



Western Health
and Social Care Trust

**Policy on
Referral of a Registrant to the
Nursing and Midwifery Council
(NMC)**

November 2011



Policy Title:	Policy on Referral of a Registrant to the NMC
Policy Reference Number:	PrimCare11/007
Implementation Date:	November 2011
Review Date:	November 2013
Responsible Officer:	Assistant Director Nursing Governance and Performance



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1.0 Introduction

The Nursing and Midwifery Council (NMC) is the regulatory body for nurses, midwives and specialist community public health nurses and its primary aim is to protect the public. This is carried out through setting and maintaining standards of education, training, conduct and performance. Fitness to practice is a registrant's suitability to be on the register without restrictions. The NMC's role is to protect the public from registrants whose fitness to practice is impaired and whose situation cannot be managed locally. In these circumstances NMC committees can restrict or remove a practitioner's registration.

The NMC has established a procedure for dealing with lack of competence at the statutory level. In all situations, the safety of patients and the public must be paramount and this principle should underpin any actions taken.

This policy is intended to support nursing and midwifery managers /lead nurses in the referral process.

Professional lead nurses/general managers, while liaising with the Assistant Director of Nursing (Governance and Performance) **must also ensure** the details of a potential NMC referral are discussed with their relevant General Manager and/or Professional Lead, Assistant Director and the Service Director.

2.0 Purpose of the Policy

This policy is intended to support nursing and midwifery managers in the referral process to the NMC.

This policy should be read in conjunction with the Trust Professional Regulation Policy.

3.0 Objectives

Promote and protect public safety

Provide guidance for nursing and midwifery managers in the NMC referral process.

Ensure staff where appropriate, have been fully supported to achieve the required performance prior to NMC referral.

Support fair and equitable treatment of staff where there are concerns about fitness to practice.

Fulfil the requirements of the NMC in relation to lack of a registrants competence.



4.0 Policy Statements

Frequently, employers, managers and supervisors of nurses and midwives deal with situations concerning the misconduct, lack of competence or poor health of registrants. Most of these incidents are managed at a local level and do not give rise to wider concerns about public protection.

5.0 NMC Referral

Referrals to the NMC can be made by the public, patients and clients, colleagues and the Trust.

The NMC always follows up any complaint made to their organisation.

A referral to the NMC is a very serious matter for an individual registrant and the Trust and the Trust's decision to refer a registrant to the NMC will not be taken lightly. It will be made after careful consideration of the evidence presented in relation to a fitness to practice allegation based on ill health and/or evidence of poor practice.

It is critically important therefore, that any evidence relating to fitness to practice is rigorous and accurate. In situations where a registrant has been provided with supporting practice programmes and/or has completed a capability programme these programmes must have been constructed using evidence based outcomes, clear performance requirements and significant evidence of how the registrant failed.

In some very serious cases it may be appropriate to refer a nurse or midwife to the NMC before we have had time to carry our own internal investigation. This allows for the possibility of interim suspension or restrictions on registration until the case has been thoroughly investigated.

Registrants should also be reminded that where they have concerns relating to **their own** performance they are required under the NMC Code of Conduct to raise these with their line manager.

A registrant will also receive any information sent by complainants because the Nursing and Midwifery Order 2001, the NMC's governing legislation, states that a registrant must have a right to reply to allegations made against them; and in order to do this, registrants must see the allegations set out against them.

All referrals made by the Trust must identify the registrant concerned including the registrants full name, date of birth, Personal Identification Number (PIN) and home address.

A referral to the NMC will be classified within one of two categories and it will decide in which category the referral will be classified.



They include:

- Fitness to Practice
- Ill Health

Fitness to Practice

Reporting a case of Fitness to Practise to the NMC is appropriate only when the conduct, practice or health of a registrant is impaired to the extent that public protection may be compromised.

All allegations of impairment of fitness to practise must:

- Clearly set out the complaint against the registrant.
- Where it is appropriate, the referral must be supported by appropriate evidence to demonstrate how the Trust has supported the registrant to improve, the measures taken to monitor this support and clearly describe the lack of attainment to the required standard.
- Where a disciplinary investigation has been instigated and the appeal period closed/completed the reports must also be submitted to the NMC. However, this information is often not available at the point of referral and this should not delay the NMC referral. Where disciplinary processes have been instigated as per Trust policy staff should be accompanied by their Trade Union Representative.

Ill Health Referral

Registrants should not be referred to the NMC because they have experienced ill health but rather because their ill health is causing fitness to practice issues which can be clearly demonstrated through Occupational Health reviews and supported by clinical evidence.

Concerns about a registrant's fitness to practice, should be raised and discussed with the General Managers, relevant Assistant Directors and the Assistant Director of Nursing (Governance and Performance) at an early stage – well before a referral to the NMC is required to allow an opportunity for support to be provided to the registrant and improvement to be realised.

A referral to the NMC with supporting evidence will then be completed jointly by the professional lead nurse concerned and the Assistant Director of Nursing (Governance and Performance).

It is acknowledged that on some occasions given the nature of the concerns it is not always appropriate to have a supportive process commenced.



The issue may be such that immediate referral to the NMC is appropriate. In such a situation referral to the NMC will be made through the office of the Executive Director of Nursing and will be completed by the Assistant Director of Nursing (Governance and Performance).

All NMC referrals will be endorsed by the Executive Director of Nursing and co-ordinated through the offices of the Assistant Director of Nursing (Governance and Performance).

A registrant must be advised in writing by their professional lead nurse of the referral to the NMC and the reasons for the referral.

Any subsequent statements requested from the NMC must be checked for accuracy by the professional lead nurse and reviewed by the Assistant Director Nursing (Governance and Performance) before submission to the NMC.

A Trust database of registrants on supporting practice programmes, capability programmes, suspensions and NMC referrals will be held by Assistant Director of Nursing (governance and performance) offices to track referrals and provide monthly updates to the Director of Nursing and quarterly briefings to the Trust Governance Committee.

Professional Lead Nurses will be accountable to provide a monthly update on any of the above matters to the Assistant Director of Nursing (Governance and Performance) to ensure the information held on the Trust database is timely and accurate.

Where it is appropriate the Assistant Director of Nursing (Governance and Performance) will provide a restricted level of detail and overview at the confidential section of the Trust Nursing and Midwifery Committee. The purpose of sharing such information will be to identify any corporate learning and changes in practice that might be required.

6.0 Trust Suspension

On some occasions the Trust may issue a precautionary suspension to a registrant prior to the completion of an internal investigation.

A decision to issue a precautionary suspension will be made jointly with Human Resources, Professional Lead Nurse, General manager, Service Assistant Director Nursing and the Assistant Director of Nursing (Governance and Performance).

Staff will be encouraged to have their Trade Union Representative present at any Trust meetings in relation to these matters

Precautionary suspensions are normally with full pay.



7.0 Interim NMC suspensions

Where it is considered that the registrant may endanger a member of the public through their actions or omissions, a request can be made to the NMC for an interim suspension pending the outcome of the NMC investigations.

Where the NMC issue an interim suspension the registrant will not be paid.

8.0 Chief Nurse Alert letters for Health Care Professional under Investigation by HSC Employers

An Alert letter is the way in which all HSC employers and private health care providers are made aware of a health professional whose performance or conduct could place patients, staff or the public at serious risk. Alert letters cover situations where health professionals who pose a hazard to patients, staff or the public may move from their present HSC employer to work elsewhere in a health or social care setting in any capacity, whether or not requiring registration, before their regulatory body has had the chance to consider interim suspension or other measures. Even where such measures are in place, Alert letters are intended to reduce the risk of inappropriate employment in any capacity.

The decision to refer a registrant to the CNO for issue of an Alert Letter will be made by the Executive Director of Nursing.

9.0 Agencies and Bank Nurses – Staff on Suspension

Nursing Agencies and Bank lists in use within the Trust will be checked in the first instance to ascertain if the registrant who has been suspended and or referred to the NMC is currently registered with them and advice given to the agency and bank coordinator as appropriate by the Assistant Director of Nursing (Governance and Performance).

10.0 Newly appointed Staff with pending or active Fitness to Practice Investigations

Where it is brought to the attention of a sister / charge nurse/team leader that a registrant has a referral to the NMC or declares that they have had a previous suspension order placed on them in another Trust, it is the responsibility of the sister/charge nurse/ team leader to raise this with their professional lead nurse. The professional lead nurse is responsible to advise their General Manger, Assistant Director and the Assistant Director of Nursing (Governance and Performance).



11.0 Role of the NMC

When the Trust sends a referral to the NMC the case is referred for screening in the first instance. The screening team checks that the person being referred is in fact on the NMC register and that the nature of the complaint is something with which the NMC should be involved. If the screening team thinks there is a case to answer they will refer the case to an investigating committee panel. The registrant will be written to at this point.

The investigating committee will decide in private if a hearing is to be held. If there is a decision to hold a hearing the case is referred to an NMC investigating committee panel. The NMC will send the registrant a copy of the allegations and the supporting information and will invite them to submit a written response for the panel to consider.

12.0 Additional Information

The NMC Investigating Committee may request additional information through their nominated solicitors.

Requests for additional information from Trust staff by the NMC or their legal representatives should be discussed with the Assistant Director of Nursing (Governance and Performance) to ensure that the information requested is appropriate and within the remit of the organisation to provide.

The details should be checked by the Head of Quality and Safety prior to leaving the Trust

13.0 Time Frame

From the point of a referral to the NMC until the case has been heard and a decision reached it can be up to and beyond 18 months.

14.0 Enquiries

Any further enquiries regarding this policy should be directed to the appropriate Lead Nurse in the first instance or the Assistant Director Nursing, Performance and Governance.