When we revisit case to answer decisions

Reference: CAS-4 Last Updated: 30/08/2024

Once a case has been referred by the Case Examiners to the Fitness to Practise Committee there's no power for us to review the case to answer decision.

However, we recognise that there are occasions when things go wrong in our process, and information we've been sent isn't given to the Case Examiners to consider.

This might happen because of a human or technical error, and could result in a case being referred to the Fitness to Practise committee when it otherwise might not have been.

An example of this might be where the nurse, midwife, or nursing associate has provided a response, but this wasn't given to the Case Examiners. This may contain evidence of insight, steps they've taken to strengthen practice and reflection which would have been directly relevant to the Case Examiners' decision.

Although these situations are rare, when issues like this are identified it is important we put them right.

We might be able to do this in a number of ways, including:

1. Referring the case back to the Case Examiners so they can revisit their decision in light of the information they should have seen;
2. Applying to a panel of the Fitness to Practise Committee to offer no evidence, where appropriate;
3. Allowing the case to continue to a final hearing, making sure the panel has all of the relevant information.

What we decide to do will depend on a number of factors, including how far the case has progressed before we identify the error, and what the fairest solution would be in all the circumstances.

Where the error has been identified quickly we may consider asking Case Examiners to consider the information they hadn't been given, and make a new decision. The Case Examiners could still decide to refer all or part of the case to the Fitness to Practise Committee, or they may decide that in light of the available information there is no case to answer, or that a warning or undertakings are now appropriate.

Where the error has been identified later in our process, and the information indicates there is no case to answer for the nurse, midwife, or nursing associate, we may consider whether offering no evidence is a more appropriate solution. This means we'll ask the panel of the Fitness to Practise Committee not to continue with the case.

In cases where the error is unlikely to have made a difference to the Case Examiners' decision we may choose to continue with the case to hearing, ensuring that all of the relevant information is given to the panel.

Where information wasn't seen by the Case Examiners because it was provided after the deadline for their consideration, this would be considered new information rather than an error.

In these circumstances it would not be appropriate for the Case Examiners to revisit their decision, but the Fitness to Practise Committee can take the information into account when it considers the case.