Commitment 8: Where an incident has occurred because of cultural problems, we'll concentrate on taking action to minimise the risk of the same thing happening again

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While we expect nurses, midwives and nursing associates to comply with the Code at all times, we recognise the psychological evidence about how hard it can be to speak up or to disobey group norms, even if that means people acted in a way that looks unacceptable with hindsight. If the evidence shows that an incident occurred because of a poor culture we'll take this into account when deciding what action we need to take.

As we explain in our screening guidance, some concerns are likely to require us to take regulatory action because the professional's behaviours and conduct raise clear risks to public safety, public confidence and professional standards. Such concerns include things like causing deliberate harm to people who use services, concerns of discrimination that have taken place either inside or outside the workplace, or a person breaching the professional duty of candour, for example by falsifying records or covering up their mistakes. For these concerns we'd follow the approach in our screening guidance 'matters requiring full investigation by the NMC'. We'd still look into the impact of poor culture or group norms, and evidence of these would be considered as part of our assessment of the case. However, concerns such as these are more likely to call into question fundamental aspects of the individual's fitness to practise, and require us to take regulatory action.

Where cultural problems are at the heart of the concern, we'd need to seek assurance that the individual has since reflected and demonstrated that they can act appropriately if they found themselves in a similar working environment. Without this evidence, regulatory action may be required to stop the problem from happening again.

Where there's evidence that other individuals on our register took part in the same poor practices as the person referred to us, we'd need to consider what other action to take to keep people safe. This might mean opening referrals against them. We are less likely to open a new referral if we're confident that the individual has reflected on the incident and demonstrated that they can act appropriately if they found themselves in a similar working environment. We'll also consider sharing information with other regulators and employers via our regulation advisors.

In these types of situations, the people leading or fostering poor cultures should be held accountable as well as and not instead of the people who carry the behaviours out. We'll need to consider whether we need to take any action against those in senior positions who were responsible for the poor culture and for ensuring correct processes were in place, known about, understood and adhered to.

If managers knew poor practices were happening and did nothing, it might call their management arrangements and the level of support they provided into question. It might also be a concern if managers didn't know of a widespread cultural issue. Again, we may need to consider opening referrals against people on our register or sharing information with other regulators or employers who also have a role in preventing future harm to people who use services.