

Misconduct

Reference: FTP-2a Last Updated: 29/11/2021

The Code sets the professional standards of practice and behaviour for nurses, midwives and nursing associates, and the standards that patients and public tell us they expect from nurses, midwives and nursing associates. While the values and principles can be interpreted for particular practice settings, they are not negotiable.

If nurses, midwives or nursing associates fall short of the Code, what they did or failed to do may be serious professional misconduct. We'll need to investigate and take action if this is the case.

When does poor clinical practice become serious professional misconduct?

There are certain kinds of clinical concerns we think are the most serious because they may lead to patients or members of the public suffering harm.

Because fitness to practise is about keeping people safe, rather than punishing nurses, midwives and nursing associates for past mistakes, one-off clinical incidents won't usually be considered serious professional misconduct.

Even where there has been serious harm to a patient or service-user, provided there is no longer a risk to patient safety, and the nurse, midwife or nursing associate has been open about what went wrong and can demonstrate that they have learned from it, we will not usually need to take action.

However, some concerns about patient harm will be so serious that they can't be addressed and we will need to take action to protect public confidence or to uphold professional standards. In cases like this, we will usually only need to take action if it's clear that the nurse, midwife or nursing associate deliberately chose to take an unreasonable risk with the safety of patients or service users in their care.

When we are looking at patient safety incidents involving nurses, midwives or nursing associates, we will always look carefully at the **context** in which they were practising. Even poor practice by a nurse, midwife or nursing associate might actually have happened because of underlying system failures.

In these circumstances, taking regulatory action against a nurse, midwife or nursing associate may be unfair, and may not stop similar incidents happening again in the future or keep people safe.

Our **guidance about seriousness** uses parts of the Code to explain what kinds of clinical concerns we think are the most serious.

What other kinds of misconduct are there?

Actions or failings which are related to clinical practice, but not a direct part of it, can be serious professional misconduct, as can issues about the nurse, midwife or nursing associate's role as a registered professional.

Bullying and harassment of colleagues, dishonesty about qualifications or employment history, are just some examples. A more extensive list is in our **guidance about seriousness**.

Sometimes, even the way a nurse, midwife or nursing associate conducts themselves in their private life could be serious professional misconduct.

This will usually only happen if the concerns raise fundamental questions about their trustworthiness as a registered professional or suggest a deep-seated attitudinal issue such as displaying discriminatory views and behaviours. This is a high threshold, because it means we may need to take action to protect public confidence in all nurses, midwives and nursing associates, or uphold professional standards.

Comparing misconduct in a nurse, midwife or nursing associate's private life, to our approach to criminal convictions, we would say that only convictions for specified offences or ending with a sentence of imprisonment would be serious enough to raise fundamental questions about a nurse, midwife or nursing associate's trustworthiness as a registered professional.

We don't need to become involved in issues like bad timekeeping, or minor breaches of a local disciplinary policy, because they won't put patients or members of the public at risk of suffering harm, and they don't raise fundamental questions about a nurse, midwife or nursing associate's trustworthiness as a registered professional.