Commitment 5: In cases where a nurse, midwife or nursing associate was required to use their professional judgement we'll respond proportionately

Reference: FTP-12e Last Updated: 06/05/2025

Sometimes problems in the working environment will be outside the nurse, midwife or nursing associate's control. We'll take account of this. Examples include problems with systems, processes, equipment or staffing but could also involve issues about culture and leadership.

Where individuals are forced to make difficult choices, we'll focus on how they tried to escalate their concerns, if they did so before the incident or after, and how they exercised their professional judgement with reference to the Code.

Examples of such situations could be choosing to prioritise certain tasks or people over others due to short staffing or other kinds of problems in the working environment. We'll want to see any written records the nurse, midwife, or nursing associate made at the time (or after the event if they were acting in response to an emergency) as well as any relevant policies, documents on processes, or guidance documents in place at the time. We'll look for evidence that the professional was able to think critically and draw on their experience to make evidence-informed decisions, recognise and address any personal or external factors that influenced their decision-making, and explained the rationale for their choices.

We'll also ask questions about those in management positions to find out what their role was in the situation and how they acted on any concerns that were escalated to them. There may be issues relating to bullying and harassment that we need to consider. Where those in management positions have been required to make difficult decisions, we'll also look at what action they took to escalate concerns, and if they're also on our register, how they exercised their professional judgement with reference to the Code. If they're not on our register, we'd want to know if they took the steps they should have done as we might need to share that information with others.

When dealing with cases where someone has had to exercise their professional judgement, we won't apply an artificially high standard by judging what should have happened with the benefit of hindsight. Instead, we'll look at what the individual did in the context of the pressures they were working under at the time (which we know might involve life and death situations). We'll consider if recurring situations or a sense of perpetual challenge may have impacted on their professional judgement.

If there's evidence a nurse, midwife or nursing associate (either front line staff or those in management positions) didn't take the steps they clearly should have done under the Code, and this amounts to a risk to either public safety, public confidence or to professional standards , then they'll need to show us they've put the concern right so that this risk has been reduced.