

Impairment examples

These are examples, in every case we need to consider the facts and circumstances to reach our decision. An investigation will allow us to look at the facts, decide if fitness to practise is impaired and, if necessary, take action.

Conduct – Conduct is about how a worker has behaved.

Example 1

The relative of someone who uses services has made a complaint that they witnessed a worker swear at and use excessive force when supporting that person.

This is conduct that we would investigate.

Example 2

A worker attends work for a shift. When talking with a colleague during a shift break the worker discusses an incident that occurred during a night out at the weekend which resulted in the police charging the worker with breach of the peace and assault. The colleague informs the Unit manager.

This is conduct that we would investigate.

Example 3

A person who uses services asks a worker for a cup of tea. The worker acknowledges the request but does not return with the drink. The person who uses services makes two more requests for a drink before the worker finally brings the cup of tea and it is an hour after the original request. The shift supervisor overhears the final request and counsels the worker about her actions.

Although the worker's behaviour demonstrated a lack of respect for the individual's rights and choices, it was an isolated incident addressed by the employer and is not of a level of seriousness that would raise a concern about the worker's fitness to practise. We would expect the employer to manage this behaviour.

This is conduct that we would not investigate.

Example 4

A worker answered a buzzer call from a person who uses services who was requesting assistance to use the toilet. The worker refused to help, telling him in a harsh tone, that she was too busy supporting someone else and he would just have to wait. The worker did not return and the individual soiled himself. The individual was embarrassed and did not buzz again for support. After the shift handover, three hours later, another worker went to the person's room to check if he needed anything. The person explained he had previously asked for support however had been left without any and had subsequently been unable to make it to the toilet.

This behaviour was an intentional abuse of a position of trust and demonstrated a lack of dignity and respect for the individual being supported. This was a serious breach of the rights and choices of the individual using the service. This behaviour would call into question the worker's fitness to practise.

This is conduct that we would investigate.

Professional practice - Professional practice is about a worker's competence and how they carry out their role, whereas conduct is about their behaviour.

Example 5

There are concerns about a worker's record keeping when administering medication to people who use services. An employer decides to manage these concerns through the organisation's capability process and provide the worker with increased supervision, mentoring and further training for a nine month period. After this period the worker is still failing to meet the record keeping standards. Despite the additional training and support the employer is not satisfied that the worker can competently complete medication records. The worker is dismissed on the grounds of capability due to competence.

This is practise that we would investigate.

Example 6

An employer has concerns about a worker's ability to intervene timeously and appropriately to support colleagues during challenging situations that occur within the unit. The employer decides to manage the worker's fitness to practise through the organisation's capability process. A performance plan is put in place for the worker which includes further training, supervision and a period of monitoring and assessment. The plan is to be reviewed at regular intervals.

The worker cooperates fully with the plan and there is an improvement in practise to a satisfactory standard.

We would expect the employer to continue to manage this behaviour.

This is conduct that we would not investigate.

Health - Many people living with a health condition are able to practise safely and effectively with or without adjustments. We would expect workers to manage health conditions by:

- being open and honest with their employer about their condition and any limitations they may have
- complying with any recommended steps to manage the condition.

A worker's fitness to practise may be impaired if they have a health condition (this includes an addiction to drugs or alcohol) which has an adverse effect on their ability to do their job safely and effectively. For example, where the worker's reasoned decision making, thinking and/or behaviour are affected or where there is a physical symptom that means they cannot carry out their role safely and effectively.

A worker may be signed off as 'unfit for work' due to ill health but this does not necessarily mean their fitness to practise is impaired.

Examples of certain health conditions that might mean fitness to practise is impaired are listed below (this is not a complete list):

- periods of unconsciousness or blackouts
- serious memory loss
- inability to control anger or other emotions
- reduced ability to make decisions
- inability to carry out certain physical tasks
- lack of self-awareness and impact of behaviour on others
- lack of concentration
- alcohol and substance addiction
- a serious communicable disease.

There may be situations where a worker goes through periods of ill health when they cannot practise safely and then is well again. This may happen when a person is living with a mental health condition. If the worker acknowledges the situation, and with the employer is managing we would not investigate.

Example 7

A worker is suffering from alcohol dependency but the addiction is under control and they are attending counselling sessions. The worker has never attended work under the influence of alcohol and the employer has no concerns regarding the worker's practice. The employer and the worker discuss progress and stability of the worker's condition at regular supervision sessions.

As the health condition is being managed, **we would not investigate** because the worker is managing the health condition and keeping the employer informed. The worker has insight and an understanding of the impact that the dependency could have towards colleagues and people who use services.

If, due to personal circumstances, the worker starts to consume alcohol again, attends work and attempts to provide care to people using the service whilst under the influence of alcohol, we should be informed so that we can investigate, as the health condition is no longer being managed and could impair the worker's fitness to practise.

Example 8

A worker has clinical depression and is taking medication for it. The worker's doctor recommends a change to medication which causes the worker to experience difficulties managing the condition. In particular, the worker finds some aspects of her role difficult and distressing. The worker speaks to the employer and it is agreed that until the issue with the medication is resolved, the worker's duties/workload will be adjusted for a short period of time.

Because the worker has identified an area of work where they may not be able to meet required standards of practice, they have shown appropriate insight and understanding into their condition and the impact this could have on their ability to practise safely and effectively.

This is being managed and we would not investigate.

Example 9

A worker has type 2 diabetes and has been taking medication for over seven years and has never fallen ill at work. The worker has told all colleagues about the condition and keeps a small amount of medication somewhere safe at work.

The worker's insight into understanding and management of the condition means that they are able to practise safely.

We would not investigate.

Example 10

A worker was recently diagnosed with epilepsy and declared this to an employer. The employer recommended that the worker tell colleagues, and asked the worker to make sure they took their medication. The worker chose not to tell any colleagues and in the following months did not take medication on a significant number of occasions.

The worker and a colleague were carrying out personal care with a person who uses services and the worker had a seizure. The colleague did not know about the worker's condition so became very distressed when trying to help the worker, as a result the person who uses services was left unattended and fell.

The worker is not complying with medical treatment and lacks insight into the impact of the health condition on colleagues and people who use services.

We would investigate.

Example 11

A worker develops pneumonia and is on sick leave for several weeks while recovering. Although the worker is not fit enough to attend work, the illness is short term and is being effectively managed.

We would not investigate.

Example 12

A worker has had a history of depression and around 10 years ago was diagnosed with bipolar disorder. Several years ago the worker attempted suicide and was assessed by occupational health and a phased return was recommended. The employer has had no concerns about the worker's standard of practice and the worker's mental health condition has not had a negative effect on people who use services.

The worker attempted suicide again more recently and was detained under the Mental Health Act. When the worker was released from hospital, they were put on medication, monitored and supported by a GP, a psychiatrist and the local community mental health team.

The employer arranged for a further occupational health assessment which found that the worker was not fit for work. The worker is on long term sick leave. We would not investigate.

At an occupational health assessment four months later, the worker was found to be fit to return to work.

The worker's employer arranged a phased return with reduced hours (gradually building up to fulltime hours) with regular supervision and caseload reviews. The worker has since returned to work and there have been no further concerns. Because the worker's health condition continues to be managed **we would not investigate.**

Scottish Social Services Council
Compass House
11 Riverside Drive
Dundee
DD1 4NY
Telephone: 0345 60 30 891
Fax: 01382 207215
Email: enquiries@sssc.uk.com
www.sssc.uk.com

If you would like to request this document in another format please contact the SSSC on 01382 207101.

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