

# Disclosure

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## What is disclosure?

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It's the process we follow during the investigation of a nurse, midwife or nursing associate's case and means we provide them with the evidence we've obtained.

We provide it because:

- we're going to rely on it to support our case
- it could undermine our case or support the nurse, midwife or nursing associate's case
- it makes sure that the process is fair
- it makes sure that the nurse, midwife or nursing associate is given enough information to properly respond to the allegations against them

We may also provide them with evidence that we don't intend to rely on to support our case. We call this 'unused material'.

## Is there any information that we won't disclose?

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We won't disclose any material that's subject to legal privilege. This means it contains confidential legal advice, or we could need to keep it confidential for other reasons.

## When a nurse, midwife or nursing associate asks us to obtain evidence

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There are times when a nurse, midwife or nursing associate may ask us to obtain evidence on their behalf.

This is because we, as a regulatory body, have the power to request the disclosure of documents from organisations or people that the nurse, midwife or nursing associate may not be able to get themselves.

Our legal team will consider whether the request meets our criteria for disclosure.

Although we don't have a duty to gather evidence asked for by a nurse, midwife or nursing associate, they do have a right to a fair hearing and so we'll consider the following three criteria:

### 1. Is it relevant or essential?

For example:

A request for patient notes over a month period may not be relevant or essential if the allegation only concerns a medication error that occurred on one day. The nurse, midwife or nursing associate may need to explain why the requested material is essential for us to get.

### 2. What steps has the nurse, midwife or nursing associate taken to obtain the material themselves?

They should:

- have made attempts to get the information themselves before requesting us to get it for them.
- let us have the contact details of who to contact for us to make the request.

**3. Are we better placed to obtain this material from the organisation or person that holds it?**

It may be that because we have a statutory power to request information for the purposes of our investigation, we may be better placed to request the material than an individual nurse, midwife or nursing associate.