as stated in the Corporate Plan.

Overview of performance for quarter 3 by corporate goal

NMC Corporate goals 2013-2016		Red	Amber	Green
Goal 1: Protecting the public	Public protection will be at the centre of all of our activities. Our work will be designed around and measured against the benefits we can bring to the public.	1	3	13
Goal 2: Open and effective relationships	We will have open and effective relationships that will enable us to work in the public interest.	1	1	6
Goal 3: Staff, systems and services	Our staff will have the skills, knowledge and supporting systems needed to help us provide excellent services to the public and the people that we regulate.	1	1	6
Activity RAG totals		3	5	25

Key to the report table headings

Activity	As outlined in the Corporate Plan, this is key work that we have planned to do in the financial year 2013-2014.	
Status	As at 31 December 2013.	
Red/amber/ green (RAG) rating	R	Some aspects of the activity, as originally specified, may not be completed within the year and remedial action is required for delivery.
	A	An issue or potential problem has been identified but action is being taken to resolve it and overall the activity is expected to be completed by the end of the year.
	G	All dimensions of schedule, cost, resource and decisions required are on course for delivery as originally specified.
Evidence from Q3	Brief explanation of what has happened in quarter 3 plus significant issues which could pose a challenge to completing the activity by the end of the year.	

CORPORATE GOAL 1: Protecting the public

Corporate objective 1: We will safeguard the public's health and wellbeing by keeping an accessible accurate register of all nurses and midwives who are required to demonstrate that they continue to be fit to practise.

Activity	Status	Evidence from Q3
Continue to review our registration policies and processes, to ensure the integrity of the data held on our register and to improve our efficiency.	G	A review of the UK registration policy and processes is currently ongoing and will report in the new year. This includes input from the internal QA function in Corporate Governance and work completed by Moore Stephens, the NMC's internal auditors. The completion of the policy will then enable the drafting of guidance and standard operating procedures (SOPs) to assist staff. This work also includes a review of Registration appeals policies and procedures with the goal of defining replicable and transparent policy and processes.
Implement the requirement for all nurses and midwives to have professional indemnity insurance at the point of registration.	G	This project is ready to be deployed and awaits the go live date from the Department of Health (DH). Considerable IT and policy development has taken place in preparation. We estimate a period of approximately three weeks will be required to test the IT changes following the announcement by the DH to live deployment.
Develop online services for nurses and midwives.	G	Phase 1 of NMC Online went live on 5 December 2013. An early adopters group has been identified (this will ultimately total approximately 12,000 registrants) and they have been invited to use the new portal. A small number of users have registered their details and have provided initial feedback. A robust security and log-in procedure has been developed. Phase 1 of the project enables registrants to update their address details online (we currently receive approximately 70,000 address change requests each year which currently require manual input). It also enables registrants to enter their equality and diversity information or to print a statement of entry where required. Phases 2 and 3 of the online project are due to go live in spring and summer of 2014 respectively. These phases will enable registrants to renew their registration online, update their personal details and ultimately register as a nurse or midwife online.
Complete the review of our overseas registration policy and process.	R	Having stabilised the policy supporting overseas registration earlier in 2013, further work now continues on the development of a revised business process with an online competency test for all overseas applicants at its heart. We are aiming to have a test in place by September 2014 and we are currently exploring procurement and delivery options for this project. We initiated the project within Q3, however this has highlighted the volume

of work involved in putting such a rigorous test mechanism in place and we have identified the procurement timescale requirements/contractual management activity required. The detailed implementation plan is currently being further developed and this is highlighting a risk to the desired delivery target date. Hence this is reported as red until that delivery plan is confirmed.

Corporate objective 2: We will set appropriate standards of education and practice and assure the quality of education programmes and the supervision of midwives, so that we can be sure that all those on our register are fit to practise as nurses and midwives.

Activity	Status	Evidence from Q3
Develop a proportionate, risk based, cost effective approach to ensuring that nurses and midwives continue to be fit to practise.	G	<p>The consultation document on the revalidation model has been completed and was launched on 6 January 2014.</p> <p>Our webpage on revalidation has been updated to reflect the consultation. We have communicated the consultation launch directly with a number of nurses and midwives through their registration correspondence and also via our normal communication channels and stakeholder organisations. The Scottish government will be updating their website to reflect revalidation of nurses and midwives.</p> <p>Intensive engagement has taken place in Q3 with key employer groups, senior managers in nursing and midwifery and policy makers attending NMC workshops and briefings in Scotland and Wales, as well as senior NMC staff participating in a range of speaking opportunities across the four countries.</p> <p>Four stakeholder groups (Revalidation Strategic Advisory Group, Task and Finish Group, Employers Reference Group and Communications group) are now established and are meeting every two months. Their current focus is on the consultation and themes for the code review.</p> <p>The internal evidence review of the code has also been completed and shared with the stakeholder groups. It has informed key themes for the consultation.</p>
Redefine a risk based approach to our education regulatory function through partnership working.	G	<p>The first meeting of the Education Advisory Group was held on 9 January 2014. The key focus of the meeting was the education strategy, competency tests for nurses and midwives and a strategic context of education for nursing and midwifery.</p> <p>We have included education and LSAs as part of our joint work with the Care Quality Commission (CQC) regarding the operational protocol and initial sharing of intelligence has begun, which will inform our education and LSA monitoring in 2014. All education and QA risks are managed in accordance with annexe three of our QA framework, which provides an escalation for organisations to share information on risk with the NMC.</p>

		We have met with NES (NHS Education Scotland) in preparation for the development of an agreement on exchange of information on risks related to education.
Develop and implement an appropriate framework for the quality assurance for education providers and local supervising authorities (LSAs).	G	<p>The monitoring and review schedule has been finalised for the 16 Approved Education Institutions (AEIs) and six LSAs have been selected as part of the published risk based selection criteria and will take place during January- March 2014.</p> <p>All AEIs are currently completing their requirements compliance and have uploaded their evidence onto the new QA Portal that has been developed by Mott MacDonald. This means that evidence is captured only once, thus avoiding the need to request the same information repeatedly.</p>
Develop and prioritise our programme for standards development and review.	G	<p>The standards and guidance to be reviewed in 2013-2014 have either been completed (standards and guidance for 5 year rule and standards for the preparation of supervisors of midwives) or are in progress according to our work plan (review of the code and development of guidance for revalidation).</p> <p>The work on scoping the review of the standards for medicines management and prescribing is nearing completion. This is due to be completed by the end of Q3 and scoping of the project for the evaluation of the pre-registration education programmes will commence in Q4.</p> <p>At the request of the DH work has commenced on scoping the policy for the development of guidance on duty of candour and reporting near-misses. This is additional standards development work to that agreed in the 2013-14 cycle of reviews and it is being undertaken in partnership with the GMC and possibly other health care regulators.</p> <p>The evidence review on the code has been considered by the Revalidation Task and Finish Group and the key principles will be provided to the Council in January 2014.</p> <p>Following a review of the standards development and evaluation methodologies by the Executive Board in October, further work has been done to develop quality assurance criteria. This work has been completed and we are now in a position to inform/train staff within the Continued Practice directorate and other directorates, as appropriate, on our approach to standards development.</p> <p>The risk-based criteria for the development or review of our standards and guidance have been drawn up and will be considered by the Council in March, along with the cycle of review for 2014-2017.</p>

Corporate objective 3: We will take swift and fair action to deal with individuals whose integrity or ability to provide safe care is questioned, so that the public can have confidence in the quality and standards of care provided by nurses and midwives.

Activity	Status	Evidence from Q3
Take effective action to ensure that cases are investigated within published targets and key performance indicators and that those cases already under investigation or awaiting a hearing are concluded as soon as possible.	A	<ul style="list-style-type: none"> • For each of the three months of Q3, we exceeded our target for imposing interim orders (IOs). The average for the quarter was 89% in 28 days (corporate KPI 2). • We progressed 89% of cases (average for the quarter) through the investigation stage within 12 months, against our target of 90% (corporate KPI 3). • We progressed 21% of cases (average for the quarter) through the adjudication stage to the first day of a hearing or meeting within 6 months. We do not expect to meet our target of 90% until late 2014 (corporate KPI 4). • In November 2013, 90% of cases passing the investigation committee stage met the 12 month target. • We have begun to implement operational changes stemming from the proportionality review including an early categorisation model that is ready to be implemented in quarter 4. • This remains as amber for this quarter because although we have performed to forecast, we will review our progress towards meeting our KPI targets in the next quarter.
Review the decision making thresholds for fitness to practise action.	G	<ul style="list-style-type: none"> • We have begun making operational changes to our investigation process in light of proportionality review of investigations. • FtP colleagues have met with the Research and Evidence team to develop an approach to reviewing interim order proportionality, which will take place in quarter 2 of the next business planning year.
Improve the quality of our investigation and decision making in fitness to practise cases.	A	<ul style="list-style-type: none"> • We have carried out targeted reviews of our investigation and adjudication caseload and learning from these reviews has been shared with case investigation officers, case preparation officers and the scheduling team. • We have improved the process around learning from final conduct and competence committee and health committee outcomes by analysing all decision related feedback received in the last quarter. • We implemented a process of lawyer reviews for all final decisions. • We have rated this amber again for this quarter because we are planning to implement most of our improvements for this activity in the next business planning year.
Develop evidence based comprehensive policy and guidance to underpin our fitness to practise function.	G	<ul style="list-style-type: none"> • We have drafted new guidance on insight, remediation and reoccurrence for investigation committee panel members. We have planned a listening event to consult with our stakeholder on this in January 2014.

Review the cost effectiveness of our fitness to practise processes.	A	<ul style="list-style-type: none"> • A workshop with senior FtP staff has taken place to challenge assumptions and forecast activity for the period March 2014 to 2017. • This remains as amber for this quarter because further work on this is scheduled to take place in the next business planning year.
Develop a model to work proactively with employers across the UK.	G	<ul style="list-style-type: none"> • The initial business case for the model was approved by the Change Management and Portfolio Board (CMPB) in October. • A programme of employer visits has been developed for the Head of External Liaison. • Visits to ten of the 11 Keogh Trusts have now taken place and a programme of follow up visits is planned for quarter 4.

Corporate objective 4: We will improve our understanding and use of diversity data, embedding equalities good practice, so that we are inclusive and treat people fairly.

Activity	Status	Evidence from Q3
Strengthen our framework for collecting equality and diversity data to inform our decision making.	G	<ul style="list-style-type: none"> • We submitted both the Annual Report 2012–2013 and FtP Annual Report 2012–2013, in English and Welsh, to Parliament in October 2013. • The revised equality and diversity data collection questionnaire will be reviewed by the Gender Identity Research and Education Society to ensure legal implications, such as the change of personal identity and the management of sensitive data for transgender people, are considered as part of our data collection process.
Conduct a rolling review of our policies and procedures for compliance with equalities and diversity legislation and best practice.	G	<ul style="list-style-type: none"> • We submitted our response to the Welsh Language Commissioner’s comments on our Welsh Language Scheme monitoring report for 2011-2013 (in English and Welsh) in December 2013. • A review of the equality and diversity strategy and objectives, as requested by the Council, is underway and due to be concluded by March 2014. • We conducted an equality review of pay data using an independent organisation, as part of the pay and grading work undertaken during this quarter. See corporate objective 8 for more information about the work.
Work in partnership with diverse groups and external diversity experts to inform the development of our strategy.	G	<ul style="list-style-type: none"> • In December the Equality and Diversity Steering Group were trained on how to complete an initial and full equality analysis forms. • We began to work in partnership with the Business Disability Forum, a disability best practice organisation, to inform the development of our policies with respect to people with disabilities. • We will also work in partnership with the Gender Identity Research and Education Society, a transgender best practice organisation, to inform the development of our policies with respect to transgender people. • We invited a guest speaker, Yvonne Coghill OBE from the NHS Leadership Academy, to speak to staff

and raise awareness for black history month. She will also be involved in our work to develop the strategy.

CORPORATE GOAL 2: Open and effective relationships

Corporate objective 5: We will maintain open and effective regulatory relationships with patients and the public, other regulators, employers and the professions that help us positively influence the behaviour of nurses and midwives to make the care of people their first concern, treat them as individuals, and respect their dignity.

Activity	Status	Evidence from Q3
Implement an engagement strategy which builds and facilitates relationships to support the delivery of our regulatory activities.	A	<ul style="list-style-type: none"> Engagement with key stakeholders is ongoing, and the overarching strategy for Engagement is being reviewed. Throughout Q3 we maintained a programme of speaking engagements with key partners. Engagement is underway with the Health Select Committee, with tailored correspondence and invitations to meet sent to individuals. Events have been held in the Scottish Government and Welsh Assembly to build relationships, and a meeting with the Welsh Minister and key figures in the Welsh Healthcare regulatory environment strengthened this work.
Continue to remind registrants of their responsibilities under the code so that they understand that care of patients is their first concern.	G	<ul style="list-style-type: none"> The updated Raising Concerns featured prominently in NMC Update, and was mailed to renewing registrants from September onwards.
Develop a new and strengthened approach to patient and public engagement.	G	<ul style="list-style-type: none"> A Patient and Public engagement forum is under development in Scotland and in design in Wales. A new approach to mainstreaming public and patient engagement across the organisation is being considered. A consultation exercise was undertaken with the Forum to gather their views on the shape of the forum going forwards. This will inform a plan for the future. Enhancements of the public e-newsletter have resulted in excess of a 33 percent year-on-year growth in subscribers.

Work collaboratively with other regulators and employers to focus on public protection.	G	<ul style="list-style-type: none"> • An MoU is being developed with the CQC and is at an advanced stage. • Discussions have started with Health Education England about whether an MoU would be helpful. • Collaborative work with other regulators, including receptions in the Scottish Government and Welsh Assembly and sharing of e-newsletter content, has been undertaken. • The director of Fitness to Practise and the director of Continued Practice visited 10 out of the 11 Trusts placed into special measures following Sir Bruce Keogh's review, the full report of which was published in July 2013. The purpose of these visits was to develop a constructive dialogue with the directors of nursing across various issues that affect public protection by discussing their thoughts and experiences in relation to their engagement and relationship with the NMC. Discussion topics have ranged from the role of fitness to practise through to education, the relationship with local supervising authorities and revalidation.
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Corporate objective 6: We will develop and maintain constructive and responsive communications so that people are well informed about the standards of care they should expect from nurses and midwives, and the role of the NMC when standards are not met.

Activity	Status	Evidence from Q3
Proactively communicate the specific role we play as the regulator of nurses and midwives.	G	<ul style="list-style-type: none"> • The mission statement is used in all external facing publications, in appropriate forms. • Regular tweets, featuring links back to the website, to our ever-increasing number of followers.
Share our activities and improvement journey with stakeholders.	G	<ul style="list-style-type: none"> • The England Patient and Public engagement forum met on 19 November. • Fifth issue of Shaping the future newsletter, which reports on change, for internal stakeholders was published in December • A comprehensive review of NMC Update will result in a better publication, with clearer content (including info graphics) for nurses and midwives, from January • Enhancements to all e-newsletters (public, nurses and midwives, employers, students and academics) have resulted in substantial benefits, such an increase in from 37 to 460 click-throughs, as well as increasing number of subscribers.
Refresh our website to meet the needs of the public, and nurses and midwives.	R	<ul style="list-style-type: none"> • Work has recommenced on the initial phase of website development, aiming to launch a new site that better meets key stakeholder needs by the third quarter of 2014. However, our public response to the Francis report committed us to launch the new site by April 2014. • The current website continues to be updated with new and enhanced content, particularly in relation to revalidation and the publication of reports by PHSO and the Health Select Committee.

Use plain English in our communications.	G	<ul style="list-style-type: none"> • The updated Raising Concerns was published in September – the first NMC publication to carry the Plain English crystal mark. Key staff have received plain English training. • House style and plain English training has been devised and piloted, with the intention that all appropriate staff will be trained.
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CORPORATE GOAL 3: Our staff will have the skills, knowledge and supporting systems needed to help us provide excellent services to the public and the people that we regulate.

Corporate objective 7: We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions.

Activity	Status	Evidence from Q3
Set a budget and long term financial plan that achieves our reserves targets and informs proposals for setting future fees for registrants.	G	<p>Financial monitoring and reporting is well embedded in the organisation with monthly reviews with each directorate, 12 month rolling forecasts and the identification of emerging risks. Financial performance to date is broadly in line with the budget for 2013-14, which itself is part of a three year financial plan and the Financial Strategy approved by Council in 2012.</p> <p>Work is underway in developing the 2014-15 budget and 3 year financial plan for presentation to Council in March 2014 alongside the business plan. Reserves policy and requirements and the setting of fee levels is completely integrated into the financial plan.</p>
Make significant improvements in our information technology, security and governance.	G	<p>Phase 1 of the Council-approved IT strategy is almost complete with January 2014 set aside for transfer of the project back into business as usual activities. Improvements that either reduce risk or enhance operational capability include an upgrade to desktops to Windows 7 and Office 2010, including VDI enhancing ability of staff to work remotely; upgrade to our telephony to Exchange 2010, including implementation of new capabilities (Webex and Jabber); implementation of a new solution for email archiving; and an upgrade to Trim, our document management system.</p> <p>Phases 2 and 3 of the ICT strategy have been developed and shared with the Council, who have approved the direction of travel for incorporation into the business plan.</p> <p>Steady progress has been made against our Information Security Action Plan, mapped to the requirements under the quality standard ISO27001. 15 new controls have been implemented, 12 controls have been enhanced from level 1 (Initial / Ad hoc control) to level 2 (Repeatable but intuitive) and 12 controls have been enhanced to level 3 (Defined process). An internal audit on data security has also been completed and reviewed by the Audit Committee.</p>

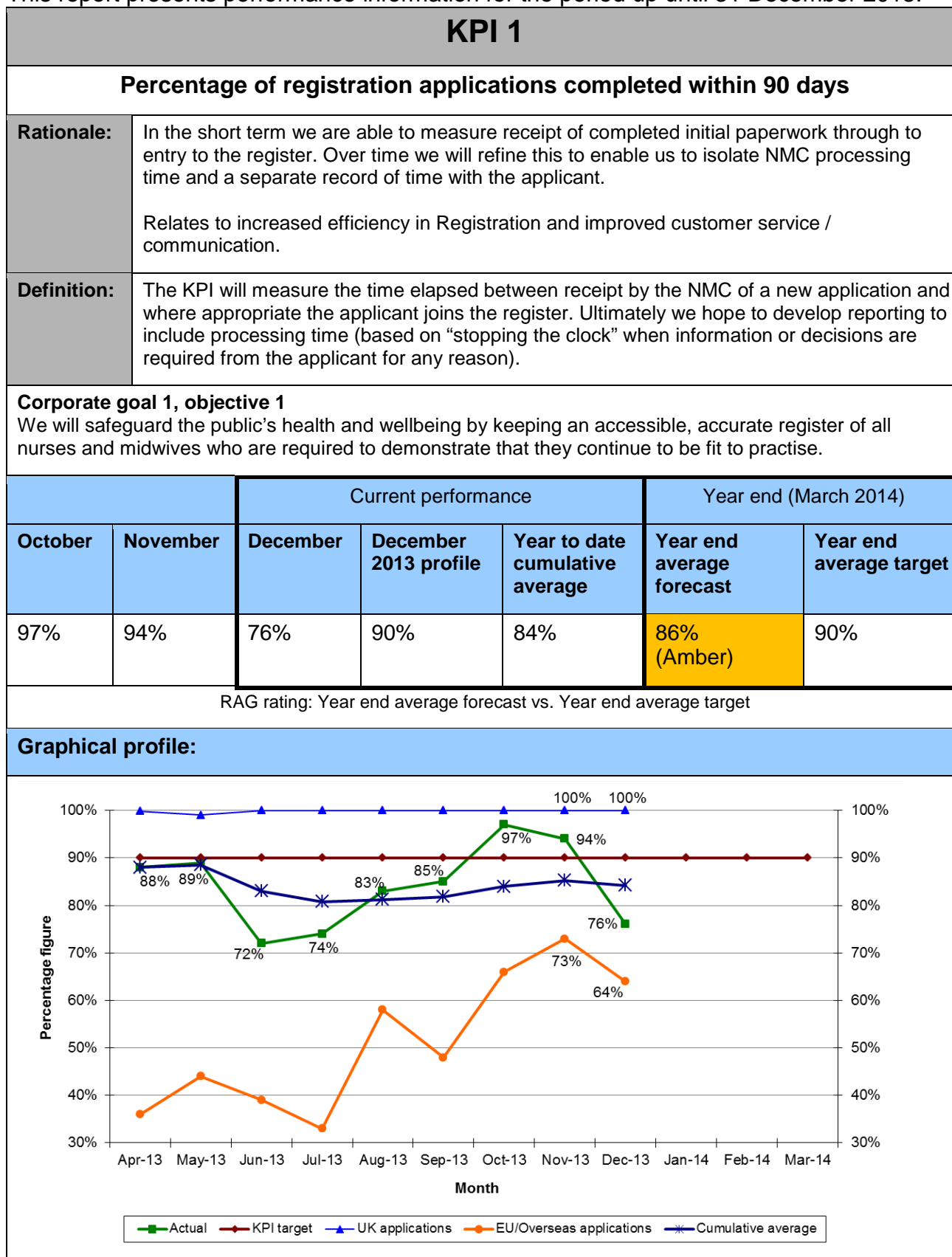
<p>Ensure new Council members are fully equipped and supported to carry out their role effectively within a sound governance framework.</p>	G	<p>Members of the Council have now completed the six-month induction period following the Council's reconstitution and appointments effective from 1 May 2013. The induction has focussed on supporting members' organisational understanding, and has included:</p> <ul style="list-style-type: none"> • An equality and diversity briefing session to ensure members' awareness of their responsibilities in this area as trustees. • Hearing from a range of key stakeholder at Council seminar sessions. • A number of members have participated in directorate visits, attendance at Fitness to Practise panel members' seminar and Fitness to Practise hearings. <p>Members will be asked to consider the proposed training and development policy, and the proposed Council and committee effectiveness policy, in Q4 of this financial year, which will further support members in undertaking their roles effectively.</p>
<p>Develop an assurance framework, which allows us to better monitor and understand our business delivery, risk and compliance.</p>	G	<p>The Audit Committee agreed in December 2013 that the assurance framework developed by the internal auditors should now be merged with Outcomes 1 and 2 of the Quality Assurance strategy. Responsibility for Outcome 1 rests with individual directorates and in April and October 2014, the QA team will review progress toward delivering this outcome. A draft programme of work has been developed to deliver Outcome 2 which is risk based.</p> <p>All managers have been trained on the new serious event review (SER) policy and process and a database has been developed to facilitate reporting, recording and continuous improvement from learning from where things have gone wrong.</p>
<p>Begin to develop a corporate data strategy that enables analysis of information to support business needs, decision making and performance improvement.</p>	R	<p>A high level corporate data strategy is currently being developed and put in place to underpin the data related work that underpins most other corporate activities. The data strategy will essentially set out a series of underpinning principles and an outline plan to identify the initial steps supporting progress towards those strategic goals. This includes the exploitation of current data holdings, data quality improvement and the definition of future data requirements. This work will be incremental however the initial high level strategy will be delivered by the end of Q4. This will provide a baseline for resourcing and further detailed activity.</p>

Corporate objective 8: We will build a culture of excellence by attracting, retaining and developing high quality staff to deliver our services.		
Activity	Status	Evidence from Q3
Modernise our approach to rewarding and incentivising staff.	G	<p>A review of reward has been completed including formal consultation with staff on changes to pay and grading, pay policy and benefits. There was a high level of engagement with staff and collective consultation completed in December. The number of staff who have expressed an intention to appeal is low and the feedback demonstrates broad support for the proposals, which will be implemented in Q4. Further consideration to pay progression and rewarding performance will be given in Q4.</p> <p>The NMC's defined benefit pension scheme was closed to new entrants from 1 November 2013, at which time a new defined contribution pension provision was implemented in preparation for our obligations under auto enrolment.</p>
Develop effective workforce planning tools that anticipate the short and long term staffing and skill needs of the organisation.	G	<p>HRPro, the NMC's upgraded HR system now includes, for the first time, all permanent, fixed term contract and temporary staff as well as contractors. This enables us to report holistically on our total workforce and forms the basis for workforce planning. Workforce information is available to directors and managers on a real time basis and quarterly reports have been prepared on the workforce trends as a whole.</p> <p>Workforce planning is a key component of the business planning process and tools have been developed for use if required.</p>
Implement an enhanced learning and development programme that aligns clearly with our corporate change programme and cultural development.	A	<p>There has been an extensive learning and development programme in the year to date and excellent take up by staff and managers in leadership and management development and behaviours training. Further training is planned for Q4 as well as a full evaluation of the impact of the learning.</p> <p>The pay and grading review includes the introduction of job families, which will support the development of career pathways in the NMC, a key point raised in the 2013 staff survey. Our approach to career and talent management is not yet finalised, hence the amber rating, but the time invested in development of job families will be key to that approach.</p>

Annexe 2

Progress against our key performance indicators (KPIs)

This report presents performance information for the period up until 31 December 2013.



Commentary:

November was another high volume month for UK registrations, in which 3,075 registrations were processed. Traditionally we have observed an annual peak in September, however this time we have seen the peak in October and the first half of November. We were still able to register 97% of all UK applications within 7 days.

The continued focus on processing older EU and Overseas applications resulted in 77% of EU applications being completed within 90 days and 87% over the longer period of 182 days. The equivalent figures for Overseas applications were 52% and 84%. Continued process improvements (factoring in ID verification; early application screening checks) in both areas of work will help to reduce processing times further over the next three months.

December saw a return to more expected volumes of UK registrations, 746 as opposed to 3,075 in November. 92% of applicants were registered within 7 days.

In December we achieved a combined figure of 64% for EU/Overseas registrations. 78% of EU applicants were registered within 90 days and 49% of Overseas. All EU/Overseas decisions are currently within 30 days. However, a number of historical applications remain in the processing queue. These are files where we have needed to make multiple requests to the applicant to fulfil the requirements of registration. Recent process improvements (screening of initial applications) will have a significant impact on this type of file in future months.

Red/Amber/Green rating:

Based on 10% variance threshold:

Green = figure matches or is higher than the target figure of 90%.

Amber = figure is between 80-89%.

Red = figure is 79% or lower.

KPI 2

Percentage of interim orders (IOs) imposed within 28 days of receipt of referral

Rationale:	We aim to protect the public in the most serious cases by applying restrictions to a nurse or midwife's practice as quickly as possible after the need is identified.
Definition:	Percentage of interim orders imposed within 28 days of the referral received date.

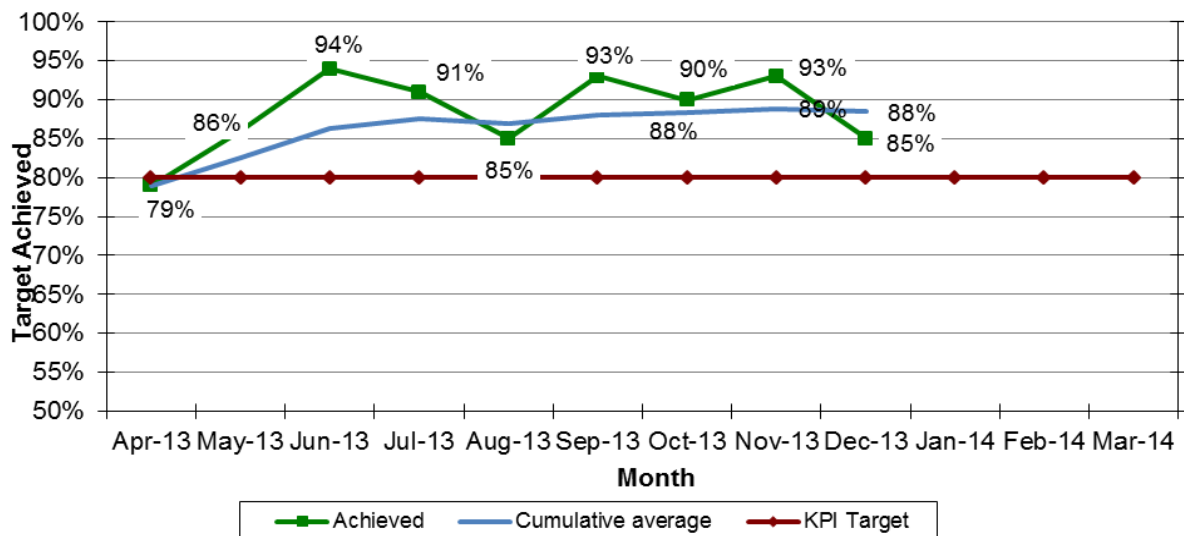
Corporate goal 1, objective 3

We will take swift and fair action to deal with individuals whose integrity or ability to provide safe care is questioned, so that the public can have confidence in the quality and standards of care provided by nurses and midwives.

			Current performance			Year end (March 2014)	
Historical figure (Average for the year 2012-13)	October	November	December	December 2013 profile	Year to date cumulative average	Year end average forecast	Year end average target
64%	90%	93%	85%	80%	88%	88% (Green)	80%

RAG rating: Year end average forecast vs. Year end average target

Graphical profile:



Commentary:

Performance against this KPI continued to exceed the 80% target for both November and December.

The actual percentage of IOs imposed within 28 days may change slightly from month to month but this KPI is expected to be consistently met.

Red/Amber/Green rating:

Based on 10% variance threshold:

Green = figure matches or is higher than the target figure of 80%.

Amber = figure is between 70-79.9%.

Red = figure is 69.9% or lower.

KPI 3

Percentage of cases progressed through the investigation stage within 12 months

Rationale: We aim to screen and investigate referrals within 12 months. We have a responsibility to balance the need for a swift decision on whether to refer the case for a substantive decision with the need for a proportionately thorough investigation.

Definition: The percentage of investigations which have been completed within 12 months of the referral received date.

Corporate goal 1, objective 3

We will take swift and fair action to deal with individuals whose integrity or ability to provide safe care is questioned, so that the public can have confidence in the quality and standards of care provided by nurses and midwives.

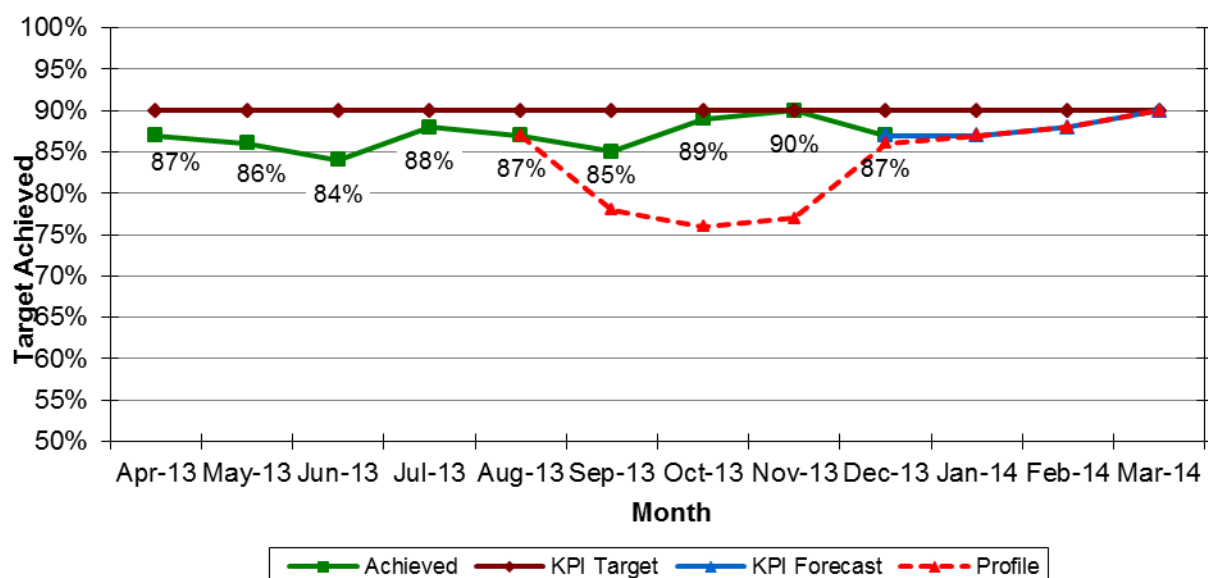
Historical figure (Average for the previous year 2012-13)	Current performance		Year end (March 2014)			
	October	November	December	December 2013 profile*	March 2014 current forecast	March 2014 target**
68%	89%	90%	87%	86%	90% (Green)	90%

RAG rating: current forecast vs. March 2014 target

* Profile is the forecast frozen at July 2013

** Target is a spot target

Graphical profile:



Commentary:

This measure is taken when a case reaches the Investigating Committee (IC) decision point. Monthly performance is simply a percentage representation of cases passing that point in a month which were under 12 months old when they did so. We list cases for an IC decision as soon as we can so performance against the KPI can fluctuate, with a dependency on the age profile of cases listed in a month. We have forecast performance at below 90% because we know

that we have a number of cases which have or are about to miss the 12 month KPI.

Performance of 90% in November exceeded the forecast of 77%. Performance of 87% in December was more in line with the forecast profile. The forecast had been profiled to take account of a cohort of older cases which will need to clear the IC over the coming months, and is expected to adversely affect performance.

Further context is provided in the FtP performance dashboard.

Red/Amber/Green rating:

Based on 10% variance threshold.

For example:

Green = figure matches or is higher than the March 2014 target figure of 90%.

Amber = figure is between 80-89%.

Red = figure is 79% or lower.

KPI 4

Percentage of cases progressed through the adjudication stage to the first day of a hearing or meeting within 6 months

Rationale: When the investigating committee decides that there is a case to answer we have a responsibility to put it to a substantive committee as swiftly as possible.

Definition: The percentage of cases which have reached their first day of a hearing or meeting within six months of referral from the investigating committee.

Corporate goal 1, objective 3

We will take swift and fair action to deal with individuals whose integrity or ability to provide safe care is questioned, so that the public can have confidence in the quality and standards of care provided by nurses and midwives.

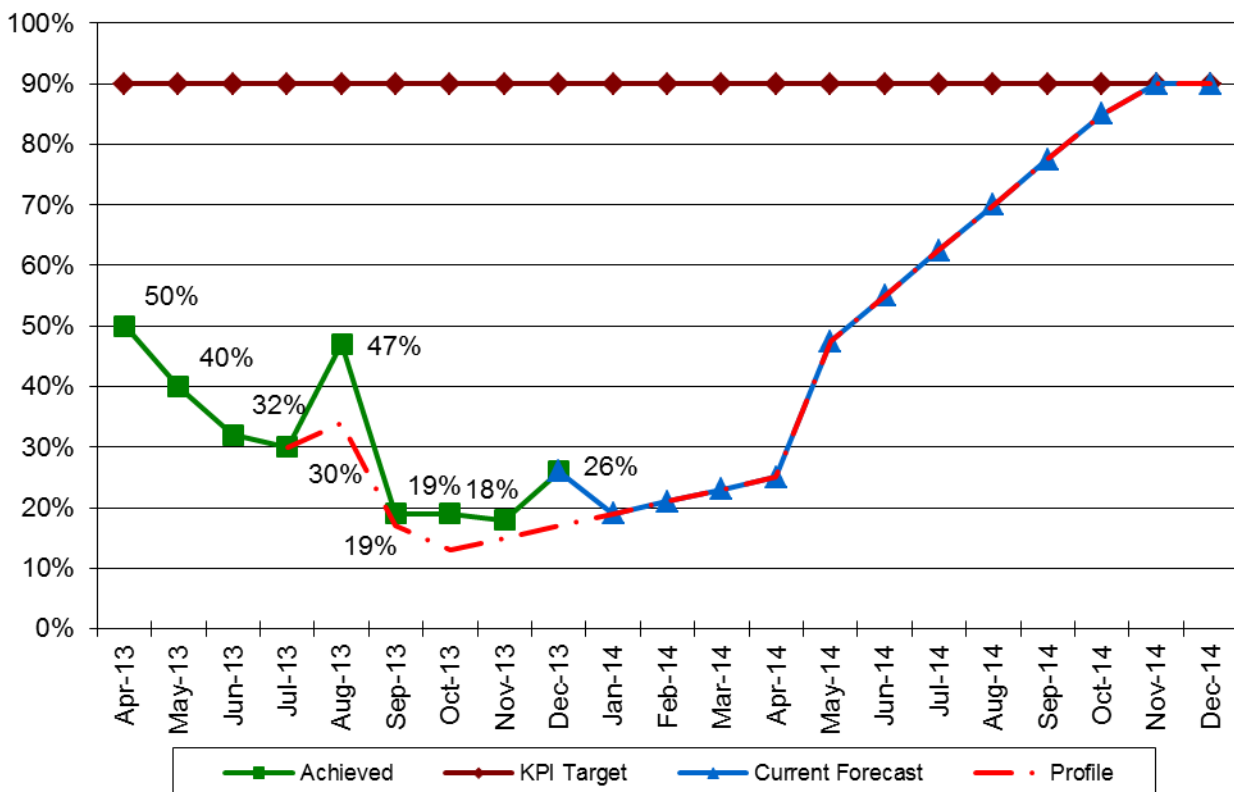
Historical figure (Average for the previous year 2012-13)	Current performance		December 2014			
	October	November	December	December 2013 profile*	December 2014 current forecast	December 2014 target**
39%	19%	18%	26%	17%	90% (Green)	90%

RAG rating: current forecast vs. Dec 2014 target

* Profile is the forecast frozen at July 2013

** Target is a spot target

Graphical profile:



Commentary:

Performance has closely tracked the forecast profile over the past four months, with a slight improvement in December. No real improvement is expected until April, after which we expect to see a steady shift towards the 90% target.

The forecast profile is based on a broad strategy of listing older cases first and reducing the number of newer cases held back while we cleared historic cases. The overall adjudication caseload is expected to reduce as follows:

	Adjudication caseload	Average age (months)
Apr-14	1,200	8.7
Jun-14	1,000	9.5
Aug-14	650	8.2
Dec-14	600	6.0

Forecast caseloads and their average age are based on live cases and predicted activity at a point in time. Fluctuations in the forecast are to be expected as we do not have a homogenous caseload.

We know what the average age of cases in the adjudication caseload is and have forecast the mix of new and older cases going to their first hearing each month, thereby giving us the percentage which are doing so within six months. April is when we should see the percentage of cases meeting the KPI start to increase and the target date for achieving this in 90% of cases is December so we have forecast a steady increase between these two dates.

The last point at which referrals from the Investigation Committee can impact activity volumes at the adjudication stage is June, so from that point onwards it will be known with some certainty which cases need to be cleared in order to achieve the KPI by the end of the year. Case reviews at both the investigation and adjudication stages are planned for April or May and the results will form the last major review of whether any contingency action is necessary to increase hearing capacity.

Red/Amber/Green rating:

Based on 10% variance threshold.

For example:

Green = figure matches or is higher than the December 2014 target figure of 90%.

Amber = figure is between 80-89%.

Red = figure is 79% or lower.

KPI 5

Available free reserves

Rationale:	<p>The NMC's budget and financial strategy is predicated on a gradual restoration of minimum available free reserves to a minimum target level of £10 million by January 2016. This KPI measures how close we are to our plan for achieving this target.</p> <p>This KPI also demonstrates delivery against meeting the target for available free reserves as agreed with the Department of Health.</p>
Definition:	The level of available free reserves at month end compared with budgeted available free reserves at that month end.

Corporate goal 3, objective 7

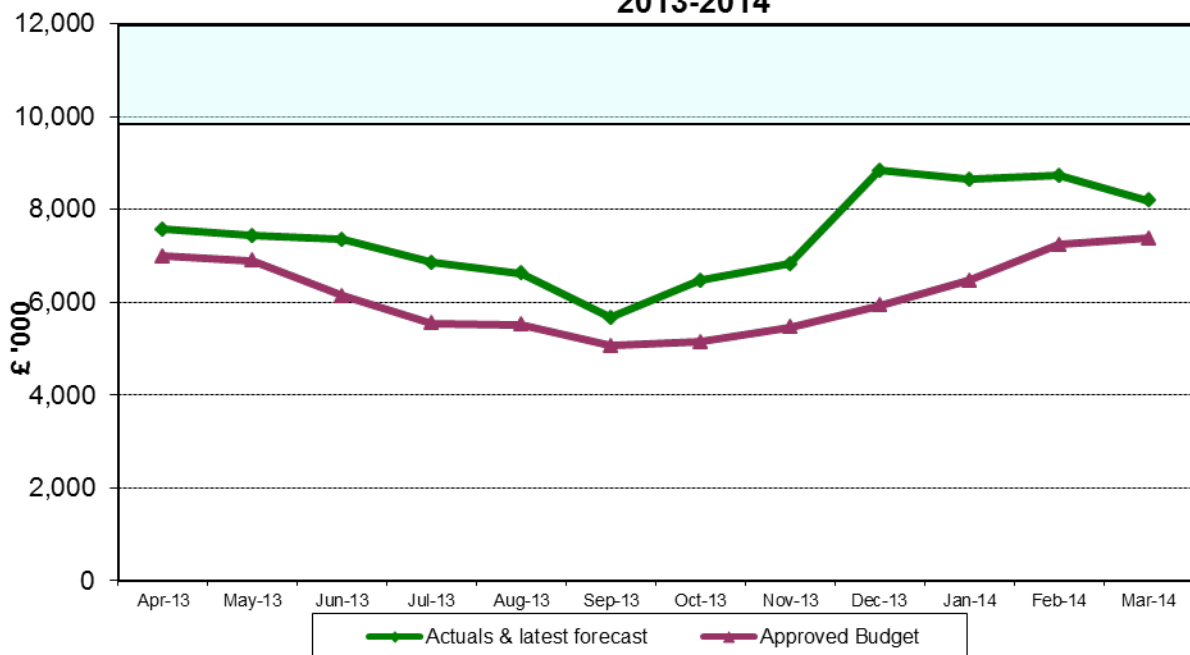
We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions.

			Current performance		Year end (March 2014)	
Historical figure (March 2013)	October	November	December	December 2013 budget*	March 2014 current forecast	March 2014 budget*
£7.4m	£6.5m	£6.8m	£8.8m	£5.9m	£8.2m (Green)	£7.4m

RAG rating: current forecast vs. March 2014 budget
 * Approved budget as at March 2013

Graphical profile:

**December forecast & approved budget available free reserves
2013-2014**



Commentary:

The target (budget) figure for March 2014 is broadly similar to that of March 2013 and will fluctuate each month based on the pattern of budgetary expenditure. Based on the financial plan, more progress towards restoring the minimum reserves level of £10 million will be made in 2014-2015.

The actual available free reserves level at the end of December 2013 was £8.8m compared to a planned level of £5.9m. This is principally due to timing differences between actual and budgeted expenditure, although we are now crystallising directorate underspends as savings in the full year forecast. The latest full year forecast projects that available free reserves at March 2014 will be £0.8 million higher than target and may improve further as we move closer to finalising the accounts, although some risks have been identified which are set out in the monthly financial report. The financial results and forecasts are reviewed monthly by the Executive Board, and corrective action will be taken if necessary to ensure we maintain progress to plan.

Red/Amber/Green rating:

Green = the figure matches or is above the target figure.
Amber = within 5% of the target figure.
Red = greater than 5% of the target figure.

KPI 6

Staff turnover rate

Rationale:	<p>The level of staff turnover has been consistently high and represents a high risk and cost to the NMC and an indicator of a sub-optimal organisational culture.</p> <p>A number of initiatives included within the Human Resources and Organisational Development Strategy are aimed at retaining staff, hence this KPI being a key measure of the effectiveness of that strategy.</p>
Definition:	<p style="text-align: center;"><u>Average monthly number of permanent leavers in the year to date * 12</u> Average number of permanent staff in post in year to date</p> <p>Average number of permanent staff is calculated by adding together the staff in post at either end of the elapsed months and dividing by the number of data points, e.g. average staff in post (SiP) in May would be: (SiP @ 31.03 + SiP @ 30.04 + SiP @ 31.05) / 3</p> <p>Average number of leavers is calculated simply by adding the total leavers in the year to date and dividing by the number of elapsed months.</p>

Corporate goal 3, objective 8

We will build a culture of excellence by attracting, retaining and developing high quality staff to deliver our services.

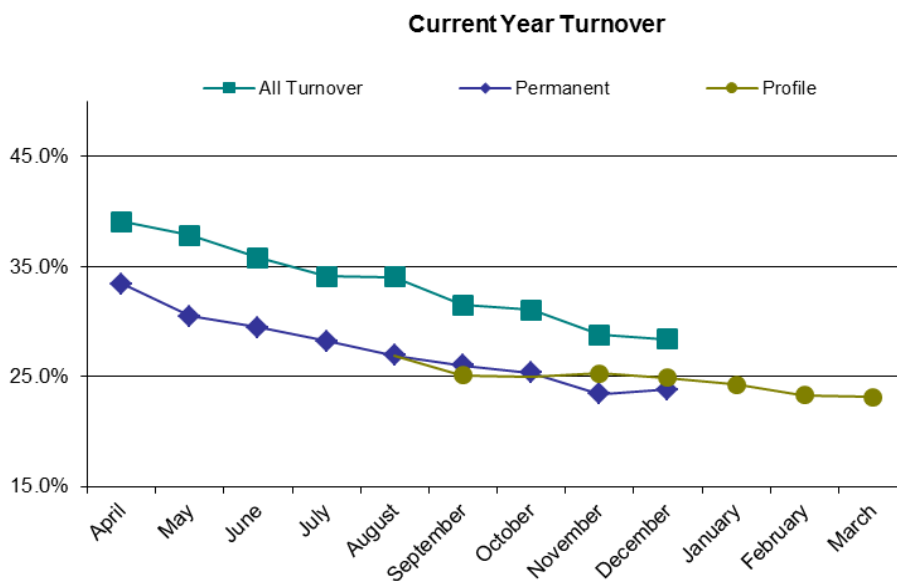
			Current performance		Year end (March 2014)	
Historical figure (as at April 2013)	October	November	December	December 2013 profile*	March 2014 current forecast	March 2014 target**
33.4%	24.9%	23.4%	23.8%	24.9%	22.2% (Green)	23.2%

RAG rating: current forecast vs. March 2014 target

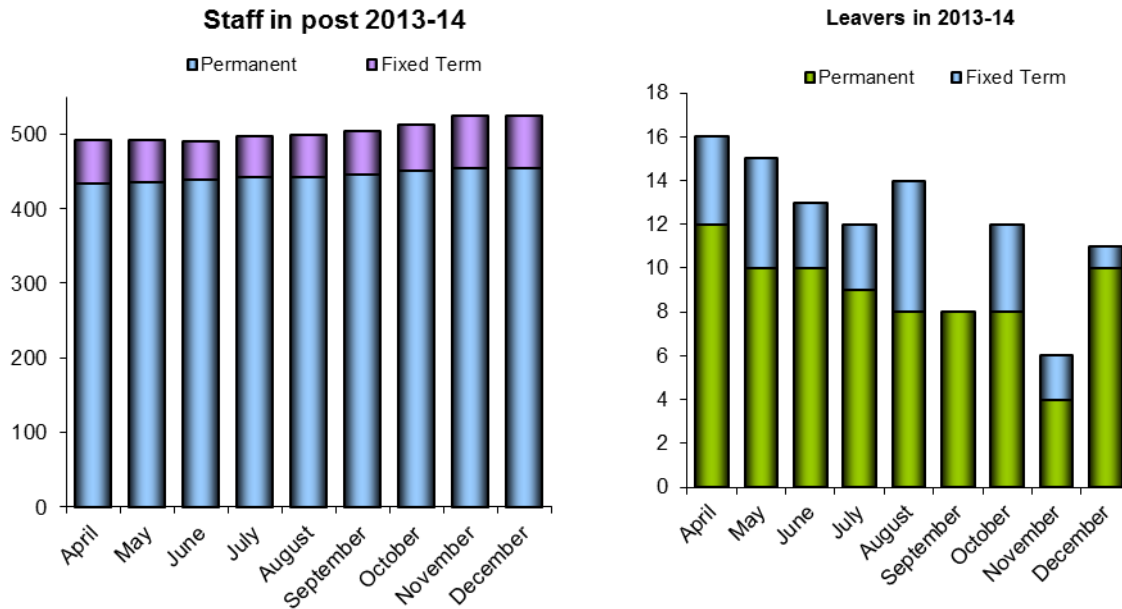
* Profile is the forecast frozen at August 2013

** Target is a spot target

Graphical profile:



Profile was calculated in August 2013



Commentary:

In November this measure reached its lowest point in the year to date, as there were only four permanent staff leavers which brought us below the profile for the first time. This was slightly unexpected, although welcome, but we should see performance closer to profile for the upcoming months.

Performance for December was closer to the profile but still favourable because we remained below the target profile for permanent staff turnover. As anticipated for December, the number of leavers increased compared to the previous month and is slightly above the prediction we made in August and on which the profile is based. This has resulted in the annualised turnover figure increasing slightly for the first time this year but the trend is still clearly downward.

The number of starters and leavers were broadly similar for December and therefore the total number of staff in post was unchanged. We predicted a similar pattern for January 2014 and do not anticipate much change in staff in post next month either. The March 2014 forecast, which is based on actual figures for the period to December 2013 and profiled leavers for the rest of the year shows a predicted annual turnover result of 22.2% of permanent staff, which is within the target for the year.

Red/Amber/Green rating:

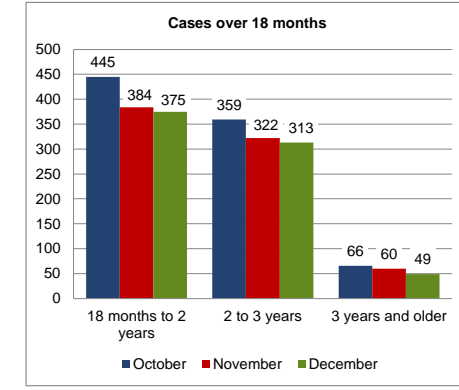
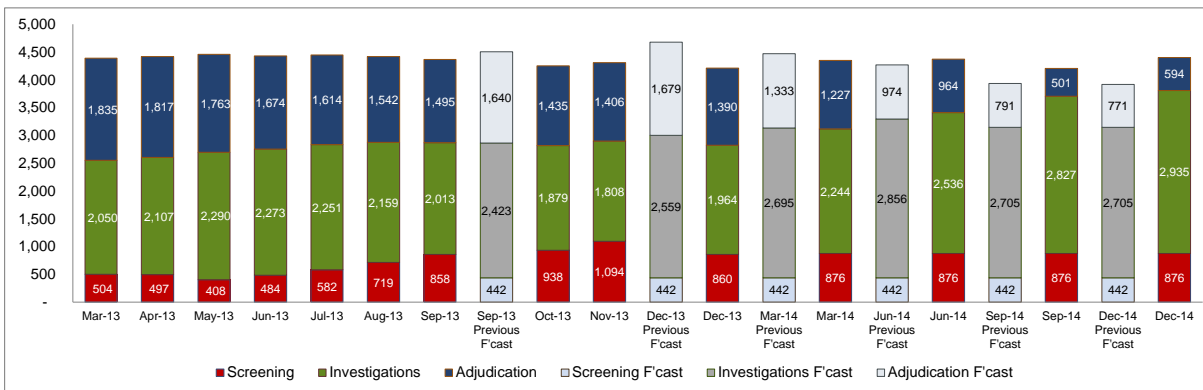
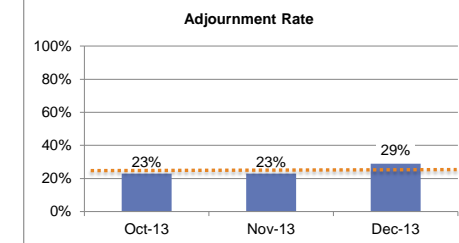
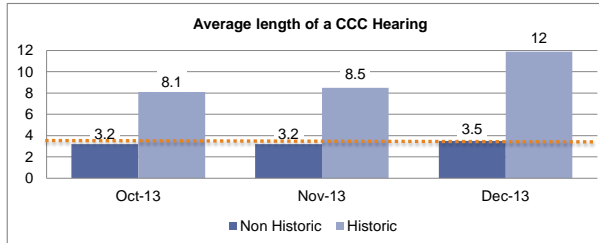
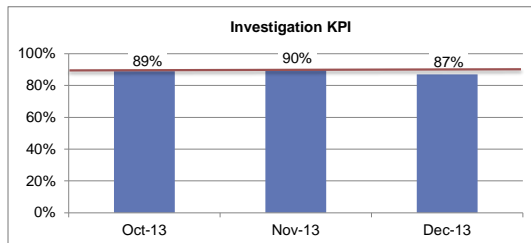
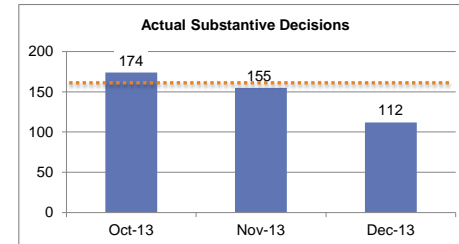
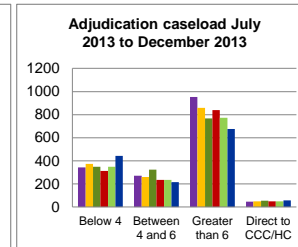
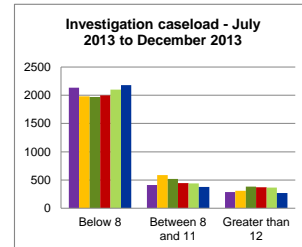
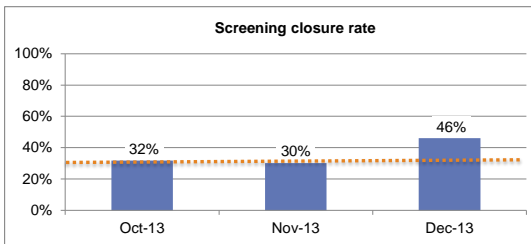
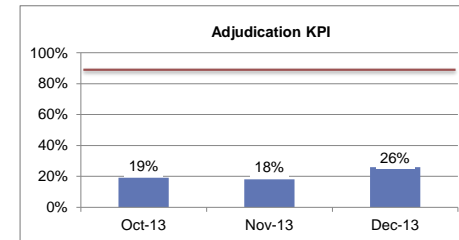
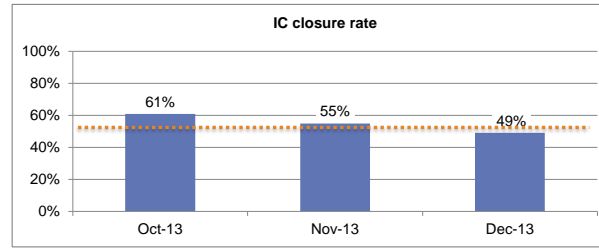
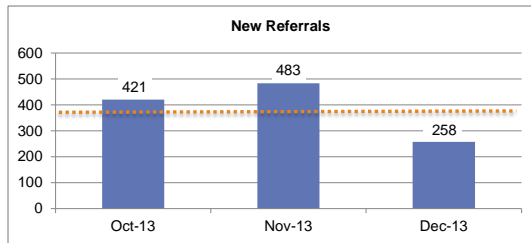
Green = the figure matches or is below the target figure.

Amber = within 1% of the target figure.

Red = where there is a difference of greater than 1% of the target figure.

FtP Performance for October 2013 to December 2013

Year to date average



Corporate risk register

		Date: 15 January 2014			Issue No: 10 (following 15 January Executive Board meeting)			Note: The 'inherent risk scoring' column does not take into account any mitigation. The 'post-mitigation scoring' involves taking into account the mitigation in place but not the planned action.									
No.	Date of origin	Risk Scenario			Inherent risk scoring			Mitigation in place / Planned action			Post-mitigation scoring			Risk Owner (and Sponsor)	Dates up-dated (log of dates for when risk was updated)	Status (open / closed plus clear indication of whether and when on track / not on track to reduce scoring)	Direction (of risk score from the previous issue)
		Root cause(s)	Potential situation	Consequences	Likelihood	Impact	Score	Likelihood	Impact	Score							
CR1 A	May-13 (previously risk Reg 2011/02. Date of origin: Apr 2011)	Integrity of the register - Current			5	5	25	Mitigation in place: (1) Standard operating procedures and improved training. (2) Daily reconciliation reports and manual processes to address system anomalies. (3) Overseas registration procedures strengthened following pause and review. (4) Council has committed to introduce a proportionate and effective model of revalidation by the end of 2015. (5) All Overseas applicants are now required to attend the NMC in person to present original I.D Documents. (6) ID Checker now in post. Recruitment for 2nd position in Jan 2014. Planned action: (1) Implement Registration Improvement Programme (September 2013-September 2014). (2) Address prioritised system defects (November 2014). (3) Further process refinements and alignment of FtP and Registration data (ongoing). (4) Internal audit activity planned for Q2-4 2013 - 14 on registration control framework; and for Q4 2013-14 on registrant data integrity. (5) Establish longer term strengthened overseas process, incorporating competency test pending planned consultation (October 2014). (6) The Code and standards will be reviewed and revised to ensure they are compatible with revalidation. Guidance for revalidation will also be developed (December 2015).			3	4	12	Director, Registrations	13.12.13 - likelihood reduced to 3 due to recruitment and appointment of IC verification officer. 15.01.14 - no change.	Open - on track. Risk reviewed monthly. Focused on current registration activity and therefore is more controllable through mitigation actions than the historic risk below. Risk reduction expected Jan 2014	Reducing
(1) Wiser and Case Management System (CMS) not fully integrated. (2) Current policies, processes and procedures may be ineffective or inconsistently applied.	The online register may be inaccurate.	(1) Public protection compromised. (2) Negative impact on registrants. (3) Reputation damaged.															
CR1 B	May-13 (previously risk Reg 2011/01. Date of origin: Apr 2011)	Integrity of the register - Historic			5	5	25	Mitigation in place: (1) Standard operating procedures and improved training. (2) Initial Overseas Audit (April 2002 - 2013) results indicate a strengthening of process over time (since 2007). (3) Council has committed to introduce a proportionate and effective model of revalidation by the end of 2015. (4) FtP/Registration working group who have identified all known issues relating to historical inaccuracies. (5) Daily reports available to FtP/Registration to identify anomalies for these to be rectified. Planned action: (1) Analysis of specific cohorts where potential issues/risks are identified - to provide assurance or scope any issues (ongoing). (2) Introduction of data integrity manager who will interrogate register to establish areas of risk (Jan 2014). (3) Investigate gathering employer data to allow analysis of appropriate registration (ESR) (July 2014). (4) Further risk based audits as required (ongoing).			5	4	20	Director, Registrations	15.01.14 - no change	Open - on track. Risk reviewed monthly. Involves a long lead time for any action to play forward and impact the risk scoring. Very marginal improvement predicted until after revalidation in place from 2015	No change
(1) Policies and procedures may have been absent, ineffective or inconsistently applied in the past. (2) Historic decisions may have been made on a different basis, but cannot be reversed. (3) Circumstances may have changed after initial admission to the register, however these are not routinely checked. (4) Historic inaccuracies in recording FtP case statuses.	We may identify individuals currently on the register who would not meet current requirements for admission, and we may not have appropriate plans in place to respond to this.	(1) Public protection compromised. (2) Reputation damaged.															

No.	Date of origin	Risk Scenario			Inherent risk scoring			Mitigation in place / Planned action			Post-mitigation scoring			Risk Owner (and Sponsor)	Dates up-dated (log of dates for when risk was updated)	Status (open / closed plus clear indication of whether and when on track / not on track to reduce scoring)	Direction (of risk score from the previous issue)
		Root cause(s)	Potential situation	Consequences	Likelihood	Impact	Score	Likelihood	Impact	Score							
CR2	26/06/2013	Fitness to practise performance			5	5	25	Mitigation in place: (1) Detailed profiling and forecasting of caseload and activity and oversight by FtP Board. (2) Improved case management processes including voluntary removal and consensual panel determinations (3) Standard operating procedures and improved training for staff. (4) Increased staffing base. (5) Targeted review of adjudication caseload. (6) Increase in number of panel members and introduction of rolling recruitment for panel members and chairs. (7) Training for panel members and introduction of rolling programme. (8) Increased number of hearing venues. (9) External review of management information and forecasting assumptions (September 2013). Planned action: (1) Further workforce planning (March 2014). (2) Quality assurance framework to be fully implemented (March 2014). (3) Interim order proportionality review (December 2013). (4) Closer working with employers (April 2014). (5) Legislative change (July 2014). (6) Contingency planning for increase in hearing activity at the end of Q3.			3	5	15	Director, Fitness to Practise	15.01.14 - planned action 2, date changed from December 2013 to March 2014.	Open - on track Weekly performance / delivery against target reviewed at weekly management meeting and risk reviewed monthly. Risk reduction expected in early 2014 once adjudication caseload has decreased and new case management measures have embedded.	No change
(1) Historic under investment in FtP. (2) Inflexible legislative framework. (3) Fluctuations in referrals above the forecast levels. (4) Possibility that processes may be unable to sustain required volume of case progression/hearings at the expected quality.	The quality of our decision making may be compromised and we may not achieve the investigation/adjudication targets	(1) Public protection compromised. (2) Negative impact on registrants. (3) Negative impact on referrers. (4) Reputation damaged. (5) PSA Standards of Good Regulation not met (6) Adverse PSA initial stages audit'															
CR3	May-13 (previously risk T30. Date of origin: May-13)	Revalidation			4	4	16	Mitigation in place: (1) On going engagement via Revalidation Strategic Advisory Group, Task and Finish Group, Patient and Public Forum, Revalidation Communications Group, Employers Reference Group and events in four countries. (2) Costed options developed in collaboration with stakeholders, preferred option agreed by Council 12/09/13. (3) Oversight and scrutiny by Revalidation Programme Board, Change Management Portfolio Board and Executive Board. (4) Consultation launched 6 January 2014, webpage updated and events calendar created (5) Appropriate alignment of revalidation programme with registration improvement plan around online renewal achieved by November 2013. Planned action: (1) Consultation stage 2 starts May 2014 on code and revalidation guidance drafts. (2) Evidence of code review published by May 2014 (3) Evidence on risk model and update to Health Select Committee by July 2014 (4) Continuous engagement at four country level with five summits planned for March - July 2014. (5) Cost benefit analysis and impact to begin May 2015 following pilots.			3	4	12	Director, Continued Practice (sponsor) AD Revalidation (lead)	15.01.14 - mitigations and planned actions updated.	Open - on track to reduce scoring. This will be achieved in Dec 2015	No change
(1) Possible lack of stakeholder buy-in. (2) Complexity of the revalidation model (3) Cost of revalidation process to the NMC and/or to the wider system	(1) Revalidation model which has been signed off is not delivered: (a) by December 2015 and/or (b) in an effective manner	(1) Public protection compromised (2) Negative impact on registrants (3) Reputation damaged (4) PSA standards of good regulation are not met															

No.	Date of origin	Risk Scenario			Inherent risk scoring			Mitigation in place / Planned action			Post-mitigation scoring			Risk Owner (and Sponsor)	Dates up-dated (log of dates for when risk was updated)	Status (open / closed plus clear indication of whether and when on track / not on track to reduce scoring)	Direction (of risk score from the previous issue)
		Root cause(s)	Potential situation	Consequences	Likelihood	Impact	Score	Likelihood	Impact	Score							
CR4	01/06/2012 (previously risk T26. Date of origin: Jan-13)	Professional indemnity insurance (PII)			4	3	12	Mitigation in place: (1) Council decided NMC policy principles in April 2013. (2) NMC response to Department of Health consultation submitted May 2013. (3) Project plan currently overseen by Rag Programme Manager and existing staff. (4) Project Manager in place (01/07/2013). (5) NMC self declaration approach is approved. (6) New Notification of Practice form (method of capture) re-designed. (7) FAQs detailing NMC position for staff circulated in July to assist in responding to registrant queries. (8) Initial engagement with stakeholders completed. Planned action: (1) Changes required to Wisser (January 2014). (2) Implement in line with the direction from the Department of Health (not before Feb 2014).			3	3	9	Director, Registrations	15.01.14 - no change.	Open - on track	No change
	(1) Short timescale for implementation following outcome of DH consultation. (2) Changes to Wisser carry inherent risk. (3) Project manager not yet in place. Starts on 1 July 2013	We may be unable to implement a proportionate solution to the PII requirement by the required deadline - initially 25 October 2013, but date yet to be confirmed by DH.	(1) Public protection compromised. (2) Negative impact on registrants. (3) Reputation damaged.														
CR5	May-13 (previously risk G39. Date of origin: Mar-13)	Financial resources			4	5	20	Mitigation in place: (1) Prudent budgeting aligned to corporate planning and change management programmes. (2) Financial strategy. (3) Risk based reserves policy. (4) Monthly finance and planning meetings with each directorate. (5) Monthly monitoring by Executive Board. (6) Standing financial report to the Council. (7) Grant secured to meet unexpected costs re overseas registrations (8) Mid year review of Financial resource requirements against corporate plan & emerging priorities. Planned action: (1) Annual review of registrant fees - spring 2014.			4	5	20	Director, Corporate Services	15.01.14 - no change.	Open - on track. Risk reviewed monthly ----- Linked to Department of Health KPI of January 2016 -----	No change
	(1) Limited sources of income. (2) Possible increase in resource requirements as a result of external factors e.g. Francis report, external reviews, government policy etc. (3) Possible increase in fitness to practise referrals above forecast rate. (4) Resource requirements arising from several, simultaneous improvement projects. (5) Possibility that we do not achieve targeted efficiency savings.	We may have insufficient financial resources to meet all our planned operational requirements.	(1) Inability to deliver corporate objectives and/or improvement programme. (2) Negative impact on registrants. (3) Reputation damaged.														

No.	Date of origin	Risk Scenario			Inherent risk scoring			Mitigation in place / Planned action			Post-mitigation scoring			Risk Owner (and Sponsor)	Dates up-dated (log of dates for when risk was updated)	Status (open / closed plus clear indication of whether and when on track / not on track to reduce scoring)	Direction (of risk score from the previous issue)
		Root cause(s)	Potential situation	Consequences	Likelihood	Impact	Score	Likelihood	Impact	Score							
CR6	May-13 (previously risk T24. Date of origin: Oct-12)	Information Security			5	4	20	Mitigation in place: (1) Information security and data protection policies. (2) Mandatory training for staff and panellists. (3) Oversight by Information Governance Steering Group. (4) Laptop encryption programme. (5) Information security gap analysis completed and independently validated, identifying risk areas. Improvement Plan in place. (6) Internal audit activity on data security completed.			4	4	16	Director, Corporate Services	15.01.14 - planned actions and status updated.	Open - on track.	No change
	(1) Large volume, complex information processing. (2) Possibility that policies and procedures may be ineffective or inconsistently applied. (3) Security enhancements to some systems needed.	Sensitive information may be accessed by, or disclosed to, unauthorized individuals.	(1) Negative impact on data subject. (2) Regulatory intervention and/or fine by the Information Commissioner's Office. (3) Reputation damaged.														
CR7	May-13 (previously risk G20 & G35. Date of origin: 26.3.2012)	Quality of information			5	3	15	Mitigation in place: (1) Short term improvements to strengthen understanding of management information across registration and fitness to practise systems. (Cross reference CR1) (2) Short term improvements to support stakeholder engagement intelligence needs underway, including liaison with other regulators. (3) Data produced for annual reports. (4) Improved FtP MI to support corporate KPIs. (5) Initial intelligence shared with CQC.			5	3	15	Chief Executive	15.01.14 - no change apart from ownership update.	Open. Project in early stages and will require time to diagnose and correct. Links to ICT strategy, post 2014 for full implementation.	No change
	(1) Inconsistency in collection and use of data. (2) Ownership and governance arrangements for data and information management fragmented. (3) Enhanced system and analysis tools needed.	We may not consistently provide a coordinated response to management information and data requests.	(1) Inability to deliver corporate objectives and/or improvement programme. (2) Barrier to making sound business decisions and prioritisation of work. (3) Ineffective use of resources. (4) Reputation damaged.														

No.	Date of origin	Risk Scenario			Inherent risk scoring			Mitigation in place / Planned action			Post-mitigation scoring			Risk Owner (and Sponsor)	Dates up-dated (log of dates for when risk was updated)	Status (open / closed plus clear indication of whether and when on track / not on track to reduce scoring)	Direction (of risk score from the previous issue)
		Root cause(s)	Potential situation	Consequences	Likelihood	Impact	Score	Likelihood	Impact	Score							
CR9	May-13 (previously risk T25. Date of origin: Oct-12)	Staffing			5	4	20	Mitigation in place: (1) Improved employee communication and engagement in place. (2) Human Resources and Organisational Development Strategy in place and being implemented. (3) Staff survey completed and action plans established (4) Learning and development programme launched. (5) Focus groups and CEO lunches ensure feedback is received. (6) Pay and grading briefings held in August and consultation started in October 2013 Planned action: (1) Pensions, pay and grading review - formal consultation commenced in October 2013; implement in January 2014 (2) Review of HR policies ongoing (complete by March 2014). (3) Career Pathways to be embedded in pay and grading proposals; (implement in January 2014) (4) Ongoing delivery of learning and development programme (all year). (5) Long term workforce planning aligned to strategic direction (commenced June 2013; completion March 2014).			3	3	9	Director, Corporate Services AD HR & OD	15.01.14 - no change.	Open - on track. Linked to KPI on employer turnover.	No change
(1) Perception that our rewards package is poor. (2) Organisational and people development historically a low priority. (3) Organisational structure still embedding. (4) Lack of clear career progression pathways.	We may experience continued high staff turnover.	(1) Inability to deliver corporate objectives and/or improvement programme. (2) Negative impact on staff morale, motivation, and performance. (3) Reputation damaged. (4) Ineffective use of resources. (5) Loss of corporate memory.															
CR10	May-13 (previously risk T29. Date of origin: Feb-13)	Profile and proactivity			4	4	16	Mitigation in place: (1) Strategic engagement commitment in place. (2) Programme of key stakeholder meetings ongoing between Chief Executive, Chair and senior staff with the DH, professional bodies and unions, patient groups, nurses, midwives and other regulators. (3) Patient and Public Engagement Forums held quarterly in England, joint patient and public forum run with the Richmond Group and General Medical Council. (4) Changes made to NMC website in response to Patient and Public Engagement Forum feedback. (5) First time attendance at the Citizen's Advice Conference. (6) Acquired corporate membership of Plain English Society and first Crystal Mark achieved for our refreshed guidance on Raising concerns. Guidance relaunched September 2013. (7) System in place for tracking FtP referrals to and from other regulators. Referrals are recorded on cross regulatory log. Planned action: (1) Patient and Public Engagement Forums to be held in Scotland, Wales and Northern Ireland (Sept 2013 - April 2014). (2) NMC employer roadshows to be launched (October - March 2014). (3) Website relaunch to make it more public focused and interactive (by end 2014). (4) Plain English accreditation to be sought on all key publications (October 2013 onwards). (5) Memoranda of understandings to be underpinned with information and data sharing protocols (March 2014). (6) Business case approved by Executive Board in October and FtP to develop model to work proactively with employers across the UK (March 2014). (7) Next CMS release to enable fields in CMS to capture referrals to and from other regulators (Q2 2014-2015). (8) Planned internal audit activity to look at communication and engagement in Q1 2014 - 15.			2	3	6	Chief Executive Assistant Director, Strategy	28.11.13 - Risk likelihood decreased following Executive Board support for the website refresh proposals to be progressed. 15.01.14 - no change apart from ownership update.	Open Review March 2014 to measure impact of activity.	Reducing
(1) Engagement with patients, public and stakeholders not yet fully embedded. (2) Complex healthcare landscape and regulatory environment. (3) Joint working with other regulators inconsistent.	The NMC's lack of public profile means we may not communicate our role effectively and therefore our role is not properly understood. Ineffective joint working inhibits sharing of information about potential identification of unsafe practice or health provision settings where nurses and midwives provide care.	(1) Inability to deliver public protection effectively. (2) Reputation damaged. (3) Inappropriate or lack of referrals to fitness to practise. (4) Inappropriate recommendations from external reviews.															

Council

Monthly financial monitoring –December 2013 results

Action: For information.

Issue: The provision of financial performance information for current and future reporting periods.

Core regulatory function: Supporting functions

Corporate objectives: This paper relates to Objective 7 of the Corporate Plan for 2013-2016, namely 'We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions'.

Decision required:

- None

Annexes: The following annexes are attached to this paper:

- Annexe 1: Management results for 2013-2014 by month and year to date as at December 2013, plus the latest projections for the 'year to go' and full year 2013-2014.
- Annexe 2: Actual results and forecast projections by month to March 2014.
- Annexe 3: Graph showing forecast available free reserves versus the budget available free reserves for 2013-2014.
- Annexe 4: Graph showing forecast available free reserves versus the budget and financial strategy available free reserves for 2012-2016.
- Annexe 5: Graph showing forecast available free reserves versus the budget and financial strategy available free reserves for 2012-2016, with the fee level held at £100.
- Annexe 6: Waterfall graph showing the main variances in available free reserves between the budget and forecast for 2013-2014, by cost category.
- Annexe 7: Efficiency performance 2012-2014.

Further information:

If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Context:

Financial information

- 1 The budget information used throughout these reports is based on the budget approved by Council on 21 March 2013.
- 2 The budget was set in the context of the three year plan to achieve our Fitness to Practise KPIs by December 2014 and the minimum available free reserve target by January 2016. Progress towards meeting the available free reserves target is also regularly presented to Council in the KPI report.
- 3 On a monthly basis, meetings are held with each directorate to review progress against both the Corporate Plan and budget, and to update the activity and financial forecasts. These forecasts are for the balance of the current financial year, and we also produce a rolling forecast for the next twelve months.
- 4 Detailed month end reporting packs are produced for the Executive Team, showing results by directorate, cost centres and projects, together with summary reports, commentary and an update of the Central Pool position.
- 5 The Executive Board reviews and approves the financial results and forecast each month.
- 6 Where significant variances are identified during the year which would impact our achievement of our reserves target, directors will determine the necessary corrective actions.
- 7 This report summarises the outcomes of the Executive monthly review, and sets out the key variances to budget.

Discussion and options appraisal:

Executive summary

- 8 Available free reserves at December 2013 were £2.9 million higher than budget. The principal components of the variance are timing differences between actual and budgeted expenditure, lower Central Pool expenditure to date than planned, offset to an extent by an overspend in FtP to date.
- 9 The latest forecast is for available free reserves at March 2014 to be £8.2 million, which is better than budget by £0.8 million. This is due principally to

forecast expenditure being released back to reserves in Continued Practice, Corporate Governance and Registrations, and the receipt of a credit for VAT paid on property costs following the successful resolution of lengthy discussions with the landlord. There are also several risks and opportunities which are set out at paragraphs 28 and 29, and which will become clearer in the final part of the year.

- 10 The forecast March 2014 available free reserve level of £8.2 million is below the £10 million minimum target, which we have committed to achieve by January 2016. It should be noted that, whilst the year end forecast is an improvement on that budgeted, our deficit of revenue expenditure over income is still forecast to be £7.3 million, which is unsustainable in future years without a fee rise.
- 11 Within the full year forecast for revenue expenditure, there are a number of variances to budget within directorates, which have effectively been funded to date by the Central Pool.
- 12 The Central Pool is a contingency fund set up during the budgeting process, to fund items which either cannot be accurately quantified during the budgeting process, or were not envisaged at the time. Funds are released to directorate forecasts on the approval of business cases by the Executive Board. A number of pieces of work were in an early scoping phase during the budget setting process this year, in particular in relation to Registrations.
- 13 The principal forecast expenditure variances to budget at this stage relate to:
 - 13.1 Grant income of £1.6 million has been factored in to the forecast, reflecting the current year grant funding from the Department of Health to support overseas registrations improvements. The related costs of £1.6 million are shown in the 'projects' expenditure category. The current year grant funding is principally to support the historical audit of overseas registrations and the implementation of electronic ID verification for overseas applicants. A second grant application is currently being scoped to support the development and implementation of competency testing for overseas applicants to the register.
 - 13.2 £1.9 million higher expenditure in Fitness to Practise, based on an additional 248 cases sent for external investigation, 519 additional hearing days over budget (to December 2013), a higher cost per hearing due to higher shorthand writer costs, approved additional headcount, initial FtP change programme work relating to case examiners and employer liaison, the external sample audit of initial stage case closures, and costs in relation to panellist training which were moved from HR/OD.
 - 13.3 The latest operational forecast for FtP for the balance of the year is based on volume assumptions of a 49% closure rate at Investigating

Committee stage, 20 meetings per month from January 2014, 12 Voluntary Removals per month, 22 substantive CCC hearings per day each month from January 2014, and 33 cases sent for external investigation each month.

- 13.4 £0.3 million higher expenditure in Registrations, principally in relation to the registrations improvement plan, and increased staffing levels.
 - 13.5 Facilities Management is forecast to be £0.3 million higher than budget principally due to a dilapidations provision for all leased property.
 - 13.6 Continued Practice is forecast to be £0.5 million under budget principally due to lower QA of Education costs.
 - 13.7 Communications is forecast to be £0.2 million lower than budget principally due to the planned website development being postponed until 2014-2015.
 - 13.8 Depreciation is £0.2 million lower than budget due to the timing of the go live dates of several ICT projects.
- 14 In December 2013, FtP Conduct and Competency Committee (CCC) hearings per day were 19.6 vs. a budget of 22. Both ICs and ICIOs were also below budget, but other hearing days above budget. In total, hearing days for December were 455 vs. a budget of 436.
- 15 We continue to negotiate with HMRC in relation to the repayment of income tax and National Insurance paid on FtP panellist expenses in prior years. Our current estimate of repayment is between £1.5 million and £2 million. This has not yet been factored into the forecast. The final amount is subject to negotiation, and HMRC processes take a considerable time.

Monthly management results

- 16 The management results for December 2013 are set out at Annexe 1. These reports include variances against the budget and the previous month's forecast. This helps Council to monitor our ability to understand, assess and plan our activity and expenditure requirements.

Actual results versus budget

- 17 The highlights for the nine months to December against budget were:
- 17.1 Higher than budget periodic fees, EU assessment fees and overseas applications fees, offset to an extent by lower interest income. The higher overseas application fee income follows the resumption of overseas applications processing from 1 April.
 - 17.2 FtP is £1.8 million overspent year to date, driven by:
 - 17.2.1 Additional £0.2 million costs relating to consultancy for the

'lean' review and the closed case audit (funding approved from the Central Pool).

17.2.2 Additional £0.1 million costs for increased approved headcount requirements.

17.2.3 An adverse operational variance of £0.7 million due to the higher level of hearing days held to date (519 more days than budgeted), resulting in increased shorthand writers transcript requests, increased professional fees and increased requirement for external case presenters.

17.2.4 External investigations costs are £0.8 million higher than budget due to the increased number of cases being sent externally for investigation, partly as a consequence of higher number of investigations conducted. Year to date, 605 cases have been sent externally versus a budget of 342 cases.

17.3 Registration costs are higher than budget by £0.2 million due mainly to higher than expected external costs associated with the initial review of overseas applications processing. This was under-provided in 2012-2013 but is not considered material enough to warrant a retrospective adjustment.

17.4 Costs in Continued Practice are £0.8 million lower than budget due to lower QA of Education costs, staff cost savings from vacancies and reduced spend on professional fees.

17.5 HR & OD costs are £0.2 million lower than budget resulting from timing variances in staff recruitment; the full year forecast is expected to be on budget with some significant recruitment expected in the latter part of the year. There are also savings in relation to panellist training costs, which were budgeted in HR/OD, but these costs are now picked up in FtP. The forecasts for both HR/OD and FtP have been adjusted to reflect this transfer.

17.6 Communications costs are £0.2 million lower than budget due to the timing of the website development (moved to 2014-2015), lower than expected printing costs and staff vacancies.

17.7 Expenditure in ICT is £0.3 million lower than budget due principally to the transfer of photocopying costs to Facilities Management and the timing of CMS software upgrades.

17.8 The favourable variance in the Central Pool (£2.6 million) is offset to an extent by increased spend in other departments representing costs that are being funded by the Central Pool (for instance consultancy costs in the FtP closed case audit, the pay and grading review in projects and the dilapidation provision in Facilities Management), and differences in timing and cost assumptions for the implementation of the registration improvement plan and the pay

and grading review.

- 17.9 Total free reserves at December 2013 are £15.9 million. The pension deficit at this point is £7.0 million; therefore available free reserves at December 2013 are £8.8 million. This is £2.9 million better than budget at this point, but outside the reserves policy envelope agreed by Council in March 2013 (i.e. the risk based element of reserves to be in a target range of £10 million to £25 million).
- 17.10 Total cash is £77.4 million at December 2013. This is £3.1 million better than budget, due to lower expenditure and a higher level of creditors at 31 December.

Latest forecast

- 18 The full year forecast for 2013-2014 is based on the detailed reforecast by directors in December.
- 19 The highlights are as follows:
- 19.1 The latest forecast is for available free reserves at March 2014 to be better than budget by £0.8 million at £8.2 million. Some emerging risks and opportunities to this are identified at paragraphs 28 and 29 below.
- 19.2 Total free reserves are projected to be £14.9 million by March 2014, which is £0.8 million higher than budget.
- 19.3 The yearend cash position is forecast to be £0.9 million higher than budget at £76.2 million.
- 19.4 The income forecast is £1.9 million higher than budget. £1.6 million is due to the DH overseas grant funding. £0.6 million additional revenue is due to slightly higher periodic fees, and increased EU assessment and overseas application fees following the resumption of processing overseas applications to the register from 1 April, which was temporarily halted in the latter part of 2012-2013. This increased revenue is offset by £0.5 million lower interest income due to lower than budgeted interest rates.
- 19.5 The Fitness to Practise expenditure forecast is higher than budget by £1.9 million reflecting additional cases being sent out for external investigation (248 additional cases for the full year), a higher number of hearing days than budgeted (519 more days than budget), higher costs per case due to higher shorthand writer costs, approved costs for additional headcount, initial FtP change programme work relating to case examiners and employer liaison, the external audit of initial stage case closures, and costs in relation to panellist training which have been transferred from HR/OD.

- 19.6 The Registration forecast is higher than budget by £0.3 million due to the external review of overseas registration (prior year), programme management support for the registrations improvement plan, and increased staffing levels. Costs associated with the registrations improvement plan and additional staff requirements were budgeted as potential bids to the central pool as they were not fully defined at that time.
- 19.7 Continued Practice is forecast to be £0.5 million lower than budget due to lower anticipated spend on QA of Education and lower staff costs.
- 19.8 Communication is forecast to be £0.2 million lower than budget due to the planned website development now expected in 2014-2015.
- 19.9 Facilities Management is forecast to be £0.3 million higher than budget due to £0.3 million approved dilapidations provision for all leased property and £0.1 million of photocopying costs moved from ICT, offset by reduced service charges.
- 19.10 Depreciation is better than budget by £0.2 million due to the timings of various ICT projects going live.
- 19.11 The Central Pool position has been reduced to £1.3 million, reflecting approved expenditure now included in directorate forecasts. Where other budgeted requirements have now been reduced, these have been released and used to offset the forecast overspend in FtP.
- 19.12 Project expenditure includes the £1.6 million of expenditure now forecast this year for the registrations overseas audit and ID verification.

Efficiencies

- 20 Performance against efficiency initiatives is set out in Annexe 7.
- 21 As part of the financial strategy, efficiency savings of £25 million were identified in Fitness to Practise and are being actively targeted. £11 million of savings for 2012-2013 and 2013-2014 have been or are expected to be achieved, and the overall target is expected to be met by the end of the three year period.
- 22 Other efficiency savings in the NMC have been identified, with tracking mechanisms under review.
- 23 Further efficiency savings are expected to be identified both via the Corporate Efficiency Board and as part of the budgeting process.

- Public protection implications:** 24 The monitoring of financial results and forecasts enables the NMC to ensure it has sufficient resources to deliver continued public protection.
- Resource implications:** 25 The key financial indicators for current and projected levels are discussed in this paper.
- Equality and diversity implications:** 26 An EQIA is not required in relation to this paper.
- Stakeholder engagement:** 27 None
- Risk implications:** 28 There are a number of risks which should be considered on an ongoing basis when reviewing the financial position.
- 28.1 Council's risk based reserve policy is that available free reserves should be held in a target range of £10 million to £25 million. Following the latest reforecast, our available free reserves will be £8.2 million by March 2014, which is in breach of our reserves policy. A reduction in reserves from the policy level should only be authorised by trustees where there is a clear and robust plan to rebuild reserves. In our case, the financial strategy agreed by Council in 2012, the increased fee level and the Department of Health grant will build reserves back up to the required level.
- 28.2 There is a risk around the FtP forecast assumptions for case closures via meetings and VR as, although they reflect the year to date trend they do not reflect the experience in the most recent months. If the most recent trend continues, rather than forecast, FtP will need to find an additional £530k of savings to maintain their current approved full year forecast position.
- 28.3 The draft valuation of the pension scheme as at 31 March 2013 has now been received. It indicates that the scheme funding position has worsened. This is likely to increase our monthly deficit payments, which will have an impact on our available free reserves. We are reviewing the valuation and the assumptions on which it is based, with our pension advisers, following a meeting with the scheme Trustees in November.

Opportunities

- 29 The expenditure requirements for the year are based on a cautious assessment of activity levels and outcomes and the forecast reserves figure for March 2014 should be considered as a prudent estimate. There are a number of opportunities to increase funding or realise savings against projections, as follows:

- 29.1 Requests for funding from the Central Pool may be lower than projected. In particular, the funding assigned for 2013-14 for the pay and grading review (£1.1 million) is unlikely to be fully realised in the year due to the timescale for consultation and implementation of the review. At the time of reporting final modelling of the outcome of the review is underway.
- 29.2 It is possible that we will be able to negotiate the return of tax paid in prior years in relation to PAYE and NI on panellists' expenses. This is discussed at paragraph 15.
- 29.3 The corporate efficiency board is being re-shaped to provide greater focus on value for money and efficiency monitoring and reporting.

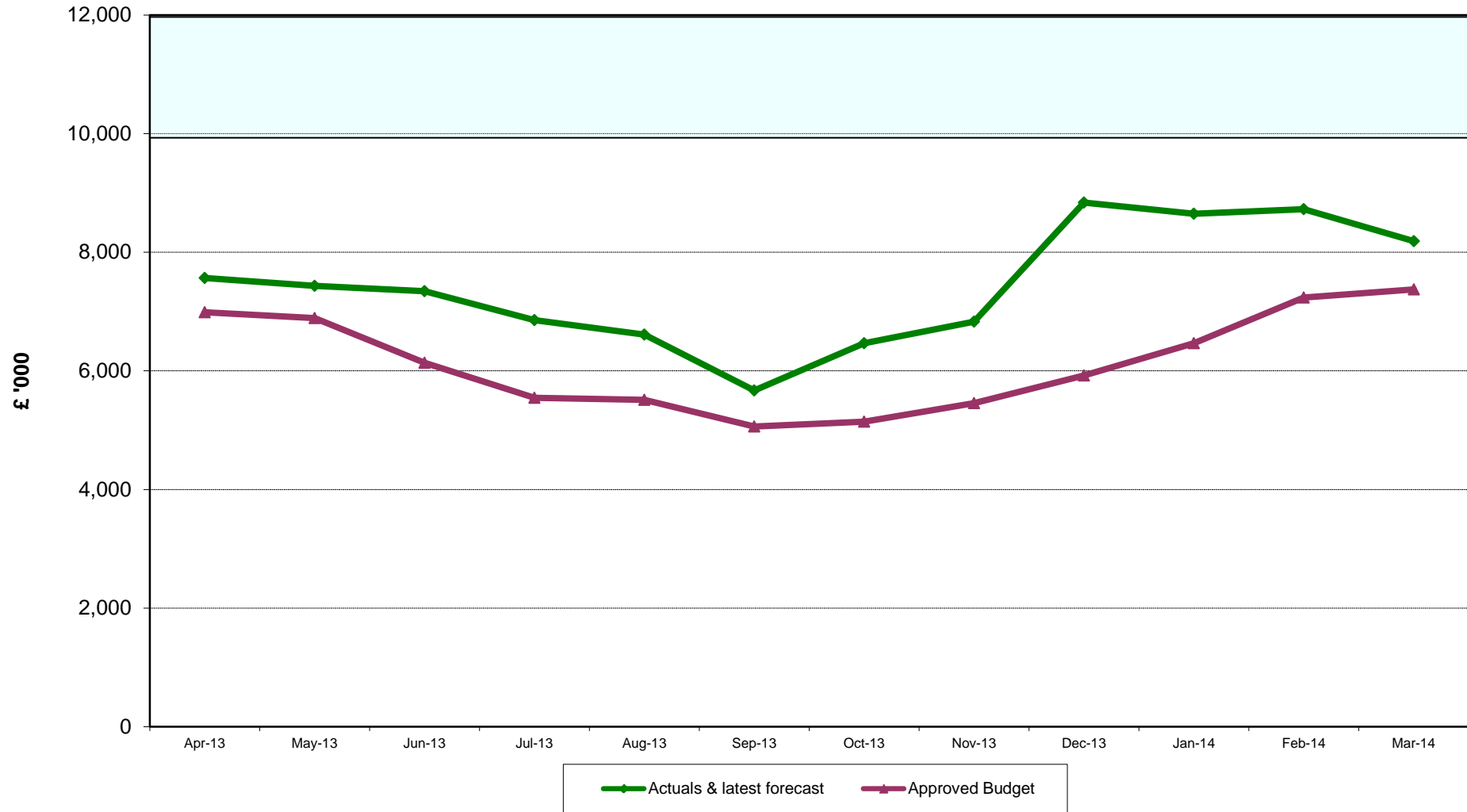
Legal implications: 30 None.

2013/2014	Month of December				April to December					January to March					Full Year				
	Actual	Budget	Prior Forecast	vs budget	Actual	Budget	Prior Forecast	vs budget	vs prior forecast	Forecast	Budget	Prior Forecast	vs budget	vs prior forecast	Actual/Forecast	Budget	Prior Forecast	vs budget	vs prior forecast
Periodic Fee Income	5,496	5,418	5,418	78	44,562	44,243	44,484	319	78	16,704	16,704	16,704	0	0	61,266	60,947	61,188	319	78
Grant Income	143	0	166	143	1,233	0	1,256	1,233	(23)	384	0	384	384	0	1,618	0	1,640	1,618	(23)
Overseas Applications	21	17	17	4	240	152	236	88	4	51	51	51	0	0	291	203	287	88	4
Eu Assessment Fee	63	26	80	36	487	237	504	250	(17)	133	79	133	54	0	620	316	637	304	(17)
Interest Income	73	123	75	(50)	868	1,110	870	(242)	(2)	150	370	225	(220)	(75)	1,018	1,480	1,095	(462)	(77)
Other Income	14	28	28	(14)	251	251	265	0	(14)	84	84	84	0	0	335	335	349	0	(14)
Total Income:	5,810	5,613	5,784	197	47,642	45,994	47,616	1,649	26	17,505	17,287	17,580	218	(75)	65,148	63,281	65,196	1,867	(49)
Office of the Chair & Chief Executive	56	47	58	(9)	513	425	514	(88)	2	175	142	169	(34)	(6)	688	566	683	(122)	(5)
Communication	45	105	62	60	462	685	479	223	17	250	216	270	(34)	21	712	901	750	189	38
Council Services	33	38	28	6	287	349	282	62	(5)	125	163	145	38	20	412	512	427	100	15
Governance	92	128	114	36	899	998	921	99	22	326	303	354	(23)	27	1,225	1,301	1,275	76	50
Policy	37	35	38	(2)	277	309	278	32	1	119	105	120	(13)	2	395	414	399	19	3
Corporate Governance	206	306	242	100	1,924	2,341	1,961	416	36	820	788	890	(32)	70	2,745	3,128	2,851	384	106
Registration	144	278	179	134	2,777	2,577	2,812	(200)	36	919	834	982	(86)	63	3,696	3,411	3,794	(286)	98
Continued Practice	136	332	173	196	1,580	2,395	1,618	815	38	960	689	1,168	(271)	208	2,540	3,085	2,786	545	246
ICT	250	462	401	212	3,387	3,727	3,538	340	151	1,579	1,160	1,433	(419)	(146)	4,966	4,887	4,971	(79)	5
Finance	156	228	205	72	1,324	1,483	1,372	160	48	631	516	606	(115)	(25)	1,955	1,999	1,978	45	23
Facilities Management	366	413	440	46	3,881	3,763	3,955	(117)	74	1,356	1,213	1,381	(142)	26	5,236	4,977	5,336	(260)	100
HR&OD	205	218	187	13	1,915	2,131	1,898	216	(17)	791	658	867	(133)	76	2,706	2,790	2,765	83	58
Corporate Services	977	1,320	1,233	343	10,507	11,105	10,763	598	256	4,356	3,548	4,286	(809)	(70)	14,863	14,652	15,049	(211)	186
Directors office	26	78	77	52	853	686	904	(167)	50	326	234	305	(92)	(21)	1,179	920	1,208	(259)	29
Screening	103	106	109	3	838	956	843	118	6	326	319	326	(7)	1	1,163	1,274	1,170	111	6
Case Investigations - Total	333	339	342	6	4,000	2,992	4,010	(1,009)	10	878	1,016	1,021	138	143	4,878	4,008	5,031	(870)	153
Investigations - IC	73	142	146	69	797	1,279	870	483	73	435	426	439	(9)	4	1,232	1,705	1,309	474	77
Case Management	23	24	30	1	262	216	270	(46)	7	88	72	89	(16)	1	351	288	359	(63)	8
Scheduling	78	70	67	(8)	638	630	627	(8)	(11)	203	210	201	7	(2)	840	840	828	(0)	(12)
Case Preparation	110	122	115	12	932	1,102	937	170	5	348	367	346	19	(2)	1,280	1,469	1,283	189	3
Admin / General	114	111	77	(3)	1,063	996	1,026	(67)	(37)	233	332	230	99	(3)	1,297	1,328	1,257	32	(40)
Adjudication	237	216	223	(21)	2,266	1,946	2,252	(320)	(14)	667	649	670	(19)	3	2,933	2,594	2,922	(338)	(10)
CCC	1,174	1,098	1,116	(76)	13,274	12,285	13,216	(988)	(58)	4,435	4,239	4,312	(196)	(123)	17,708	16,524	17,528	(1,184)	(181)
HC	44	42	42	(2)	825	486	823	(339)	(2)	254	164	164	(90)	(90)	1,079	649	987	(429)	(92)
Investigations - ICIO	173	186	186	12	1,910	2,138	1,922	228	12	708	723	708	15	0	2,618	2,861	2,631	243	12
Regulatory Legal Team	296	315	314	20	3,201	3,074	3,220	(127)	19	1,058	1,043	1,034	(15)	(24)	4,259	4,117	4,254	(143)	(5)
Panel support	44	94	35	51	696	974	687	278	(8)	319	361	316	42	(4)	1,015	1,335	1,003	319	(12)
FTP	2,827	2,944	2,880	116	31,555	29,760	31,608	(1,796)	53	10,278	10,154	10,161	(124)	(118)	41,834	39,914	41,769	(1,920)	(64)
Projects	208	3	192	(205)	1,498	96	1,482	(1,402)	(16)	396	10	396	(386)	0	1,894	106	1,879	(1,788)	(16)
Depreciation	220	256	267	36	2,074	2,301	2,121	227	47	827	767	830	(60)	3	2,902	3,068	2,951	166	50
NMC Corporate/General	(6)	5	5	10	119	42	130	(77)	10	(161)	14	14	175	175	(42)	57	144	99	186
Central pool	0	285	30	285	0	2,551	30	2,551	30	1,316	964	1,306	(352)	(10)	1,316	3,516	1,337	2,200	21
Revenue Spend	4,768	5,775	5,261	1,007	52,547	53,592	53,040	1,045	492	19,888	17,910	20,203	(1,978)	315	72,435	71,502	73,243	(933)	807
Surplus / (Deficit)	1,042	(163)	523	1,205	(4,905)	(7,598)	(5,424)	2,693	519	(2,382)	(623)	(2,623)	(1,760)	240	(7,287)	(8,221)	(8,046)	934	759
Capital	(83)	288	383	371	1,715	2,162	2,180	448	466	1,090	689	720	(401)	(370)	2,804	2,851	2,900	47	96
Total free reserves					15,873	12,959	14,936	2,914	937						14,943	14,129	14,138	814	805
Pension deficit					7,034	7,034	7,034	0	0						6,754	6,754	6,754	0	0
Available free reserves (excluding pension deficit & restricted funds)					8,839	5,925	7,902	2,914	937						8,189	7,375	7,384	814	805
Restricted funds					13,714	13,714	13,714	0	0						12,000	12,000	12,000	0	0
Cash at bank					77,387	74,336	76,313	3,051	1,074						76,224	75,310	75,319	914	905
Net inflow/(outflow) of funds					1,975	(1,076)	901	3,051	1,074						812	(102)	(93)	914	905
Substantive hearing numbers per day	20	22	22	(2)	22	21	22	0	(0)						22	22	22	0	0
Headcount	569	540	611	(29)											616	540	607	(76)	(9)

	Apr-13 Actual	May-13 Actual	Jun-13 Actual	Jul-13 Actual	Aug-13 Actual	Sep-13 Actual	Oct-13 Actual	Nov-13 Actual	Dec-13 Actual	Jan-14 Forecast	Feb-14 Forecast	Mar-14 Forecast	Full Year 2013-2014
Periodic Fee Income	4,524	4,624	4,697	4,755	4,847	4,933	5,277	5,408	5,496	5,513	5,595	5,595	61,266
Grant Income							930	160	143	67	79	239	1,618
Overseas Applications	41	19	14	39	40	14	38	13	21	17	17	17	291
Eu Assessment Fee	35	29	58	41	54	43	85	80	63	80	26	26	620
Interest Income	117	119	110	102	107	98	73	70	73	50	50	50	1,018
Other Income	29	24	19	33	25	26	42	39	14	28	28	28	335
Total Income:	4,746	4,815	4,898	4,970	5,073	5,115	6,445	5,770	5,810	5,754	5,796	5,955	65,148
Office of the Chair & Chief Executive	53	45	49	47	57	64	70	71	56	59	58	59	688
Communication	45	56	38	30	45	78	52	72	45	120	58	71	712
Council Services	38	28	37	29	20	38	31	33	33	38	55	33	412
Governance	127	119	92	104	100	86	87	91	92	98	110	119	1,225
Policy	28	26	27	25	30	30	33	39	37	41	40	38	395
Corporate Governance	238	229	194	188	196	233	204	237	206	297	263	260	2,745
Registration	450	271	246	267	340	352	304	403	144	270	319	330	3,696
Continued Practice	158	172	168	162	167	235	218	164	136	230	273	457	2,540
ICT	340	279	543	521	310	416	379	349	250	494	457	627	4,966
Finance	143	108	162	154	149	118	171	163	156	190	174	267	1,955
Facilities Management	477	398	471	481	469	422	329	468	366	461	422	473	5,236
HR&OD	164	202	179	236	254	212	231	232	205	246	252	293	2,706
Corporate Services	1,124	985	1,355	1,392	1,182	1,168	1,111	1,212	977	1,391	1,304	1,661	14,863
Directors office	74	206	159	130	76	51	63	68	26	109	109	109	1,179
Screening	89	79	87	87	95	96	99	102	103	109	109	109	1,163
Case Investigations - Total	247	295	339	434	568	757	608	421	333	186	346	346	4,878
Investigations - IC	122	122	83	55	59	97	100	85	73	145	145	145	1,232
Case Management	49	42	41	20	26	22	19	20	23	29	29	29	351
Scheduling	68	74	66	76	74	57	67	78	78	68	68	68	840
Case Preparation	105	98	78	114	111	104	107	106	110	116	116	116	1,280
Admin / General	69	107	67	113	158	189	87	159	114	78	78	78	1,297
Adjudication	233	236	290	252	259	232	261	266	237	222	222	222	2,933
CCC	1,242	1,537	1,425	1,580	1,497	1,603	1,678	1,537	1,174	1,546	1,411	1,478	17,708
HC	108	82	77	135	85	77	106	112	44	87	82	85	1,079
Investigations - ICIO	245	258	235	241	149	185	219	205	173	245	229	234	2,618
Regulatory Legal Team	393	275	376	391	312	361	383	414	296	358	345	355	4,259
Panel support	36	73	175	107	98	71	38	54	44	106	106	106	1,015
FTP	3,080	3,484	3,499	3,734	3,567	3,902	3,834	3,628	2,827	3,404	3,395	3,479	41,834
Projects	40	26	(8)	0	21	606	411	193	208	67	79	251	1,894
Depreciation	226	228	226	232	235	235	243	229	220	274	276	278	2,902
NMC Corporate/General	23	96	(40)	(3)	30	2	15	2	(6)	(171)	5	5	(42)
Central pool	0	0	0	0	0	0	0	0	0	350	483	483	1,316
Revenue Spend	5,393	5,536	5,689	6,020	5,794	6,797	6,411	6,139	4,768	6,170	6,455	7,262	72,435
Surplus / (Deficit)	(646)	(722)	(792)	(1,050)	(721)	(1,682)	34	(369)	1,042	(416)	(660)	(1,307)	(7,287)
Capital	79	303	190	334	420	161	146	165	(83)	713	203	173	2,804
Total free reserves	15,348	15,123	14,939	14,357	14,023	12,986	13,690	13,957	15,873	15,589	15,574	14,943	
Pension deficit	7,783	7,690	7,596	7,502	7,409	7,315	7,222	7,128	7,034	6,941	6,847	6,754	
Available free reserves (excluding pension deficit & restricted funds)	7,565	7,433	7,343	6,855	6,614	5,671	6,468	6,829	8,839	8,648	8,726	8,189	
Restricted funds	18,286	17,714	17,143	16,571	16,000	15,429	14,857	14,286	13,714	13,143	12,571	12,000	
Cash at bank	75,167	74,029	72,457	71,308	70,632	78,347	79,446	79,027	77,387	76,009	74,411	76,224	
Net inflow/(outflow) of funds - monthly	(245)	(1,138)	(1,572)	(1,149)	(676)	7,715	1,099	(419)	(1,640)	(1,378)	(1,599)	1,813	812
Substantive hearing numbers per day	19	22	22	23	22	24	24	22	20	22	22	22	22
Headcount	556	539	542	555	580	572	582	590	569	618	618	616	

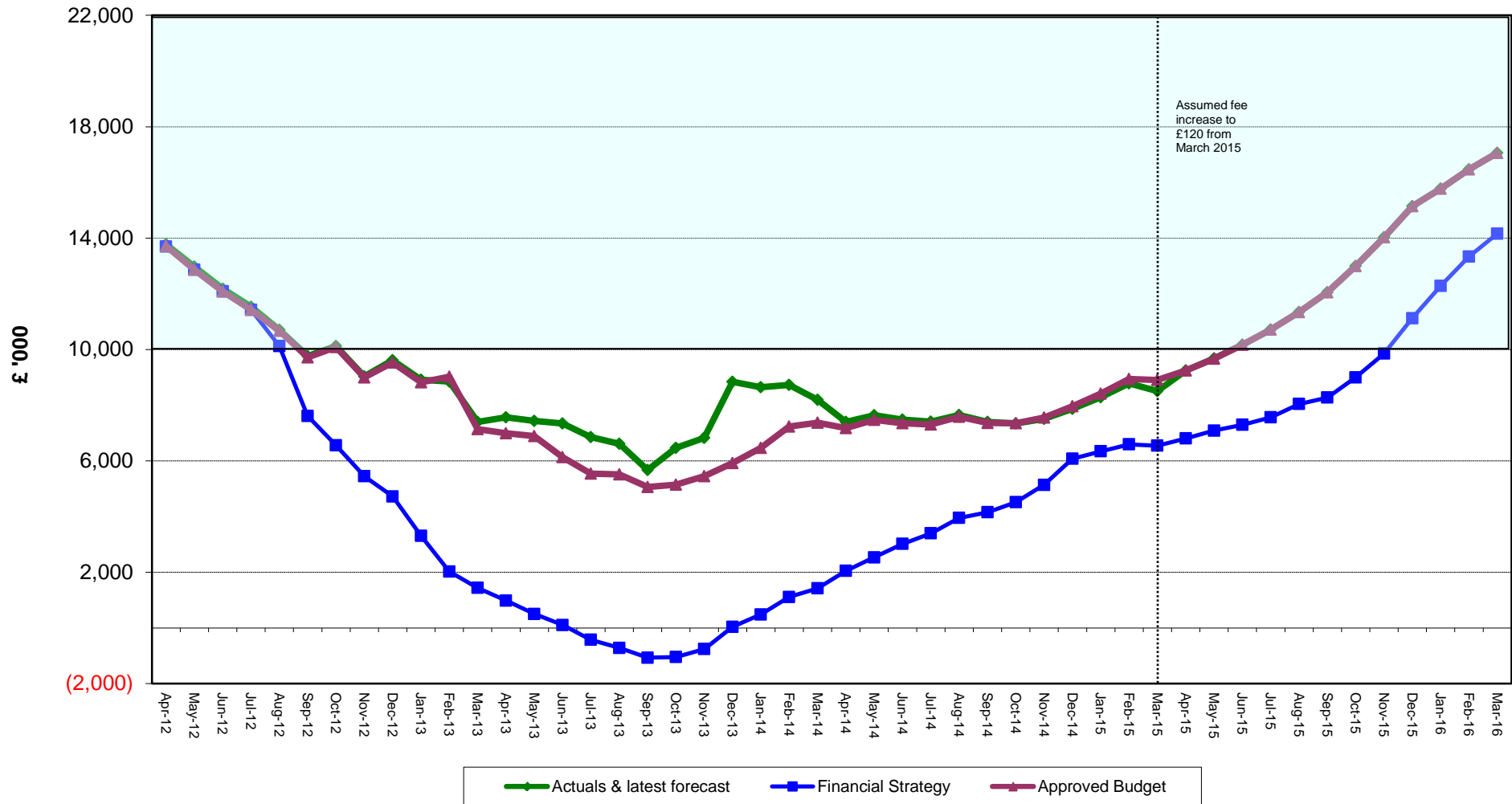
December forecast & approved budget available free reserves 2013-2014

Annexe 3



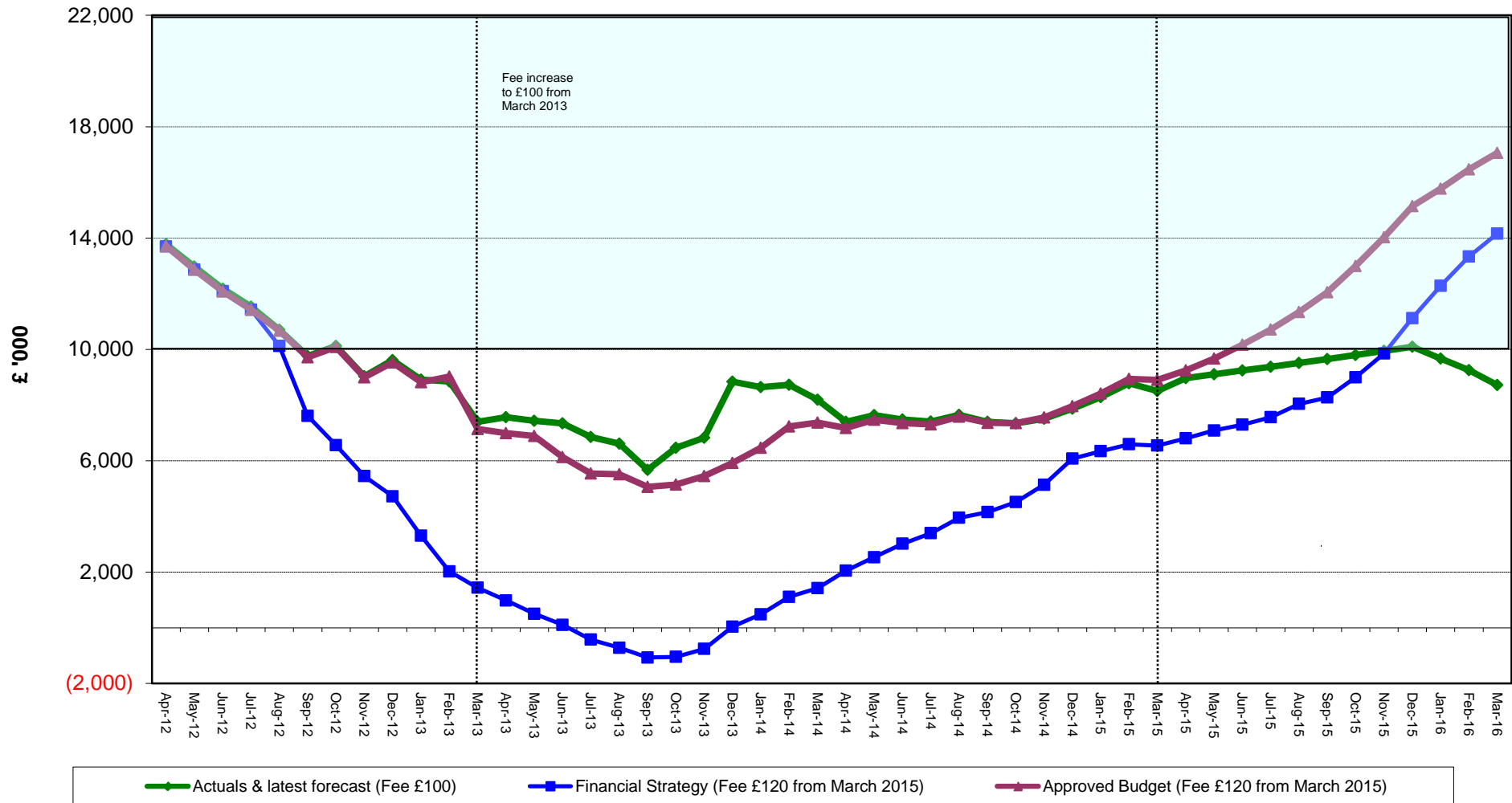
December forecast, approved budget & financial strategy available free reserves for 2012-2016

Annexe 4

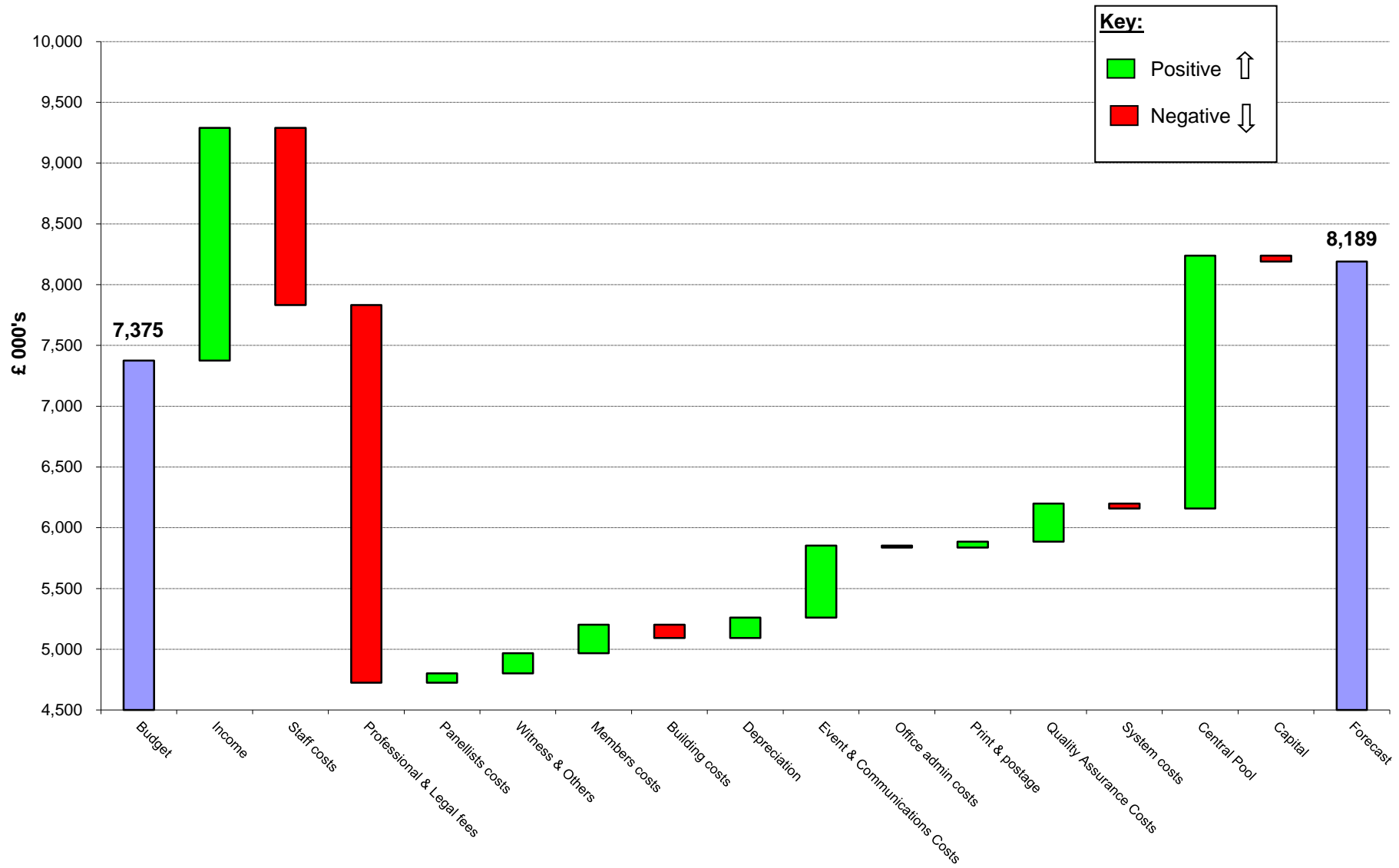


December forecast, approved budget & financial strategy available free reserves for 2012-2016

Annexe 5



**Available Free Reserves
2013-2014 Budget versus forecast by operational category**



Efficiency performance 2012-2014

	Efficiencies assured by KPMG			Actual\Forecast			Variance		
	2012-2013	2013-2014	Total	2012-2013	2013-2014	Total	2012-2013	2013-2014	Total
In house investigations	2,100	5,340	7,440	695	4,010	4,706	(1,405)	(1,330)	(2,734)
Shorthand writers	1,013	1,981	2,994	460	2,035	2,495	(553)	54	(499)
IC2 / ICIO reduction		2,686	2,686	766	922	1,688	766	(1,764)	(998)
Voluntary removal		473	473	236	1,943	2,179	236	1,470	1,706
Headcount reduction from restructure (37 redundancies)				36	2,398	2,434	36	2,398	2,434
Vacant positions dis-established (28.4 positions)				1,679	1,679	3,358	1,679	1,679	3,358
Old Bailey				(74)	1,290	1,217	(74)	1,290	1,217
Staff pay freeze 2012-2013				300	300	600	300	300	600
Changes made to pin cards				100	100	200	100	100	200
NMC Review				200	200	400	200	200	400
Total	3,113	10,480	13,593	4,399	14,877	19,276	1,286	4,397	5,683
FtP Efficiencies	3,113	10,480	13,593	2,157	8,910	11,068	(956)	(1,570)	(2,525)

Efficiencies assured by KPMG	2012-2013	2013-2014	2014-2015	Total
In house investigations	2,100	5,340	6,260	13,700
Shorthand writers	1,013	1,981	1,901	4,895
IC2 / ICIO reduction		2,686	2,878	5,564
Voluntary removal		473	507	980
Total	3,113	10,480	11,546	25,139

Council

Update on Francis report and other related healthcare reviews

Action: For information.

Issue: This paper provides a further update on matters arising out of the Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (the Francis report) and other related healthcare reviews and a progress report on our planned actions in response to the Francis report and the other reviews.

Core regulatory function: Fitness to Practise, Registrations, Education, Standards

Corporate objectives: The recommendations in the report are relevant to all the NMC's Corporate Objectives.

Decision required: None.

Annexes: The following annexe is attached to this paper :
Annexe 1: Progress report on planned actions in NMC Francis response

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Context:**Background**

- 1 On Wednesday 6 February 2013 the report of the Mid Staffordshire NHS Foundation Trust Public Inquiry chaired by Robert Francis QC (the Francis report) was published.
- 2 The government published its initial response to the Francis report on Tuesday 26 March 2013. The government response raised a number of new issues which were not specific recommendations made in the Francis report itself.
- 3 Update papers have been provided at each Council meeting and the Council approved our formal response to the Francis report on 18 July 2013. This response is on the NMC website and includes a detailed action plan.
- 4 Following the publication of the Francis report a number of separate reviews were set up to address some specific issues arising out of the report. Council agreed to receive any updates on work related to these reviews alongside Francis updates.
- 5 On 19 November 2013 the government published its considered response to the Francis recommendations and those arising from related reviews. The report, entitled *Hard Truths: the journey to putting patients first*, was prefaced by a statement of common purpose signed by the chairs of the principle health organisations including Mark Addison on behalf of the NMC.
- 6 Among the commitments made in the government's response are:
 - 6.1 Monthly reports on staffing levels at ward level.
 - 6.2 A patient safety website and enhanced publication of safety metrics.
 - 6.3 A statutory duty of candour on providers and a professional duty of candour on staff.
 - 6.4 Legislation on willful neglect in the next session of parliament.
 - 6.5 A Care Certificate to ensure acceptable standards of training for health and social care workers.
 - 6.6 Named doctors/nurses over the beds for hospital based care and named clinicians to follow for primary care.
 - 6.7 Guidance from the Chief Nursing Officer on safe staffing to be supplemented in summer 2014 with NICE guidance.
 - 6.8 Funded patient safety collaboratives, as recommended by

Don Berwick.

6.9 Greater clarity for patients and the public about how to complain.

6.10 More nurse training places to be funded by HEE.

6.11 Postgraduate training for nurses in older persons' care.

Duty of candour

- 7 The NMC and GMC are tasked with working together to establish a common approach to a professional duty of candour, with standards / guidance that is reflected in our professional code. The GMC and NMC are convening a working group of all the healthcare regulators on this subject and this meets for the first time in February 2014. The Professional Standards Authority will be contributing its perspective to this meeting.
- 8 We are to stipulate in guidance that nurses and doctors should report near misses as well as incidents resulting in harm. The professional regulators are also tasked with reviewing their guidance to fitness to practise panel members to ensure they take account of whether or not registrants raise concerns promptly.
- 9 David Dalton (Salford Chief Executive) and Norman Williams (Royal College of Surgeons) are leading work for the Department on thresholds around the statutory duty of candour, and Jackie Smith is taking part in an evidence session contributing to this work on 20 January 2014.
- 10 Jackie Smith has been invited to participate in a round table on the duty of candour convened by the Secretary of State on 29 January 2014.

For Information

Progress on planned actions in our Francis response

- 11 Many of the recommendations in the Francis report were in line with our existing business and improvement plans and they are being taken forward as part of existing projects under our current change programme.
- 12 In our published response to the Francis report we included a table summarising all our planned actions and a proposed timetable for completion of each of those actions. A progress report on our planned actions is attached as Annexe 1 to this paper.
- 13 The Council will be pleased to note that all the deadlines to date have been met. We are also still on track to deliver each of the planned actions within the specified timetable save for the website work which is likely to be completed later than in 2014 than

originally planned, and the joint protocol with CQC was to be operational by the end of 2014 but it is being finalised shortly.

- 14 Further details about each of these projects will be provided to the Council in due course and final decisions over precise implementation timings and funding priorities may still have to be made by the Council.

Progress on actions arising out of other related healthcare reviews

The Camilla Cavendish review

- 15 This review related to the role of healthcare and care assistants and we reported to the Council on this review in September 2013.

- 16 We stated that we would:

16.1 Meet with HEE to discuss recommendations relating to the development of a new national certificate of fundamental care.

16.2 Continue to participate in the HEE steering group on HCA experience as a pre-requisite for nursing degrees.

16.3 In time, evaluate the evidence from HEE pilots and consider whether making HCA experience a pre-requisite for nursing degrees will enhance public protection.

- 17 We are continuing to participate in the steering group and evaluation sub group for the pre-degree experience pilots and we are now having more regular meetings with HEE on topics of mutual interest. We have agreed to start work on a memorandum of understanding.

Don Berwick's safety review

- 18 This review addressed issues of improving patient safety in the NHS and we reported to the Council on this review in September 2013. We stated that we would:

18.1 include in our evaluation of the 2010 pre-registration nursing standards scrutiny of quality/safety sciences as an aspect of the curriculum.

18.2 continue to improve our work with patients and service users through our engagement plan for this stakeholder group.

18.3 refresh our Memoranda of Understanding and introduce protocols for joint working with other regulators as detailed in our Francis response.

- 19 All these commitments are reflected in the planned actions set out

in our response to the Francis report and our progress against these actions is set out in Annexe 1.

The Keogh Review

- 20 This was a targeted review into the quality of care and treatment provided by 14 hospital trusts in England that were deemed to be outliers in terms of mortality data. We reported to the Council on this review in September 2013. We stated that we would:
- 20.1 Address the issue of hearing the views of student nurses in our education strategy which comes to Council in November 2013.
 - 20.2 Invite the student nurses involved in the Keogh rapid responsive review teams for each of the 14 trusts to a listening event at the NMC to hear how they think the NMC can better support and use student nurses' feedback on issues of patient safety and care quality.
 - 20.3 Visit 11 of the Keogh trusts in 2013 in order to understand and monitor risks.
 - 20.4 Factor the findings of the Keogh review in risk-based decision making about our 2013-14 schedule of monitoring visits to education providers.
- 21 All these commitments are being taken forward:
- 21.1 The proposal for a student survey, mentioned in Council's discussion of education strategy in November 2013, is now being considered as part of business planning for 2014-15.
 - 21.2 Katerina Kolyva, Director of Continued Practice and Sarah Page, Director of Fitness to Practise have visited 10 of the 11 Trusts, with one visited postponed at the Trust's request until March 2014. Other staff are involved in follow up visits to two of the Trusts to present on fitness to practise and the quality assurance of education.
 - 21.3 The information from the Keogh review and our own visits has been factored into our risk-based decision making around the scheduling and planning of monitoring visits to education providers and LSAs.
 - 21.4 Our listening event for the student nurses involved in Sir Bruce Keogh's review visits is taking place on 22 January 2014.

Clwyd/Hart Independent Complaints Review

- 22 The Clwyd/Hart independent review of the NHS hospitals

complaints system: *Putting patients back in the picture* was published on 28 October 2013.

- 23 The NMC made three pledges in relation to complaints-handling in the Code review and revalidation work, improved witness support and closer joint working and information sharing with other regulators.

The NHS Bureaucracy review

- 24 NHS Confederation published its report *Challenging Bureaucracy* on 19 November 2013. Its recommendations are aimed principally at the national NHS bodies, advising a more robust approach to defining a national dataset and requiring data requests to fall within its ambit.

DH led Patient Safety Working Group

- 25 We were invited to join this working group which brings together all the organisations concerned with patient safety within the NHS in England, including systems and professional regulators as well as NHS bodies. This group contributed to the government's full response to the Francis report and will continue to meet in 2014 to check progress against recommendations.

Public protection implications:

- 26 All the planned actions outlined in the draft response document are intended to enhance public protection.

Resource implications:

- 27 There are no direct resource implications arising out of this update paper. The individual projects outlined in the response have all received, or will require, separate approval by the Council including consideration of the resource implications.

Equality and diversity implications:

- 28 Under the Equality Act 2010, we have a requirement to analyse the effect of our policies and practices and how they further the equality aims.
- 29 Equality impact assessments will be undertaken as part of each project before any final decisions are reached.

Stakeholder engagement:

- 30 Appropriate stakeholder mapping and engagement with key stakeholders will be planned and undertaken as part of each project.

Risk implications:

- 31 The full risk implications will be assessed as part of each project.

Legal implications: 32 None at present

Item 8
NMC/14/08
29 January 2014



Annexe 1 – Progress report on planned actions in NMC Francis response January 2014

Planned Action	Current timetable	Progress to date
1. Raising our public profile and encouraging appropriate referrals to improve our ability to act promptly to protect the public	<p>Website re-launch – by the end of 2014</p> <p>New public and employer guidance documents – by April 2014</p> <p>Public and patient facing information about the new Code – by Dec 2014</p>	<p>The business case for this project was approved in mid-November and the work is therefore now projected to complete in Q3, not Q1 of 2014-15.</p> <p>These other planned projects are currently on track.</p>
2. Developing more risk-based and proportionate fitness to practise processes to ensure that our resources are effectively targeted on public protection and introducing regional advisers to provide employer liaison and advice	<p>Paper to Council on options for more risk-based and proportionate fitness to practise processes – Sept 2013</p> <p>Designing an operating model for regional advisers – July–Dec 2013</p> <p>Pilot of model for regional advisers – Jan–June 2014</p> <p>Evaluation of pilot and further development work – July–Dec 2014</p> <p>Implementation of regional adviser model – Jan 2015</p>	<p>The Council approved the new approaches set out in this paper and process change is already underway in FtP.</p> <p>A business case for the regional adviser project was approved by the Executive Board in November 2013. Internal and external engagement is underway so this project is currently on track.</p>

<p>3. Improving our joint working and intelligence sharing arrangements with other professional and systems regulators</p>	<p>Finalise new operational protocol and data sharing agreement with the Care Quality Commission (CQC) – by March 2014</p> <p>Explore data sharing agreement with the General Medical Council (GMC) – by April 2014</p> <p>Review and update all existing Memorandum of understanding (MOUs) and agree a new MOU with the Disclosure and Barring Service (DBS) – by April 2014</p> <p>Develop operational protocols and data sharing agreements with systems regulators in other UK countries and other UK professional regulators – during 2014–15</p>	<p>A revised MOU with the CQC has been signed by the Chief Executive. Work on the new operational protocol and data sharing agreement with CQC is near to completion.</p> <p>Initial approaches have already been made to the GMC and</p> <p>Work on reviewing the other MOUs is not underway yet but will be commenced before the end of 2013.</p> <p>Jackie Smith wrote to the system regulators in Northern Ireland, Scotland and Wales in October 2013 and received positive responses to an invitation to work on MoUs with the NMC.</p> <p>An NMC delegation is visiting the DBS in February 2014 for discussion to inform an MoU.</p> <p>We met the TDA in December 2014 to initiate the process of developing a partnership agreement.</p> <p>The chair and chief executives of the NMC and HEE agreed to develop an MoU in 2014.</p>
<p>4. Improving the NMC witness experience for those involved in fitness to practise proceedings</p>	<p>Analysis of witness feedback and interviews, scoping of plans and introduction of any quick changes – by Dec 2013</p> <p>All new witness support arrangements in place – by April 2014</p>	<p>All witness feedback received between August 2012 and October 2013 has been analysed.</p> <p>The working group has completed its work and the business plan will be considered at the February Executive Board. We are working with Victim Support to discuss our witness support arrangements and receive advice on best practice.</p> <p>Work is now planned on improving the witness information section of our website.</p>

<p>5. Reviewing the Code and other practice standards</p>	<p>Gather initial evidence for the Code and standards review, aligned with revalidation consultation – Sept–Dec 2013 Development of new code and standards for practice supported by relevant guidance to deliver revalidation and respond to Francis –Nov 2013 – March 2014 Code and standards formal consultation on the basis of substantive draft – April –July 2014 Further development of code post consultation – July – Nov 2014 Council approval of new code and standards – Nov 2014 Publication of new code and standards – Dec 2014</p>	<p>The Code evidence review report has been completed and will be published in March 2014.</p> <p>Principles for the revised code are being developed.</p> <p>Part 1 of the revalidation consultation launched on 7 January 2014 and contains questions about the review of the code.</p> <p>Overall these plans are still on track to meet this timetable.</p>
<p>6. Evaluating our pre-registration education standards</p>	<p>Establishment of Education Advisory Group – Nov 2013</p> <p>Methodology scoped and agreed with Education Advisory Group – March 2014</p> <p>First phase of evaluation based on agreed methodology – June 2014 Report to Council on first phase – Sept 2014 Development of further evaluation work will be informed by results of first phase.</p>	<p>The Education Advisory Group met for the first time in January 2014.</p> <p>A high level methodology for the evaluation of standards was signed off by the Executive Board in October 2013.</p> <p>Overall these plans are still on track to meet this timetable although decisions over timings and funding priorities still have to be made by the Council.</p>
<p>7. Making changes to our legislation so that our processes are more efficient and allow us to more effectively protect the public</p>	<p>Section 60 timetable fixed by the Department of Health (DH) DH Resources Board – July 2013 Drafting and consultation – 2013/14 Legislative changes in force – by July 2014</p>	<p>Work on the FtP s. 60 Order is still progressing. The drafting of the legislation has been agreed subject to internal clearance at DH. The amendments to the Order and the rules have now been split into two separate statutory instruments which will each be subject to consultation and parliamentary approval. Full details are set out in the separate Council paper on this topic. The consultation stage is now unlikely to start until February or March 2014 and the new legislation is unlikely to be in force before late 2014.</p>

<p>8. Developing a proportionate revalidation model</p>	<p>Options paper to Council – Sept 2013 Development of new code – by Dec 2014 (see detailed timetable above) Implementation of agreed model – by Dec 2015</p>	<p>Council approved its preferred model for revalidation in September 2013.</p> <p>The revalidation consultation has launched and is attracting extensive media and stakeholder attention. We have received positive feedback on the survey and offers to disseminate and promote from other organisations.</p>
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Council

Chief Executive's report

Action: For decision.

Issue: This paper reports on high level strategic engagement and key developments against the NMC's Corporate Plan 2013-2016. On this occasion it also seeks the Council's approval of an amendment to *The code: Standards of conduct, performance and ethics for nurses and midwives* and the Council's endorsement of the NMC's position on accepting grant funding.

Core regulatory function: This paper covers all of our core regulatory functions.

Corporate objectives: This paper reports against all of the NMC's corporate objectives.

Decision required: The Council is invited to:

- Approve the new overarching statement and wording to replace sections 62, 63 and 64 of the Code in relation to Professional Indemnity Insurance (paragraph 41).
- Endorse the NMC's position on accepting grant funding (paragraph 58).

Annexes: None.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
- 1 This paper is a standing item on the Council's agenda and reports on our high level strategic engagement and key developments against the Corporate Plan 2013-2016.
 - 2 On this occasion it also seeks the Council's approval of an amendment to the Code and the Council's endorsement of the NMC's position on accepting grant funding.

Discussion Strategic context

Chief Executive's activity

- 3 On 28 November 2013, the Chief Executive and the Chair met Mark Drakeford AM, the Minister of Health and Social Services in the Welsh Government. The meeting provided an opportunity to update the Minister and his colleagues in the health and social services team on the NMC's progress, particularly in fitness to practise, the NMC's response to the Francis Report and on plans to engage with professional colleagues in Wales on revalidation.
- 4 On 9 January 2014, the Chief Executive and the Chair met their opposite numbers at Health Education England (HEE) as part of the NMC's ongoing engagement with HEE. At the December 2013 meeting of the chief executives of the healthcare regulatory bodies, the HEE's director of education and quality (Professor Chris Welsh) spoke about the HEE's development of their first workforce plan which sets out the approach to investment in education and training programmes from September 2014. The HEE remains committed to working closely with the NMC and the other healthcare regulatory bodies.
- 5 On 12 November 2013, the Chief Executive and the director team met Peter Blythin from the NHS Trust Development Authority to discuss the trust's work with directors of nursing and the approach to developing a memorandum of understanding with the NMC.
- 6 The Chief Executive has continued to engage with key professional stakeholders including Jane Cummings (Chief Nursing Officer, England) and Cathy Warwick (Chief Executive of the Royal College of Midwives). The next regular high-level meeting between the NMC and the RCN, the RCM, Unison and Unite / CPHVA takes place at the end of January 2014. The Chief Executive has also met Professor Iuean Ellis (Chair of the Council of Deans) and David Behan (Chief Executive of the Care Quality Commission).
- 7 As part of continued regular engagement with the chief nursing officers, the Chief Executive spoke about revalidation at the CNO summit meeting in Birmingham on 27 November 2013. Revalidation was the subject of a BBC North West TV interview on 11 December 2013 following the publication of the Parliamentary and Health

Services Ombudsman's (PHSO) report into Morecambe Bay. On 8 January 2014, the Chief Executive and the Chair met Mr James Titcombe to discuss the NMC's approach to responding to the PHSO's report into Morecambe Bay and to hear directly about Mr Titcombe's experiences and his concerns about his dealings with the NMC.

- 8 On 9 January 2014, the Chief Executive and the Director of Continued Practice met Katherine Rake (Chief Executive of Healthwatch England) to talk about the sharing of information.
- 9 On 6 January 2014, the Chief Executive attended an event at the House of Lords, hosted by Baroness Wall, to discuss the nursing higher apprenticeship initiative.
- 10 The Chair and Chief Executive continue to meet with Members of Parliament to follow up on correspondence relating to concerns expressed about the outcomes of fitness to practise cases made by their constituents. This work will become part of a wider piece of proactive work to engage parliamentarians in the work of the NMC in preparation for a hoped for Bill following on from the Law Commission's work.

Joint regulatory working

- 11 In line with the Government response to the Francis Inquiry, we are working collaboratively with the General Medical Council on the development of guidance on the duty of candour and the reporting of concerns by healthcare professionals. A group of officers from both organisations and key stakeholders are due to meet in February 2014.
- 12 The Director of Continued Practice participated in a standards summit, led by the Royal College of Physicians and co-hosted by the Care Quality Commission and the Department of Health. The summit brought together stakeholders to consider the role of professional standards as part of the Francis Inquiry recommendations.

Health Select Committee

- 13 The Health Select Committee published its report of the NMC's accountability hearing for 2013. Staff are taking forward the development of the NMC's formal response. The Committee's report welcomed our progress. It was cautious and measured in its tone and reflected a number of concerns about specific areas of our work. We will address its concerns both in our formal response and, over the coming months, in informal information sharing. A programme of work has begun to ensure that the Health Committee is as informed as possible about our progress. The Chief Executive wrote to each Committee member following the hearing, extending an open

invitation to have a one to one meeting. Further work is planned for the coming months.

Professional Standards Authority

- 14 We submitted our evidence to the Professional Standards Authority (PSA) for the 2013-2014 performance review process by the deadline in December 2013. We are now preparing for the next stage of the process at the end of January 2014 when PSA will ask any follow up questions and seek our views on the comments it has received from stakeholders and third parties about our performance. Our performance review meeting (officer level) is fixed for 18 February 2014. There are no further developments to report yet on the PSA's plans to revise the performance review process.

Four country engagement

- 15 The NMC held a reception at the Scottish Parliament alongside the other professional and systems regulators. Attendees included the Chair of the Health and Sport Committee, a small number of MSPs and a wide range of patients and civil society organisations. We also had a stand in the reception of the Scottish Parliament for half a day, which gave NMC staff the opportunity to speak to a number of MSPs and their research staff.
- 16 A similar event was held in the Welsh Assembly, where NMC staff and Council members met with the Leader of the Welsh Liberal Democrats and the Liberal Democrat Health Spokesperson for Wales, the Chair of the Welsh Health Committee and other MSPs and Welsh systems regulators.

Patient and public engagement activity

- 17 The current, London based, patient and public engagement forum held an event in November 2013. Forum members were invited to reflect on their role and their views were sought to shape the forum going forwards. Work is underway to review the NMC's patient and public engagement activity to ensure that our work is appropriately influenced by those we seek to serve and to ensure that we have the best possible relationships and channels to build our profile with and engage with that audience.
- 18 Progress has been made on establishing a Scottish Patient and Public engagement forum. New relationships are being built with contacts made at an event the NMC jointly held in the Scottish Parliament. Organisations such as Citizens Advice Scotland have the potential to extend the reach and impact of the forum, and work is underway to bring them on board.
- 19 Discussions are underway on establishing a Welsh Patient and Public engagement forum. The visit of the Chair and Chief Executive

to Wales helped build links with Welsh patient representative groups. The event in the Welsh Assembly afforded an opportunity to build on those links and conversations have begun to bring in partners.

- 20 NMC staff attended the inaugural meeting of a group convened by the Care Quality Commission to share information on best practice around patient and public engagement. The group includes representatives from all the NHS national bodies and some professional regulators and aims to prevent duplication of efforts by making policies, papers and guidance on issues such as reimbursement for time and reaching the seldom heard, available to group members.
- 21 NMC staff attended a reception hosted by the Richmond Group of charities. This was an opportunity to share information with others across the sector and to promote the work that the NMC is doing to engage patients and the public.

Regulatory priorities

Registration

- 22 In November and December 2013 the Registration Centre received 72,008 calls. This is an increase of 18% on the same period last year and reflects the continued increase in call volumes that we have experienced during 2013. 3,821 UK applicants were registered in November and December.
- 23 In November and December 2013 890 EU and 554 overseas applicants were registered. All overseas applicants were subject to an individual ID verification interview at Portland Place.
- 24 In December 2013 three appeals were heard. All were heard in less than eight months and two were heard in less than six months.

Appeals in December 2013	Number
Number upheld	1
Number dismissed	1
Number adjourned (upon the Panel's direction)	1
Total appeals	3

- 25 There are currently 34 appeals pending.

Appeals currently pending	Number
Appealing against the Registrar's decision to reject their application	31

Appealing against the additional conditions in the form of adaptations that the Registrar has requested they complete prior to registering	3
Total	34

Fitness to Practise

High Court Appeal activity November and December 2013

Appeals received and determined:

Appeals since last report	Number
Judicial review by the originator of the case	0
Professional Standards Authority appeal	1
Appeal by registered nurse or midwife	6
Total appeals since last report	7

Outcomes of appeals November and December 2013	Number
Remitted back to practice committee to reconsider	2
Judgment pending	0
New sanction agreed	0
Upheld NMC decision (IO and statutory)	7
Other agreement	0
Total	9

Current caseload January 2014	Number
Judicial review by the originator of the case	0
Professional Standards Authority appeal	2
Appeal by registered nurse or midwife	37
Total appeals since last report	39

General trends

- 26 The current appeal case load is 39. This has an impact on resources within FtP but particularly within the Regulatory Legal Team as the vast majority of this work is carried out by in house lawyers.
- 27 On receipt of any appeal, the case, the decision by the panel and the grounds of appeal are considered carefully to determine whether the appeal can be successfully defended. If a case is conceded the reasons for the concession are used as learning points and fed back

as appropriate to the relevant parties.

- 28 There were three PSA referrals between August and November 2013. One has been concluded (a case in which the NMC conceded the merits from the outset) and two are ongoing. In all three the NMC has cooperated with the PSA fully.

Forthcoming activity

- 29 There are 12 cases listed to be heard in the High Court in January and February 2014. The following are of particular note:

29.1 two Professional Standards Authority section 29 referrals; and

29.2 one Mid Staffordshire appeal case.

Quality Assurance of education and midwifery supervision

- 30 The NMC annual report on the Local Supervising Authority (LSA) function will be published in January 2014. Under our new Quality Assurance (QA) framework next year's annual report will be risk based and focused on areas where public protection is compromised, while also reporting on areas where there is good practice.
- 31 The QA monitoring visits to 16 Approved Education Institutions (AEIs) and six LSAs across the UK have now been scheduled and will start in January 2014, with the final one being completed by the end of March 2014.
- 32 We are working with the Care Quality Commission in England and NHS Education Scotland in using the monitoring visits as an opportunity to exchange information before and after our monitoring visits. We are intending to publish results of our monitoring visits as part of our annual report in November 2014. Any risks identified as part of monitoring will be addressed immediately as per our QA framework escalation process.
- 33 Three AEIs and one LSA Midwifery Officer reported exceptionally on adverse issues in their areas. We followed up with them on subsequent actions outside routine reporting in relation to risk summit activity and a Care Quality Commission report respectively.
- 34 AEIs have been engaging with our process of approving them as institutions to run programmes on the basis of our published criteria. All AEIs are required to provide evidence on how they meet the criteria of an approved institution. All AEIs were also due to submit their annual self-assessment reports on their yearly activity by 31 December 2013.

Standards development

The Code

- 35 An internal evidence review in relation to the Code has been completed and is being discussed with the Revalidation Task and Finish and Strategic Advisory Groups. We are aiming to publish the evidence review before we consult on a draft version of the Code from May until July 2014.
- 36 The evidence review has enabled to us to draw up the overarching principles to be considered in the consultation on the revised Code. We intend to build on the principles contained in the current Code and to give further consideration to strengthening the following:
- professional accountability, including responsibility for own health and when holding leadership roles;
 - team working and communication;
 - involving patients, families and carers in decisions about their care and treatment and acting as an advocate for the rights of patients;
 - confidentiality;
 - consent;
 - maintaining boundaries and the use of social media;
 - conscientious objection; and
 - raising concerns, a duty of candour and minimising risk.

Professional Indemnity Insurance

- 37 Although the Professional Indemnity Insurance (PII) legislation has still not been laid in Parliament it is important that we get the necessary change to the Code approved, so that we can then launch it at the appropriate time.
- 38 The wording has been extensively debated both by the Midwifery Committee and the Council previously and refined to take account of comments at those meetings, and to clearly distinguish between obligations on registrants and guidance. We are not consulting publicly on the wording because the change is required by legislation and Department of Health has consulted on the legislative change.
- 39 Our current Code is set out through a number of overarching statements with the specific requirements set out under each. We suggest that there is a new overarching statement and then a short statement which reflects the legislative wording. This would replace

the existing overarching statement and sections 62, 63 and 64 of the Code:

Have appropriate arrangements in place for patients to seek compensation if they have suffered harm

You must have in force an indemnity arrangement which provides appropriate cover for any practice you undertake as a nurse or midwife in the United Kingdom. (For further information about this requirement please consult our information for nurses and midwives on the NMC website at www.nmc-uk.org/).

- 40 The revised wording will come into effect at the same time as the legislation and a communications plan is in place to effectively inform registrants as to the change, the reasons for it and any possible effects it may have on them.
- 41 **Recommendation:** Approve the new overarching statement and wording to replace sections 62, 63 and 64 of the Code in relation to Professional Indemnity Insurance.

Other standards

- 42 The revised standards for the preparation of supervisors of midwives and the standards and guidance for the five year rule will be published in January 2014.
- 43 Our programme of work for the review of our standards for the next three years will be considered by Council in March 2013. We will also provide a pictorial representation as to how our education and practice standards and guidance relate to one another.
- 44 The standards development manager and officers continue to attend meetings and provide input as members of strategic working groups including the Leadership Alliance for the Care of Dying People (DH and NHS England), the Health Visitor Taskforce Implementation Group (England) and the Review of Health Care Support Worker education and training (Health Education England).

Change programme

- 45 The purpose of our change programme, which is overseen by the Change Management and Portfolio Board, is to deliver the necessary changes to make us a modern, effective, efficient and economic regulator that has the trust and confidence of patients and the public.

Registration Improvement Programme

- 46 We launched the first phase of NMC Online to a small user base in December 2013 as planned. Work has commenced on phase two of the project, which will provide registrants with the facility to complete

their Notification of Practice online.

- 47 Further work on overseas registration processes is on-going which includes introduction of competency tests for overseas applicants. We implemented stringent ID verification processes and supporting systems in 2013, which is now fully embedded within the application process.

Revalidation

- 48 The public consultation on revalidation and the revised code for nurses and midwives was launched as scheduled on 6 January 2014. Stakeholders have supported us in disseminating information about the consultation through their networks. We have updated information and resources on revalidation on our website.
- 49 The Revalidation Strategic Advisory Group, Employers Reference Group, Task and Finish Group and Communications group are all now established and meet every two months. An extensive calendar of events has been developed and will be published end of January 2014. We are planning to host five summits (two in England and one of each of the other three countries) between March and July 2014.
- 50 The revalidation team participated in eight events during December 2013. The NMC held engagement workshops on the 6 December (Edinburgh) and 12 December (Cardiff) so stakeholders could help inform our thinking on the content and format of the survey Questionnaire. NMC personnel spoke at another five events in London, Manchester and York, and took part in question and answer sessions exploring how revalidation could work in different settings and scopes of practice.

ICT Strategy

- 51 The first phase of the ICT strategy is now almost fully implemented following the roll out of a desktop upgrade to Windows 7 and Outlook 2010. The final close down of this phase of the programme is likewise almost complete. This is a significant milestone in the development of the NMC's IT capability and means that, for many of our key applications and the infrastructure as a whole, we are now working from a more modern platform, upon which the next phase of the strategy can be developed.

Pay and grading

- 52 The pay and grading consultation is now concluded and we implemented the new pay and grading system from 1 January 2014. Feedback from the collective consultation focused mostly on the desire for clarity on the future mechanisms for pay progression and reward of performance, which are being discussed by the Remuneration Committee in February. Other comments sought

clarity on some aspects of the new system, but there was no material opposition to the recommendations. The willingness of management to be open and transparent and the level of information shared with staff were seen as being very positive.

- 53 The number of actual appeals lodged is 12, which is line with our expectation. As some of these appeals represent roles occupied by more than one individual the total number of staff covered by the appeals is 80. At the time of reporting these appeals are being responded to with a view to timely conclusion.
- 54 The development of the final benefits package is underway for further communication with staff and we will be looking to implement the new package from 1 April 2014.

Governance

Statutory information returns 2013

- 55 The NMC is a charity registered with the Charity Commission for England and Wales (CCEW) and the Office of the Scottish Charity Regulator (OSCR). All required annual returns have been submitted as follows:

CCEW:

- Annual report and accounts: 30 October 2013
- Annual return: 30 October 2013
- Summary information return 17 December 2013

OSCR:

- Annual report and accounts: 3 December 2013
- Annual return: 3 December 2013.

- 56 In December 2013, the Charity Commission for Northern Ireland (CCNI) started compulsory registration of charities that operate in Northern Ireland. The NMC will be called to register with CCNI under section 167 of the Charities Act (Northern Ireland). CCNI does not expect this to happen for up to three years. In the meantime, the NMC has no registration obligations to CCNI.

NMC position on accepting grant funding

- 57 The NMC's position on grant funding, as discussed by Council members previously, is articulated below. Ultimately the statement will be included in our financial regulations, which are currently in the final phase of review.

The NMC is the independent regulator of nurses and midwives in the UK. In common with other professional regulators, it is funded by fees paid by registrants.

From time to time, the NMC may accept grant funding from third parties to support specific projects or investment in operational improvements. Grants to fund business as usual activities will not normally be accepted because the withdrawal of funding could pose an unacceptable risk to the ongoing delivery of the NMC's core functions.

A range of factors will be taken into consideration in deciding whether or not to accept a grant, including:

- *the NMC's legal power to accept the grant;*
- *consonance with the NMC's strategy, values, and primary objective to protect the public;*
- *impact on the NMC's independence;*
- *impact on the NMC's reputation; and*
- *any conditions of the grant, such as performance targets, accountability and audit requirements, and any applicable codes / regulations / policies.*

58 **Recommendation:** Endorse the NMC's position on accepting grant funding.

Internal corporate business

Human Resources and Organisational Development

59 We are coming to the end of this year's significant learning and development programme, which has focused primarily on leadership and management as well as embedding our behaviours framework at all levels within the NMC. Directors have also undertaken a facilitated development session around individual and collective leadership and will be continuing further development this quarter. We will be having our first Directors' and Assistant Directors' development session on 20/21 January aimed at deepening leadership and increasing delegation.

60 In preparation for our review of how we reward and recognise performance, staff focus groups have been held to gather ideas on the establishment of a new Personal Development Review (PDR) process, to be implemented from 1 April 2014.

Business planning

61 Draft business plans and budgets for 2014-17 have been prepared

by all directorates and were subject to review by the Chief Executive and directors on 16 January. A presentation on the key points will be given at the Council meeting.

Pensions

- 62 Our defined benefit pension scheme is a multi-employer scheme. As a consequence of the exit from the scheme of the Welsh Government, the membership of the Trustee Board has been reviewed. On behalf of the NMC the Director of Corporate Services has approved the proposal by the Trustees to have more than one third of its membership to be Member Nominated, enabling the trustee composition pre-Welsh exit to be retained.
- 63 The Director of Corporate Services has held a teleconference with the Council's two employer trustee representatives, Julia Drown and John Halladay, to receive feedback from the last meeting of the Trustees, and to apprise them of the NMC's current position on pension arrangements in advance of their next meeting in February.

Public protection implications:

- 64 Public protection implications arising from the activities in this paper are addressed as part of individual workstreams and projects.

Resource implications:

- 65 The resource implications of the various workstreams and projects are described in the monthly financial monitoring report on the meeting agenda.

Equality and diversity implications:

- 66 Equality and diversity is addressed as part of individual workstreams and projects, with equality impact assessments carried out as appropriate.

Stakeholder engagement:

- 67 Stakeholder engagement is detailed, as appropriate, in the body of this report.

Risk implications:

- 68 Any high level corporate risks that arise from the activities described in this paper are detailed in the risk register which is included elsewhere on the meeting agenda.

Legal implications:

- 69 Legal implications that arise from the activities in this paper are addressed as part of individual workstreams and activities.

Council

Report of the Audit Committee to the Council

Action: For information.

Issue: The Audit Committee held a meeting on 10 December 2013 and this report is a summary of its deliberations and recommendations.

Core regulatory function: Supporting functions.

Corporate objectives: Corporate objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."

Decision required: No decision is required in relation to this report.

Annexes: None.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
1. The Audit Committee met on 10 December 2013. Items discussed included internal audit work undertaken since the last Committee meeting, an update on risk management and the wider assurance framework, including serious event reviews. Members considered the effectiveness of external auditors and the external audit plans for the annual report and accounts for year ended 31 March 2014. The Committee also received revised financial regulations and endorsed revised anti fraud and bribery and whistleblowing policies.

**Discussion
and options
appraisal:**

Internal audit

2. The Committee considered in detail the findings of the internal audit reports undertaken since the Committee meeting in September. The reports covered:
 - 2.1. Review of Key Performance Indicators.
 - 2.2. Review of data security.
 - 2.3. Review of quality assurance.
 - 2.4. Review of risk management.
3. The reports on quality assurance and risk management were advisory reports and the Committee will receive further reports on these areas in the first quarter of 2014 / 15.
4. The Committee welcomed the reports and the management actions being taken in response to recommendations and, equally, welcomed the approach of Moore Stephens (the NMC's internal audit providers) in capturing a tighter set of recommendations that could be addressed in the short – to medium – term.
5. The Committee also considered outstanding historic internal audit recommendations, which included a presentation from the Director of Registration on how the Registration Improvement Programme was addressing several outstanding recommendations.
6. The Committee was pleased to be able to close several historic recommendations, some of which have been on the Committee's agenda for some time, and noted the substantial progress being made in addressing all outstanding recommendations.

Risk management and the assurance framework

7. The Committee considered an update on risk management. It was pleased that the revised approach to risk management is being embedded within the organisation, and the Committee felt that it would benefit from further explanation from Directors in the new year about how risk management was being embedded and how likelihood of risks were being assessed within each directorate.

8. As requested at the last meeting, the Committee received a map of risks across directorates, which was particularly useful in getting a feel for where the key risks lie across the NMC. The Committee would welcome the Council's consideration of the directorate risk map at a future Council meeting, and would also recommend that the Council use this map to target future 'deep dive' items, in particular those with relatively high potential impact albeit relatively low potential likelihood.
9. The Committee received a progress update on the Serious Event Review policy and was pleased to note that training on the policy has now been rolled out to all managers within the organisation. The next step will be the implementation of a database system, which will allow for greater analysis, including trends, of incidents arising from the SER process.

External audit

10. The Committee considered a brief analysis of the external auditors' effectiveness over the last year, and my thanks to Julia Drown for participating in this exercise as a former member of the Audit Committee. The results highlighted a number of areas of particular strength in the work of our two external audit providers.
11. The Committee also endorsed both external auditors' planning letters for the NMC annual report and accounts for year ended 31 March 2014.

Internal control

12. The Committee considered revised financial regulations, a revised Public Interest Disclosure (Whistleblowing) Policy and a revised anti-fraud and anti-bribery policy, all of which have been approved by the Executive Board. All three policies have been revised in accordance with either legislative change, developing good practice or as a result of benchmarking against comparable organisations. The next step will be for Directors to raise awareness within their directorates of these revised documents. The Audit Committee will continue to receive reports of any instances of either the whistleblowing or anti-fraud and anti-bribery policy being invoked, and this forms an important safeguard for the organisation.

Public protection implications:

13. Over time, improved assurance over NMC's activities should lead to enhanced public protection.

Resource implications:

14. None other than staff time to prepare the reports.

Equality and diversity implications:

15. None directly as a result of this report.

Stakeholder engagement:

16. The NMC has engaged with both internal audit and external audit providers and the National Audit Office in the development of the annual report and accounts. Internal audit providers have developed the NMC assurance map and been engaged in developing the internal audit work programme for the forthcoming year.

Risk implications:

17. The role of the Audit Committee is to give assurance to Council that the NMC has effective governance, risk management and internal controls in place.

Legal implications:

18. None.

Council

Report from the Midwifery Committee

Action: For information.

Issue: This report details the meetings held by the Midwifery Committee on 20 November 2013 and the 10 January 2014.

Core regulatory function: Setting standards.

Corporate objectives: Corporate objective 2: "We will set appropriate standards of education and practice and assure the quality of education and the supervision of midwives so that we can be sure that all those on our register are fit to practice as nurses and midwives".

Decision required: The Council is recommended to note the update.

Annexes: No annexes are attached to this paper.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Midwifery Committee – 20 November 2013

- 1 The Midwifery Committee held a regular meeting on the above date, and the main areas discussed were as follows:
 - 1.1 Local Supervising Authority (LSA) Annual Report 2012 – 13;
 - 1.2 Standards for preparation and supervision of midwives;
 - 1.3 Principles for the revised code;
 - 1.4 The new quarterly quality monitoring system

- 2 The Committee also agreed to receive a series of seminar presentations from midwifery representatives from each of the four UK nations during 2014.

LSA Annual Report

- 3 The Midwifery Committee welcomed the report, which had incorporated the feedback provided on the initial draft by the Committee on 22 October. In particular, the clarity of the reporting and the highlighting of the key issues faced by local supervising authorities were noted by members. The layout was also very accessible, whilst the inclusion of examples of best practice was also a good innovation.
- 4 The Committee sought clarification on the future of reporting, which at present gives a general overview of the picture across the UK but not within specific LSAs. This area would change during 2014, as quarterly quality monitoring provided one aspect of a clearer picture of precise details. The “Red, Amber and Green” ratings would be applied to individual LSAs in the next annual report. In addition, this would feed into a new risk register for consideration by the Midwifery Committee, which would then be included in the corporate risk register when appropriate.

Standards for the preparation and supervision of midwives

- 5 The standards discussed by the Committee were the result of a consultation exercise, featuring online input and a series of focus groups. These were fed into the draft standards. The standards are split into three sections (introduction, standards and education standards), with the second of these split into four domains and the third section into 10 standards.
- 6 The Committee sought some minor additions, including matters relating to equality and diversity, but overall was satisfied with the content of the updated standards. In addition, the input of LSA Monitoring Officers has been sought, and this group was also content with the overall emphasis of the document and the inclusion of stakeholder feedback.

Principles for the revised code

- 7 The revision of the code has been necessitated by the need for completion prior to the commencement of revalidation, and also fits in with the regular cycle of updating the code and the impact of the Francis report and other relevant reports. This work will be ongoing, and will return to the next meeting of the Committee on 26 February 2014.

The new quarterly quality monitoring system

- 8 The Committee was given a demonstration of the new quarterly quality monitoring system, which will provide a much more accurate indication of the picture at individual LSA level. In particular, the impact of full time supervisors of midwives and their potential growth in number will be monitored by the Committee.

Midwifery Committee – 10 January 2014 teleconference

- 9 A meeting of the Committee was convened on the above date. This meeting considered the recent report by the Parliamentary and Health Services Ombudsman. The discussions of the Committee are included in the report for agenda item NMC/14/12 (Midwifery supervision and regulation: PHSO recommendations for change).
- 10 The Midwifery Committee also welcomed its two new members to the meeting. These members are Patricia Gillen (registrant, Northern Ireland) and Pradeep Agrawal (lay).

Public protection implications:

- 11 The PHSO report is primarily concerned with issues of public protection.

Resource implications:

- 12 The work outlined in this report did not affect planned budgets.

Equality and diversity implications:

- 13 No direct equality and diversity implications resulting from this paper.

Stakeholder engagement:

- 14 The Midwifery Committee will be receiving presentations from representatives of midwives from all four UK nations in 2014.

Risk implications:

- 15 The Midwifery Committee discussed the risk implications of the PHSO report on 10 January 2014.

Legal implications:

- 16 None identified.

Council

Midwifery supervision and regulation: recommendations for change – a report from the Parliamentary and Health Service Ombudsman

Action: For decision

Issue: This paper sets out the recommendations of the Ombudsman in England regarding the future of midwifery regulation and advises Council on its response.

Core regulatory function: Setting standards, fitness to practise

Corporate objectives: Corporate objective 2: Setting appropriate standards of practice
Corporate objective 5: Maintaining effective regulatory relationships with other regulators

Decision required: The Council is recommended to:

- Consider the paper and approve a review of midwifery regulation, with terms of reference and timings to be finalised in discussion with key partners identified in the PHSO report (paragraph 21).

Annexes: There are no annexes attached to the report.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
1. The model of regulation for midwifery for which the NMC is responsible differs significantly from that of nurses. The specific provisions for midwifery include:
 - A statutory requirement for supervision;
 - Specific requirements of supervision;
 - The annual notification of a registered midwife's intention to practise;
 - Setting standards for supervisors of midwives;
 - Supervisors empowered to make investigations and to impose sanctions;
 - Quality assurance of Local supervising authorities;
 - Reporting on the part of LSA monitoring officers.
 2. The overwhelming majority of maternity care is now delivered by the health service, and subject to comprehensive clinical governance and performance management. The midwifery regulation arrangements pre-date, and arguably cut across, the mechanisms now in place more generally to protect the public and assure the quality and safety of the services they receive.

The Ombudsman's interest in midwifery regulation

3. The Parliamentary and Health Service ombudsman for England (PHSO) Dame Julie Mellor, received complaints from users of maternity services Morecambe Bay NHS Foundation Trust. She published a series of reports into failings of maternity and neo-natal care on 10 December 2013. These reports address both the initial poor care and the subsequent handling of these very serious cases.
4. There are three reports into complaints about the North West (England) Strategic Health Authority which include criticisms of supervisors of midwives, LSA monitoring officers, the Trust and the SHA.
5. In addition to the complaint investigation reports the Ombudsman published a thematic report entitled *Midwifery supervision and regulation: recommendations for change*. All of the reports are available on the PHSO website www.ombudsman.org.uk
6. The incidents that are the subject of the reports took place from Autumn 2008, and they extremely serious, involving the deaths of women and babies. The NMC was involved with the CQC in the subsequent scrutiny of maternity and neo-natal care at Morecambe

Bay. The NMC's Midwives Rules and Standards were later revised, informed by the learning of Morecambe Bay and other cases where we concluded that statutory supervision should have contributed to better public protection.

7. The PHSO involved the NMC in three round table discussions about statutory supervision and regulation between July and November 2013. At the NMC's suggestion, the RCM was invited to participate in those discussions. Other participants included NHS England, representatives of the Chief Nursing Officer, DH, CQC and the Professional Standards Authority. The PSHO was interested to establish:
 - Why midwifery was regulated differently and whether there was any contemporary justification for the different treatment of midwives;
 - Whether the sorts of concerns arising from Morecambe Bay represented a single 'bad case' or whether there was an inherent potential conflict between supportive and regulatory roles in supervision;
 - What other mechanisms were now in place for assuring the quality of maternity services (e.g. via system regulation);
 - Whether the arrangements for midwifery regulation met the PSA's standards for right touch regulation, in the public interest;
 - How changes to the regulatory framework are made.

Conclusions of the report

8. The PHSO report on midwifery supervision and regulation makes two recommendations:
 - That midwifery supervision and regulation should be separated;
 - That the NMC shall be in direct control of regulatory activity.
9. The Ombudsman raises no concerns about supervision *per se*, and the report reflects the input of the NMC and the RCM about the value midwives attach to supervision. She notes that supervision is an established approach for other professionals without it being statutory or having a role in regulation. Her contention is that it is not in the public interest for supervisory and regulatory functions to be vested in the same individuals, and for regulatory activity to be at one remove from the oversight of the regulator.

10. In recognition of the fact that midwifery regulation is a UK wide framework, the report commits the PHSO to sharing her recommendations with other UK ombudsmen and requests that DH does the same with its counterparts in Northern Ireland, Scotland and Wales.
11. DH has indicated that support will be given for any legislative change required as a consequence of the Ombudsman's report. In practice, this could mean either that the anticipated Law Commission Bill could give the NMC permissive powers to alter the framework for midwifery regulation or, in the event of any delay or difficulty with the Bill, that a section 60 order to effect any changes would be possible.

Kirkup Investigation

12. Council will recall that parliament has launched its own inquiry into failures in maternity and neo-natal care at Morecambe Bay led by Bill Kirkup. We have had initial contact with the Kirkup Investigation team and it is due to report in summer 2014. We will need to make sure the Kirkup Investigation is well briefed on our response to the Ombudsman's report and to keep its timings in mind as we plan our next steps. There is also an ongoing police investigation led by Cumbria Constabulary.

The Professional Standards Authority

13. The NMC's first duty in responding to the recommendations of another regulator, the PHSO, must be public protection. The Ombudsman has raised a serious concern about whether an aspect of our regulatory approach mitigates against public protection. Council will also be mindful of the views of the PSA, which contributed to the Ombudsman's report at her request and does not believe that there is a risk-based rationale for an additional tier of regulation for midwifery as it is practised today. The NMC's effectiveness as a regulator is assessed by the PSA and the House of Commons Health Committee is advised by the PSA when it conducts our annual accountability hearings.

Midwifery Committee

14. An extraordinary meeting of the Midwifery Committee was held on 10 January 2014 to enable the Committee to reflect on the PHSO report and recommendations, and consider any advice it wished to convey to the Council.
15. The Committee's advice for the Council meeting on 29 January 2014 was as follows:
 - a. The PHSO's report was a serious one and merited a review

of whether the framework for midwifery regulation protects the public.

- b. The NMC's focus should be on effective and proportionate regulation but other bodies involved may welcome discussion of the wider benefits of aspects of the framework.
- c. Any review should be informed by evidence and give stakeholders the opportunity to be heard.
- d. If the Council decides to initiate a review there is no case for delaying.
- e. Terms of reference and outcomes need to be negotiated with the partners suggested by the PHSO, with representation from Northern Ireland, Scotland and Wales.
- f. A review should have regard to public confidence in midwifery care and the regulatory process.
- g. Communications with midwifery stakeholders need to be sensitive to the anxieties that may be caused by uncertainty over the future direction.

**Discussion
and options
appraisal:**

16. As a regulator we acknowledge the seriousness of another regulator calling into question whether our regulatory approach is fit for public protection. Convention suggests that 'do nothing' should always be the first stage of options appraisal; it is not included here because the risks to public protection and confidence in the regulatory process may be considered too great for that to be a viable option.
17. Three options are offered for Council's consideration:
 - Calling for immediate change to midwifery regulation
 - Reviewing midwifery regulation now
 - Reviewing midwifery regulation at some point in the future – for example, when the Law Commission Bill is enacted

Calling for immediate change to midwifery regulation

18. Council could take the view that there is sufficient impetus for change and seek an immediate change to midwifery regulation, via a section 60 order. We would have a statutory duty to consult on such a change. This option would demonstrate the NMC taking public protection seriously, and responding vigorously to the concerns of another regulator and the PSA. This option might be said to provide clarity as soon as possible for stakeholders. However, Council would not have the opportunity to consider

different possible futures, and stakeholders would have a limited opportunity to have their views heard. Moreover, the government may be reluctant to support a section 60 order in advance of the Law Commission Bill, even if they would be willing to support one if the Bill did not materialise or did not facilitate the requisite change.

Reviewing midwifery regulation now

19. An immediate review of midwifery regulation demonstrates that the NMC takes the criticisms of the current framework seriously. It gives us the opportunity to benefit from stakeholder expertise, and for stakeholders to be heard at the formative stage in our thinking, and not just when we have identified a preferred direction of travel. It would be helpful during the Bill process to be able to give the Bill team and Parliamentarians a clear steer about what we think we need to protect the public. If a review is complete before the LC Bill is enacted, we are best placed in the event of changes to plan for and manage a smooth transition. Midwifery Committee's advice to Council was not to delay a review.

Reviewing midwifery regulation at some point in the future

20. It might be argued that a review could be conducted at a stage when the legal scope for change was clearer. There is a risk that this might suggest a lack of urgency on the part of the NMC in the face of serious concerns about the public protection afforded by the current arrangements. The Midwifery Committee has advised Council not to delay a review.

21. Recommendation: The Council is recommended:

- To approve a review of midwifery regulation to begin work as soon as possible in the light of concerns about potential conflicts of interest with public protection, weak regulatory oversight and lack of proportionality.
- To make public protection the focus of the review.
- To consider, in light of the review, recommendations about the future model for the regulation of midwives that is fair, proportionate and risk based.

22. If the Council approves a review, the terms of reference and timings will be developed in partnership with those specified in the Ombudsman's report, and their equivalents across the UK home nations.

Public protection implications:

- 26 This paper is concerned with the NMC's response to a report on the part of another regulator that questions whether an aspect of our regulatory model protects the public.

Resource implications:	27	Not known at this stage although we have a statutory duty to consult on any changes to our standards and so this work could necessitate a public consultation.
Equality and diversity implications:	28	No immediate equality and diversity implications but any changes to the regulatory framework for midwifery would need to be mindful women's rights to make choices about their maternity care.
Stakeholder engagement:	29	Any changes to midwifery regulation would need to be the subject of formative engagement and summative consultation. UK wide engagement would also be a significant factor.
Risk implications:	30	The PHSO has suggested that there are risks inherent in the current arrangements for midwifery regulation with reference to our core purpose, public protection. Public confidence in the regulatory process demands that we respond swiftly and openly to these concerns.
Legal implications:	31	None at this stage but changes to the framework for midwifery regulation would require legislative change.

Council

Summary of the consultation results; competency test for overseas applicants

Action:	For decision.				
Issue:	Summary of the findings on the responses to the Nursing and Midwifery Council (NMC) consultation proposing competency testing for non-European Economic Area (EEA) (overseas) trained nurses and midwives who wish to practise in the United Kingdom (UK).				
Core regulatory function:	Registration and education				
Corporate objectives:	<p>Corporate Objective 1: “We will safeguard the public’s health and wellbeing by keeping an accessible accurate register of all nurses and midwives who are required to demonstrate that they continue to be fit to practise.”</p> <p>Corporate Objective 2: “We will set appropriate standards of education and practice and assure the quality of education programmes and the supervision of midwives so that we can be sure that all those on our register are fit to practise as nurses and midwives.”</p>				
Decision required:	<p>The Council is recommended to:</p> <ul style="list-style-type: none"> • Note the results of the overseas competency test consultation • Agree to proceed with the development of competency tests • Agree to Executive Board to discuss and agree on an appropriate delivery model for the competency test. (paragraph 28) 				
Annexes:	None.				
Further information:	If you require clarification about any point in the paper or would like further information please contact the author or the director named below.				
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- Context:**
- 1 As part of our improvement programme to enable us to become a more effective and efficient regulator, we recognised the need to explore options to increase assurance for the overseas application process leading to UK registration as a nurse or a midwife.
 - 2 In September 2013 the health minister, Dan Poulter MP, publicly expressed his support for our work to strengthen registration for overseas applicants.
 - 3 Approaches used by other health regulators, both in the United Kingdom (UK) and internationally, were reviewed and the potential value of using a competency test emerged. Advice was sought from the General Medical Council (GMC), the General Dental Council (GDC) and the College for Registered Nurses in British Columbia (CRNBC) who were able to offer insight into their experiences.
 - 4 In 2013 we received 1943 requests for application packs from nurse and midwives who trained overseas. In the same period 757 overseas nurses and midwives were successfully registered having successfully completed an overseas nursing programme (ONP) or an adaptation to midwifery programme

Discussion

Overseas competency test consultation

- 5 The consultation was commissioned as part of a review of our overseas registration policy and processes. Specifically we proposed that the overseas nursing programme (ONP) and adaptation to midwifery programme (AMP) be replaced by a flexible competency assessment. Each profession would continue to be assessed against profession specific requirements.
- 6 This assessment would be undertaken by all overseas nurses and midwives once they have proven that they have met stated registration and education requirements and have demonstrated the required language competence in English.
- 7 Options one and two for consultation outlined a competency test that included an online test and an objective structured clinical examination (OSCE) with option two including a period of supervised practice.
- 8 The consultation ran for nine weeks, from Friday 30 August 2013 to Thursday 31 October 2013. It addressed the following objectives, through 10 questions hosted online using Survey Monkey:
 - 8.1 The principles underpinning the competency test.
 - 8.2 The requirement for entry to the test.
 - 8.3 The content and structure of the test.

8.4 The management and delivery of the test.

8.5 How the test should be funded.

Stakeholder engagement with the consultation

- 9 Consultation responses were submitted via two approaches; completion via the online survey and responses via the consultation inbox.
- 10 605 responses to the online survey were analysed together with 79 responses submitted to the consultation inbox.
- 11 The demographic data collected as part of the consultation indicates that responses from both international and national perspectives were represented.
- 12 The majority of responses was received by individuals and included UK registrants, overseas trained applicants, EU trained registrants and members of the public.
- 13 58 responses were from organisations and included recruitment agencies, approved education institutions, unions and regulators for healthcare.

Analysis of findings

- 14 The results were analysed using a mixed methods approach. An external advisor was appointed to ensure independence in reporting, advising on methodology and verification of findings.
- 15 Findings show that there is broad agreement with the principles underpinning the competency test and the minimum requirements to be met. There was overwhelming support for current pre-registration competencies to provide the benchmark against which competence for overseas registration is judged.
- 16 Responses to the two options were equally divided with nurses who trained outside the European Union more likely to disagree with a period of supervised practice. Free text comments indicate that the issue of supervised practice varies with some saying it is important and others rejecting the need for supervised practice.
- 17 The issue of what the competency test will address and how this will be achieved is one that many respondents wanted more information about, to gauge whether this will be a more appropriate and proportionate method of assuring that overseas registrants will be safe and effective practitioners. This is particularly evident within organisational responses, although some individual nurses also questioned the need for change.
- 18 Nonetheless, there is recognition from some organisations that there

is value in assessing individual competency and that the NMC is reflecting the international trend towards competency testing for overseas applicants to assess suitability for registration.

- 19 There was no consensus regarding issues relating to the implementation and management of the test, but further information around governance and security arrangements was requested.
- 20 Although we did not consult on language testing it emerges as a contentious issue and is raised throughout the online survey and in the individual email responses.

Summary conclusions

- 21 No alternative approaches were suggested beyond what is currently in place and the options that were consulted on.
- 22 No clear consensus about the competency test emerges from the consultation responses however a number of useful suggestions are offered which will inform the planning of the next phase of this project. This includes:
 - Informing stakeholders about the evidence base that led to this need for change
 - Clarity of our position in relation to language testing
 - Ensuring cultural competence within the competency test
 - Perceptions on the value of a period of supervised practice
 - A review of options for the governance and security arrangements for the delivery of the competency test.

Initial response to the consultation findings

- 23 We are experiencing challenges within Registration and Continued Practice directorates for overseas applicants due to the way that current ONP and AMP are managed. Although the NMC is responsible for the overseas application process and approval and QA of the ONP and AMP programmes, we have no control over commissioning or selection to ONP and AMP programmes. As a result many overseas applicants experience difficulty in obtaining a place so cannot convert their overseas application into successful registration in the UK.
- 24 We are continuing to engage with other healthcare regulators in order that their experiences and evaluations can influence our thinking.
- 25 We have drafted a blueprint for the 2010 pre registration nursing competencies and essential skills clusters and cross reference these

to the most appropriate assessment method. Once agreed this blueprint will inform the design and development of the competency test bank and we expect to publish the blueprint on the NMC website in order that prospective overseas applicants can review at any time.

- 26 It is not our intention to alter the current language testing requirements at this time however we will review our communication in this area.
- 27 As there was no clear consensus emerging from the consultation findings an options appraisal for the provision of a reliable, consistent and justifiable method of assessing the competency of overseas applicants is being prepared and will be presented to Executive Board in February.
- 28 **Recommendation: The Council is recommended to:**
- 28.1 **Note the results of the overseas competency test consultation**
- 28.2 **Agree to proceed with the development of a competence test**
- 28.3 **Agree that the Executive Board should determine an appropriate delivery model for the competence test, based on further expert input and analysis**

Public protection implications:

- 29 The decision to move to an overseas registration process with a competency test at its heart is part of the overall registrations improvement programme recommended by the earlier external review of existing overseas registration processes. The programme focuses on delivery of public protection through effective and efficient registration systems.

Resource implications:

- 30 The overseas competency test consultation was developed and coordinated by the evidence and research team with input by the standards compliance team. A project to take this work forward is being initiated under the Registration Improvement Programme. Funding for the external advisor has been met by that project budget.

Equality and diversity implications:

- 31 The demographic questions were not mandatory and therefore the profile of respondents discussed in this section can only offer an indication of who responded to the online survey.
- 32 The average response rate to the demographic questions was 55%, which is in line with expected response rates for these types of questions.

- 33 There are important recommendations arising from the responses from the consultation which must be carried forward in this project in order that this is addressed within the policies that will support the delivery of the competency test :
- 34 The issue of cultural differences in both social and clinical contexts between the UK and the applicant's home country.
- 35 The importance of cultural adaptation for safe and effective practice is stated within some responses with recommendations that this must be addressed through the assessment process but the challenges in this are recognised by respondents.

Stakeholder engagement:

- 36 We have produced a summary of findings arising from this consultation which will be published on our website later in January 2014.
- 37 A comprehensive stakeholder communication plan is currently being developed by the overseas competency test project team. Engagement with key stakeholders on future steps will begin now.
- 38 This will include dissemination of the evidence base that led to the change in overseas applications.

Risk implications:

- 39 The findings of the consultation will inform the next phase of the project and corresponding project risk register.

Legal implications:

- 40 There are no identified legal implications that have arisen from the consultation responses.

Council

Governance matters

Action: For decision.

Issue: The Council is invited to consider recommendations relating to:

- the Appointments Board.
- the responsibilities of a 'Senior Independent Director'.
- a policy for reviewing and enhancing the effectiveness of the Council.
- the Code of Conduct for members.
- the procedure for handling complaints about members.

The Council is invited to note preparations for the recruitment and selection of a Chair of the Council to succeed Mark Addison from January 2015.

Core regulatory function: Supporting functions.

Corporate objectives: Effective governance supports the achievement of all the corporate objectives. More specifically, developing effective governance processes is a key element of objective 7.

Decision required: The Council is invited to consider the recommendations set out in paragraphs 6, 15, 18, 20, 25, 27, and 29.

Annexes: The following annexes are attached to this paper:

- Annexe 1: Policy for reviewing and enhancing the effectiveness of the Council (draft).
- Annexe 2: Revised Code of Conduct (draft).
- Annexe 3: Procedure for handling complaints about Council members (draft)

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:**
- 1 The Council is invited to consider recommendations relating to:
 - 1.1 the Appointments Board;
 - 1.2 the responsibilities of a 'Senior Independent Director';
 - 1.3 a policy for reviewing and enhancing the effectiveness of the Council;
 - 1.4 the Code of Conduct for members;
 - 1.5 the procedure for handling complaints about members.
 - 2 The Council is invited to note preparations for the recruitment and selection of a Chair of the Council to succeed Mark Addison from January 2015.

Discussion and options appraisal:

Appointments Board

- 3 At present, an Appointments Board, consisting entirely of independent members and reporting to the Council, is responsible for overseeing the appointment of Practice Committee members (panellists). The independent governance review recommended the deconstitution of the Appointments Board. Since then, the NMC has had detailed engagement with the Law Commission. It is likely that the Law Commission's draft bill, which is due to be published in spring 2014, will contain a requirement for regulators to establish an independent body with responsibility for the appointment of panellists.
- 4 In this context, the Executive Board has considered four potential options for overseeing the appointment of panellists in the future:
 - 4.1 Option 1: retaining the Appointments Board.
 - 4.2 Option 2: constituting an advisory group reporting to the Executive Board, chaired by a Director and comprising a number of internal and independent members.
 - 4.3 Option 3: transferring responsibility to the Remuneration Committee.
 - 4.4 Option 4: delegating appointment responsibilities entirely to a functional unit that is independent of the fitness to practise directorate.
- 5 The Executive Board prefers Option 1 because it (i) appears to be closest to the Law Commission's direction of travel and (ii) provides the best mitigation of the risk that the appointment of a panellist could be challenged under Article 6 of the European Convention on Human Rights (right to a fair trial). Some refinement to the terms of

reference of the Appointments Board may be valuable to clarify its remit and relationships both to the Council and to management.

6 Recommendations: the Council is invited to-

6.1 consider whether to retain the Appointments Board;

6.2 subject to 6.1, request that the Appointments Board and the Secretary review the terms of reference for approval by the Council.

‘Senior independent director’

- 7 Provisions around the appointment of a Deputy Chair are set out in the Nursing and Midwifery (Constitution) Order 2008 and the NMC Standing Orders. They set out the arrangements for appointing a member of the Council to perform the duties of Chair in the Chair’s absence or unavailability. In summary, it is not possible to appoint a Deputy Chair unless and until the Council is on notice of the Chair’s absence or unavailability.
- 8 Under current practice introduced by the Council in 2012, two Vice Chairs (one registrant, one lay) are appointed by the Chair of the Council. Anne Wright (lay) and Judith Ellis (registrant) are the current Vice Chairs. Although the role is not formalized, in practice the Vice Chairs act as a sounding board for the Chair.
- 9 The independent governance review found that the arrangements “are supported and valued [by the then members of the Council] and we detected no interest in either making the arrangements more formal or leaving them when the newly constituted Council starts in May.” The review also found that such a system appeared both “practical and fair.”
- 10 The previous Council considered on several occasions whether there would be any value to appointing a Senior Independent Director (SID), in accordance with practice in other sectors. Current Council members are keen to reexamine the question.
- 11 Guidance on the role of the SID is set out in the UK Corporate Governance Code, Financial Reporting Council guidance, and the NHS Foundation Trust Code of Governance.¹ This guidance is aimed at organizations which have a unitary board consisting of

¹ UK Corporate Governance Code 2012;
Financial Reporting Council: *Guidance on Board effectiveness*;
Monitor: *the NHS Foundation Trust Code of Governance*;

executive and non-executive directors.

- 12 Benchmarking has been undertaken against other regulatory organisations.² None of the benchmarked professional regulators make provision for a SID. Monitor, which operates under a unitary board structure, does make provision.
- 13 Drawing on the good practice guidance, the functions which a SID could undertake in the NMC context are:
 - 13.1 Providing a sounding board for the Chair.
 - 13.2 Facilitate the annual evaluation of the Chair on behalf of the Council.
 - 13.3 A route for members of the Council and external stakeholders to raise concerns if contact with the Chair, CEO and other Directors has not served to resolve those concerns.
 - 13.4 An intermediary role in the case of a dispute between the CEO and Chair.
- 14 The Council is asked to consider the following options:
 - 14.1 Option 1: Establishing a SID role to carry out the functions summarized above in addition to the informal Vice Chair roles.
 - 14.2 Option 2: Incorporating the functions of a SID into formal role descriptions for the Vice Chairs.
 - 14.3 Option 3: Establishing a SID role and discontinuing the informal Vice Chair roles.
 - 14.4 Option 4: Continuing with the informal Vice Chair roles and not establishing a SID role.
- 15 **Recommendation: The Council is invited to consider the options set out in paragraph 14.**
- 16 If the Council chooses to proceed with option 1, 2, or 3, role descriptions will be drawn up and amendments to the Standing Orders will be proposed to establish the SID role. Questions regarding the title of the role and the method of appointment also arise.
- 17 Members of the Council are not Directors within the meaning of the Companies Act 2006. Furthermore, the term 'independent' does not translate easily in the context of a Council comprised of lay and registrant members. The term 'Senior Advisory Member' could better

² General Medical Council; General Osteopathic Council; General Dental Council; General Pharmaceutical Council; Monitor.

reflect the proposed functions of the role in the NMC context.

- 18 **Recommendation: The Council is invited to consider whether the term ‘Senior Advisory Member’ is appropriate for the role.**
- 19 Good practice in other sectors suggests that the appointment of the SID must be made by, and only by, independent members of the board. This does not translate easily into the NMC context. The informal Vice Chair roles are currently appointed by the Chair. In this context, two options are proposed:
- 19.1 Option 1: The SID role(s) should be appointed by the Chair.
- 19.2 Option 2: The SID role(s) should be elected by all members of the Council.
- 20 **Recommendation: The Council is invited to consider the two options set out in paragraph 19.1 and 19.2. The preferred option will be written into the proposed amendments to the Standing Orders.**
- 21 Subject to the Council’s views, where necessary, a further paper would be brought to the next meeting of the Council.

Reviewing and enhancing the effectiveness of the Council

- 22 A draft policy for reviewing and enhancing the effectiveness of the Council has been drawn up (Annexe 1). This accords with the following good practice:
- 22.1 The UK Corporate Governance Code states that the governing body “*should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.*”
- 22.2 *Good Governance: A Code for the Voluntary and Community Sector*, emphasises the importance of both “*setting aside time to reflect on performance and functioning of the board and its committees...and identifying and dealing with any areas for improvement*” and “*reviewing the performance and development needs of each board member*”.
- 23 The policy envisages four strands:
- 23.1 Ongoing review to identify immediate improvements in the way Council operates.
- 23.2 Annual review of the Chair’s performance, comprising self-assessment, peer assessment by Council members and the Chief Executive, and input from interested parties.
- 23.3 Annual review of Council members’ performance comprising

self-assessment, peer assessment by the Chair, and (in the case of committee chairs) peer assessment by committee members.

23.4 Annual review of governance effectiveness.

- 24 The outputs of the review will inform the annual governance statement which forms part of the NMC's annual report and accounts.
- 25 **Recommendation: the Council is invited to approve the policy for reviewing and enhancing the effectiveness of the Council.**

Code of Conduct

- 26 Upon appointment, members of the Council agree to observe a Code of Conduct. The Code has been revised (i) to include the updated version of the seven principles of public life; and (ii) to reflect Council members' discussions during induction and development activities (Annexe 2).
- 27 **Recommendation: the Council is invited to approve the revised Code of Conduct to have immediate effect.**

Procedure for handling complaints about Council members

- 28 A revised procedure for handling complaints about Council members has been drawn up (Annexe 3). It is intended to be used to resolve allegations that a Council member has breached the Code of Conduct. In drawing up the revised procedure, we have taken account of practice at other regulators and the relevant findings of the PSA's report (February 2013) regarding the governance arrangements of another professional regulator.
- 29 **Recommendation: the Council is invited to approve the revised procedure for handling complaints about Council members to have immediate effect.**

Recruitment and selection of a Chair of the Council

- 30 The Privy Council has extended Mark Addison's term of office as a member and the Chair of the Council until 31 December 2014. Mr Addison's successor as Chair of the Council will be appointed by the Privy Council following an open recruitment and selection process conducted by the NMC and assured by the Professional Standards Authority (PSA).
- 31 Planning of the recruitment and selection process is underway, with reference to the PSA's guidance, *Good practice in making council member and chair appointments to regulatory bodies* (October 2012). Proposals regarding the process will be put to the Remuneration Committee on 27 February 2014. A full report will be

made to the Council on 26 March 2014, including decisions regarding the role description and person specification.

Public protection implications:	32	No immediate public protection implications.
Resource implications:	33	Resource implications will be managed within existing budgets.
Equality and diversity implications:	34	An equality analysis screening has been undertaken and a full equality analysis is not deemed to be required. Equality and diversity considerations will form a key element of the Chair's recruitment process.
Stakeholder engagement:	35	Benchmarking against good practice has been undertaken in relation to the proposals set out in this report.
Risk implications:	36	Ineffective or inappropriate governance policies and systems could impede, rather than enhance, decision making.
Legal implications:	37	No immediate legal implications.

Annexe 1

Reviewing and enhancing Council effectiveness

Introduction

- 1 The NMC is committed to good governance practice in all aspects of its work. Current good governance practice emphasises the importance of reviewing the effectiveness of both the governing body and the value added by each member of that body. This policy explains how the Council and individual members assess their effectiveness and implement the improvements identified as part of the process.

Benefits of the policy

- 2 The benefits of having such a policy include:
 - 2.1 Supporting the Council in being a cohesive group that adds value to the organisation.
 - 2.2 Reinforcing our values by being accountable and fair.
 - 2.3 Ensuring that members of the Council have support in identifying and accessing development opportunities.
 - 2.4 Ensuring that the organisation is run appropriately.
 - 2.5 Helping to protect the NMC's reputation.

Scope of the policy

- 3 This policy provides guidelines to all members of the Council, including the Chair, in respect of assessing the effectiveness of the Council, individual members and the overarching governance processes that support the Council and members.

Key responsibilities

- 4 The Chair is responsible for leading on the annual performance review of each member of the Council. The Chair will meet with each member to discuss the member's performance and to agree development objectives for the forthcoming year.
- 5 The Vice Chair(s) is (are) responsible for leading on the annual performance review of the Chair of the Council.
- 6 The Chief Executive (and, through her / him, the Directors) is responsible for contributing her / his views toward the annual performance review of the Chair of the Council.

Annexe 1

- 7 The Council is responsible for considering the outcomes of the review of governance effectiveness and for formulating suggested approaches to address these outcomes.
- 8 The Secretary to the Council is responsible for supporting the Chair, Vice Chair(s) and the Council in undertaking the annual effectiveness review, including administrative and logistical support.
- 9 The Council is responsible for reviewing this policy periodically to ensure that it reflects developing good practice.

Ongoing review

- 10 The annual effectiveness framework provides the means by which the Council and members formally review their effectiveness. It does however remain important that the Council assesses its own progress on an ongoing basis. This relates in particular to meetings of the Council, and might include:
 - 10.1 Quality, relevance and timeliness of the information provided to the Council
 - 10.2 Dynamics amongst Council members
 - 10.3 The balance of each meeting agenda to ensure that there is sufficient business to discuss in depth without delving into operational detail.
- 11 Feedback from members on these issues will be ascertained through:
 - 11.1 Comments during meetings of the Council, either in public or private session.
 - 11.2 A debriefing session at the conclusion of the Council between the Chair, the Vice Chair(s), the Chief Executive and Registrar and the Secretary to the Council.
- 12 Where appropriate, the Secretary to the Council will address feedback for future meetings and report to the Chair periodically on progress.

Annual performance review – Chair of the Council

- 13 The aim of the annual performance review of the Chair is to provide a structured, objective, evidence-based approach to reviewing the Chair's performance. The outcomes of the review will be used in agreeing objectives and ascertaining development needs for the forthcoming year.
- 14 The annual performance review of the Chair will be undertaken by the Vice Chair(s) with support from the Secretary to the Council. The review will take into account:
 - 14.1 the Chair's self-assessment of her or his performance;

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- 14.2 Council members' peer assessment of the Chair's performance;
 - 14.3 the Chief Executive's (and through her or him, the Directors') peer assessment of the Chair's performance;
 - 14.4 the views of interested parties on the Chair's performance.
- 15 Those participating in the review process will be asked to comment on:
- 15.1 Performance against criteria linked to the role description of the Chair of the Council.
 - 15.2 An assessment, where applicable, of performance against previously agreed development objectives.
- 16 The review will also take into account the Chair's attendance at meetings of the Council and committees, and other engagements undertaken on behalf of the Council.
- 17 The Secretary to the Council will provide support to the Vice Chair (s) in compiling the results of the review and identifying particular points arising. The Secretary to the Council will arrange for a meeting between the Vice Chair(s) and the Chair to discuss the review.
- 18 The Vice Chair(s) will discuss with the Chair the key outcomes emerging from the review, and discuss and agree with the Chair development objectives for the forthcoming year. The Vice Chair (s) will complete a performance record to demonstrate that the review has been completed and its outcomes discussed. The Council Services team will maintain the performance record.

Annual performance review – members of the Council

- 19 The aim of the annual performance review of Council members is to provide a structured, objective, evidence-based approach to reviewing the individual member's performance. The outcomes of the review will be used in agreeing objectives and ascertaining development needs for the forthcoming year.
- 20 The annual performance review of each Council member will be undertaken by the Chair of the Council, with support from the Secretary. The review will take into account:
- 20.1 the Council member's self-assessment of her or his performance;
 - 20.2 the Chair's peer assessment of the Council member's performance;
 - 20.3 in the case of the Chair of a committee, the committee members' peer assessment of the Council member's performance.
- 21 Those participating in the review process will be asked to comment on:

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- 21.1 Performance against criteria linked to the role description of Council member.
- 21.2 An assessment, where applicable, of performance against previously agreed development objectives.
- 22 The review will also take into account the member's attendance at meetings of the Council and committees, and other engagements undertaken on behalf of the Council.
- 23 The Secretary to the Council will provide support to the Chair in compiling the results of the review and identifying particular points arising. The Secretary to the Council will arrange for a meeting between the member and the Chair to discuss the review.
- 24 The Chair will discuss the key outcomes emerging from the review with the member, and discuss and agree development objectives for the forthcoming year. The Chair will complete a performance record to demonstrate that the review has been completed and its outcomes discussed. The Council Services team will maintain the performance record.

Annual review of governance effectiveness

- 25 The primary objective of the annual review of governance effectiveness is to provide a structured, objective, evidence-based approach to reviewing the effectiveness of the Council and its committees. The outcomes of the review will be used in identifying recommendations for change to the organisation's governance arrangements for the forthcoming year.
- 26 The annual review of governance effectiveness will be led by the Chair of the Council with support from the Secretary to the Council. The review will gather views from members of the Council, the Chief Executive and Registrar and Directors.
- 27 In gathering views, members will be asked to comment on a number of areas, including the following:
 - 27.1 Council objectives and their impact.
 - 27.2 Contribution of members.
 - 27.3 Relationship between the Council and Directors.
 - 27.4 Quality of information.
 - 27.5 Organisation of meetings.
 - 27.6 Support from secretariat.

Annexe 1

27.7 Composition of the Council and succession planning.

- 28 The Secretary to the Council will compile a contribution to the report on the basis of compliance with the Standing Orders and implementation of recommendations, where applicable, from the previous year's effectiveness review.
- 29 The Secretary to the Council will compile a report on the basis of views gathered on governance effectiveness.

Reporting

- 30 Summaries of the Chair's annual performance review and a consolidated summary of individual member's performance reviews will be presented to a confidential session of the Council. Individual members (other than the Chair) will not be identified as part of this reporting process.
- 31 A summary report of the governance effectiveness review along with suggested future options to address identified areas for improvement will be presented to an open session of the Council. A summary report of the progress on recommendations from the previous year's effectiveness review will be included as part of this item to the Council.

Accountability

- 32 Outputs from each strand of the effectiveness framework will form the basis of the Council's assessment of its effectiveness, which will be included within the Annual Governance Statement submitted to Parliament as part of the NMC annual report and accounts.

Further information

- 33 For further information on this policy, please contact the Secretary to the Council, Matthew McClelland at matthew.mcclelland@nmc-uk.org

Annexe 2

Code of Conduct for members of the Council

- 1 In order for the Nursing and Midwifery Council (NMC) to command the confidence of interested parties, it is necessary for members of the Council to observe appropriate standards of conduct. The required standards are articulated in this Code of Conduct, which applies to all members of the Council upon appointment.

Principles

- 2 In performing their duties, members of the Council should observe the Seven Principles of Public Life (the 'Nolan principles'), namely:
 - 2.1 **Selflessness:** Holders of public office should act solely in terms of the public interest.
 - 2.2 **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships
 - 2.3 **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
 - 2.4 **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - 2.5 **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
 - 2.6 **Honesty:** Holders of public office should be truthful.
 - 2.7 **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Values and behaviours

- 3 In order to enable robust and effective decisions to be made, members should:
 - 3.1 participate in discussion in an open, non-judgmental, and reasoned way;
 - 3.2 show respect for others and value diversity and inclusion;
 - 3.3 foster trust and demonstrate confidence in colleagues;

Annexe 2

- 3.4 welcome and provide constructive challenge;
 - 3.5 listen to and value the views of others;
 - 3.6 address matters succinctly and without undue repetition so that others have sufficient opportunity to contribute.
- 4 Members should lead by example, demonstrating the NMC behaviours, namely:
- 4.1 accountability for results;
 - 4.2 leadership;
 - 4.3 shaping the future;
 - 4.4 working together;
 - 4.5 serving others;
 - 4.6 impact and influencing.

Corporate responsibilities

- 5 The NMC is the independent regulator for nurses and midwives in the UK, established and governed by the Nursing and Midwifery Order 2001 (as amended) (the Order). Our main objective is to protect the public. Our principal functions are to establish and maintain standards of education and practice, to maintain a register of those who meet the standards, and to take action when a nurse's or a midwife's fitness to practise is called into question. Members have corporate responsibility for the achievement of our main objective and the exercise of our principal functions.
- 6 As trustees of a charity registered in England and Wales and in Scotland, members of the Council have corporate responsibility for ensuring that the NMC complies with charity legislation and the requirements of the Charity Commission and the Office of the Scottish Charity Regulator.
- 7 As trustees of a body corporate employing staff, members have corporate responsibility for ensuring that the NMC complies with relevant employment, equality, human rights, health and safety, data protection, and freedom of information legislation.
- 8 Members have corporate responsibility for ensuring that the NMC complies with any statutory or administrative requirements governing the use of its funds.

Annexe 2

Individual responsibilities

- 9 Members have a responsibility to ensure that they have a clear understanding of the objectives, functions, and powers of the NMC as set out in the Order and associated legislation.
- 10 Members have a responsibility to ensure that they have a clear understanding of their role as trustees of a charity and that they meet the legal requirements for eligibility to serve as a charity trustee as specified in section 178 ("*Persons disqualified from being charity trustees or trustees of a charity*") of the Charities Act 2011.
- 11 Members have a responsibility to ensure that they have a clear understanding of the scope of authority delegated to the Chief Executive and Registrar and to hold the Chief Executive and Registrar to account for the exercise of delegated authority.
- 12 Members have a responsibility to make themselves available for meetings of the Council and any committees or working groups to which they have been appointed.
- 13 Members have a responsibility to make decisions that:
 - 13.1 are in the public interest and the interests of the NMC;
 - 13.2 are consistent with the NMC's UK-wide remit;
 - 13.3 contribute to the NMC's main objective to protect the public;
 - 13.4 are within the NMC's obligations under the Order and associated legislation;
 - 13.5 take into account the needs and views of interested parties;
 - 13.6 are not influenced by personal or professional interests.
- 14 Members have a duty to accept collective responsibility for the Council's decisions and to support their communication and implementation.
- 15 Members have a responsibility to be as open as possible with interested parties about the Council's decisions and the work of the NMC, restricting information only when the principles of confidentiality or the law require it.
- 16 Members have a responsibility not to disclose confidential information obtained in the course of their duties as members of the Council, unless it is in the public interest to do so, and in the event of any such disclosure must notify the Chief Executive and Registrar.

Annexe 2

- 17 Members have a responsibility to avoid placing themselves under an obligation to any individual or organisation which might affect, or be perceived to affect, their ability to act impartially and objectively as members of the Council.
- 18 Members have a responsibility to complete and maintain their entry in the Council register of interests, declaring any professional or personal interests which may conflict with, or be perceived to conflict with, their responsibilities as members of the Council.
- 19 Members have a responsibility to distinguish clearly, when speaking or writing in any public forum, between the views of the NMC, their personal views, and the views of any other organisation to which they may be affiliated. Any public engagement or communication with the media on behalf of the NMC must be discussed with the Chief Executive and Registrar in advance.
- 20 Members have a responsibility to participate in induction, development, and appraisal processes and to commit to their personal development.
- 21 Members have a responsibility to inform the Privy Council, the Council, and the Chief Executive and Registrar if they become, or may be about to become, liable to be removed from office under paragraph 6 of the Nursing and Midwifery Council (Constitution) Order 2008 (as amended).

Raising concerns

- 22 Members have a responsibility to raise concerns about possible wrongdoing:
 - 22.1 with the Chief Executive and Registrar, if they relate to a member of staff;
 - 22.2 with the Chair of the Council, if they relate to another Council member or the Chief Executive and Registrar;
 - 22.3 with the Chair of the Audit Committee, if they relate to the Chair of the Council.
- 23 Members have a responsibility to raise concerns about compliance with charity law or other legislation with the Chair of the Council and the Chief Executive and Registrar at the earliest opportunity.

Breaches of the Code of Conduct

- 24 Any minor breach of the Code will normally be dealt with informally, for example by the Chair of the Council or another Council member drawing the breach to the Council member's attention during a meeting or similar.
- 25 Where a complaint is received about the conduct of a member, or where there appears to be a deliberate, serious, or continued breach of the Code, the matter will be referred to the Chair of the Council.

Procedure for handling complaints about Council members

Introduction

- 1 This document sets out the procedure to be following in dealing with alleged breaches of the Code of Conduct for Council Members ("the Code").
- 2 The procedure aims to ensure that complaints are resolved fairly, proportionately, and within reasonable timescales. Indicative timescales are set out in the procedure. These may be varied where necessary, for example, because of the nature or complexity of a complaint.
- 3 Any person making a complaint under this procedure will not be treated less favourably as a result of lodging a complaint in good faith.

Responsibilities of the Chair

- 4 The Chair of the Council has specific responsibilities for handling complaints, as set out in the procedure. The Chair of the Audit Committee will exercise those responsibilities if (i) the Chair of the Council is the subject of the complaint; or (ii) the Chair of the Council has a material conflict of interest in relation to a complaint.

Initial receipt and review of complaints

- 5 Complaints about members of the Council must be addressed to the Chair in writing, setting out full details of the complaint.
- 6 Complaints that are addressed to any other person, such as the Chief Executive and Registrar, will be referred to the Chair immediately.
- 7 The Chair is responsible for determining whether a complaint should proceed or whether it should be dismissed.
- 8 The Chair of the Council has authority to dismiss:
 - 8.1. anonymous complaints;
 - 8.2. complaints which appear to the Chair to be trivial or vexatious;
 - 8.3. complaints which fall outside the scope of the procedure.
- 9 Where a complaint is dismissed under paragraph 8.2 or 8.3, the Chair will notify the complainant of her or his decision in writing within seven days.
- 10 The Chair may decide that more information is required before a decision can be made about whether a complaint should proceed or be dismissed. In those circumstances, the Chair will contact the complainant to request further details.
- 11 The Secretary to the Council will keep a record of all complaints received and will report regularly to the Audit Committee on progress in resolving them.

Copy of complaint to the member

- 12 If the Chair decides that a complaint should proceed, a copy of the complaint will be sent to the Council member concerned (“the Council member”), together with a copy of this procedure. The Council member will be invited to submit a written response within fourteen days.

Copy of response to the complainant

- 13 When the Council member provides a response to the complaint, a copy will be sent to the complainant.

Informal resolution

- 14 At any time before the matter is referred for investigation under paragraph 17, the Chair may, with the consent of the complainant and the Council member, seek to resolve the complaint informally, for example through discussions involving the Chair and both parties or through independent mediation. Any informal resolution process should be concluded within 28 days. Any costs will be borne by the NMC.
- 15 If a mutually acceptable outcome is reached at the conclusion of the informal resolution process, the complaint will be closed. No report will be made to the Council and the matter will remain confidential. The papers relating to the complaint, including details of the informal resolution, will be placed on the Council member’s file and may be taken into account in the event of a subsequent complaint.
- 16 If a mutually acceptable outcome is not reached at the conclusion of the informal resolution process, the matter will be referred for investigation under paragraph 17. Any admissions or statements made during the course of the informal resolution process will remain confidential and will not be admissible as evidence in the investigation, except with the consent of both parties.

Formal procedure

Referral for investigation

- 17 The Chair will refer a complaint for investigation if:
- 17.1. either party does not consent to, or withdraws their consent from, an informal resolution process;
 - 17.2. an informal resolution process does not produce a mutually acceptable outcome;
 - 17.3. the Chair considers for any reason that it is not appropriate to seek and informal resolution.
- 18 The Chair will appoint an independent investigator (“investigator”) and will notify both parties within seven days.

Investigation

- 19 The investigator will (i) investigate the complaint on behalf of the Council; (ii) decide whether, on the balance of probabilities, a breach of the Code has occurred; (iii) advise the Council accordingly. If the investigator decides that a breach of the Code has occurred, she or he may make a recommendation to the Council regarding sanction; it is for the Council, not for the investigator, to determine any sanction.
- 20 The investigation will be dealt with confidentially. Information about the complaint will only be shared to the extent necessary to carry out the investigation (for example, by making enquiries of possible witnesses or obtaining documentary evidence).
- 21 As part of the investigation the investigator will conduct a hearing in accordance with paragraphs 25 to 32 and will:
- 21.1. seek documentary evidence to be considered at the hearing;
 - 21.2. call witnesses to give evidence at the hearing.
- 22 The investigator will consult with the complainant and the Council member in relation to the evidence and witnesses for the hearing. It is for the investigator to determine whether it is necessary for the proper investigation of the complaint to admit evidence or call any witness. The investigator's decision is final.
- 23 All Council members and employees are required to cooperate with any request made by the investigator.
- 24 The investigator may seek advice from a legal adviser (who may be a member of the NMC staff) and any such advice will be confidential to the investigator.

Hearing

- 25 The Council member will be notified in writing of the date of the hearing at least 21 days in advance.
- 26 The Council member will be sent the papers for the hearing at least fourteen days in advance, including:
- 26.1. The complaint.
 - 26.2. The Council member's initial response to the complaint submitted under paragraph 12.
 - 26.3. Copies of any documentary evidence.
 - 26.4. The names of any witnesses to be called to the hearing.
- 27 The Council member may submit a written response to the complaint to the investigator at least seven days before the hearing.
- 28 The Council member may be accompanied at the hearing.
- 29 The investigator may decide to proceed with the hearing in the Council member's absence if she or he does not attend without good reason.

- 30 The investigator is responsible for the good conduct of the hearing. Subject to the investigator's absolute discretion, the normal sequence of events at the hearing is as follows:
- 30.1. The investigator will explain that the hearing will be conducted in accordance with these procedures (as varied by the investigator) and will invite the Council member to state any objections to them. The investigator will rule on any objections.
 - 30.2. The investigator will check that the Council member has copies of all the papers that have been circulated.
 - 30.3. The Council member will present her or his response to the complaint and take the investigator through any relevant documents.
 - 30.4. The investigator will ask any questions of the Council member.
 - 30.5. Each witness will be called to give evidence in turn:
 - (a) The investigator will ask any questions.
 - (b) The Council member will ask any questions.
 - (c) The investigator may ask any supplementary questions.
 - 30.6. The Council member will make a closing statement to the investigator.
 - 30.7. The investigator will make any closing remarks.
- 31 A note taker shall be present throughout the hearing.
- 32 The investigator may invite a legal adviser to be present throughout the hearing and may seek her or his advice at any stage.

Report

- 33 The investigator will draft a written report, summarizing the evidence considered and setting out the investigator's reasoned findings and decision. Within fourteen days of the hearing, a copy of the draft report will be sent to the Council member concerned (but not to the complainant). The Council member will be invited to notify the investigator in writing within seven days of any factual inaccuracies in the report. The investigator will consider any comments made by the Council member and may take them into account in her or his final report.
- 34 Within seven days, the investigator will finalize the report and submit it to the Chair.
- 35 Where the investigator has decided that a breach of the Code has not occurred, the matter will be closed and will not be referred to the Council. The Chair will write to the Council member and to the complainant to confirm the conclusion of the process.
- 36 Where the investigator has decided that a breach of the Code has occurred, the Chair will refer the report to the Council to determine a sanction.
- 37 The Council will consider the matter at a confidential meeting convened and conducted in accordance with the Standing Orders and the following provisions:
- 37.1. If invited to do so by the Chair, the investigator may attend the Council meeting to answer any questions regarding the investigation.

- 37.2. The Council member may attend the meeting and may make submissions to the Council (orally or in writing) on the question of the sanction only. There being a material conflict of interest, the Council member shall be excluded from the meeting while the Council reaches its determination.
- 37.3. The complainant (unless she or he is a Council member) has no right to be present at the meeting or to make submissions to the Council. If the complainant is a Council member, she or he may attend the meeting; there being a material conflict of interest, shall be excluded from the meeting shall be excluded from the meeting while the Council reaches its determination.
- 38 The following sanctions are open to the Council:
- 38.1. To recommend to the Privy Council that the Council member be removed from office under Article 6(1)(j) of the Constitution Order.¹
- 38.2. To suspend provisionally the Council member pending the outcome of the Privy Council's consideration of the Council's recommendation under paragraph 38.1.
- 38.3. To censure the Council member.
- 38.4. To require a course of action short of a recommendation to the Privy Council, for example that the Council member issue an apology or undertake further training.
- 39 The Chair will notify the Council member and the complainant in writing of the Council's determination within seven days.

¹ The Nursing and Midwifery Council (Constitution) Order 2008, Article 6 (1)(j), provides that "A member shall be removed by the Privy Council, if [...] the Privy Council is satisfied that the member's continued membership of the Council would be liable to undermine public confidence in the regulation of the nursing and midwifery professions."

Council

Legislation changes to improve the efficiency of fitness to practise and registration processes

Action: For decision.

Issue: Proposed changes to NMC rules arising out of the s.60 Order changes being introduced to improve the efficiency of fitness to practise and registration processes.

Core regulatory function: Fitness to Practise and Registrations.

Corporate objectives: These legislation changes will support NMC Corporate Objectives 1 & 3.

Decision required: The Council is recommended to:

- Agree the proposed amendments described in Annexe 1 in principle, subject to any revisions that may be required in the light of the consultation.

Annexes: The following annexe is attached to this paper.

- Annexe 1 – Summary of proposed legislative amendments

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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Context: Background

- 1 During the early part of 2013, following publication of the Francis report into Mid-Staffordshire NMS Hospital Trust, the Government agreed that some amendments could be made to our legislation to improve the effectiveness and efficiency of our fitness to practise processes to make them more efficient.
- 2 After lengthy negotiations with the Department of Health (DH), a small number of legislation changes to the Nursing and Midwifery Order 2001 (the Order), the NMC Fitness to Practise Rules 2004¹ (the Fitness to Practise Rules) and the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004² (the Registration Rules) have now been agreed in principle and draft legislation has been prepared.
- 3 The amendments that have been agreed fall under five headings:
 - 3.1 The introduction of case examiners to make case to answer decisions in fitness to practise cases.
 - 3.2 The power to review no case to answer decisions in certain circumstances.
 - 3.3 Changes to the composition of a registration appeal panel
 - 3.4 Clarification that fitness to practise panels can make striking off orders in lack of competence and health cases.
 - 3.5 Provisions for the collection and verification of information relating to a new legal requirement to have professional indemnity insurance.
- 4 Full details of the proposed amendments are set out in Annexe 1 to this paper.
- 5 Taken together, the changes we are proposing will enable us to improve the effectiveness and timeliness of our procedures and allow us to take action to protect patients and the public more quickly when necessary. These changes will allow the most serious cases to be progressed and determined sooner, which is in the interests of all concerned
- 6 They will also benefit the many nurses and midwives about whom allegations are made but the matter is eventually closed on the grounds that there is no case to answer. They will also allow those decisions to be reviewed in the public interest in the event of a material flaw in the decision or new information coming to light.

¹ SI 2004/1761, as amended

² SI 2004/1767, as amended

**Discussion
and options
appraisal:**

Progress update

- 7 The first draft of the amendments to our Order and Rules needed to implement these proposals was submitted to the DH, for scrutiny, in mid-2013. Since that time we have been working with the DH legal and policy teams to agree the amendments that are to be included and finalise the drafts. The agreed drafts were completed by the end of December 2013 and are now undergoing internal clearance arrangements at DH in preparation for the consultations.
- 8 In November 2013, the DH legal team decided that they wanted the amendments to the Order and the Rules to be separated into two instruments, rather than all being contained in a single s.60 Order. The consequence of this decision is that the Council is now required to hold its own consultation in relation to the amendments to the Rules under Article 47 of the Order and to formally make the amendment Rules when the powers in the Order have come into force.
- 9 Parallel consultations on these proposals will be launched by the NMC and DH in respect of the draft instruments containing the amendments to the Order and the Rules respectively in early 2014. The consultation responses will then be analysed and a report will be presented to Council at a meeting later in 2014. Other stakeholder engagement events will also be held, details of which are outlined in paragraph 17 to 20 below.
- 10 Once any issues identified during the consultation have been addressed, we will then submit a 'final' draft of the amendment Rules to DH, for approval. Once the Order has come into force, and the amendment rules have then been signed-off by DH, they will be brought to a Council meeting to be formally made before being submitted to the Privy Council for making. The precise timetable for these later stages of the process has yet to be agreed as it is dependent on the DH timetable for the section 60 Order. It is however inevitable that the new legislation will not now come into force until later than the original target date of July 2014.
- 11 **Recommendation: Agree the proposed amendments described in Annexe 1 in principle, subject to any revisions that may be required in the light of the consultation.**

**Public
protection
implications:**

- 12 The proposed legislative changes will support public protection.

**Resource
implications:**

- 13 Much of the drafting work on the Order and the Rules has been undertaken by internal staff and the staff time involved is being covered out of existing budgets. The separate costs associated with the external legal advice, consultation and project management

costs have been covered in the related business plans and have been subject to approval by the Executive Board.

- Equality and diversity implications:**
- 14 Under the Equality Act 2010, we have a requirement to analyse the effect of our policies and practices and how they further the equality aims.
- 15 An EqIA has been carried out by the NMC and shared with the Department of Health to inform its own EqIA and will be kept under review throughout the process. The EqIA has not identified any potential negative impact on any persons with protected characteristics.
- Stakeholder engagement:**
- 16 We will be undertaking a formal consultation on our proposals, as required by the Order. In addition to being made available on our website, the consultation will be issued to a number of interested parties, including directors of nursing, heads of midwifery, representative bodies and members of our patient and public forum.
- 17 We will also be holding listening events and other meetings with our key stakeholders including representatives of the relevant professional bodies and trades unions and patient and public representatives, during the consultation process.
- 18 Our panel members have been kept up to date in relation to our plans and we will also make arrangements for their views to be heard during the consultation period.
- 19 If these rule changes are approved, we will continue to engage with internal and external stakeholders, where appropriate, during the implementation of these new procedures.
- Risk implications:**
- 20 The key risks are associated with any further delay in the implementation of the s.60 Order by DH which will inevitably result in a consequential delay of the implementation of the proposed rule amendments.
- Legal implications:**
- 21 These proposals will result in amendments to our legislative framework and will ensure our legislation is consistent with recent judicial decisions from the higher courts.

Legislation changes to improve the efficiency of fitness to practise and registration processes

Proposed legislative amendments

Introduction of Case Examiners

- 1 The proposed amendments to our Order and Fitness to Practice Rules would allow us to use specialist Case Examiners (including suitably experienced nurses, midwives and lay people) to fulfil the current functions of the Investigating Committee (IC) in relation to case to answer decisions. One lay and one registrant Case Examiner would look at each case and come to a joint decision as to whether or not the nurse or midwife facing the allegation of impaired fitness to practise had a case to answer. Only where no agreement could be reached between the pair of Case Examiners would a case to answer decision still be made by the IC.
- 2 It is envisaged that such referrals to the IC for a case to answer decision would happen only in exceptional circumstances, thus reducing the role of the IC in such decisions significantly and allowing them to focus on interim order hearings as their primary role. To complement this, under the amended legislation, the IC would be permitted to make interim orders throughout the fitness to practise process up to the point where a final hearing or meeting commenced and to review any orders it has made until the final determination of the case.
- 3 The General Medical Council has a well established Case Examiner role and the General Optical Council is in the process of introducing one. The introduction of Case Examiners will provide a more proportionate approach to the important assessment function currently undertaken by the IC, whilst maintaining independence in decision-making. This new approach will achieve greater consistency in quality decision making, whilst improving capacity and timeliness so as to enable us to handle more cases in a shorter time period. This will improve our main regulatory function of protecting the public whilst making the process shorter and more effective for registrants.

Reviewing no case to answer decisions

- 4 Under our current legislation, when a decision is made by the Investigating Committee that there is no case for a nurse or midwife to answer in relation to fitness to practise allegations, no provision is made for us to review that decision of our own volition or at the request of an interested party. Historically, in such cases where public interest/protection concerns have arisen, the IC was invited to reconsider the initial decision on the basis that it had an inherent power at common law to do so. This approach has recently been considered by the courts¹: it was made clear that under existing legislation the IC has no such inherent power

¹ *R (on the application of B) v Nursing and Midwifery Council* [2012] EWHC 1264 (Admin),

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to do so. The IC may only review decisions so as to correct small accidental errors which do not substantially affect the rights of the parties involved.

- 5 It follows that the only method of addressing an inappropriate IC decision is if the original party which made a referral to the NMC, or any other person with sufficient legal standing, is successful in an application for judicial review of the decision.
- 6 The proposed amendments to the Order and the Fitness to Practise Rules would make provision for a new power to review any decision made by Case Examiners or a panel of the IC that there is no case for a nurse or midwife to answer following allegations that their fitness to practise is impaired.
- 7 This power would rest with the Registrar and could only be exercised where the Registrar has reason to believe that the decision may be materially flawed or where there is new information which may have led to a different decision and in the Registrar's opinion, a review is necessary in the public interest. It is proposed that, save in exceptional circumstances, any such review must be commenced by the Registrar not later than one year after the date of the original decision.
- 8 For the first time, we will be able to take direct action on closed cases which give rise to sufficient public protection or other public interest concerns to warrant further consideration. This is important if the public are to have confidence in us as an effective regulator and, in turn, for confidence in the professions to be maintained.

Changes to composition of a panel considering a registration appeal

- 9 Under our legislation, any decision made to refuse an application for initial registration or readmission to the register, or to refuse the renewal of an existing registration may be appealed and the appeal is considered by a panel appointed by the Council (a registration appeal panel). Our current legislation requires each registration appeal panel to include a serving Council member as the Chair and, where the health of the appellant is in issue, to also include a registered medical practitioner.
- 10 The Council has a formal and defined role within the governance structure of the NMC, including holding the executive to account. It is imperative that the independence of the Council is maintained by ensuring that there is a separation of the Council's oversight functions, away from the operational functions of the executive.
- 11 The proposed amendments to our legislation will ensure complete separation of the Council and any registration appeal panel reviewing a registration decision. The need for such a change in approach is particularly stark in light of recent case law developments on this issue, such as *R (on the application of Kaur) v. (1) Institute of Legal Executives Appeal Tribunal and (2) The Institute of Legal Executives* [2011] EWCA Civ 1168.

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- 12 The proposed amendments also include the removal of the current requirement for a registration appeal panel to include a registered medical professional (RMP) in cases where health issues arise. This requirement is inconsistent with previous legislative amendments removing such a requirement for NMC Health Committee panels considering allegations of impaired fitness to practise and ensures that all medical opinion is fully rehearsed before the parties to the registration appeal hearing.
- 13 The overall aim of these changes is to reinforce the impartiality of panels, ensure decision-making is more transparent, and by doing this, enhance public protection and maintain public confidence in the professions and the NMC as a regulatory body.

Clarification on ability to strike off registrants in health and lack of competence cases

- 14 Currently, where a fitness to practise panel determines that a registrant's fitness to practise is impaired by reason of their ill health or lack of competence, the sanctions available to it are limited. Until recently, it was believed that our current legislation allowed the panel to impose a striking off order in such cases, but only once the registrant had been the subject of continuous suspension or conditions of practice for a period of two years.
- 15 A recent decision of the High Court suggested that a striking off order could never be an available option in a lack of competence or health case unless further allegations against the registrant have come to our attention. The legal position in respect of our legislation is therefore no longer clear and any decision of a panel to impose a striking off order in a lack of competence or health case is vulnerable to legal challenge. Accordingly, the approach we have currently adopted is that our panels should not impose a striking off order in such cases in the absence of further allegations coming to light. Such an approach increases uncertainty for all parties involved in our proceedings and undermines public confidence in the regulator. It has also resulted in an increase in the number of registrants subject to long-term substantive orders.
- 16 The power to impose a striking-off order when reviewing an existing suspension or conditions of practice order can be in the best interests of, and is sometimes sought by, the affected registrant. This issue is apparent where a nurse or midwife suffers from health issues that require a restriction on their registration; fitness to practise proceedings may contribute to further detriment to their welfare. In such circumstances, the panel may wish to consider the imposition of a striking-off order, yet this is not an option currently available and voluntary removal from the register is also not currently permitted under our legislation for those under substantive orders.
- 17 The proposed amendment to the Order is, in practical terms, to close this undesired loophole in our governing legislation. The amendment will only serve to secure the option of a striking off order for consideration by a panel reviewing the

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case once the registrant has been the subject of continuous substantive suspension or conditions of practice order for a period of two years. The panel will still be required to take into account any evidence called, and submissions advanced, by either party and to act in a proportionate way, having regard to the need to protect the public and act in the public interest, together with the registrant's interests.

Requesting and verifying information

- 18 Currently, we have the power to require third parties to provide information in relation to our fitness to practise procedures. This power exists in order for us to be able to satisfactorily perform our regulatory duties in investigating and taking appropriate action upon allegations through the robust collection, evaluation and verification of information.
- 19 The same general power does not currently exist in relation to our registration functions. Instead, the powers available vary depending on the type of registration application being made. In an application for admission (or re-admission) there exists a power to request information from the applicant for the purposes of verifying the information in, and determining, the application. The legislation does not currently provide such a power in respect of the process for renewing registration.
- 20 Additionally, EU Law will soon require separate changes to our legislation as nurses and midwives will be required to have an appropriate indemnity arrangement in place for their practice. We will have a role in monitoring compliance with this requirement, so will require nurses and midwives to provide information about the scope of their practice and their current and/or prospective employment. Neither our current legislation, nor the proposed separate indemnity legislation will give us the ability to obtain or disclose information from registrants or third parties for the purposes of verifying material provided by any nurse or midwife in respect of their indemnity arrangements.
- 21 However, the effectiveness of these new powers will be limited unless we are able to take steps to request or disclose further information, including from or to third parties, to verify that information which has been provided by a registrant or applicant. Our ability to make appropriate and robust decisions will be undermined if documents provided to it cannot be verified with a third party, or disclosed to a third party for comment.
- 22 The proposed amendments to our Order and Registration Rules will provide us with consistent powers targeted at the collection and verification of evidence, information or documentation provided by registrants regarding registrations applications (admission, re-admission and renewal) and as may be required to confirm that an individual has an appropriate indemnity arrangement.
- 23 We would be able to seek details of the nature and scope of the registrant's practice and the name and address of any person, body or organisation by whom

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they are employed (or intends to be employed), or with whom they have an arrangement, or intends to have an arrangement to provide services, as a nurse or midwife. We would also have powers to request documentation, information or evidence, and disclose this to third parties, in order to verify the information that has been provided relating to the nurse or midwife's indemnity arrangement.

- 24 These amendments will enable us to take appropriate steps to monitor compliance with the new requirement for nurses and midwives to have an appropriate indemnity arrangement and thus provide an appropriate level of public protection. Without these amendments we will be prevented from taking measures to ensure appropriate and proportionate monitoring of compliance with this new requirement.

Council

Chair's report

Action: For information.

Issue: This paper reports on the chair's activities since the report to Council in November 2013.

Core regulatory function: This paper covers all of our core regulatory functions.

Corporate objectives: The chair's activities encompass all of the NMC's corporate objectives.

Decision required: No decision is required. The Council is invited to note this report.

Annexes: There are no annexes to this paper.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

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- Context:** 1 Given the activity undertaken by the chair in conjunction with the chief executive, this report needs to be considered alongside the chief executive's report, also on this meeting agenda.
- Discussion** 2 On 27 November 2013, the chair attended the sixth regulatory event organised by the Scottish Government. The event brings together the UK healthcare regulatory bodies with health professionals and the public to talk about the issues affecting healthcare regulation in Scotland. The event was opened by Alex Neil, MSP (Cabinet Secretary for Health and Well-being). The NMC's assistant directors for revalidation and strategy attended and played active roles at the event.
- 3 On 28 November 2013, the chair and the chief executive met Mark Drakeford, AM, (Welsh Minister for Health and Social Services). The meeting was positive and covered the NMC's progress and the wider public safety agenda. As part of the visit, the chair and the chief executive met the chief executive of healthcare inspectorate Wales, the public services ombudsman for Wales and the older people's commissioner. The chair also held a helpful meeting with the acting director of the community health councils in Wales which will assist with the development of the NMC's public and patient links in Wales. The visit concluded with a short visit to a maternity unit in the university hospital of Wales.
- 4 Along with the chief executive, the chair met with Baroness Audrey Emerton to talk about developments with the Health and Social Care Bill and the link to the Cavendish review. The chair and chief executive also met with Viscount Bridgeman to discuss the European Directive and language testing.
- 5 The chair and chief executive continue to engage with the four chief nursing officers on an ongoing basis via monthly attendance at their monthly meetings. At the January 2014 meeting held in Cardiff, the chair and chief executive spoke about revalidation.
- 6 On 4 December 2013, the chair met with Sir Keith Pearson, the chair of Health Education England (HEE). The meeting focused on the developing relationship between the HEE and the NMC, including discussion about the development of a formal memorandum of understanding between the HEE and the NMC. With the NMC chief executive, the chair also met Sir Keith and the HEE chief executive, Ian Cumming in early January 2014.
- 7 On 5 December 2013, the chair spoke at the nursing skills levels and skillmix conference in London. The event was aimed at a professional audience and the chair spoke about revalidation.

Public protection implications:	8	None directly from the paper. Public protection implications arising from the activities in this paper are addressed as part of individual workstreams and projects.
Resource implications:	9	None directly from this paper. Resource implications of the NMC's activities in the various workstreams and projects referenced in the paper are dealt with in financial monitoring reports.
Equality and diversity implications:	10	None directly from the paper. Equality and diversity issues are dealt with as part of the conduct of individual workstreams and projects.
Stakeholder engagement:	11	Stakeholder engagement is detailed, as appropriate, in the body of this report.
Risk implications:	12	None directly from the paper.
Legal implications:	13	None directly from the paper.

Council

Chair's actions taken since the last meeting of the Council

Action:	For information.
Issue:	The report details decisions taken by the Chair under delegated powers (as per NMC Standing Orders).
Core regulatory function:	Supporting functions.
Corporate objectives:	Corporate objective 7: "We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions."
Decision required:	Members are asked to note the Chair's decisions taken on behalf of the Council since the last meeting.
Annexes:	<p>The following annexes are attached to this report:</p> <ul style="list-style-type: none"> • Annexe 1: Chair's action sign-off sheet: <ul style="list-style-type: none"> i) Re-appointment of 20 Conduct and Competence Committee panel members for a second term of four years (plus one re-appointment for a panel member re-appointed in error in September 2012) and three Investigation Committee panel members for a second term of one year from 1 October 2013. ii) Re-appointment of one Investigating Committee panel member for a second term of one year from 1 December 2013. iii) Re-appointment of one Investigating Committee panel member for a second term of one year from 1 January 2014. iv) Re-appointment of one Investigating Committee panel member for a second term of one year from 1 February 2014
Further information:	If you require clarification about any point in the paper or would like further information please contact the author or the director named below

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- Chair's actions**
- 1 **Re-appointment of 20 Conduct and Competence Committee panel members for a second term of four years (plus one re-appointment for a panel member re-appointed in error in September 2012) and three Investigation Committee panel members for a second term of one year from 1 October 2013. Re-appointment of one Investigating Committee panel member for a second term of one year from 1 December 2013. Re-appointment of one Investigating Committee panel member for a second term of one year from 1 January 2014. Re-appointment of one Investigating Committee panel member for a second term of one year from 1 February 2014**
 - 2 The Appointments Board has agreed to the principle that a proactive rolling recruitment programme should be adopted for panel members on practice committees.
 - 3 The Conduct and Competence Committees and Investigating Committees, administered by the NMC as part of its Fitness to Practise function, identified a business need for members of these committees whose performance was of sufficient quality to be re-appointed. This will help ensure that the efforts to manage the current caseload could be continued.
 - 4 As a result, the Chair has re-appointed a total of 21 Conduct and Competence Committee panel members for second terms of four years (effective from 1 October 2013).
 - 5 The future workload of Investigating Committees is subject to legislative change. As a result, the Chair has agreed that six Investigating Committee panelists are appointed for second terms of once year, with the terms to start between 1 October 2013 and 1 February 2014.
 - 6 The current commitment to clear historic cases is an undertaking which has been made to stakeholders, including the PSA and Department of Health. This commitment requires full capacity from the NMC.
 - 7 The Chair, on behalf of the Council, agreed the recommendations on 20 October 2013. A copy of the signed action sheet is available as Annexe 1.
- Public protection implications:**
- 11 The effective fulfillment of the NMC's Fitness to Practise function is central to its role in public protection.

- Resource implications:** 12 Any additional costs associated with the appointment of members are covered within existing Fitness to Practise budgets.
- Equality and diversity implications:** 13 Equality and diversity implications have been considered as part of the appointment process.
- Stakeholder engagement:** 14 Engagement with the Council will be required if there is a recommendation for a rule change with regards to the Practice Committee.
- 15 Existing panel members will be notified of all recruitment campaigns and in particular will be encouraged to apply for panel chair roles.
- 16 Panel members whose first term of appointment is due to expire in September 2013 will be advised of the reappointment criteria and current business need.
- Risk implications:** 17 There are no risk implications arising directly from this report. The reappointment of panel members and panel chairs will assist the NMC in fulfilling its public protection obligations.
- Legal implications:** 18 None at this time.

Chair's Action

The Chair of any committee shall have the power to authorise action on minor, non-contentious or urgent matters falling within the authority delegated to it by the Council between meetings of the committee. The Chair will take reasonable steps to consult with other committee members before doing so. The Secretary to the Committee will be informed of such actions and will keep a record of them for report to the next meeting (Standing Order 47).

Date: 20/11/2013

Requested by: Loraine Ladlow

Detail: To meet the increase of Fitness to Practise activity, it has become necessary to re-appoint panel members who consistently perform effectively and are coming to the end of their first term of appointment.

The Appointments Board have recommended the re-appointment to a second term of four years , effective from 1 October 2013, for the following 20 Conduct and Competence Committee panel members:

No.	Name	Committee	Chair	Lay or Registrant
1	Rose Bedford	CCC	N	Registrant
2	Geraldine Bevan	CCC/HC	N	Registrant
3	Sarah Goodwin	CCC	N	Registrant
4	Alan Harris	CCC	Y	Lay
5	Karen Heenan	CCC/HC	Y	Lay
6	Duncan Henderson	CCC	N	Lay
7	Hilda Jiah	CCC	N	Registrant
8	Anne Johnstone	CCC/HC	N	Lay
9	Robert Lloyd-Richards	CCC	N	Lay
10	Marianne Murdoch	CCC/HC	N	Registrant
11	Hiranya Garbha Narayan	CCC	N	Lay

12	Pippa Nightingale	CCC	N	Registrant
13	Nagarajah Thevamanoharan	CCC	N	Lay
14	Dawn Johnston	CCC	N	Registrant
15	Beatrice Nyamande	CCC/HC	N	Registrant
16	Donna O'Boyle	CCC	N	Registrant
17	Pauline Clarke	CCC	Y	Registrant
18	Jennie Fecitt	CCC/HC	N	Registrant
19	Penny Griffith	CCC/HC	Y	Lay
20	Marie Heffernan	CCC	N	Lay

Detail: To meet the increase of Fitness to Practise activity, it has become necessary to re-appoint panel members who consistently perform effectively and are coming to the end of their first term of appointment.

The Appointments Board have recommended the re-appointment to a second term of one year, effective from 1 October 2013, for the following 3 Investigating Committee panel members:

No.	Name	Committee	Chair	Lay or Registrant
21	William Payne	IC	N	Lay
22	Joanna Craddock	IC	N	Registrant
23	Marian McDonald	IC	N	Regustrant

Detail: To meet the increase of Fitness to Practise activity, it has become necessary to re-appoint panel members who consistently perform effectively and are coming to the end of their first term of appointment.

The Appointments Board have recommended the re-appointment to a second term of one year, effective from 1 December 2013, for the following Investigating Committee panel members:

No.	Name	Committee	Chair	Lay or Registrant
24	John Liddington	IC	N	Registrant

Detail: To meet the increase of Fitness to Practise activity, it has become necessary to re-appoint panel members who consistently perform effectively and are coming to the end of their first term of appointment.

The Appointments Board have recommended the re-appointment to a second term of one year, effective from 1 January 2014, for the following Investigating Committee panel members:

No.	Name	Committee	Chair	Lay or Registrant
25	David Bleiman	IC	N	Lay

Detail: To meet the increase of Fitness to Practise activity, it has become necessary to re-appoint panel members who consistently perform effectively and are coming to the end of their first term of appointment.

The Appointments Board have recommended the re-appointment to a second term of one year, effective from 1 February 2014, for the following Investigating Committee panel members:

No.	Name	Committee	Chair	Lay or Registrant
26	Tamburai Muoni	IC	N	Registrant

Detail: Due to an administrative error, the following CCC panel member was reappointed to a second term in September 2012 when in fact their first term did not finish until 30 September 2013.

The Appointments Board have recommended that the previous reappointment be disregarded and re-appointment to a second term of four years, effective from 1 October 2013 for the following Conduct and Competence Committee panel member:

No.	Name	Committee	Chair	Lay or Registrant
27	Khairun Butt	CCC	N	Lay

Signed M. A. Adair (Chair)

Appointments Board

Re-Appointment of Fitness to Practise Panel Members at the end of first term of appointment

Action: For decision.

- Issue:**
- 1 There are 27 panel members whose first term came to an end in September 2013. At their meeting in September 2013 the Appointments Board extended their first term for reconsideration at their November meeting as they had not initially met the reappointment criteria.
 - 2 16 of the panel members referred to in point 1 have now met all of the reappointment criteria.
 - 3 11 of the panel members referred to in point 1 still have outstanding requirements in order to fulfill the reappointment criteria.
 - 4 1 panel member was reappointed to a second term a year early in error.
 - 5 We have 3 panel members coming to the end of their first term of appointment between November 2013 and January 2014.
 - 6 With the increase of Fitness to Practise activities as approved by Council in the rebased budget for 2013-14, it has become necessary to re-appoint panel members who consistently perform effectively and are coming to the end of their first term of appointment.

Core regulatory function: Fitness to Practise

Decision required: The Appointments Board are asked to consider the re-appointment and extension of the Fitness to Practise panel members listed in Annexe 2.

Annexes: The following annexes are attached to this paper:

- Annexe 1: The re-appointment criteria for panel members as approved by Appointments Board on 25 May 2013.
- Annexe 2: Fitness to Practise panel members coming to the end of their first term of appointment.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

Author: Yvonne Rogan
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Director: Loraine Ladlow
Phone: 020 7681 5422
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- Context:**
- 7 We require the re-appointment of a second term of 4 years of our Conduct and Competence Committee (CCC) and Health Committee (HC) panel members to enable FtP to meet its KPIs with regards to its caseload and ensure public protection.
- 8 The future workload of the Investigating Committee (IC) is unknown due to the drafting of new FtP legislation involving Case Examiners, who will decide whether there is a 'case to answer' at the initial investigation stage of an allegation,
- Discussion and options appraisal:**
- 9 The Board are asked to consider those CCC and HC panel members listed in Annexe 2 for re-appointment for a second term of 4 years based on the approved criteria.
- 10 The Board are asked to take a decision on the 11 panel members who still have outstanding reappointment criteria to fulfil.
- 11 One panel member was reappointed to a second term a year early. The Board are asked to consider an extension to their second term of one year.
- 12 Due to the uncertainty of the IC workload over the next four years, the Board may wish to consider the length and period of the term of IC panel members in light of the planned changes.
- Equality and diversity implications:**
- 13 There are no equality and diversity implications.
- Stakeholder engagement:**
- 14 The panel members have been engaged and informed of the approved re-appointment criteria outlined in Annexe 1 and the drafting of new FtP legislation.
- Risk implications:**
- 15 There is a risk if these individuals are not re-appointed we will not be able to manage the increase of FtP activity and therefore a risk to public protection.

Council

Quality Assurance Update and NMC Assurance Map

Action: For information.

Issue: Consideration of progress in implementing the corporate Quality Assurance (QA) Strategy and an update on the NMC assurance map.

Core regulatory function: Supporting functions.

Corporate objectives: Corporate objective 7: “We will develop effective policies, efficient services and governance processes that support our staff to fulfil all our functions.”

Decision required: The Council is recommended to note:

- Progress in implementing Outcome 1 of the QA strategy;
- Progress on Outcome 2 of the QA Strategy and the recommendations arising from the QA reviews on VR and the work of the CMPB; and
- Progress on developing proposals for delivering Outcome 3 of the QA Strategy.

Annexes: The following annexe is attached to this paper:

- Annexe 1: Recommendations from the QA reviews of the Change Management Programme Board (CMPB) and cases dealt with under the voluntary removal (VR) process.

Further information: If you require clarification about any point in the paper or would like further information please contact the author or the director named below.

Author: Michael Andrews
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Director: Mark Smith
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- Context:**
- 1 The Council agreed the Corporate QA Strategy at the meeting on 18 July 2013. This followed an initial discussion at the meeting on 20 June 2013 and consideration by the Audit Committee on 8 June 2013. The Audit Committee noted that the strategy was critical to the delivery of the corporate business assurance framework.
 - 2 We are now committed to deliver the strategy, which has three central outcomes:
 - 2.1 Outcome 1 – the development and implementation of a performance and quality management framework.
 - 2.2 Outcome 2 – an annual programme of QA reviews.
 - 2.3 Outcome 3 – an embedded culture of learning and continuous improvement.
 - 3 The Executive Board agreed that in addition to the Assistant Director of QA and Risk Audit the QA team should consist of a QA Manager and four QA Officers, two of whom should be on a fixed term basis. Following recent recruitment we have now filled the QA manager post and the two permanent QA Officers. We are currently re-advertising for the two fixed term posts in January 2014.
 - 4 The NMC assurance map/framework was developed to support the Audit Committee in performing its role in providing assurance to Council on the effectiveness of the NMC's governance processes and systems for risk management and internal control.
 - 5 Initial work to develop the assurance map was developed by Moore Stephens and approved by the Committee in July 2013 (minute AC/13/48). At the meeting on 10 December 2013 the Audit Committee agreed that progress on delivering the assurance map was closely linked to, and dependent upon, progress on implementation of outcomes 1 and 2 of the Quality Assurance Strategy. Outcome 1 is essentially the first line of defence and outcome 2 the second line of defence. Given this it is most efficient to merge these two work streams.

- Discussion:**
- Outcome 1 – the development and implementation of a performance and quality management framework**
- 6 This outcome is essentially about developing the first line of defence within each directorate, as defined in the business assurance framework, and includes:
 - 6.1 defining quality standards for all areas of work, which should be informed by stakeholder views and expectations;
 - 6.2 setting up managerial arrangements and tools for checking the quality of the work of the staff;

- 6.3 setting up internal directorate QA arrangements, including knowledge sharing, peer reviews and training; and
 - 6.4 embedding quality measures within the corporate performance management processes.
- 7 The Executive Board decided at the meeting on 17 September 2013 that each directorate should be responsible for delivery of Outcome 1 of the QA strategy on the basis that they were best placed to develop quality standards and set up quality control arrangements. The QA team's role would be to provide assurance to the Executive Board and Audit Committee on whether the individual directorates were on course to meet Outcome 1 within the timescale. This will be done through an interim report in April 2014 and final report in November 2014. These dates were agreed in light of our commitment to deliver Outcome 1 by October 2014
 - 8 All directorates have or are identifying resources to deliver on this outcome and have started work on the development of quality standards and management controls.
 - 9 **Recommendation: The Council is recommended to note progress in implementing Outcome 1 of the QA strategy.**

Outcome 2 – an annual programme of QA reviews

- 10 A draft QA programme was developed in June 2013 following discussion and consultation with all directors, assistant directors and other staff, consideration of risk registers, SERs and other data and a thorough evaluation of priorities.
- 11 The programme was considered by the Directors' Group, who agreed with the approach and priorities, but recognised that, at that time, we did not have the resources to deliver the programme in full.
- 12 Reviews have taken place so far on the following areas:
 - 12.1 Cases dealt with in the first and second quarters under the new voluntary removal process whilst under the FtP procedure.
 - 12.2 The work of the CMPB and specifically whether the programme addresses all of the recommendations made in the CHRE (now PSA) Strategic Review and by the Health Select Committee (HSC).
 - 12.3 An initial short review on the quality of processes in UK registration.
 - 12.4 Handling of cases under the new consensual panel determination (CPD) process.

- 12.5 A review of the historical caseload in FtP adjudications, and
 - 12.6 Referral of information to other bodies including the DBS and CQC.
- 13 The key recommendations arising from the first two reports have been considered by the Audit Committee and the Executive Board. Recommendations from the other reviews are expected to be finalised soon.
- 14 In addition to providing considerable assurance in most of these areas, the reviews have already led to in some important improvement work. For example, they have highlighted that:
- 14.1 we had not been consistently referring cases to the DBS and the review identified a period of time when referrals had not been made. This has now been addressed.
 - 14.2 there were weaknesses in the quality of customer service in relation to VR cases and in particular the final decision letter. This has since been rectified.
 - 14.3 To date Registration has relied upon the order and the rules together with established standard operating procedures for UK registrations rather than a distinct policy document. A UK Registration policy is being developed, which will complement the legislation.
- 15 The QA team has provided advice and assistance on request in a range of areas including:
- 15.1 Revalidation, through the AD QA's membership of the Programme Board.
 - 15.2 FtP outcomes, through the AD QA attending and contributing to meetings of the Decision Review Group.
 - 15.3 Development of KPIs and Performance measures in Continued Practice.
 - 15.4 The review of the Code.
 - 15.5 The Strategy working group.
 - 15.6 The PSA Performance Review Task Group.
 - 15.7 Development of the project for updating the website, and
 - 15.8 Quality arrangements within the Council Services team.
- 16 A QA programme to cover the period from January 2014 to October 2014 has recently been agreed by the Executive Board. This includes reviews on progress on implementing the recommendations

in the PSA Strategic Review; a review of UK registrations outcomes and processes: arrangements for scheduling cases in FtP; decisions on voluntary removal cases in the fourth quarter and providing assurance on the individual directorates' progress in implementing Outcome 1 of the QA strategy.

- 17 **Recommendation: The Council is recommended to note progress on Outcome 2 of the QA Strategy and the recommendations arising from the QA reviews on VR and the work of the CMPB.**

Outcome 3 – an embedded culture of learning and continuous improvement

- 18 This outcome requires the development of systematic processes to ensure that we capture organisational learning, carry through the necessary improvements to address the learning and generate a culture of continuous improvement. This includes developing a corporate database of organisational learning, derived from a range of sources including:
- 18.1 Serious event reviews (SERs).
 - 18.2 Complaints.
 - 18.3 Data breaches.
 - 18.4 QA reviews.
 - 18.5 Internal audit reports.
 - 18.6 PSA and other reviews and reports.
 - 18.7 Whistle-blowing.
- 19 The QA team will manage the database and check and provide assurance to the Executive Board that the necessary changes and improvements have been implemented in relation to each identified area of learning.
- 20 The first step in developing this learning and continuous improvement database has been the development of the IT database for managing the new SER process. This went live in December 2013. In due course this will be extended to include all of the other potential areas of learning outlined in paragraph 15 and we plan this to be fully operational by July 2014.
- 21 We have implemented a new SER policy and process. All managers in the organisation have been trained and required to disseminate the training to their staff. We are developing a new policy and process for the handling of complaints and plan to bring this to the Executive Board in March 2014. This policy and process will be closely aligned with the SER policy and process. In particular, they

will stress that the focus must be on learning from complaints and require directors to be accountable for ensuring that learning and recommendations from complaints results in positive change. The policy and process will also take account of what other regulators do and the recent Clwyd report in terms of good practice. They will also include reporting arrangements to the Executive Board, Audit Committee and Council.

22 **Recommendation: The Council is recommended to note progress on developing proposals for delivering Outcome 3 of the QA Strategy.**

Public protection implications:

23 Failure to implement the QA strategy carries major risks in terms of public protection. The risks are that we will not have a comprehensive performance and quality framework in place to ensure that our operational delivery is effective and efficient. In addition, there is a heightened risk that we do not identify failings in our current processes and procedures that have a potential to put the public at risk or learn from things that have gone wrong and make the necessary improvements.

Resource implications:

24 See paragraphs 3 and 7.

Equality and diversity implications:

25 No direct equality and diversity implications resulting from this paper.

Stakeholder engagement:

26 There has been considerable consultation with all Directors, Assistant Directors and other staff on the development of the QA strategy and the proposed QA programme. The Strategy was also informed by good practice from other organisations.

Risk implications:

27 Improved levels of assurance should support the NMC in managing risks more effectively.

Legal implications:

28 None identified.

Item 19
NMC/14/19
29 January 2014

Annexe 1

High Level recommendations from QA reviews

Review of Voluntary Removal Cases

- 1 Staff in FtP and Registrations who are responsible for dealing with voluntary removal (VR) cases should be given further training on how to assess applications and on making clear reasoned decisions. This should focus, in particular, on the identification and weighing up of public protection and public interest considerations, making reasoned decisions and customer service.
- 2 The QA team would be very willing to input to this training.

CMPB

Programme and project identification

- 3 To review all programmes and projects identified to address PSA and HSC recommendations and ensure that:
 - 3.1 They are well defined and distinct from business as usual activity.
 - 3.2 All cross directorate (and where appropriate external) inter dependencies are identified.
 - 3.3 Outcomes and benefits are quantified in terms of performance and cost.
 - 3.4 Related projects are grouped into appropriate programmes.

Programme and project prioritisation

- 4 Develop a transparent corporate mechanism for prioritising all change programmes and projects or apply the existing one.

Governance arrangements around programmes and projects.

- 5 Ensure that there are robust governance arrangements around all change programmes/ projects within the organisation by:
 - 5.1 Identifying gaps in current governance arrangements around all change projects corporately and within directorates.
 - 5.2 Reviewing the terms of reference of CMPB.
 - 5.3 Ensuring full compliance with governance arrangements for change programmes/ projects.

Focus on transition to business as usual

- 6 Ensure that there is a better focus on transition to business as usual by:

- 6.1 Ensuring robust transition plans are in place before change projects are closed.
 - 6.2 Adequate governance arrangements in place to monitor delivery of transition plans and handover to business as usual stage.
 - 6.3 Evaluating outcomes and benefits arising from the business as usual stage against change programmes / projects business cases.
- 7 Responsibility for monitoring this transformation and ensuring that the suggested milestones and outcomes are delivered should either remain with the CMPB as a whole or the PMO, which would report to the CMPB. The CMPB may wish to consider whether the PMO is adequately resourced at present to fulfill this critical role.

COUNCIL and COMMITTEE SCHEDULE OF BUSINESS 2014

The items highlighted in red are annual items. NB This schedule of business is correct at the time of publishing and remains subject to change.

COUNCIL: STANDING ITEMS		
<ul style="list-style-type: none"> • Minutes and matters arising • Chair's report (including Chair's actions) • Chief Executive's report • Francis and other reports • Performance and risk report • Financial report • Committee reports • Schedule of business • Questions from observers 		
COMMITTEES OF COUNCIL: STANDING ITEMS		
MIDWIFERY COMMITTEE	AUDIT COMMITTEE	REMUNERATION COMMITTEE
<ul style="list-style-type: none"> • Minutes and matters arising • Quarterly quality monitoring • Schedule of business 	<ul style="list-style-type: none"> • Minutes and matters arising • Schedule of business • Receipt of reports on internal audit programme • Outstanding internal audit recommendations 	<ul style="list-style-type: none"> • Minutes and matters arising • Schedule of business

COMMITTEES OF COUNCIL: 25-27 FEBRUARY 2014	
Audit Committee 25/02/14	Midwifery Committee 26/02/14
<ul style="list-style-type: none"> • Internal audit work programme for 2014 – 15 • Process and timetable for tender for external audit provision • Post-implementation review of risk management policy • Francis report – governance recommendations 	<ul style="list-style-type: none"> • Review of Committee effectiveness • Francis report update • Standards to support revalidation • Standards development - preparation of supervisors of midwives • Quarterly quality monitoring report of the LSAs (including future QA of LSAs) • Seminar on revalidation

COUNCIL: 26 MARCH 2014 (open session)

- NMC Strategy
- **NMC 2014 – 17 Corporate Plan and budget**
- **Annual fees review**
- Review of equality and diversity objectives
- **Planned development of Standards and guidance 2014/15**
- Registration Improvement Plan
- Recruitment process for the Chair

COMMITTEES OF COUNCIL: 29-30 April 2014	
Midwifery Committee 29/04/14	Audit Committee 30/04/14
<ul style="list-style-type: none"> • Review of Committee effectiveness • Francis report update • Standards to support revalidation • Standards development - preparation of supervisors of midwives • Quarterly quality monitoring report of the LSAs (including future QA of LSAs) • Annual review of Committee effectiveness 	<ul style="list-style-type: none"> • Annual review of internal audit charter • Internal audit annual opinion • NMC assurance map • Annual review of Committee effectiveness • Annual review of risk management • Draft annual governance statement

COUNCIL: 4 JUNE 2014 (open session)

- **Annual review of Council and Committee effectiveness**
- Health and safety annual report
- Law Commission update
- EU Directive on professional indemnity insurance
- **Annual equality and diversity report 2013 – 14**
- Further reports TBC

COMMITTEES OF COUNCIL: 24—25 JUNE 2014	
AUDIT COMMITTEE 24/06/14	MIDWIFERY COMMITTEE 25/06/14
<ul style="list-style-type: none">• Draft annual report and accounts• Draft fitness to practise annual report• External auditors' report• NAO audit completion report• Internal audit effectiveness• Quality assurance update	<ul style="list-style-type: none">• Review of Committee effectiveness• Francis report update• Standards to support revalidation• Standards development - preparation of supervisors of midwives• Quarterly quality monitoring report of the LSAs (including future QA of LSAs)

COUNCIL: 29—30 JULY 2014 (open session)

- **Draft annual report and accounts**
- **Draft fitness to practise annual report**
- Business assurance framework and quality assurance update
- PSA strategic review stock take
- **Welsh language scheme annual report**

COUNCIL: 1 OCTOBER 2014 (open session)

- Revalidation progress report
- Further reports TBC

COMMITTEES OF COUNCIL: 28—29 OCTOBER 2014	
MIDWIFERY COMMITTEE 28/10/14	AUDIT COMMITTEE 29/10/14
<ul style="list-style-type: none">• LSA Annual Report	<ul style="list-style-type: none">• External audit programme• Francis report – governance recommendations

COUNCIL: 4 DECEMBER 2014 (open session)

- LSA Annual Report
- Proposed Code and standards to support revalidation
- **Education Annual Report**
- Education strategy update
- Further reports TBC

Meeting of the NMC Council

to be held at 10:00 on Wednesday 29 January 2014
in the Council Chamber at 23 Portland Place, London W1B 1PZ

Agenda

Mark Addison
Chair of the Council

Matthew McClelland
Secretary to the Council

- | | | | |
|----|--|-----------|-------|
| 1. | Welcome from the Chair | NMC/14/01 | 10:00 |
| 2. | Apologies for absence | NMC/14/02 | |
| 3. | Declarations of interest | NMC/14/03 | |
| 4. | Minutes of the previous meeting | NMC/14/04 | |
| | Chair | | |
| 5. | Summary of actions | NMC/14/05 | |
| | Secretary | | |

Corporate reporting

- | | | | |
|----|--|-----------|-------|
| 6. | Performance and risk report | NMC/14/06 | 10:10 |
| | Director of Corporate Services | | |
| 7. | Monthly financial monitoring: December 2013 results | NMC/14/07 | 10:45 |
| | Director of Corporate Services | | |
| 8. | Update on Francis report and other related healthcare reviews | NMC/14/08 | 11:00 |
| | Assistant Director, Strategy | | |

Refreshments: 11:15

Matters for discussion

- | | | | |
|----|---------------------------------|-----------|-------|
| 9. | Chief Executive's report | NMC/14/09 | 11:20 |
| | Chief Executive and Registrar | | |

- | | | | |
|-----------------------------|---|---------------------------|-------|
| 10. | Corporate plan and budget 2014 – 17: initial discussion

Director of Corporate Services | NMC/14/10

(verbal) | 11:35 |
| 11. | Reports from Chairs of the Committees

Chair of the Audit Committee
Chair of the Midwifery Committee | NMC/14/11 | 12:20 |
| Matters for decision | | | |
| 12. | Midwifery supervision and regulation: PHSO recommendations for change

Assistant Director, Strategy / Chair of the Midwifery Committee | NMC/14/12 | 12:30 |
| 13. | Competency test for overseas applicants: consultation results and next steps

Director of Registration | NMC/14/13 | 12:45 |
| 14. | Governance matters

<ul style="list-style-type: none"> • Appointments Board • Senior independent director role • Reviewing effectiveness • Code of conduct • Complaints procedure • Recruitment and selection of the Chair of the Council
Secretary | NMC/14/14 | 13:00 |
| 15. | Legislation changes to improve the efficiency of fitness to practise and registration processes

Chief Executive and Registrar | NMC/14/15 | 13:15 |
| 16. | Questions from observers (for discussion) | NMC/14/16 | 13:30 |

Lunch: 13:45

Matters for information

Matters for information will normally be taken without discussion. Members should notify the Chair or the Secretary to the Council in advance of the meeting should they wish for any item to be opened for discussion.

- | | | |
|-----|--|-----------|
| 17. | Chair's report | NMC/14/17 |
| | Chair | |
| 18. | Chair's actions taken since the last meeting of the Council | NMC/14/18 |
| | Chair | |
| 19. | Business assurance framework and quality assurance update | NMC/14/19 |
| | Director of Corporate Services | |
| 20. | Schedule of business | NMC/14/20 |
| | Secretary | |

The next public meeting of the Council is scheduled to be held on Wednesday 26 March 2014 at 9.30 at 23 Portland Place, London, W1B 1PZ.