Criminal offences we don't investigate

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Protected cautions and convictions

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Nurses, midwives and nursing associates need to let us know if they receive a caution or conviction, unless the caution or conviction is protected.

Protected cautions and convictions are defined differently across the UK.

Cautions

Cautions in Scotland and Northern Ireland are not protected.

A caution in England and Wales is protected if:

- the person was under 18 years at the time the caution was given; or
- the person was 18 years or older at the time the caution was given, it wasn't for a listed offence, and six years have passed since the date of the caution.

Convictions

A conviction in England, Wales or Northern Ireland is protected if all of the below bullet points apply:

- eleven years have passed since the date of conviction (or five and a half years if the person was under 18 at the date of conviction),
- it did not result in a custodial sentence (including a suspended sentence) or service detention, and
- it is not for a 'listed' offence.

There are separate groups of 'listed' offences (serious violent and sexual offences) in England and Wales, and in Northern Ireland.

A conviction in Scotland is protected if:

- it is spent, and
- appears in the list of offences to disclose subject to rules, and either:
- the sentence imposed by the court was an admonition or an absolute discharge, or
- fifteen years have passed since the date of conviction(or seven and a half years if the person was under 18 at the date of conviction).

Under Scots law, there is an additional list of convictions which cannot be protected because they are too serious.

Driving offences and penalty fares

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We will not investigate referrals for motoring offences such as:

- parking and other penalty charge notices contraventions
- fixed penalty (and conditional offer fixed penalty) motoring offences
- penalty fares imposed under a public transport penalty fare scheme.

We'll assess other motoring offences on a case by case basis, but will only take regulatory action if this is closely linked to the nurse, midwife or nursing associate's professional practice, or it suggests there may be a concern about their health.

Drink-driving offences

Drink-driving offences will only call into question a nurse, midwife or nursing associate's fitness to practise if:

- the offence occurred either in the course of a nurse, midwife or nursing associate's professional duties, driving to or from those duties, or during on-call or standby arrangements
- there are aggravating circumstances connected with the offence, or
- it is a repeat offence.

If a nurse, midwife or nursing associate has been convicted of a drink-driving offence, decision makers should consider whether we need to explore any underlying alcohol issues that indicate the nurse, midwife or nursing associate's fitness to practise is impaired because of their health.

In such cases the nurse, midwife or nursing associate's employer, general practitioner or occupational health department should be contacted for additional information.

Conditional discharges, absolute discharges and admonitions

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We can't argue that the nurse, midwife or nursing associate's fitness to practise is impaired by reason of that conviction if a nurse, midwife or nursing associate has received the following:

- a conditional discharge
- an absolute discharge
- an admonition in Scotland.

However, we may investigate the underlying misconduct that led to the conviction where the facts suggest particularly serious misconduct, including dishonesty, violence, or sexual offending, especially if it relates to a nurse, midwife or nursing associate's professional practice.