

## Commitment 3: We'll always carefully consider evidence of discrimination, victimisation, bullying or harassment

Reference: FTP-12c Last Updated: 01/08/2023

We value the diversity of the nurses, midwives and nursing associates on our register as an asset to the health and social care sector.

Data from the NHS staff survey in 2019 demonstrates that in England staff from an ethnic minority background are more likely to experience harassment, bullying or abuse both from members of the public and colleagues. When concerns are raised with us about people on our register, we'll take account of the links between these unacceptable behaviours, poor cultures and the safety of people who use services. We'll also recognise the impact discrimination, victimisation, bullying or harassment can have on someone's health and wellbeing and the significant part they can play in allegations of poor practice. We'll do this in the following ways.

Where we receive a complaint that a nurse, midwife or nursing associate may have been responsible for discriminating, victimising, bullying or harassing people and there's some evidence to support the complaint, we'll treat this as a potentially serious breach of the NMC Code. [Our guidance on how we determine seriousness](#) sets out why cases of this nature are so serious. We'll look to understand why the individual behaved in this way and concentrate on taking action to minimise the risk of the same thing happening again.

This may mean taking regulatory action against the nurse, midwife or nursing associate as well as against others where there's evidence they were involved in the same or similar conduct.

For those on our register, this means considering whether to open a referral about their fitness to practise. Where our enquiries show individuals not on our register were involved in the same or similar conduct, we'll consider sharing this information proactively with other regulators and employers. This is because other regulators and employers might be able to take action to address the issue and to help set clear expectations that the environment that all health and social care professionals work in is free from bullying, discrimination, victimisation and harassment and safe for everyone.

In all other cases, we'll ask at the beginning of our investigation whether discrimination, victimisation, bullying or harassment played a part in the referral. Where there's evidence the nurse, midwife or nursing associate referred to us was subjected to this kind of treatment, we'll need to decide whether this caused or contributed to what happened and if so, in what way. This could tell us if there's an issue with their practice that needs to be addressed or if what happened was purely the result of how they were treated and would be unlikely to happen again.

A newly qualified nurse is referred to the NMC as their employer is concerned that they have a health condition that isn't being adequately managed. The nurse was found to be persistently crying whilst at work and had a high level of sickness absence. They refused to engage with occupational health because they said they had been bullied at work and were dismissed from their post. Upon investigation it is found that the senior nurse on the ward had been bullying a number of junior staff, which caused the sickness absence of the individual concerned.

We would not need to look into the newly qualified nurse's fitness to practise as the issues came about as a direct result of an unacceptable working environment. We would however need to communicate the cultural issues we had uncovered to the Trust and see whether the bullying behaviour of the senior nurse was

subsequently addressed. Unless the senior nurse has reflected and demonstrated that they would not act in this way again, we would need to start an investigation into the senior nurse's fitness to practise.

If we find evidence that a nurse, midwife or nursing associate who has been referred to us was discriminated against, victimised, bullied or harassed we'll also consider if we need to open any new referrals to look into the fitness to practise of those responsible. If those responsible are not on our register, we'll consider sharing information with other regulators and employers.

The research conducted as part of our Ambitious for Change<sup>1</sup> work has told us that groups with certain protected characteristics, such as black nurses and midwives, are more likely to be referred for fitness to practise concerns. If we receive information to suggest that discrimination has led to the referral being made, we will take it very seriously. Where there is evidence to support this, we will take this into account as part of our investigation.

1 Ambitious for change – research into NMC processes and people's protected characteristics, 20 October 2020