How we investigate health concerns about nurses, midwives and nursing associates

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If the regulatory concern is about the health of a nurse, midwife or nursing associate, we'll need to carefully balance our duty to protect the public, with the nurse, midwife or nursing associate's right to privacy when we investigate.

Before we start to investigate a nurse, midwife or nursing associate's state of health, we'll already have decided, when screening the case, that there's a potential risk to the public, through careful consideration of how serious the health concerns appear to be.

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During our investigation, after seeking the nurse, midwife or nursing associate's agreement we'll gather information about the health concern, from their GP, occupational health professional, or a specialist or consultant who's treating them.

With some kinds of health condition we may ask the nurse, midwife or nursing associate to have a medical examination with an expert doctor, or testing, or sometimes both.

We'll only ask for information that we need to help us understand if and how a health condition has an impact on the nurse, midwife or nursing associate's fitness to practise. A nurse, midwife or nursing associate should co-operate with our investigation. Our guidance on engaging with your case sets out why it is important that we get engagement during an investigation.

If a nurse, midwife or nursing associate doesn't co-operate with our investigation into their health, we'll carefully consider whether we need to add a separate regulatory concern relating to their failure to cooperate. Before doing this, we'll give the nurse, midwife or nursing associate every opportunity to engage and seek to understand why they may be unable to.

We will usually only need to add a regulatory concern in relation to non-cooperation if we feel that the failure to cooperate isn't linked to the health condition. If the nurse, midwife or nursing associate is unable to cooperate due to their health, and we have evidence of the health condition, it is likely to be more appropriate for a panel to take the failure to cooperate into account when considering impairment by reason of health[1]. Our guidance on drafting charges in health cases sets this out.

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Often, investigations about a nurse, midwife or nursing associate's health begin because of a specific incident or series of incidents which, on their own, might suggest a regulatory concern about the nurse, midwife or nursing associate's practice or conduct.

One example is a nurse, midwife or nursing associate who attends work in an unfit state because they've been drinking, and who has a dependency on alcohol. In these circumstances, we'd need to explore, and gather evidence about, both the background health condition, and any relevant incidents.

We'd do this to help ensure we have a clear picture of exactly what occurred, how serious it was and whether there is a link that shows the incidents happened because of the health condition.
In such cases we'll ask an expert to comment on whether the incidents would have happened if the nurse, midwife or nursing associate didn't have the health condition.

Unless there are exceptional circumstances, we'll usually say the health condition should be the focus of our concern, as opposed to any possible misconduct.

'Exceptional circumstances' means where the incidents are so serious that there would be a real risk to the public's trust in all nurses, midwives and nursing associates if the nurse, midwife or nursing associate was not removed from the register immediately, and includes examples like deliberately harming patients.

By focusing on the underlying health condition in cases like this, we can act in a way which best addresses the root cause of the problem, and which will best protect the public.

Also, because we'll have evidence of the specific incidents, this enables decision makers to fully consider how the effects of the health condition could cause risks to patients or members of the public, which in turn, will help them make good decisions about what outcomes or action is needed to keep patients and members of the public safe.
1 Rule 31(5)(b)