# Health condition: Where an employer can manage concerns locally while investigating

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## Background

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Midwife A has been employed by their current employer for the past three years and doesn't work anywhere else.

Recently, Midwife A's colleagues raised concerns that Midwife A is alcohol dependent, although there's no suggestion that Midwife A cared for patients while intoxicated.

The employer met with Midwife A to discuss the concerns. Midwife A initially denied there was anything wrong and went off sick shortly afterwards.

In a follow up meeting, Midwife A provided details of ongoing support through the GP and a local treatment service for alcohol dependence. However, last week, Midwife A attended a review meeting with the employer, visibly under the influence of alcohol. When asked whether they had been drinking, Midwife A walked out of the meeting.

Midwife A later apologised and said they had been making progress with treatment but bad news on the day of the meeting had prompted the relapse. Midwife A said this was a one-off. They recognised the impact the health condition could have on their ability to provide safe care for women, families and babies. They remained committed to ongoing treatment and support, including support from the employer.

## What the employer did

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Midwife A's employer took a number of steps in response to the concerns.

- They took statements from everyone who was present to capture their direct accounts of Midwife A's behaviour during the review meeting.
- They considered the extent of the concerns about Midwife A's alcohol dependence, including whether workplace stress, personal issues or other health issues were a factor.
- They referred Midwife A to the Occupational Health Team and developed an action plan with proposals for treatment and support. The plan aimed to address Midwife A's alcohol dependence and other factors that may be contributing to this.
- They arranged further review meetings with Midwife A to continue to assess:
  - Midwife A's insight into how much their condition might impact their ability to practise safely and effectively
  - their willingness to continue to engage with the necessary treatment and support
  - their overall progress and the possibility of them returning to work, with any adjustments they need.

## What happened next

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The employer made an immediate referral to us.

We decided the employer was able to continue to manage any ongoing risks to patient safety while supporting Midwife A to manage their health condition. Therefore, we closed the case at the screening stage.

In these circumstances, the employer didn't need to make a referral at that time.

## What should the employer have considered?

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## 1. What's the risk?

We won't normally need to intervene in a nurse, midwife or nursing associate's practice due to ill health unless there is a risk of harm to people who use services or a related risk to public confidence in the profession.

In this particular case, although it appears that Midwife A has experienced a relapse of a health condition, there isn't a current risk to public safety as Midwife A:

- hasn't attempted to care for anyone while under the influence of alcohol
- isn't currently practising in a clinical setting
- doesn't work for any other employer
- is engaging with the current employer and necessary treatment services
- has taken time off sick, suggesting Midwife A is aware of not being currently in a position to work

The facts of this case suggest that the risk of any future harm is low.

## 2. Can you effectively manage any risk to people who use services?

Although the risk to people who use services is low, as an employer you would still need to ask yourself what you can do to manage the risk and support Midwife A to ensure safe practice in future.

In our FtP guidance on health we state:

> "A nurse, midwife or nursing associate may have a disability or long-term health condition but be able to practise with or without adjustments to support their practice. Equally, they may be signed off as 'unfit for work' due to ill health, but this does not necessarily mean their fitness to practise is currently impaired."

In this case, the employer was effectively managing the risk to public safety by providing support to Midwife A.

This included referring them to the Occupational Health Team, exploring any contextual factors that might be impacting on Midwife A's health, ongoing support of sickness absence and regular review meetings.

As Midwife A only worked for this employer and was engaging with them in an open and transparent way, (albeit despite an initial reluctance), all of these measures were sufficient to keep people who use services safe.

Our guidance on health conditions states that a relapse of a health condition that appears to be well managed could affect Midwife A's ability to practise safely. It may require regulatory action to ensure there is no risk of harm to patients and others.

But in general, we say that cases of ill-health are likely to be better managed with the support of the employer.

When Midwife A attended the review meeting under the influence of alcohol, the employer took the view that Midwife A's relapse meant they should now make a referral to us. But despite this relapse, the employer was likely to be able to effectively manage the concerns, particularly because Midwife A:

- demonstrated insight into the extent and effect of the condition and the reasons for the recent relapse
- was engaging with appropriate treatment and professional advice
- was willing to receive support through Occupational Health and
- took sickness absence to ensure people who use services wouldn't be put at risk.

These factors, particularly Midwife A's willingness to engage with the employer and appropriate treatment services, all suggest that any safety risks could continue to be effectively managed by the employer at this time.

## 3. Has the nurse/midwife/nursing associate shown insight and willingness to put the

## concerns right?

Midwife A has acknowledged an ongoing health condition and has been open about this, albeit at a late stage.

Although there was a brief relapse, Midwife A has acknowledged this and has repeated a willingness to both seek and accept support from the employer and treatment services.

By taking time off work to address the health condition, Midwife A is also ensuring that no members of the public are put at risk of harm.

The information available suggests that Midwife A is both capable and willing to address the health condition at this time, with support from the employer.