EXPLANATORY MEMORANDUM TO

THE NURSING AND MIDWIFERY COUNCIL (FEES) (PRACTICE COMMITTEE) (FITNESS TO PRACTISE) (AMENDMENT) RULES ORDER OF COUNCIL 2026

2026 No. 822

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care (DHSC) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Karin Smyth, Minister of State for Health (Secondary Care) at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

2.2 Phil Harper, Deputy Director for Professional Standards and International Workforce, at the Department for Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The Professional Standards Branch at the Department of Health and Social Care can be contacted by email at the following address with any queries regarding the instrument: PSIW@dhsc.gov.uk. Alternatively, the department can be contacted by telephone: 0300 790 4007

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will approve the rules that will amend The Nursing and Midwifery Council (Fees) Rules 2004 in relation to the fees:

- for admission to its register for UK and overseas applicants;
- for evaluating eligibility of overseas applicants;
- for retention and renewal of registration;
- for entering on to the register an additional pre or post registration qualification; and
- for readmission or restoration to its register.

4.2 The increase in fees will enable the Nursing and Midwifery Council (NMC) to continue to discharge its statutory functions and effectively regulate nurses, midwives across the UK and nursing associates in England.

4.3 This instrument will approve the rules that will also amend the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 and the Nursing and Midwifery Council (Practice Committees) (Constitution) Rules 2008 (as amended) to enable the Nursing and Midwifery Council (NMC) to:

- appoint legally qualified chairs to Practice Committee panels and enable them to provide legal advice to the panels;

- strengthen case management powers so that they can give clear and specific instructions on how everyone involved in a case should prepare;
- share information via a digital platform or online account, where the nurse, midwife or nursing associate agrees;
- create flexibility in the fitness to practise process in relation to inviting representations and the timescales for these, and in relation to how much notice is given for meetings and hearings; and
- improve support to witnesses when giving their evidence.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

Fitness to practise

5.1 The NMC is governed by a legislative framework - The Nursing and Midwifery Order 2001- which sets out the organisation's functions. This legislative framework gives the NMC delegated powers to make and amend rules relating to its functions.

5.2 The government has set out its intention to reform the legislative frameworks of all healthcare professional regulators, starting with the General Medical Council (GMC) and followed by the NMC and the Health and Care Professions Council. The government's proposed reforms will span the four key areas of regulation; the regulators' governance and operating framework, education and training, registration and fitness to practise. A consultation on a draft GMC Order 2026 opened on 24 March 2026 and is available at https://www.gov.uk/government/consultations/reforming-the-general-medical-council-legislative-framework. Subject to consultation, the draft Order will provide the blueprint for the NMC's forthcoming legislative framework. However, it is unlikely that the NMC will benefit from these reforms including the fitness to practise reforms for some time.

5.3 The NMC is therefore making a small number of changes to its rules now to support improvements in the effectiveness, efficiency and timeliness of its fitness to practise processes. The NMC consulted on these changes between November 2025 and January 2026 - Supporting improvements to our Fitness to Practise process[1].

5.4 The amendments will allow the NMC to:

Appoint legally qualified chairs

5.5 This will increase flexibility and reduce costs of hearings by enabling the NMC to waive the duty to obtain advice from legal assessors, provided the proceedings are chaired by a member who has been designated to act as a legally qualified chair. Legal assessors will still be required where the chair is not legally qualified.

[1] https://www.nmc.org.uk/globalassets/sitedocuments/consultations/ftp-consultation2025/consultation-on-changes-to-our-fitness-to-practise-rules.pdf

Strengthen its case management powers at adjudication stages

5.6 The amendments to their rules will:

- Allow the Chair to issue, vary or set aside case management directions without a preliminary meeting. Parties will be able to challenge a direction e.g. where they consider it is unjust or where circumstances change.
- Make provision for a panel conducting a preliminary meeting to determine arguments on points of law or on the admissibility of evidence in advance of the hearing
- Confirm that all case management directions are binding on all parties, including the NMC, at any subsequent hearing of the case, unless the Committee panel considers that there has been a material change of circumstances or it is not in the interests of justice for the party to be bound by the direction
- Extend the Committee panel's power to refuse to admit evidence not served in compliance with any direction (not just directions issued at preliminary meetings)
- Confirm that the Committee panel may also draw adverse inferences from non-compliance with any directions.

5.7 These changes will improve the timeliness of the adjudication stages whilst also improving the experience for the parties involved.

Changes to notice requirements

5.8 In order to enable more efficient case progression without compromising fairness and increase clarity, accessibility and information security, the changes will:

- enable the NMC to send and share documents via an online account or portal where the registrant has agreed to receive information electronically;
- increase flexibility for inviting representations;
- increase flexibility for timescales for representations; and
- increase flexibility for minimum notice of meetings or hearings.

Supporting witnesses to provide evidence

5.9 The changes will replace the narrow definition and dated terminology currently used and clarify the Committee's powers to ensure proceedings are conducted fairly. It will also allow the Committee to better recognise different needs and make a person-centred assessment of what additional support witnesses might need to provide evidence.

Registrant fees

5.10 As with all health and care professional regulators, the NMC is primarily funded through the registrant fees it collects from nurses, midwives and nursing associates.

5.11 The current NMC registrant fee for nurses, midwives and nursing associates is £120 per annum. It has stayed at this level for the last eleven years but now needs to be increased to ensure that the NMC is able to continue to carry out its statutory duties. Since the last fee increase, the NMC's register has grown from approx. 680,000 to over 860,000.

Fee type	Registrants	Current fees	Proposed new fee

Initial registration application fee	UK applicants	£120	£143
Initial registration application fee	Overseas applicants	£153	£182
Retention fee	All	£120	£143
Renewal fee	All	£120	£143
Evaluation fee	Overseas applicants	£140	£167
Application fee for entering an additional preregistration qualification	All	£23	£27
Application fee for entering a post-registration qualifications	All	£25	£30
Application for readmission or restoration to the register	All	£120	£143

5.12 Whilst the NMC accept that the growth of their register over recent years has increased their income in cash terms, it is noted that a bigger register means more complex regulatory work to deliver such as fitness to practise referrals which have increased in volume. The NMC's decision to maintain their registrant fee for eleven years has resulted in their income being 28.8% lower than it would have been had fees kept pace with inflation.

5.13 The amendments to rules set out in this instrument will result in the following changes to fees:

- The NMC will continue to allow for registrant payments by quarterly instalments in order to support registrants recognising cost of living increases.
- The NMC's consultation (Consultation on proposals to increase our registration fees[2]) set out that if the NMC don't increase their fees – along with taking steps to reduce their costs – they are at risk of their reserves being under unsustainable pressure by summer 2027.

What was the previous policy, how is this different?

Legally qualified chairs

5.14 Previously, the NMC's Practice Committees were under a duty to receive legal advice from a legal assessor in every case.

Case management powers

5.15 Previously, the NMC's rules have been limiting because:

- They do not confirm that directions are binding on future Committee panels
- The Committee panel's power to refuse to admit evidence not served in compliance with a direction, only applies to directions given at preliminary meetings
- They only permit the Chair to give directions at a preliminary meeting, convened in the presence of the parties and a legal assessor

[2] https://www.nmc.org.uk/globalassets/sitedocuments/consultations/fees-consultation2025/consultation-on-proposals-to-increase-our-registration-fees.pdf

Notice requirements

5.16 Previously, the NMC was required to invite the registrant to respond to the allegation before the Case Examiners could close the case. The time given for the response was 28 days with no flexibility for an extension. In addition, the NMC were not able to share information with registrants during the fitness to practise process via electronic means.

Special measures

5.17 Previously, the rules permitted the Fitness to Practise Committee to adopt such measures as it considers necessary to enable it to receive evidence from a "vulnerable witness". The rules provided a non-exhaustive list of the measures that may be adopted, ranging from use of video links, pre-recorded evidence, and use of interpreters. However, the rules defined a vulnerable witness in narrow terms and using dated language. The special measures will affect individuals giving evidence in NMC proceedings, as well as registrants.

Registrant fees

5.18 The NMC's registration fees have stayed the same for the last eleven years. This is set out in the Nursing and Midwifery Council (Fees) Rules 2004, therefore an amendment to these rules is required in order to increase the fee.

6. Legislative and Legal Context

How has the law changed?

6.1 The NMC's legislative framework is set out in the Nursing and Midwifery Order 2001. The powers conferred by article 7(1) and (2) and article 33(7)(a) of the Nursing and Midwifery Order 2001 allow the NMC to make rules on fees. This instrument will amend the Nursing and Midwifery Council (Fees) Rules 2004 which set out the NMC's registration fees by increasing the fees as set out in the table above.

6.2 The powers confirmed by article 26 (3) and (4), article 26C(1) and article 32(1) (2)(b) and (4) confer powers on the council to make rules to be followed by the investigatory committee, exercise of council functions and procedure to be followed in relation to allegations and restoration to the register. This instrument will further amend the NMC's Nursing and Midwifery Council (Fitness to Practise) Rules 2004 and The Nursing and Midwifery Council (Practice Committees (Constitution Rules) 2008 to simplify and streamline fitness to practise processes and increase procedural fairness.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The NMC carried out two separate 12-week online public consultations concurrently from 3 November 2025 to 26 January 2026 on the changes to their rules in relation to fitness to practise processes and increasing the registrant fee. The methodology for both consultations included an online survey which was available in English, Welsh and Easy Read and focus groups, hosted by an external research company. The fitness to practise consultation was in addition subject to focused stakeholder work that the NMC undertook itself.

7.2 The NMC received 7784 responses to the fitness to practise consultation, 95% of whom were from NMC registrants. The responses to the consultation showed majority support for the proposals, for example with 70% of respondents agreeing with the proposals for legally qualified chairs and 82% agreeing with the proposals for vulnerable witnesses. Respondents who supported the proposals largely did so on the basis that they would improve the process and reduce the stress and anxiety experienced by registrants and others. Views were more nuanced from stakeholders with more experience of the process, for example panellists, legal assessors and representative bodies. Feedback in particular focused on the need to avoid any unintended consequences for unrepresented registrants and others who may need additional help with the process, as well as the risk of a negative impact on panel diversity. The NMC has used this helpful feedback to amend a number of its proposals and incorporate mitigations against risks raised. However, these stakeholders also supported the overarching intent of the proposals.

7.3 The NMC received a total of 40,657 responses to the fees consultation. The vast majority of responses were from individuals. 97% of respondents were NMC registrants.

7.4 The majority of respondents (82%) said they had a good to strong understanding of the financial rationale for the fees increase and understood that the fee income had lost value because of inflation. Within this group, a small minority also acknowledged that the 10-year gap since the last fee increase and the rise in costs due to inflation were a good justification for the proposals to increase fees. A minority of respondents (18%) said they had very little or no understanding of the rationale. A consistent theme amongst respondents was that they wanted the NMC to do more to demonstrate value for money and efficient use of fee income.

7.5 Educators and midwives were more likely to have complete or good understanding of the rationale than other registered roles and students. Employers, members of the public and retired professionals showed comparatively high levels of understanding for the rationale.

7.6 Despite the high level of understanding of the rationale, the majority of respondents (81%) disagreed that the increase to the main fee was reasonable. They perceived it as unfair, coming at a time when they were also feeling the pressures from the rising cost of living and stagnant wages. Many respondents also reported feeling that their job had become more challenging in the last 10 years, and they are getting paid less to do more. Senior registrants were often more accepting of the increase, saying it was affordable for them, but they also wanted more support for younger professionals

7.7 Midwives, students and younger registrants were consistently more opposed to the increase than other groups. The need to support those on lower incomes and early career professionals was a strong theme amongst younger professionals.

7.8 The opposition to increasing the overseas application fee was less strong. 42% of respondents disagreed with the proposal and 33% agreed that it was reasonable. More senior professionals acknowledged that the increase was justified by the additional checks which are needed to demonstrate that internationally qualified professionals are capable of safe and effective practice. Some respondents raised concerns about the impact on the workforce but most did not believe the fee increase would deter applicants from coming to the UK.

7.9 Black, Asian and other ethnic minority respondents and younger respondents were more likely to disagree with the increase to the overseas application fee than White and older respondents.

7.10 The consultation response can be found here: open-council-papers-28-april-26.pdf[3]

8. Applicable Guidance

8.1 To support the changes to its fitness to practise process the NMC will develop guidance to support NMC decision makers, the Committees, professionals on the register and the public. The NMC plan to engage with stakeholders on the development of this guidance and plan to publish it before the powers are implemented.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as no, or no significant, regulatory impact on the private, voluntary or public sector is foreseen.

9.2 The NMC considered the potential impacts of the rule changes on people with protected characteristics and a summary can be found here - open-council-papers-28-april-26.pdf[4]

Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument introduces amendments to the NMC's rules which affect its registrants.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no, or no significant, impact on the public sector because this instrument introduces amendments to the NMC's rules which affect its registrants.

Impact of fee increase

9.6 The main fee is increasing from £120 to £143 a year. This is the equivalent of an additional £1.92 per month to pay. For those registrants who pay by quarterly instalments this will be an additional £5.75 every three months. For registrants who pay basic rate tax at 20% and claim tax relief on their fee, this would mean the main fee effectively becomes £114.40 per year – the equivalent of £1.53 more per month for those who already claim tax relief.

9.7 There is a very small impact on some public sector and health and social care employers as 2% of respondents to the fees consultation said that their fees are paid by their employer. However, the NMC considers that the increase to registrant fees will not have a negative impact on the public sector or businesses.

9.8 The increase in fees will benefit registrants, employers, healthcare providers and the public by enabling the NMC to discharge its statutory functions and effectively regulate nurses, midwives across the UK and nursing associates in England.

[3] https://www.nmc.org.uk/globalassets/sitedocuments/council-papers-and-documents/council-2026/open-council-papers-28-april-26.pdf
[4] https://www.nmc.org.uk/globalassets/sitedocuments/council-papers-and-documents/council-2026/open-council-papers-28-april-26.pdf

9.9 The fee income will allow the NMC to continue:

- investing in how it handles Fitness to Practise cases to ensure clarity, fairness and reasonable timeframes
- assuring high-quality training and education that properly prepares nurses, midwives and nursing associates and maintains high standards of safety.
- updating the Code and standards so that registrants, students and educators know what's expected of them and they can provide the best possible care and advice
- investing in work to promote equality, diversity and inclusion across our regulatory processes to ensure they're fair for all registrants and others involved
- investing in the right technology and data systems at the NMC to work efficiently and best support registrants and the public

Impact of fitness to practise changes

9.10 The NMC considers that there will be no negative cost impact for businesses or public organisations as a result of the changes to its fitness to practise process. The changes are designed to increase the efficiency of the fitness to practise process. For example, legally qualified chairs will cost the NMC less than a chair and legal assessor, and legally qualified chairs using more robust case management powers should reduce the number of adjournments and overall hearing length. Registrants, employers, healthcare providers and the public will benefit from a more streamlined process where cases can be dealt with more expeditiously.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Karin Smyth, has made the following statement:

"the duty under section 28 of the Small Business, Enterprise and Employment Act 2015, for a Minister of the Crown to make provision for review in secondary legislation, does not apply. This is because this is an Order of His Majesty's Privy Council approving rules made by the NMC"

10.2 The approach to monitoring this legislation is that the NMC will keep its rules under review to ensure that they are in line with the global costs of regulating individuals on its register and to ensure that their fitness to practise processes are effective. The NMC will also monitor the number of registrants who report the fee as one of the reasons for leaving the register through its annual leavers survey.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").