

# Fact sheet

## About the Council

### Summary

This fact sheet provides information about the role of the Nursing and Midwifery Council of New South Wales. It covers:

- the role of the Council, how we are funded and who we are
- how nurses and midwives are regulated in New South Wales (NSW), and
- how we define a complaint and the types of complaints we manage.

### What is the Council?

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The Council is a statutory body that was established in July 2010 under the *Health Practitioner Regulation National Law (NSW)*. It is part of the National Registration and Accreditation Scheme. The Council consists of practising nurses and midwives, a legal member and community representatives. Members are appointed by the Governor of NSW.

#### What we do

We aim to protect the health and safety of the public by:

- managing complaints about nurses, midwives and students
- promoting compliance with professional standards.

This may include restricting the practice of a nurse or midwife.

#### How we do this

We focus on promoting safe professional practise, protecting public safety and minimising risk. Our objective is not to punish a nurse or midwife. We assess the likelihood of harm to public safety and act to prevent unsafe practise and to minimise harm.

#### How we are funded

We are funded by a proportion of the annual registration fee paid by nurses and midwives.

### How does the regulation of nurses and midwives work in NSW?

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In regulating nurses and midwives we work with:

- the Health Care Complaints Commission (HCCC). We consult with the HCCC about complaints relating to nurses, midwives and students working or studying in NSW. The HCCC can independently investigate serious complaints involving poor conduct or misconduct, which can be prosecuted before the Civil and Administrative Tribunal or a professional standards committee.
- the Health Professional Councils Authority, an administrative agency of the Ministry of Health which supports all 14 health professional councils in NSW
- the Nursing and Midwifery Board of Australia, supported by the Australian Health Practitioner Regulation Agency (AHPRA), which manages registration for individual nurses and midwives. We collaborate with the Board in relation to professional standards

## Further details about complaints

### What is a complaint?

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A complaint is any concern made in writing about the professional performance, conduct and/or health of a registered practitioner in NSW. It also covers any concerns about the criminal conduct or health of a student. We use the term 'complaint' to refer to:

#### 1. Mandatory notifications

All registered health practitioners, employers of nurses and midwives and educational institutions with nursing and midwifery students, must tell the Nursing and Midwifery Board of Australia / AHPRA about notifiable conduct.

The *National Law (NSW)* describes 'notifiable conduct' as:

- practising while intoxicated by alcohol or drugs
- sexual misconduct in the practice of the profession
- placing the public at risk of substantial harm because of an impairment (health issue), or
- placing the public at risk because of a significant departure from accepted professional standards.

#### 2. Complaints

Complaints from any person, including employers, educational institutions or members of the public such as patients or relatives of a patient.

#### 3. Self-notifications

Where a nurse or midwife informs us or AHPRA about notifiable conduct or an issue which might impact their practice, such as being hospitalised due to a mental health issue.

#### 4. Complaints about students

Complaints in relation to nursing and midwifery students, if they relate to health or criminal conduct matters.

#### 5. National Board audit notifications

Complaints from AHPRA relating to non-compliance with registration requirements.

### Who manages a complaint?

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#### We can manage:

##### Health matters, such as:

- Physical health / mental health or
- drug and alcohol matters

that meet the definition of impairment under the *National Law (NSW)*.

##### Performance matters, such as unsafe practise or:

- communication issues
- infection control breaches
- inadequate or inaccurate patient records.

##### Conduct matters, such as:

- breaching patient confidentiality
- inappropriate behaviour
- non compliance with a condition or undertaking
- a criminal conviction or a criminal finding for an offence
- providing unnecessary health services.

#### The Nursing and Midwifery Board of

**Australia manages** advertising issues and complaints about a person practising while unregistered or using a title when not qualified to do so.

**The HCCC manages** complaints referred for investigation and complaints about unregulated health workers and health service organisations.

**Fair Trading NSW manages** complaints about fees, claims for compensation and refunds.

#### We cannot manage complaints:

- if the person is not a registered nurse, midwife or student
- about industrial issues or personal disputes with nurses and midwives which are not about unsafe practise.