Process for Reporting Complaints or Concerns

Introduction

The Nursing and Midwifery Council (the NMC) is the regulatory body for the nursing and midwifery professions in Cayman Islands. Its mandate is to regulate the professions in the public interest. The NMC registers individuals qualified to practice nursing and midwifery in the Cayman Islands, supports nurses and midwives in their practice, and assesses reports about nursing and midwifery care from employers and the public.

The NMC, when alerted that there is a concern about a nurse’s practice or conduct, collects information for the purpose of assessing the risk to the public. Appropriate measures are taken to safeguard confidentiality and personal information provided and all documents become the property of the NMC.

If you have any questions about the collection, use and/or disclosure of this information please contact the Registrar of the Health Practice Commission by telephone 345-949-2813 or email hpbuser@gov.ky.

This document explains the purpose of reporting, how the NMC addresses reports, and what outcomes you can expect when a report is made to the NMC.

Purpose of reporting

Reporting the practice or conduct of a nursing or midwifery professional ensures that the NMC is alerted to any concerns about a nurse or midwife who may not be practicing safely. It allows the NMC to take action to protect the public and use innovative approaches to help rehabilitate the nurse or midwife when necessary.

A report does not constitute a finding of professional misconduct, sexual abuse, incapacity or incompetence against the registered practitioner who is the subject of the report.
What does NMC do when it receives a report?

When a report is received by the NMC it is reviewed along with any information about the nurse or midwife that NMC may have previously received. The NMC assesses the level of risk posed to the public and determines an appropriate regulatory response.

Not every report will require the NMC to do a formal investigation and/or hearing. For example, an investigation may not be necessary if the facility has imposed ongoing monitoring and restrictions on the nurse or midwife’s practice and these measures provide sufficient public protection.

Likewise, an investigation may be unnecessary if the nurse or midwife is participating in activities that demonstrate improvement in his or her practice, and the employer is closely monitoring the nurse or midwife’s progress.

Pursuant to Schedule 3 of the Health Practice Law (2017 Revision), if the NMC initiates an investigation, the nurse or midwife will be asked to provide a written response to the NMC. If there is sufficient concern about the risk to the public, the nurse or midwife will be invited to a hearing by the NMC. The NMC will make a formal determination of professional misconduct, incompetence or incapacity only after a hearing in which the nurse or midwife has had a fair and full opportunity to participate.

Pursuant to Section 36 of the Health Practice Law (2017 Revision), if a nurse or midwife is found to have committed professional misconduct the NMC may, if it thinks fit-

(i) Censure him or her
(ii) Impose, for a specified period, conditions on the registered practitioner’s licence with which he she must comply while practising as a nurse or midwife
(iii) Suspend his or her licence for a period not exceeding two years
(iv) Direct the Registrar to remove his or her name from the register

A nurse or midwife deemed incapacitated may be required to comply with appropriate medical treatment before returning to practice. A nurse or midwife found to be incompetent will be required the requisite education and/or training. In both situations, it is likely that the nurse or midwife will have restrictions on his or her practice, and will require monitoring upon returning to practice.

Who should report?

1. Employers

The NMC encourages all employers to develop procedures and guidelines so staff members can support their facility in meeting its reporting obligations.
Once an employer has determined that it has a reporting obligation, the report must be made to Chairperson of the NMC in writing within 30 days. The report must be filed immediately if there is a concern that a nurse or midwife poses a continued risk.

To assist employers, the NMC has developed two complaint forms, a Complaint Form for Employers and a Complaint form for Patients and the Public. The NMC asks employers, patients and the public to use these forms when making a report.

The forms are available and available for download from the website: [www.dhrs.gov.ky/NMC](http://www.dhrs.gov.ky/NMC). Once completed the form with supporting documentation can be emailed to: [hpbusers@gov.ky](mailto:hpbusers@gov.ky) or mailed to:

The Chairperson  
Cayman Islands Nursing and Midwifery Council  
Department of Health Regulatory Services  
Government Administration Building  
P.O. Box 132  
Grand Cayman KY1-9000  
Cayman Islands

2. What to report

Employers should report the termination of a nurse or midwife’s employment for reasons of professional misconduct, incompetence or incapacity.

By alerting the NMC of concerns about a nurse or midwife’s practice, employers support the NMC’s mandate of protecting the public interest. If the NMC is informed of the concerns, the NMC can assess the report in relation to any other information it has about the nurse or midwife.

An employer should also file a report if he or she intended to terminate the nurse or midwife’s employment, but the nurse or midwife resigned first. If an employer accepts a resignation in lieu of termination, or makes another agreement with the nurse or midwife, following a grievance, the employer continues to have a legal obligation to report to NMC.

Reports must be made within 30 days of the termination or resignation of the nurse or midwife, and must contain the:

- reason(s) for the termination; or
- reason(s) for intending to terminate if the member resigned before the employer could take action.
3. Nurses and Midwives

Nurses and midwives have a professional duty to report any concerns which put the safety of the patients or the public at risk. Concerns reported to the NMC should be issues that could affect the patients or the public negatively, not complaints about personal employment issues, which should be, addressed though an employer’s complaints or grievance procedure.

A nurse or midwife should report any suspected or witnessed risk of harm immediately. The concern should first be reported internally using the employer’s chain of command and reporting procedures. If, however, the nurse or midwife believes that the concern has not been adequately dealt with the nurse or midwife may file a report with the NMC.

A nurse or midwife should file a report to the NMC or any other professional council if he or she believes that another health care professional has physically or sexually abused a client.

4. Self-Reports

A nurse or midwife must self-report to NMC within 30 days if she or he:

- is the subject of a current investigation, inquiry or proceeding for professional misconduct, incompetence or incapacity or any similar investigation or proceeding in relation to the practice of nursing or any other profession in any jurisdiction;
- has been charged with any offence in any jurisdiction;
- has been found guilty of any offence in any jurisdiction;
- has a finding of professional negligence and/or malpractice against him or her; and/or
- has a finding of professional misconduct, incompetence or incapacity or any similar finding, in relation to the practice of nursing or any other profession in any jurisdiction.

Definitions for the purpose of reports

1. Sexual abuse

The term “sexual abuse” has a specific legal meaning. It is not the same meaning as the criminal act of sexual assault, which refers to a sexual act without consent.

Rather, sexual abuse in the regulatory context occurs when a health care professional:

- has physical sexual relations with a client;
- touches a client in a sexual manner;
- behaves in a sexual manner with a client; and/or
- make remarks of a sexual nature to a client.
Any sexual relationship with a client, even if consensual, is considered abusive because a health care professional is in a position of power by virtue of his or her professional knowledge and skill.

When health care professionals cross the boundary in what should remain a professional relationship, clients are vulnerable to harm.

The employer, nurse or midwife who reports an incident of suspected sexual abuse must make his or her best effort to inform the client of the need to notify the NMC or appropriate professional council.

The report can include the name of the client only if the client (or the client’s representative, if the client is incapable) has consented in writing. If the client has not consented in writing, the client’s name must not be included in the report.

When a report of sexual abuse is filed with the NMC, the report must contain:

- your name (the person making the report);
- the name of the nurse or midwife who is the subject of the report; and
- a description of the alleged sexual abuse.

### 2. Incompetence

The definition of incompetence includes the following three key components:

1. it must relate to the nurse or midwife’s professional care of a client;
2. the nurse or midwife must display a lack of knowledge, skill or judgment; and
3. deficiencies must demonstrate that the nurse or midwife is unfit to continue to practise, or that his or her practice should be restricted.

A nurse or midwife is incompetent if his or her client care shows such significant and repeated deficiencies in knowledge, skill or judgment that the nurse or midwife’s practice must be restricted to ensure client safety.

Not every mistake or breach of the NMC’s practice standards means that a nurse or midwife is incompetent. Rather, incompetence is demonstrated by poor insight, or gaps in comprehension or application of basic nursing or midwifery principles. A lack of appreciation for the seriousness of potential outcomes for clients who receive substandard care can also demonstrate incompetence.

If there are concerns of this nature, the employer typically initiates close monitoring, restrictions on practice and remedial activities to ensure client safety.

For example, a nurse or midwife may not be allowed to practise without direct supervision until the deficiencies are addressed. In such a situation, the NMC expects the facility operator to make a report.
When a report of incompetence is made to the NMC, the report should include the following information:

- your name (the person making the report);
- the name of the nurse or midwife who is the subject of the report; and
- a description of the alleged incompetence.

The description should include:
- the nature of the concerns that gave rise to the report;
- a list of any restrictions that are in place or that are the basis for the employer’s belief that restrictions are warranted; and
- any learning or performance improvement plans to address the concerns.

3. Incapacity

The term “incapacity” has a specific legal meaning that is different from what is normally understood.

The definition of incapacity consists of the following two essential components:
1. the nurse or midwife must have a physical or mental condition; and
2. the condition must warrant that the practitioner not be permitted to practise, or that his or her practice be restricted.

A nurse or midwife is incapacitated when he or she has a health condition that impairs her or his ability to provide care. The impairment must be of such a degree that the employer finds it necessary to restrict the nurse or midwife’s practice or remove the nurse or midwife from practice to protect clients.

Most nurses and midwives recognize when a health condition is affecting their practice and take appropriate action.

For example, a nurse or midwife may decide to take time off from work to deal with personal issues, and there is no concern about client safety. In such a situation, the NMC does not expect the employer to file a report.

Incapacity most commonly arises when a practitioner is affected by a mental health or addiction disorder. These conditions can cloud judgment and impair the individual’s ability to recognize that he or she has a health condition and that it’s affecting his or her practice.

The NMC expects an employer to make a report only when a current health condition is accompanied by concerns about unsafe practice or there is a need for ongoing monitoring.

When a case of suspected incapacity is reported to the NMC, the report should include the following information:
- your name (the person making the report);
- the name of the nurse or midwife who is the subject of the report; and
• a description of the alleged incapacity, including:
  o the nature of the condition or disorder if known;
  o any behavioural observations made by clients, colleagues and/or supervisors; and a list of any restrictions you have placed on the nurse or midwife’s practice (or the basis for your belief that restrictions are warranted).

4. Charged with an offence

An offence is a breach of law that is prosecuted in a court. This includes any offence in any jurisdiction.

5. Guilty of an offence

This includes all findings of guilt for any offence. Even if a nurse or midwife has been pardoned, or received an absolute or conditional discharge instead of a conviction, the nurse or midwife must still self-report to the NMC.

6. Finding of professional negligence or malpractice

Professional negligence or malpractice findings arise from circumstances in which clients sue health care professionals to receive compensation for substandard care.

A nurse or midwife is required to self-report if a civil court has made a finding that the nursing care he or she provided was professionally negligent.

7. Proceedings in any jurisdiction

This term refers to circumstances in which a nurse or midwife is also a member of any other profession (e.g. lawyer) in the Cayman Islands or any other jurisdiction, and is involved in a current investigation, inquiry or proceeding for professional misconduct, incompetence or incapacity or any similar investigation or proceeding, and that matter is not yet decided.

8. Finding in any regulatory profession

This term refers to circumstances in which a nurse or midwife is also a member of another profession in the Cayman Islands, and a disciplinary or incapacity or similar proceeding has determined that he or she has committed professional misconduct, or is incompetent or incapacitated, or made any similar finding.

When you self-report a finding in another jurisdiction, the report must contain:
• your name (the person making the report);
• the nature and a description of the offence or finding;
• the date the proceeding began and the finding was made;
• the name and location of the court or regulatory body that is holding the
proceeding or made the finding; and the status of any appeal initiated about the finding made against the practitioner.

Nurses and midwives are required to file an additional report to the NMC if an appeal changes the status of a finding.

This report must not contain information that violates any publication ban that a court imposed during the proceedings.

**Next Steps**

For more information about making a report please contact us:

1. **By email:** Type your full name in the signature box, save this form and attach the file to an email, together with electronic copies of supporting evidence to [hpbusers@gov.ky](mailto:hpbusers@gov.ky).

2. By email and post: Send this form by option 1 above, but send hard copies of supporting evidence **and** a signed, printed copy of this form to the address below.

3. **By hand:** Please seal it in an envelope, along with copies of supporting evidence, and deliver it to:

   Customer Service Desk  
   Department of Health Regulatory Services  
   Government Administration Building  
   Monday – Friday from 10:00 am – 2:00pm.

4. **By Post:** Please seal it in an envelope, along with copies of supporting evidence, and send it to:

   The Cayman Islands Nursing and Midwifery Council  
   Department of Health Regulatory Services  
   Government Administration Building  
   P.O. Box 132  
   Grand Cayman KY1-9000  
   Cayman Islands

The NMC will acknowledge receipt of the documents via email or post and we will then keep you informed.

If the nature of the complaint or concern falls outside of the NMC’s remit, we will direct you to the appropriate body.
Reference