Referring Registrants to the Nursing & Midwifery Council

N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. Swansea Bay University Health Board Corporate policy library should be referred to for the current version of the document.

This policy has been screened for relevance to equality. No potential negative impact has been identified so a full equality impact assessment is not required

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1. Introduction

The Nursing & Midwifery Council (NMC) is the regulatory body for UK nurses, midwives and specialist community public health nurses. The NMC exists to safeguard the health and well-being of people using or needing the services of nurses and midwives. It aims to protect the public through setting and maintaining professional standards of education, training, conduct and performance. It is also the responsibility of the NMC to determine if a registrant's fitness to practise is compromised and as a result has breached the Code: Professional standards of practise and behaviour for nurses and midwives, effective March 2015 & Updated October 2018 http://www.nmc.org.uk/standards/code/

`Fitness to Practise` is a registrant's suitability to be on the NMC register without restrictions. Members of the public, colleagues, managers, other clinicians and registrants themselves can make a referral to the NMC. Protecting the public and reporting concerns about registrants are key responsibilities for all those on the register and their employers.

The aim of this policy is to provide guidance to staff working in Swansea Bay University Health Board (SB UHB). Referrals are made for a variety of reasons, it is therefore essential that there is consistency and fairness throughout the referral process. To ensure this, all referrals must be discussed and agreed with the Director of Nursing & Patient Experience or nominated deputy. All referrals will be centrally logged on a database.

2. Purpose

The purpose of this policy is to support appropriate and timely referrals to the NMC and to avoid unnecessary and inappropriate referrals and delays. In order that the Health Board appropriately discharges its responsibility as an employer, the policy sets out clear guidance on when a referral should be considered, this may include an urgent referral in line with the NMC's decision-making tree. The policy also details the referral process both internal to the Health Board and from the NMC perspective and how to access advice.

It should also be noted; however, that all Health Board employees and members of the public or other organisations have both a right and a duty to refer themselves or any registered nurse to the NMC if, in their assessment, the risk to the public (or individual patient) warrants such action. For the purpose of the policy, the term registrant is used to include a nurse or midwife.

3. Scope

This policy applies to all nurses, midwives and public health nurses on the NMC register employed by the Health Board. The policy covers the processes to be followed by Nursing Managers when considering the referral of a registrant to the NMC. It does not set out how registrants should be supported during this time. In this respect, Human Resource (HR) Policies, should be followed. This must include advising the registrant of the referral. Registrants that are undergoing investigation by the NMC should be offered the opportunity to have support by a named mentor who is an experienced registrant working within the Health Board. This will need to be clearly documented. (Appendix 3)

It should be noted; however, there is no right of appeal for the registrant in relation to the decision to refer, as this is the discharge of professional judgment based on an assessment of risk and the duty of registrants and employers to protect the public.

4. Reasons for Referrals

The NMC Code is the foundation of good nursing and midwifery practise. It is a key tool in safeguarding the health and wellbeing of the public. If nurses and midwives do not follow the NMC Code, their fitness to practise may come into question.

Being fit to practise means that a nurse or midwife has the skills, knowledge, good health, and good character to do their job safely and effectively.

When considering whether a referral to the NMC is required it is useful to consider the NMC guidance on using the Just Culture tool (Promote a just culture - The Nursing and Midwifery Council (nmc.org.uk)

Referrals to the NMC are made when it is alleged, or there is evidence to support the allegation, that a registrant's suitability to be on the register without restrictions is compromised. The NMC provides an overview of situations that could form grounds for the allegation of a registrant's lack of fitness to practise. These situations fall into four broad areas listed with examples below.

4.1 Misconduct

Misconduct is behaviour, which falls short of what would be proper in the circumstances. The Code presents the professional standards that nurses and midwives must uphold, whether they work in a clinical, managerial, teaching or research role. Misconduct can involve issues outside of professional or clinical performance. This can include the conduct of a nurse or midwife away from their working environment, but only when it could affect the protection of patients; undermine public confidence or the expectations of the standards of conduct and behaviour to be followed. The most common examples of misconduct include:

5. Physical or verbal abuse of colleagues or members of the patients/public
6. Dishonesty including theft
7. Significant failure to deliver adequate care
8. Significant failure to keep proper records
9. An uncaring attitude.

Wherever possible a referral should only be considered following a concluded outcome of misconduct as part of the Disciplinary hearing. There will however need to be a consideration of an urgent referral if there is significant harm and patient safety issues see section 5.

There will also need to be consideration within the Health Board around removing the registrant from clinical duties or possible suspension. This decision should only take place following a discussion with the Group Nurse Director within the Service Delivery Group and the Director of Nursing and Patient Experience or nominated deputy.

Hearing outcome proven, sanction dismissed.

Refer ✓

4.2 Lack of Competence

Lack of competence is a lack of knowledge, skill or judgment of such a nature that the nurse or midwife is unfit to practise safely and effectively in any field in which they claim to be qualified, or seek to practise.

The nurse or midwife should demonstrate a commitment in keeping the relevant skills up to date.

Over a prolonged period of time a nurse or midwife makes continuing errors or demonstrates poor practise which involves:

- Lack of skill or knowledge
- Poor judgement
- Inability to work as part of a team
- Difficulty in communicating with colleagues or people in their care (lack of necessary knowledge to practise safely).
- The nurse or midwife shows no insight into their lack of competence

Lack of competence cases are usually only referred to the NMC after the health board has been unsuccessful in addressing the issues with practise as part of the capability policy. When considering a referral, the NMC will expect that:

- The employer has gathered the information to establish the facts about the individual's lack of competence and attempted to identify possible causes.
- Raised any serious concerns with the individual formally and identified training needs and provided them with adequate supervision to help them improve.
- Involve the local supervising authority responsible for the supervision of midwives.

A referral would be considered where robust actions have been put in place, which are clearly documented and have not been achieved as part of the Capability policy and Dismissal has been agreed.

Dismissal

Refer ✓

4.3 Criminal Convictions and Cautions

Not every criminal conviction referred to the NMC will raise a fitness to practise concern. The NMC only take cases forward where the conviction raises a risk to patients or the reputation of the professions. In assessing the potential effect on the professional standing of a nurse or midwife having been involved with the criminal justice system, there is a need to apply a number of different considerations and acknowledge a variety of legal circumstances.

The NMC will need police information to verify the scope and nature of any offending referred to them. This will happen only once the decision has been made that the conviction, and any information gathered about the surrounding circumstances, would be sufficiently serious to call into question the nurse or midwife's fitness to practise.

The NMC consider that drink-driving offences are more likely to call into question a nurse or midwife's fitness to practise where:

- the offence occurred either in the course of a nurse or midwife's professional duties, driving to or from those duties, or during on-call or standby arrangements;
- there are aggravating circumstances connected with the offence (including failing to stop or only doing so following a police pursuit, failure to provide a specimen, obstructing police, and so on); or
- it is a repeat offence;
- Where a nurse or midwife has been convicted of a drink-driving offence, the preliminary consideration of seriousness would include any available information on the background to the offending. The NMC may also seek information from the nurse or midwife's employer, general practitioner or occupational health department, if it appears that there is a need to explore any underlying alcohol issues that could mean that the nurse or midwife's fitness to practise is impaired because of their health.

In cases without any direct connection to professional practise as a nurse or midwife, different considerations apply. The NMC considers that professional misconduct can involve conduct that is unrelated to clinical practice, if the conduct could bring the reputation of the profession into disrepute, for example by showing an intention to cause harm.

A referral would be considered wherever possible following an outcome of the Disciplinary hearing, or a police charge. In this situation where there is a police charge the police will usually refer to the NMC themselves, the registrant should also inform the NMC.

In certain circumstances for example imprisonment or where the offences would formerly have been a 'serious arrestable offence' or involved hate crime or child pornography you may need to refer to point 5 below urgent referrals where the case maybe directly passed onto the Conduct and Competence Committee.

Refer

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4.4 Physical or Mental Health

Good health is necessary to undertake practise as a nurse or midwife. Good health means that a person must be capable of safe and effective practice without supervision. It does not mean the absence of any disability or health condition. Many disabled people and those with long term health conditions are able to practise with or without adjustments to support their practice.

The NMC are particularly concerned about long-term, untreated or unacknowledged physical or mental health conditions that impair a registrant's ability to practise without supervision. To be considered fit to practise registrants should also demonstrate suitable attention to their personal needs and should not, for example, abuse or be

dependent on alcohol or drugs. Evidence of insight into concerns and a willingness to take steps to address the issues are important factors. Cases of ill health can usually be managed locally if:

- The registrant acknowledges their condition and is complying with recommended treatment.
- Necessary steps are taken to manage the condition following a doctor's advice.
- There is no risk to patient safety.

Wherever possible a referral would only be considered when there is robust evidence in line with the Health Board's Sickness & Absence policy and other relevant policy's if appropriate. In the case of the outcome is dismissal

Refer
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4.5 Not Having the Necessary Knowledge of English

When assessing the seriousness of a referral about a nurse or midwife's lack of knowledge of English, the central question will be whether the lack of knowledge could place patients at potential or actual risk of harm.

Examples of language concerns that could place the public at risk of harm include:

- Poor handover of essential information about patient treatment or care to other health professionals because of an inability to speak English.
- Serious record keeping errors or patterns of poor record keeping because of an inability to write English.
- Serious failure(s) to provide appropriate care to patients because of an inability to understand verbal or written communications from other health professionals (or patients themselves).
- Drug error(s) caused by a failure to understand or inability to read prescriptions.

Not every language concern raised will trigger the need for an investigation. For example, if the concern relates solely to poor spelling without any suggestion of clinical impact, or difficulty in understanding regional slang or English colloquialisms, the referral is unlikely to amount to an allegation of impaired fitness to practise.

4.6 Determinations by Other Health or Social Care Bodies

Nurses and midwives may also be registered members of other health or social care professions, which are regulated by different statutory bodies in the UK, or may be registered with licensing bodies overseas. The NMC can receive referrals suggesting a person registered as a nurse or midwife has been found to be impaired in their practise in a different health or social care profession, or in a different country.

The assessment of such referrals focuses on whether a finding that the fitness to practise of a nurse or midwife in a different health or social care profession (or their practise in another country) is impaired, or could affect their nursing or midwifery practise in the UK.

The NMC will consider the scope and nature of the other body's determination and the factual background. They assess the closeness of any connection between the practise of nursing or midwifery in the UK and the underlying facts or issues giving rise to the finding. Consideration will be given to whether, in light of these questions, the nurse or midwife could present a risk to members of the public by continued nursing or midwifery practise, or whether the other body's finding could affect public confidence in the nursing or midwifery professions.

The NMC will usually carry out a full investigation in such cases unless it is clear there is no current clinical risk to people relying on the services of nurses or midwives, and no potential impact on the public interest (including public confidence and the need to declare and uphold proper standards).

4.7 Wales Safeguarding Procedures

The Wales Safeguarding Procedures (2019) sets out arrangements for responding to safeguarding concerns about those whose work, either in a paid or voluntary capacity, brings them into contact with children or adults at risk. It also includes individuals who have caring responsibilities for children or adults in need of care and support and their employment or voluntary work brings them into contact with children or adults at risk.

It is intended that these procedures support internal disciplinary procedures and provides guidance to deal appropriately with any concern or allegations of professional abuse, neglect or harm and to ensure that all allegations of abuse made against staff or volunteers working with children, young people and adults at risk are dealt with in a fair, consistent and timely manner. The main factor to consider when applying these procedures is whether the individual subject to the allegation or concern, occupies a position of trust; this is where a member of staff/volunteer is in a position of power or influence over a child or adult at risk, by virtue of the work or nature of activity being undertaken.

Every Council has a duty to manage allegations and concerns about any person who works with children and young people and adults at risk in their area. Managing cases under these procedures applies to a wider range of allegations than those in which there is reasonable cause to believe a child or adult at risk is suffering, or is likely to suffer harm. It also applies to concerns that might indicate a person is unsuitable to continue to work with children or adults at risk in their present position or in any capacity.

On conclusion of the Professional Strategy Meeting process where the concerns are substantiated, employing or volunteer agencies should consult if not already done so with the Disclosure and Barring Service and other relevant professional bodies about the requirement for a referral.

5. Urgent Referrals & Interim Orders

As an employer the Health Board has the power to suspend, remove from clinical duties or dismiss a registrant but this may not prevent the individual from working elsewhere.

The NMC is the only organisation with legal powers to prevent nurses and midwives from practicing if they present a risk to patient safety.

In very serious cases it will be appropriate to refer a nurse or midwife to the NMC at a very

early stage even before an internal investigation has been conducted, In these cases a discussion with the Group Nurse Director and Health Board Director of Nursing and Patient Experience (or nominated deputy) must take place to agree this action. Appendix 2 must be completed as evidence on the decision. The NMC may then pass the case directly to the Conduct and Competence Committee for determination. This allows for the possibility of the NMC imposing an Interim Suspension or Conditions which restrict the practise of the registrant until the case has been thoroughly investigated. The NMC should also be informed if the police or safeguarding authorities have been involved.

The NMC'S Practise Committee's (either Fitness to Practise Committee or Investigating Committee) are able to impose the following;

- An interim conditions of practise order

Or

- An interim suspension order.

On a nurse or midwife's practise while a fitness to practise case is ongoing. This will only happen in cases which satisfy the test for interim orders to be made.

6. NMC Referral Process

6.1 Procedure to follow when considering making a referral.

The Health Board has identified the need for a standardised approach which provides local guidance and timescales to ensure that a consistent, effective, efficient and evidenced based approach is taken to making nursing and midwifery referrals.

In the event that a Nurse Manager is considering making a referral to the NMC a review of the NMC Decision Tree (Appendix 1) is to be undertaken and, the decision template (Appendix 2) completed with supporting evidence on the decision to refer or not to refer. Where this is a complex case or further professional advice is required consideration can be given for calling a review meeting, where members would include the Group Nurse Director (GND) and Health Board Director of Nursing and Patient Experience. or nominated deputy where appropriate. An employer's link is also available for advice employerlink service@nmc-uk.org In certain circumstances this may also involve the NMC Relationship Manager. The Meeting should be held as soon as possible to prevent any delays.

Following an agreement and decision for referral, the following process should take place:

6.1.1 A standard referral form will be completed by the Service Group, and signed off at Group level by the relevant Group Nurse Director. The standard NMC referral form for managers and employers is to be used. See link below; https://www.nmc.org.uk/concerns-nurses-midwives/concerns-complaints-and-referrals/making-a-referral-to-us/referral_forms/

6.1.2 Referrals concerning midwives should always be discussed with the Local Supervising Authority Midwifery Officer. The standard NMC referral form for managers and employers is to be used. See link https://www.nmc.org.uk/concerns-nurses-midwives/concerns-complaints-and-referrals/making-a-referral-to-us/referral_forms/

6.1.3 The Group Nurse Director will be the alternative point of contact and the Director of Nursing and Patient Experience will be the referrer. This will ensure that all referrals are co-ordinated and monitored centrally across the Health Board. The NMC will have the Director of Nursing and Patient Experience as the named contact.

6.1.4 Prior to signing off the referral it will be quality assured by the Group Nurse Director to ensue relevant evidence is available, and arrangements made that where information, such as the investigation report and other relevant documents, is prepared ready for submission to the NMC when requested at a later date to prevent a delay.

6.1.5 The Group Nurse Director will then forward the referral by email to the Health Board Director of Nursing & Patient Experience or relevant agreed deputy for endorsement and submission.

6.1.6 The Health Board Director of Nursing & Patient Experience will arrange for the referral to be emailed to the NMC by a designated person (Corporate Head of Nursing) within the corporate nursing team.

6.1.7 A record of the referral, receipt from NMC & date will be kept on a Health Board wide central secure data base (Datix) which will be maintained by a designated person within corporate nursing.

6.1.8 Further information requests from the NMC will be coordinated centrally by email via the Director of Nursing and Patient Experience. Or designated deputy.

6.1.9 The request for information will then be forwarded by email to the relevant Group Nurse Director with agreed timescales for a response.

6.1.10 The Group Nurse Director will coordinate their response within their Service Group and will be responsible for quality assuring the information / response that is provided.

6.1.11 It is also the Group Nurse Director's responsibility to ensure that a suitable person informs the registrant that a referral has been made. As part of the Health Board's investigation witnesses maybe identified. They will need to be aware that they may be called as witnesses to the NMC.

6.1.12 The information will be sent to the Health Board Director of Nursing & Patient Experience or nominated deputy by the agreed timescales. In the event that the required timescale cannot be achieved the Group Nurse Director must let the Director of Nursing & Patient Experience or nominated deputy know as soon as possible, outlining rationale and proposed revised timescale.

6.1.13 The Director of Nursing & Patient Experience or nominated deputy will be responsible for quality assuring that the information and evidence provided meets the NMC request. All documents submitted will be kept on a centrally held data base (Datix).

6.1.14 Once this process has been completed the information will be centrally sent

by e-mail via the EGRESS secure system.

6.2 Third Party Referrals

There will be occasions when the NMC contact the Health Board if they have received a referral from a third party. Any person is at liberty to make a referral to the NMC irrespective of the Health Board's view. Once the Health Board has received notification of the referral, the NMC will initially require; confirmation of employment, if the individual/s are registrants, and if the Health Board is aware of the concern. The procedure will be managed in line with other referrals and, if complex, a meeting will need to be set up to discuss and, if appropriate, look at any other relevant information within the Health Board. At this meeting key actions and timescales will be agreed. The Director of Nursing & Patient Experience or nominated deputy to agree the timescales for submission will then contact the NMC.

7. Guidance on the Management of the Registrant during the assessment process of the referral

The Group Nurse Director must ensure that the registrant is aware of the intention to refer to the NMC.

The Health Board will need to provide support to the registrant as outlined in the Human Resource Policies. The registrant will also be provided with an experienced named professional mentor to support her/him through the process. A record of professional supervision will be maintained and documented (Appendix 3). This support may need to be continued after the NMC outcome has been agreed.

In the case of a third party referral the registrant will also be informed of the referral, usually by the NMC directly or if appropriate by the Health Board once confirmation of employment has been ascertained and a discussion has taken place with the NMC to agree this. The NMC will write to the registrant once the Health Board has provided confirmation of employment. Thereafter it is the NMC's responsibility, not the Health Boards, to keep the registrant up to date and share information with them as deemed appropriate.

7.1 Disclosure of Information

The NMC may ask for patient's records as part of their investigatory processes. In the first instance, Identifiable data must be redacted prior to disclosure, removing all patient identifiers and ensuring only anonymised information is included. Patients may instead be referred to as patient A, B or C. If a date of birth or sex is pertinent to the case these could be used if absolutely necessary.

Where the NMC deems it necessary to receive personal identifiable data in order to fulfil their statutory function of safeguarding the health and wellbeing of people using the services of nurses or midwives the health board will consider the need to share the requested information in line with GDPR requirements. It is important to remain open and transparent with patients about how their data is used wherever possible.

8. Consent

- If it is not appropriate to redact the identifiable information the service user would need

to be contacted to provide consent prior to release. Consent must be informed. The person must know the proposed use of and/or disclosure of the personal data, explain why it is necessary, exactly what it will be used for and to whom it will be shared. This needs to be explained sensitively

- The person giving consent must have some degree of choice 'consent 'given under duress is not consent.
- The consent will need to be clearly documented including whether it is written or verbal, details including the date, time, and dialog of the conversation.
- In the case of a deceased person a decision will need to be agreed whether it is in the best interest to inform the next of kin or not. In the event of consent not being provided the Health Board must inform the NMC and only provide anonymised information.

9. What Happens When a NMC Referral is made?

When a referral is received by the NMC the Health Board will be given a named contact that will deal with all enquiries and will confirm receipt of the referral. The named contact will check that the person referred is on the NMC register, and that the nature of the complaint is something that the NMC should be involved in, whether this is in relation to fitness to practise of nurses or midwives or allegations about whether the entry of an individual nurse or midwife on the register may be incorrect, or may have been as a result of fraud. If for some reason the nature of the complaint falls outside the remit of the NMC the referrer will be informed. If the referral is appropriate for investigation, contact will be made in order to manage the flow of information between the referrer and the NMC.

9.1 The Four Stages of screening decision.

The NMC's initial consideration of allegations and assessment of whether a case requires a full investigation, involves four stages, which are intended to work in sequence.
The four stages are;

- Whether the apparent facts of the case are serious enough to raise concerns that the fitness to practise of a nurse or midwife may be currently impaired, as a result of any risk to members of the public, or the public interest.
- Whether the referral to the NMC meets their formal requirement.
- Whether the NMC will be able to obtain credible evidence about the concerns.
- Whether there is evidence that the nurse or midwife has addressed the concerns involved, to enable the NMC to be confident that any risk to patients or the public confidence or professional standards has already been met.

If the NMC screening decision is to refer an allegation about a nurse or midwife's fitness to practise to the case examiners, they will clearly articulate the issues that concern the regulator.

10. Investigations

The NMC protect the public by investigating serious concerns about a nurse or Midwife's fitness to practise. The aim of investigating these concerns is to allow the decision makers to make the right decision at the earliest opportunity in their overall objective to protect the public.

The investigation will be seeking documentary evidence of the factual issues. The NMC will also always ask the nurse or midwife to provide a response about the regulatory concerns. This is not compulsory, but their response and reflection on the events can help the NMC to understand the context in which the concerns came about. Whether the nurse or midwife chooses to respond or not they do have a duty under the Code to cooperate with the investigation.

10.1 Investigating Health Concerns

If the regulatory concern is related to the health of a nurse or midwife the enquiries will be carefully balanced in order to protect the public with the nurse or midwifes' right to privacy. This will be undertaken as part of the screening decision.

10.2 Directions to Take a language Assessment

When a nurse or Midwife is referred because of concerns about their knowledge of English they can be directed to undertake a language assessment by the Registrar as part of their investigation into the allegation.

10.3 Investigating What Caused the Death or Serious harm of a patient.

The NMC consider events extremely seriously when patients suffer harm, and recognise that past actions which led to death or serious injury could determine the reputation of nurses and midwives. The NMC however need to balance this with avoiding a culture of blame or cover up. This means that they do not punish nurses or midwives for making genuine clinical mistakes if no longer a risk to patient safety and the Registrant involved has been open about what went wrong and can demonstrate what they have learnt.

10.4 Investigating The Same time as other Organisations

The NMC will usually continue with their own investigation unless there are clear and compelling reasons for them to put this on hold.

11. The Case Examiners

Once the NMC investigations team has completed their investigation into the concerns about a nurse or midwife, the NMC case examiners decide whether a nurse or midwife has a case to answer. The case examiners can also at this stage decide, what happens to the case, e.g. the case examiners can either give a warning or give advice.

Case examiners do not decide whether the case against the nurse or midwife is proved, whether the incidents in the case happened, or whether or not the nurse or midwife is fit to practise.

These decisions should only be taken by the Fitness to Practise Committee. Case examiners will consider the NMC guidance on remediation and insight when deciding if there's a realistic possibility of the issues or incidents happening again. Case examiners make sure that only the most serious cases go through the Fitness to Practise Committees at the end of an investigation.

Case examiners have to consider whether there is a realistic possibility that the Fitness to Practise Committee would decide that the nurse or midwife's fitness to practise is currently impaired. Further information into this matter can be accessed on the NMC website see link https://www.nmc.org.uk/concerns-nurses-midwives/hearings/our-panels-case-examiners/case-examiners/

12. Investigating Committee

Where the case examiners cannot agree an outcome, these matters are referred to the investigation committee. In these circumstances a panel of the investigating committee will consider whether or not there is a case to answer. The investigating committee is made up of nurses, midwives and lay members and meets in private to consider all the supporting evidence. The investigating committee also deals with alleged fraudulent or incorrect entries in the register. If the panel finds there is no case to answer it will close the case. If it finds there is a case to answer it will refer the case to either the conduct and competence committee or the health committee.

13. Fitness to Practise Committee

After the case examiners have made the decision to send the case to the Fitness to Practise Committee (FTP), the NMC's legal team will review it. They may decide to further investigate before preparing for a hearing. Following a legal review, the NMC will send the nurse or midwife details of the draft charge and their statement of case, if one has been drafted. The nurse or midwife has the opportunity to respond. At this point the nurse or midwife is able to confirm if they admit or deny any of the allegations. They can also provide any other information that may help to support the decision-making process, or whether they want to apply for voluntary removal. The Fitness to Practise (FTP) Committee may then decide that they do not require a full hearing and seek to send the case to a private meeting. At times the FTP can use a consensual panel determination to resolve the case.

The FTP Committee panel can impose sanctions if they decide that a nurse or midwife's fitness to practise is impaired. The panel will consider the seriousness of the concern and the facts of the case to a find a sanction that is enough to achieve public protection.

The available sanction outcomes, starting from the least severe, are:

- Taking no further action
- A caution order of between one and five years.
- A conditions of practise order of up to three years
- A Suspension order of up to twelve months
- A Striking- off order

Witnesses are not always asked to attend a hearing but will be required if there is any dispute about the facts of the case. The anonymity of service users is protected.

14. Hearings

Hearings are held in public unless there is a good reason such as a nurse or midwife's health is such that it must be heard in private.

The referrer, registrant and any witnesses will be informed of the dates of the hearings. Once notified the Director of Nursing & Patient Experience or nominated deputy will inform the relevant Group Nurse Director. The Group Nurse Director or nominated deputy will complete and submit a Welsh Government no surprise form, and notify the Health Board Communications team providing details such as the hearing date, to ensure the Health Board is prepared for any press inquiries. The role of a witness in an NMC hearing is very important and can sometimes be worrying for those involved. Health Board witnesses will be offered advice and support if required, this support may be in relation to witness statements and also what will be expected of them if they are called to the hearing. The NMC provide a witness liaison officer who is responsible for providing information and support for witnesses, the NMC also provide a guide to help staff understand the hearing process and what is expected of them as well as what support is available before, during and after the hearing. The Senior staff members responsible for the witness will need to ensure that the individual has the appropriate support and guidance and is aware of the resources available Please refer to https://www.nmc.org.uk/concerns-nurses-midwives/information-for-witnesses/what-to-expect-from-being-a-witness..

The Health Board referrer will be informed of the outcome of relevant hearings; this information will be sent to the Group Nurse Director as soon as received. The Group Nurse Director together with the Director of Nursing & Patient Experience will need to determine the required internal approach if the registrant is still an employee of the Health Board. The information will be logged on the central database.

For a further explanation of how fitness to practise processes work from investigation to adjudication, please refer to
https://www.nmc.org.uk/concerns-nurses-midwives/information-under-investigation/what-to-expect-from-the-process/

For information relating to Hearings, Outcomes and advice for witnesses and registrants whose practise is under investigation please refer to: http://www.nmc.org.uk/concerns-nurses-midwives/hearings-and-outcomes/

15. Monitoring and Review

The Director of Nursing & Patient Experience will monitor the application of this policy,;

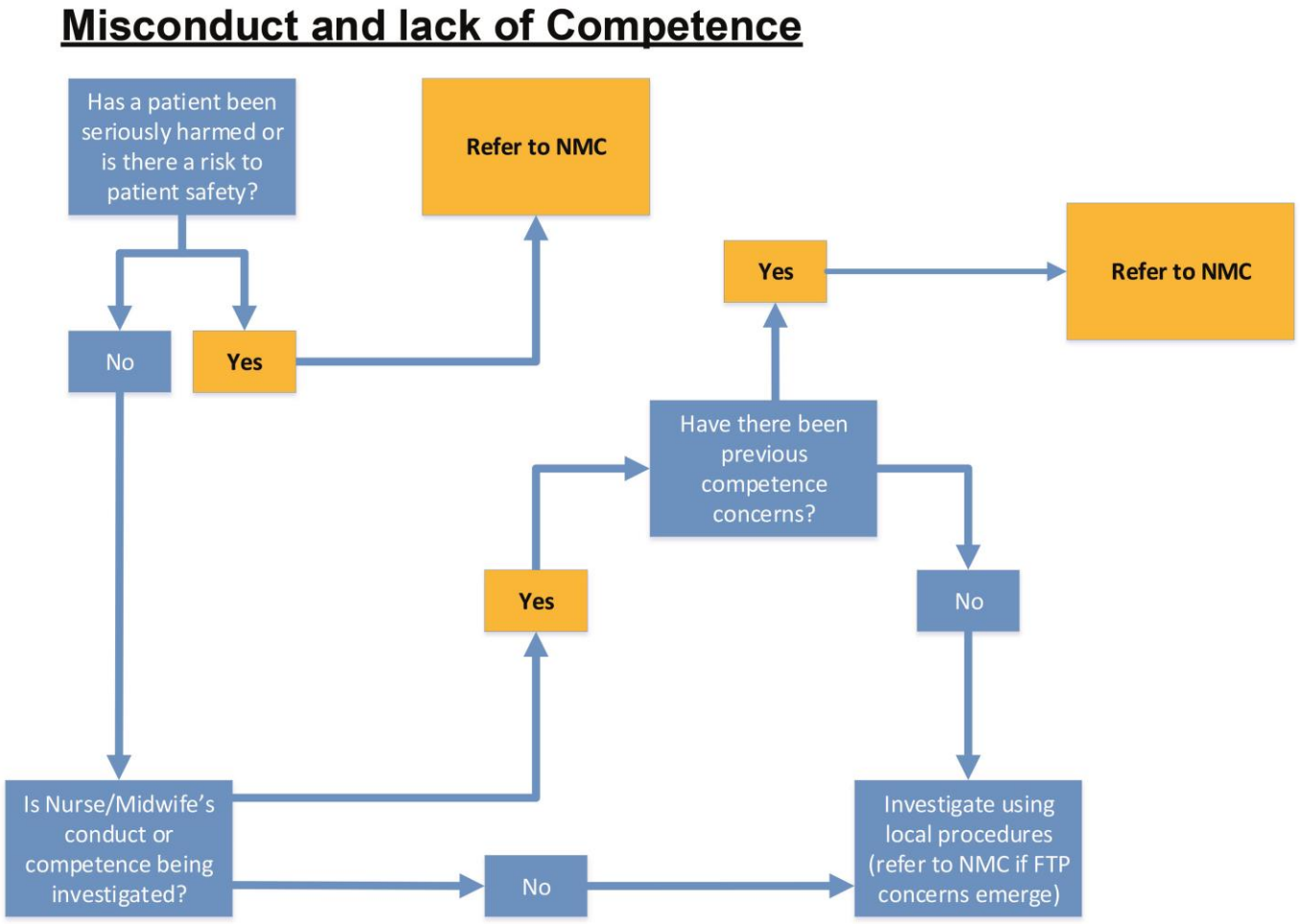
- A professional report will be shared with Nursing Midwifery Board at least on an annual basis
- An annual report will be completed and provided to the Workforce & OD Committee.in relation to employment matters
- All referrals will be endorsed by the Director of Nursing and Patient Experience or nominated deputy and coordinated through the corporate nursing team. It is essential that the Health Board has an overview of all referrals from within or from a third party. A data base will be maintained to ensure accurate information and timescales are monitored.

Appendix 1.

Deciding whether to make a referral

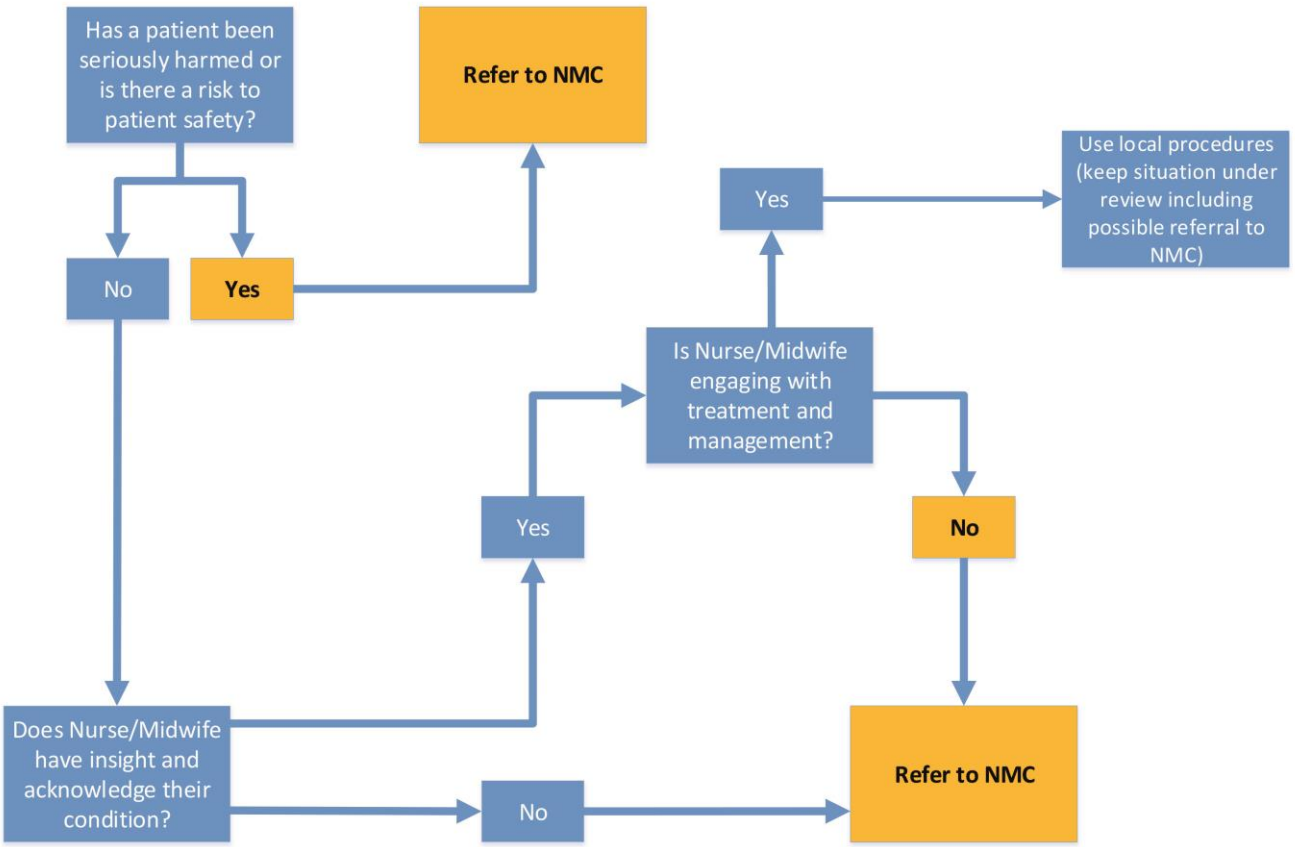
You should make a judgment about whether to refer based on the individual circumstances of the case.
You can use the decision tree below to help you decide whether a referral to the NMC is necessary or whether the issues can be managed at a local level. You can make a referral at any time, even if your local investigation is not complete.
You must always report a case to us if you believe the conduct, competence, health or character of a nurse or midwife presents a risk to patient safety.

Referral Decision Tree

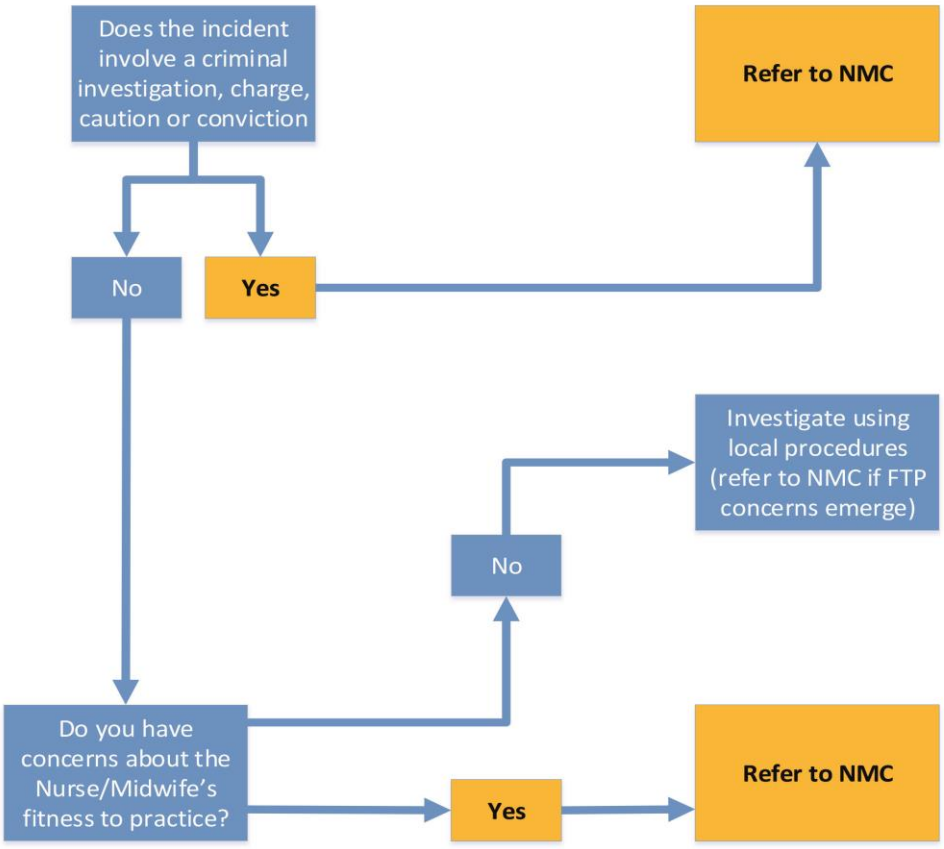


1. **What sort of concern are you investigating?**
2. **Serious Ill Health?**
3. **Character, criminal behaviour?**

Serious ill Health



Character



Appendix 2

Evidence Template when there is a Decision to refer or not to refer to the Nursing Midwifery Council (NMC).

(This must be completed on all occasions)

Person/s Completing:							
Designation:							
Date:							
Time:							
Service Group:							
Reason for Referral: (Please tick)	**Misconduct** ☐	**Lack of Competence** ☐	**Character** ☐	**Serious ill Health** ☐			
Decision to Refer?	**Yes** ☐		**No** ☐				
Brief overview of decision to refer:							
List of supporting evidence:							
Signature:							

CONFIDENTIAL

Appendix 3

RECORD OF PROFESSIONAL SUPERVISION FOLLOWING DISCIPLINARY ACTION / NMC REFERRAL

- Professional supervision is a process in which the supervisor enables, guides and facilitates the Registrants development and need for support, in meeting professional and personal objectives that have been identified following disciplinary action.
- This occurs during formal prearranged meetings and in less formal day to day case discussions, termed here as informal supervision.
- The process will feedback to the supervisee on his / her practise and performance and identify any actions for improvement, and acknowledge evidence of professional development and competence.
- It will also enable the monitoring of the supervisee's progress in meeting the continuing professional development requirements that have been identified following disciplinary action.

Name of Registrant:		Any NMC Conditions of Practise?	
Name of Registrant's Professional Supervisor:		If yes - Date of NMC referral or notification to the Health Board from the NMC	

Professional supervision arrangements should be in place for any Registrant subject to a NMC referral/under investigation etc unless otherwise agreed with the Group Nurse Director. The frequency will be agreed

DATE	TIME	LOCATION	TYPE OF SUPERVISION (face to face; telephone, etc	SUMMARY OF DISCUSSION	DECISIONS/ ACTIONS

Employee Name		**Supervisor Name**	
Employee Signature		**Supervisor Signature**	
Date			
Date & time of next review			

A copy to be given to registrant and a copy filed securely by supervisor