

# Investigating at the same time as other organisations

Reference: INV-6 Last Updated: 01/07/2022

## In this guide

Overview

When is an investigation by another organisation likely to affect our own investigations?

Deciding if we should proceed with our investigation

What we'll do if our investigation is delayed

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## Overview

[Back to top](#)

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

We understand that our proceedings can be stressful and have an impact on all the people involved in them, so we want to resolve our cases as soon as we can.

However there can be times when our own investigations are affected by investigations that are being done, or that need to be done, by another organisation. This may mean that we have to think about limiting our own investigations, or even delaying them.

### When is an investigation by another organisation likely to affect our own investigations?

[Back to top](#)

The circumstances when investigations by another organisation may affect our own investigations are likely to be when:

1. There is a real and significant risk that our investigation will **prejudice** the other investigation
2. It is **impractical** for our investigation to continue at the same time
3. It is likely to be **more efficient** for us to wait because we can use the information the other organisation has gathered
4. The outcome of the other investigation is likely to have an impact on our decision on the fitness to practise of the person we are investigating

We talk about these circumstances in more detail in the guidance below. These circumstances should not be viewed in isolation from each other, as there may be times when there is some overlap between them or more than one of them is relevant to our own case.

### 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, midwife or nursing associate's practice, 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, midwife or nursing associate 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 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.

### **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, midwife or nursing associate may have been able to address the problems in their practice under their employer's guidance. This might impact on whether we need to take the case any further (which ties in with the impact it has on our own fitness to practise decision - discussed below).

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.

When we are considering efficiency we will need to think about the relevance of the evidence being gathered by the other organisation to our own investigations, and what benefit we think there would be to waiting for that investigation to conclude. We have separate guidance on the admissibility of such [evidence in our guidance library](#).

### **It is likely to impact on our own decision on fitness to practise**

There can be times when the outcome of an investigation by another organisation is important for our own decision making in respect of the fitness to practise of the professional.

For example, if the Police were investigating alleged criminal offending which was not connected to a professional context, the outcome of the criminal investigation is likely to impact on our own decision on whether we need to take regulatory action at all.

Another example of this could be where another investigation is being carried out into major systemic failings within the professional's place of employment, which is relevant to the issues in the professional's practice that we are investigating. The result of this could be that we better understand the **"context"** in which the issues occurred, and this in turn could impact on the view we take of the professional's fitness to practise. If this is the case we will need to carefully consider the impact that has on our own investigations, as it may be fairer for us not to conclude our investigation until the third party investigation has finished.

As we explain in our guidance on **"context"** there may be times when we will need to proactively share information with other organisations if we identify that systems issues caused or contributed to a situation. When we do so we will also need to ask the other organisation whether they intend to conduct their own investigations into those systems issues and consider the impact that has on us progressing our own investigations.

We have separate guidance on the [admissibility of the findings of other organisations](#).

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

### **[Back to top](#)**

Where one or more of the four circumstances outlined above is met, this does not mean that we will automatically limit or stop our own investigations. What we will do is carefully consider what it means for our own investigation

and then take the steps we think are appropriate in each individual case.

We will look at whether it is possible for our own investigations to continue in full, or whether we need to limit our investigations. This might mean that we only investigate certain parts of our own case which are not linked to the other investigation. Alternatively it might mean that we investigate our whole case but up to a certain point which we have agreed with the other organisation.

We may need to ultimately wait for the other investigation to conclude before we can conclude our own investigations, but there will often be things we can do so that we are in a good position to progress our own case when the other investigation has finished.

For example we may not be able to interview certain witnesses but it may be possible to make initial contact with them at an early stage to let them know that we will need to speak to them after the other investigation has been completed. Another example is that we could seek disclosure from the police about criminal offending for a prosecution that hasn't yet concluded.

As we say above, we may reach a point where we cannot progress our own case any further until the other investigation has finished. There may also be some cases where we cannot progress our case at all until that other investigation is completed. This will mean that our own investigation will need to be paused or delayed.

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

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 delayed**

[Back to top](#)

If our investigation is delayed this does not mean that we will be doing nothing in the meantime.

We'll need to make sure that we keep in contact with all relevant parties, and in particular the other organisation whose investigation we are waiting to conclude so that we can try and minimise the time our own case needs to be delayed. We should be proactively seeking updates from that organisation so that we can continue to assess whether we can resume our own investigations. This will help us to make sure that we resume our own investigations as soon as we can..

We will also need to consider any new information received from any of the parties, so that we make sure that we are carrying out any necessary risk assessments. This is so that we can make sure that **any interim order that is in place remains appropriate**, or that **we can apply for an interim order if one is not in place and is now needed**.

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.

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