

## Stage two: what happens during the review process?

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### Considering the outcome of the review

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At this stage (stage two)<sup>1</sup> the Registrar (or one of our Assistant Registrars who also make decisions on behalf of the Registrar) considers if

- all or part of the decision was materially flawed, or
- any new information would probably have led to a different decision.

If either or both of the above apply, they must then decide if a fresh decision is required because:

- it is in the public interest, or
- it is necessary to prevent injustice (unfairness) to the nurse, midwife or nursing associate.

This is a different test to the [initial stage](#) where the Registrar only decides if it is possible that the grounds are met. At this stage, the Registrar decides on the merit of the request and if a fresh decision is necessary.

Factors that may have led to a review being in the public interest will not necessarily mean that there is a public interest in a case being reopened, even if one of the grounds has been met. It may be that the review of the case has satisfied the public interest.

### If a fresh decision is not required

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If the Registrar decides it is not in the public interest nor necessary for fairness to the nurse, midwife or nursing associate for the case to be re-opened, then the decision stands.

We will write to the nurse, midwife or nursing associate, referrer and other relevant people with the Registrar's decision and their reasons for this (see below).

### If a fresh decision is required

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If the Registrar decides that it's in the public interest or is necessary to ensure fairness to the nurse, midwife or nursing associate that the case is re-opened and a fresh decision is made, they can:

- refer the decision back to the case examiners for reconsideration<sup>2</sup>
- substitute a new decision.<sup>3</sup>

The Registrar might take into account the following considerations in deciding which of the options to choose:

- Is a total re-examination of the evidence required, or is it a narrower issue on which the Registrar is able to take a decision?
- Is the specialist clinical knowledge of a registered case examiner (i.e. a registered nurse, midwife or nursing associate) required to assess the case?
- Delay to the progress of the case and how this affects the interests of the nurse, midwife or nursing associate and the wider public interest in concluding cases expeditiously.
- Do the case examiners have outcomes available to them that the Registrar does not have if substituting their own decision? For example, where the powers to impose a warning, advice or undertakings are not available to the Registrar but would be if the case was sent to the case examiners.

The Registrar cannot refer a case involving undertakings to the case examiners. They must make the decision in these cases themselves.

## Communicating the outcome of the review

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The Registrar must notify the following parties of the decision they have made on their review:

- The nurse, midwife or nursing associate.
- The referrer (the person who originally referred the allegation).
- Any other person who the Registrar thinks has an interest in being informed, such as the person who requested the review.

## Challenging a decision

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We cannot review the Registrar's decision at either stage one or stage two of the process. The only way the Registrar's decision can be challenged is by applying to the courts for judicial review.

1 Rule 7A(6)

2 Rule 7A(7)(a)(i)

3 Rule 7A(7)(a)(ii)