

Accountability of a Registered Nurse

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Accountability



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“As a professional, you are personally accountable for actions and omissions in your practice and must always be able to justify your decisions”.

Accountability has been described as being personally answerable for the outcome of one’s actions.

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PRINCIPLES OF ACCOUNTABILITY

Promoting good practice

Preventing poor practice

Intervening in unacceptable practice

Areas of Risk

Disclosure & Barring Service (DBS)

- barred lists for vulnerable adults & children
- enhanced criminal records certificate

NMC: Registration & Fitness to Practise

Local safeguarding

Criminal justice system

Barring lists

- *vulnerable adults*
- *children*

The barring side of the DBS allows case workers to make decisions about who should be placed on the barred lists following referrals of those alleged to have harmed or pose a risk of harm to children and/or vulnerable groups.

Criminal offence



An employer or volunteer manager is breaking the law if they knowingly employ someone in a regulated activity with a group from which they are barred from working.

A barred person is breaking the law if they seek, offer or engage in regulated activity with a group from which they are barred from working, be it paid or voluntary.

Automatic barring

A caution or conviction for some offences will lead to an automatic barring

E.g. Murder, rape, kidnapping, indecent assault, child pornography

Also - ill treatment or neglect under the Mental Capacity Act 2005

Local safeguarding proceedings



If a local authority is responsible for services to a patient and the patient is harmed or at risk of harm, local safeguarding proceedings can be triggered.

Multidisciplinary teams can meet and make determinations about what happened.

Eg findings of neglect against managers, nurses, carers.

Consequences of local safeguarding referrals



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While investigations are ongoing, nursing careers can be affected

- a local authority can refuse to place service users at a home if a particular nurse is working there (leading to suspension/dismissal)
- a letter can be sent to all potential employers within a certain radius of the nurse's home (an alert letter)

Nursing & Midwifery Council



Exists to safeguard the health and wellbeing of the public

Sets the standards of education, training and conduct that nurses and midwives need to deliver



NMC Code

Standards of conduct, performance & ethics for nurses & midwives

The code is the foundation of good nursing & midwifery practice and a key tool in safeguarding the health and wellbeing of the public

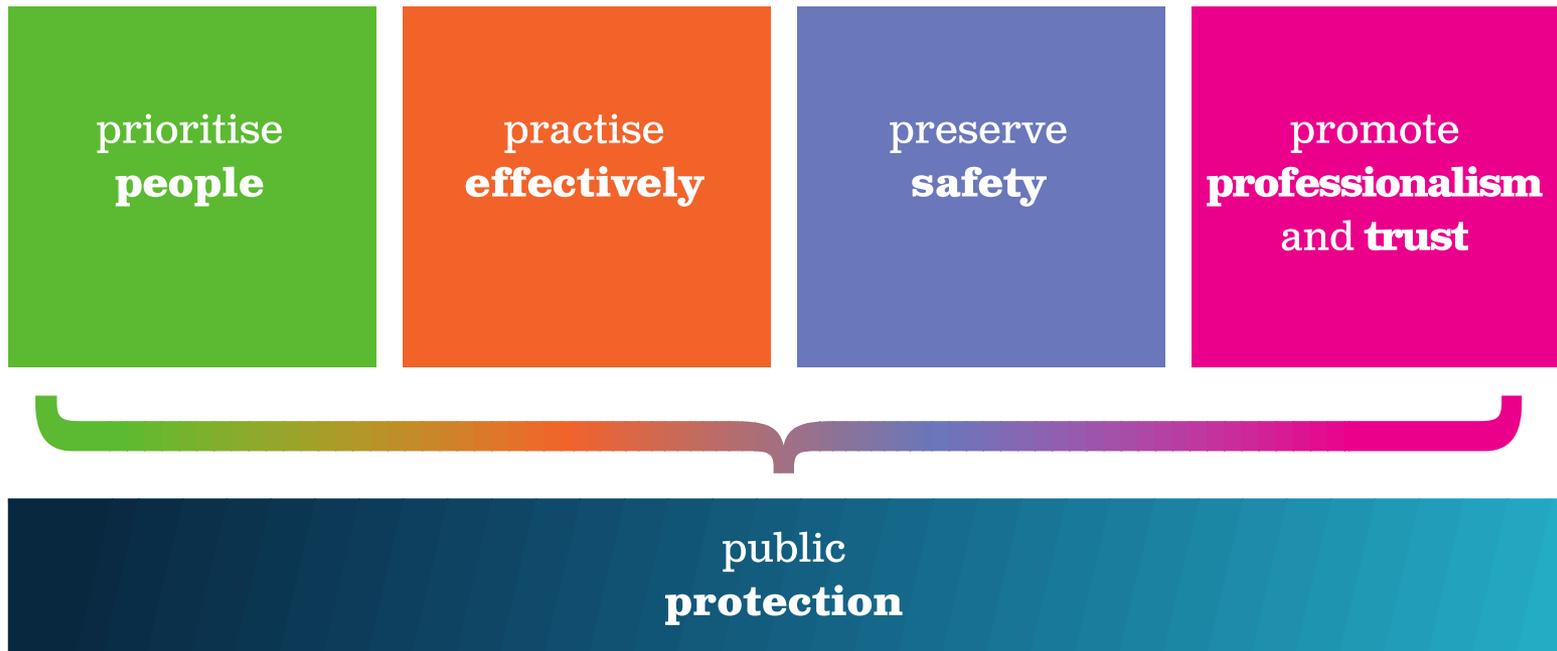
The code is about being:

- professional
- accountable
- able to justify your decisions

NB This applies to your personal life too

One Code, four themes

Together they signify good nursing and midwifery practice.



Registration



Applications to register or to re-register must include a declaration by the applicant of good health and good character

Good health



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- Capable of safe & effective practice without supervision
- It does not mean the absence of any disability or health condition
- Those with disabilities or health conditions are able to practise with or without adjustments to support their practice

Good character



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“Your character is based on your conduct, behaviour and attitude. It also takes account of any convictions, cautions and pending charges that are likely to be incompatible with professional registration ... Your character must be sufficiently good for you to be capable of safe and effective practice without supervision.”

Good health and good character: guidance for students, nurses and midwives, NMC 2010

Good character



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Good character self-declaration is confirmation that you:

- Intend to comply with the Code
- Have no relevant convictions or cautions or pending charges
- Have not been found guilty of misconduct or lack of fitness to practise by another regulatory body or the NMC, nor subject to a judgment by a licensing body elsewhere that would prevent you from practising as a nurse or midwife
- Are not currently suspended by another regulatory body

Convictions or cautions



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- Must be declared when applying for registration or re-registration
- Must be notified to the NMC at the time
- Also notify the NMC of any criminal charge

NB

Nursing is a notifiable occupation which means that the police should notify the NMC in any event.

No requirement to declare road traffic offences with fixed penalties unless they resulted in a disqualification from driving on points



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A word of caution ...

A caution is a formal warning given in writing to an adult who has admitted a criminal offence. If you accept a caution, then you must admit wrongdoing to receive it, which represents an admission of guilt

You should never agree to a caution without legal advice

Fraudulent or incorrect entry in the register



- this type of allegation is referred to the Investigating Committee of the NMC
- the Committee may order that the Registrar remove or amend the entry
- this relates to further specialist nurse qualifications too
- note that any qualifications must be registered within five years



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Fitness to practise

“fitness to practise is a registrant’s suitability to be on the register without restrictions.”

(Reporting unfitness to practise: A guide for employers and managers NMC 2004)

The NMC considers a registrant’s **current** fitness to practise – so if an incident happened two years ago and there have been no problems since, the registrant may be able to demonstrate current fitness to practise

Who refers nurses to the NMC?



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- employer (1,723) **41%**
- member of public, service user or patient (1,029) **25%**
- police (509) **12%**
- other (including lawyers and colleague referrals) (291) **7%**
- self referral (261) **6%**
- NMC Registrar (139) **4%**
- other regulatory or professional body (82) **2%**
- referrer unknown (129) **3%**

Reason for referral

- Misconduct **63%**
- Lack of competence **17%**
- Criminal **16%**
- Health **3%**
- Fraudulent entry less than **1%**
- Determination by overseas nursing body less than **1%**



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What is misconduct?

Misconduct is defined as *'behaviour which falls short of what can reasonably be expected of a nurse or midwife'*

The NMC's role is to protect the public from nurses whose fitness to practise is impaired and whose situation cannot be managed locally ...

What is misconduct?



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‘We would not, for example, deal with a complaint about a breach of an employment contract (such as poor time-keeping or absenteeism) unless this impacted directly on the quality of care provided to patients. The purpose of NMC proceedings is to protect the public, rather than to punish nurses’

*Complaints about unfitness to practise: a guide for members of the public
NMC 2004*

Typical misconduct cases



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Clinical:

drug errors; neglect; recording errors; missed observations

Dishonesty:

working while on sick leave; sleeping on duty; misleading CV entries; failing to disclose an NMC referral to an employer; altering a record

Abuse of patients:

shouting; rough handling; neglect; swearing

Boundaries:

relationships with patients; language; social networking; colleagues

Sanctions

If a registrant's fitness to practise is found to be impaired, the panel may take no further action or impose one of the following sanctions:

- striking off
- suspension for a maximum of 1 year
- conditions of practice order for a maximum of 3 years
- caution for a minimum of one year and a maximum of 5 years

Competence



Nurses or midwives who are competent and fit to practise should:

- have the skills, experience and qualifications relevant to the part of the register they have joined
- demonstrate a commitment to keeping those skills up date, and
- deliver a service that is capable, safe, knowledgeable, understanding and completely focused on the needs of the people in their care

Health cases



Nurses can find themselves before the NMC if they are not fit to practise due to their health.

Typically this will be mental health; drug or alcohol problems.

Cases are investigated by inviting the registrant to be medically examined and, if substance abuse is an issue, undergoing blood or hair follicle tests.

Cases that are health related are usually dealt with by the Health Committee

Advice to a nurse facing an NMC referral



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- contact union (RCN Direct) immediately ... should be with an RCN lawyer within a day
- tell your employer immediately
- write a reflective piece – consider how to demonstrate remorse and remediation
- keep any evidence/witness details ... but don't breach patient confidentiality (do not remove patient records)



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Any questions?