

Gathering information

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Our investigation will usually begin by seeking documentary evidence of the factual issues and speaking to those involved.

When we investigate a concern about somebody's fitness to practise, we recognise that it is important that we also look at the bigger picture. We will not just focus on investigating the actions of the nurse, midwife or nursing associate, but instead will also try to understand the context in which they were working at the time.

We have developed a set of eight guiding principles that we will apply whenever we look into a concern. For more details, see our guidance on [taking account of context](#).

We will continually assess what the information we receive is telling us, whether it changes the level of risk and what further investigative steps are required as a result.

If we are unable to obtain the information or documentation required in respect of the incident(s) giving rise to the concern, or key witnesses are not willing to assist, it is likely the case examiners will conclude that the concerns are not capable of being proved.

Requesting information from the nurse, midwife or nursing associate

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We always ask the nurse, midwife or nursing associate to send us a response to the regulatory concerns about their practice at the start of our investigation, and again at the end.

We'll also send them a form at the start of our investigation which focuses on information we would be interested to hear about so we can try and understand the context within which a concern may have arisen. The form does not provide an exhaustive list, and the nurse, midwife or nursing associate can tell us anything they think is important for us to know about the background to an incident.

The nurse, midwife or nursing associate does not have to send a response at these times, or provide a response to the concerns at all during our investigation.

However, a detailed response from the nurse, midwife or nursing associate received early on in our investigation can help us focus our investigation on the most serious issues, and any facts that are in dispute. It can also help us to understand the context in which the concerns came about, and help us to decide whether we need to make any further investigations specifically into any of the context raised.

If the nurse, midwife or nursing associate raises issues that we need to look into, we can follow up on them early on to make sure we have all the relevant background facts. Waiting until the end of our investigation to tell us about relevant information usually means we won't have the chance to properly look into it before case examiners

consider the case.

If the nurse, midwife or nursing associate does not provide us with a detailed response, or provides no response at all during our investigation, then this may mean that we are not aware of lines of enquiry that we need to make about context. It could also mean that we are not aware of the significance of information that we do have, which could have an impact on what further enquiries we think it is reasonable or proportionate to make.

We may be able to get evidence about context from other sources, such as from other people involved in an incident or from a nurse, midwife or nursing associate's manager. However, without the nurse, midwife or nursing associate's response, it may be difficult for us to establish a link between that background information and the concern. If we are unable to establish a clear link this could affect our decision on whether it is proportionate to look into that background information any further.

If nurses, midwives or nursing associates engage with us early on, it's also more likely that we'll be able to identify what they might be able to do to put the concerns in the case right (see our guidance on [insight and strengthened practice](#)). We encourage the nurse, midwife or nursing associate to send us evidence of any insight or reflection they've undertaken in relation to the concern, but they aren't required to do so (see [Engaging with your case](#)).

It may become clear that an outcome like [undertakings, warnings or advice](#) will be the appropriate way to resolve a case instead of sending it to the Fitness to Practise Committee. If the nurse, midwife or nursing associate doesn't send us a response about the concerns, these outcomes won't be appropriate.

We may share the nurse, midwife or nursing associate's response with the person who first raised the concerns with us, especially if that person is a patient, or a family member or loved one.

Whether they choose to respond to us or not, the nurse, midwife or nursing associate does have a duty, under the [Code](#), to cooperate with our investigation. They must provide us with details of where they are working and any arrangements they have to provide nursing and midwifery services.

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Our referral forms will ask the referrer to provide us with information about a concern which includes any background information that could be relevant to the concern being raised. If the referrer is not the nurse, midwife or nursing associate's employer we may also send a form to their employer seeking information about context.

We may liaise with referrers, employers and witnesses to ensure we have a full picture of what happened and how serious it was. Given the sensitive nature of much of the information and documentation required, we consider that all requests for information should be relevant, reasonable and proportionate.

Our powers to request information are set out in [Article 25\(1\) of the Nursing and Midwifery Order 2001](#). This authorises us to require any person, other than the nurse, midwife or nursing associate who is the subject of our concerns, to provide information and documents which appear relevant to our investigation.

We may require those who supply us with information or documentation to provide a witness statement which contains a statement of truth and confirmation that they are willing to attend a hearing to give evidence. If this happens, we will offer additional support or information to assist with this process. We will send the statements we obtain to the nurse, midwife or nursing associate.

Where we identify a potential witness who is already the subject of a linked referral or could be the subject of a referral, we will carefully consider whether we need to contact them to take a witness statement. We will always consider asking someone to provide a statement if it is necessary for us to establish what has happened whether it supports the allegations or not.