

## 2. Verbal abuse of patient – employer can manage the concerns locally while investigating

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### Background

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Nursing Associate A has been employed by their current employer since February 2019. No one has raised any concerns about their practice during that time until now. They don't work for any other employer.

Recently, a healthcare assistant reported to the employer that they'd seen Nursing Associate A verbally abuse a patient. The healthcare assistant said the patient told Nursing Associate A they had a headache and asked for some paracetamol. According to the healthcare assistant, Nursing Associate A appeared annoyed by the request, turned to the patient and shouted at them to "shut up and stop moaning".

The healthcare assistant said the patient was visibly upset and didn't ask again. They didn't feel this was appropriate and felt the need to speak up about the ill treatment of the patient.

### What the employer did

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In response to the concerns, Nursing Associate A's employer took the following steps.

- They met with the healthcare assistant and thanked them for raising this concern through the appropriate channels. The employer took a full statement from the healthcare assistant and reassured them that the concern would be taken seriously
- They met with Nursing Associate A who denied the allegations and was both distraught and visibly upset at the suggestion that they'd ever speak to a patient in this way.
- Based on their internal procedures, they decided it was necessary to conduct an investigation into the concern.
- They met again with Nursing Associate A to explain they'd be investigating the matter and would take statements from Nursing Associate A, relevant colleagues and the patient, if possible. They discussed the safeguarding referral process and the duty of candour obligations.
- They arranged for Nursing Associate A to have weekly meetings with their line manager for updates and emotional support throughout the process.
- They redeployed Nursing Associate A in a non-patient facing role pending the outcome of the investigation.
- They made a referral to the local safeguarding team who would also be investigating.

### What happened next

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The employer in this case made an immediate referral to us before completing their local investigation.

When the employer's investigation concluded, they found that the allegation was true but this was an isolated incident and not a deliberate pattern of poor behaviour.

The employer was satisfied that Nursing Associate A was genuinely remorseful and was able to reflect on why the incident had happened and what they'd do to avoid repetition in future. They spoke with the patient and family who were satisfied with the apology and commitment to this not being repeated. The employer re-instated Nursing

Associate A to full clinical duties.

We closed the case at the screening stage as we decided the employer was able to effectively manage any risks to patient safety at a local level.

**This referral could have been avoided if the employer had completed the local investigation before making a referral to us.**

## **What should the employer have considered?**

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### **1. What's the risk?**

Our [approach to fitness to practise](#) says:

“Employers should act first to deal with concerns about a nurse, [nursing associate] or midwife's practice, unless the risk to patients or the public is so serious that we need to take immediate action.”

If the allegation is true, this would have been very upsetting for the patient. There is a risk that the patient may be reluctant or frightened to ask staff for help in future. The alleged behaviour is inappropriate and if true, Nursing Associate A will have breached the Code and standards.

They would have failed to treat the patient with kindness and compassion and failed to deliver appropriate care.

However, it's important to take a proportionate approach to the concern and to consider:

- this is an isolated incident as far as we know
- no other concerns have been raised about Nursing Associate A's practice to date.

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

### **2. Can you effectively manage the risk to ensure patient safety?**

If nurses, midwives or nursing associates fall short of the Code, what they did or failed to do may be serious professional misconduct which we might need to investigate.

However, fitness to practise is about keeping people safe, rather than punishing our professionals for past mistakes. Isolated incidents won't usually amount to serious professional misconduct and can usually be managed by the employer.

The full investigation should establish whether:

- the allegation is true
- this is a pattern of behaviour, not just an isolated incident
- whether there are any particular contextual factors, either in the workplace or Nursing Associate A's private life, which may have contributed to this behaviour/incident.

In the meantime, the employer has taken suitable steps to manage the concerns and to ensure patient safety by:

- making the necessary safeguarding referral
- engaging with Nursing Associate A in a transparent way
- removing Nursing Associate A from clinical duties
- being satisfied that Nursing Associate A doesn't have another employer or work in another setting.

The facts here indicate that the employer can effectively manage any immediate risks to patient safety. The outcome of the investigation would have determined whether the risks could effectively be managed going forward and whether a referral was needed.

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

Nursing Associate A's initial denial of the allegation does not automatically mean that they lack insight. Initially, this is just an allegation that has yet to be investigated, so the individual may be telling the truth when denying any wrongdoing.

In this situation, Nursing Associate A's initial reaction, being visibly upset by the suggestion that they could have spoken to a patient as alleged, may suggest they have insight into the concerns regarding ill-treatment of a patient.

However, the full extent of any insight and willingness to put things right ('**remediate**') can only be assessed once the investigation concludes that Nursing Associate A behaved as alleged.