

# Investigating at the same time as other organisations

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## If another organisation is carrying out an investigation

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All investigations into a nurse or midwife's fitness to practise should begin without delay.

If another organisation has started their own investigation, we'll continue with ours unless there are clear and compelling reasons for us to put this on hold.

When we delay an investigation, we must be clear why we consider that it's in the public interest for us to do this.

## When we may need to put a case on hold

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There are certain circumstances when it would be reasonable to delay our investigation. For example, if:

- there is a real and significant risk that our investigation will **prejudice** the other investigation
- it is **impractical** for our investigation to continue at the same time
- it is likely to be **more efficient** for us to wait because we can use the information the other organisation has gathered

Where one of these conditions is met, we will consider whether it is possible for us to investigate other aspects of the case while the other investigation continues.

We talk more about these conditions in the guidance below.

## Our investigation might risk prejudicing another investigation

It's most likely that our investigation can risk prejudicing an investigation by another organisation when the other investigation has criminal prosecution functions, such as the police, Serious Fraud Office (SFO) or Health and Safety Executive (HSE).

For example, there can be a risk that the evidence we've gathered could conflict with or taint the evidence being gathered by their investigation, or it could interfere with their ability to prosecute or start other proceedings.

Our investigators will always contact the other organisation to understand their view on the matter. If there's a real risk of the other investigation being prejudiced, it may still be possible for us to investigate some areas because our investigations often have a broader scope. For example, criminal proceedings might focus on an allegation of assault while our related proceedings might include other aspects such as the quality of the care provided.

If we are actively considering continuing with our investigation into other areas of the nurse or midwife's practise, our investigators will always discuss with the other organisation to agree which areas we can investigate. This could include agreement on which witnesses can be contacted and what subjects we can and cannot discuss with particular witnesses.

It's unlikely that our investigation will cause prejudice in cases where the nurse or midwife is not being directly investigated by the other investigating organisation. This could be where the setting in which they practise is the

focus of the investigation. In these cases we'll still contact the other organisation as a precaution and because disclosure of documents or information from that party may help our investigation.

### **It's impractical to proceed**

In some cases the nature and scope of an investigation by another organisation will mean that it's not practical for our investigation to proceed. An example of this is where the police have seized all medical records as part of an ongoing investigation and there are no other lines of inquiry for us to look into.

We'd also be unlikely to investigate any alleged criminal offending that happen outside a nurse or midwife's clinical practice, wasn't related to it in any way, or had no direct link to their professional registration as a nurse or midwife, unless they eventually received a criminal conviction or caution.

### **It's more efficient to wait**

It can sometimes be significantly quicker, or otherwise more efficient, if we put our investigation on hold to allow the other organisation's investigation to conclude.

For example, if an employer is investigating a concern they may already have interviewed many of the witnesses we'd need to contact. This would have an impact on our case in terms of how much of the evidence is likely to be available.

Similarly, the nurse or midwife may have been able to remedy the problems in their practice under their employer's guidance.

The other organisation may be better placed than us to carry out the investigation because of the nature or scale of the allegations. A good example of this might be a wide-ranging investigation into a serious public safety incident within a setting or healthcare organisation.

Putting our case on hold for an investigation to finish would be reasonable if we'd already looked at all other feasible lines of inquiry.

## **Deciding if we should proceed with our investigation**

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We'll consider how long it's likely to take for the other organisation to conclude their investigation.

If there's any possibility that the other investigation could cast doubt on a decision to close the case, or could mean we are asked to reopen the case, and that investigation is likely to conclude quickly, it will normally be better to wait for it to conclude before we progress our case.

On the other hand, if the other investigation has no end in sight or its conclusion is still a significant length of time away, it is likely to be appropriate to conclude our investigation in the meantime.

We'll also consider if potential impact of the outcome of the other investigation on the nurse or midwife's fitness to practise when deciding whether to put in place a stopping point.

An example of this could be where another investigation finds major systemic failings within the nurse or midwife's place of employment. The result of this could be that the Fitness to Practise Committee is far less likely to find that the nurse or midwife's fitness to practise is currently impaired. If this is a real possibility, it will rarely be appropriate to conclude our investigation until the third party investigation has finished.

If we decide that our investigation should go ahead, we'll consider whether we should identify a later point in our own process at which we will hold our case, to allow the investigation by the other organisation to conclude, before we would then allow our case to proceed. This will most often be when the case is ready to be considered by case examiners.

## **What we'll do if our investigation is put on hold**

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If our investigation is put on hold, we'll make sure to keep in contact with all relevant parties.

Any time we recommend that a case is closed while another organisation's investigation is ongoing, we will take care to avoid giving any party the impression that the matter has been finally dealt with.

We'll also maintain contact with:

- the other investigating organisation – we'll use these regular updates to stay well informed of new and unexpected information which may inform our decision to keep the case on hold
- any witnesses – we'll often take witness statements at the beginning and then to contact witnesses to reconfirm them once the case is no longer on hold.

In some cases we can reconsider allegations where new information has surfaced, including outcomes of other investigations.