

Decision on whether a warning is required

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Introduction

1. Following a decision that a Physician Associate ('PA') or Anaesthesia Associate's (AA's) fitness to practise is not impaired, case examiners can issue a warning* to enhance public protection.
2. References made to 'public protection' throughout this document refer to our legal duty to protect the public which is split into three distinct parts. It means we must act in a way that:
 - protects, promotes and maintains the health, safety and wellbeing of the public
 - promotes and maintains public confidence in the professions
 - promotes and maintains proper professional standards and conduct for members of the professions.



Our publication [Decision making principles in fitness to practise](#) explains our legal duty in more detail.

3. When reaching a decision on impairment, case examiners will have applied the guidance [Decision on whether regulatory action is required](#) to form a view on whether the PA or AA poses any current and ongoing risk to public protection. The case examiners should remind themselves of their earlier conclusions when making their decision on whether a warning is proportionate.
4. The purpose of this guidance *Decision on whether a warning is required* is to support case examiners to reach fair and consistent decisions on when it is appropriate to impose a warning.

* Articles 10(3)(a)(ii) and 10(5)(a)(ii) of the AAPA Order 2024

What is a warning?

5. A warning is a formal response which indicates to a PA or AA that any given behaviour or poor performance represents a departure from the professional standards expected* and should not be repeated. Although a warning does not place any restrictions on a PA or AA's registration, it should still be viewed as a serious regulatory response.
6. Where the case examiners impose a warning, this signals to a PA or AA that repeating the same, or similar, behaviour or poor performance is likely to result in a future finding of impairment i.e. that they pose a current and ongoing risk to public protection and that restrictive action (conditions, suspension or removal) is required in response.
7. Warnings will therefore be appropriate for concerns that just fall short of a conclusion that the PA or AA poses a current and ongoing risk to public protection.
8. Warnings are issued in the interests of maintaining public confidence in the professions and upholding professional standards and highlight to the wider professions and public that certain behaviour or poor performance is not acceptable. Warnings are published on the PA or AA's entry on the register and disclosed in line with our Publication and Disclosure policy.

A warning must be proportionate

9. The publication [Decision making principles in fitness to practise](#) explains that a good decision about an individual's fitness to practise should protect the public, be proportionate, be transparent and be fair.
10. In the context of deciding whether a warning is proportionate, considering the impact on those affected by the decision, the interests of members of the public and other professionals, includes how a warning highlights to the wider professions that certain behaviour or poor performance is unacceptable. This is likely to outweigh the interests of the individual PA or AA.
11. A warning will not be a proportionate response where a conclusion has been reached that the PA or AA poses a current and ongoing risk to public protection because this means there is a requirement to restrict their practice in some way. Warnings are also not appropriate if the concern(s) relates solely to the impact of a health condition on a PA or AA's ability to provide care to a sufficient standard, or solely to the PA or AA's knowledge of English language, given the nature of those types of concerns.
12. To be proportionate, fair and transparent, warnings must clearly highlight the behaviour or poor performance that led to the warning being imposed, state how that behaviour or poor performance impacts on one or more of the three parts of public protection, and place the PA or AA on notice about their future behaviour or performance.

* Set out in Good Medical Practice and the more detailed guidance

Deciding if a warning is required

13. To decide whether a warning is required, case examiners should consider the following questions and answer them based on the individual circumstances of the case:

a. Has there been a clear and specific departure from the professional standards?

14. During the case examiners' assessment of whether the PA or AA poses any current and ongoing risk to public protection, they will have identified and considered evidence relating to any departures from the professional standards as part of considering the seriousness of the concern.
15. In the absence of a clear and specific departure from the professional standards expected, a warning will not be appropriate and the case examiners should take no further action. However, if there has been a clear and specific departure from the professional standards, the next question should be considered.

b. Did the concern about the PA or AA's behaviour or poor performance just fall short of a conclusion that they pose a current and ongoing risk to public protection?

16. If the case examiners are satisfied that the evidence clearly supported a conclusion that the PA or AA **does not** pose any current and ongoing risk to public protection, a warning will not be appropriate and no further action should be taken.
17. Where the decision on whether the PA or AA's behaviour or poor performance poses any current and ongoing risk to public protection was **finely balanced**, but just fell short of a conclusion that the PA or AA poses a current and ongoing risk, a warning may be appropriate, and the next question should be considered.

c. If the behaviour or poor performance was repeated, would it likely result in a conclusion the PA or AA poses a current and ongoing risk to public protection?

18. To decide this question, the case examiners should consider whether repetition of the same, or similar, behaviour or poor performance would:
- increase the seriousness of the concern, and / or
 - undermine the weight attached to any evidence of relevant context and / or evidence of insight and remediation that was taken into account and had the impact of decreasing the level of current and ongoing risk to public protection.
19. If repetition wouldn't have that effect, a warning will not be appropriate, and the case examiners should take no further action.
20. However, if it would have that effect, the impact is that any such repetition would increase the level of any current and ongoing risk to public protection posed by the PA or AA. Where

the increase to the level of risk would result in a conclusion that the PA or AA poses a current and ongoing risk to public protection, this means restrictive action would be needed in response. In these circumstances, it will usually be appropriate to issue a warning.

Deciding if a warning is required in specific case types

1. Sexual misconduct

21. As sexual misconduct will usually indicate a starting point of a high level of seriousness, a conclusion that the PA or AA poses a current and ongoing risk to public protection will usually have been made.
22. On the rare occasion the specific type of behaviour amounting to sexual misconduct is found to have just fallen short of a conclusion that the PA or AA poses a current and ongoing risk to public protection, and there are no other concerns requiring restrictive action, a warning will often be appropriate. This may be where the concern falls towards the lower end of the spectrum of seriousness and / or where there is no relevant context that increases risk, and the PA or AA has demonstrated insight and remediation and kept their knowledge and skills up to date.

2. Dishonesty

23. As dishonesty will often indicate a starting point of a high level of seriousness, a conclusion that the PA or AA poses a current and ongoing risk to public protection will often have been made.
24. However, where the specific type of behaviour amounting to dishonesty just fell short of a conclusion that the PA or AA poses a current and ongoing risk to public protection, and there are no other concerns requiring restrictive action, a warning may be appropriate. This may be where the concern falls towards the lower end of the spectrum of seriousness and / or where there is no relevant context that increases risk, and the PA or AA has demonstrated insight and remediation and kept their knowledge and skills up to date.

3. Violent or abusive behaviour

25. As violent or abusive behaviour will often indicate a starting point of a high level of seriousness, a conclusion that the PA or AA poses a current and ongoing risk to public protection will often have been made.
26. However, where the specific type of behaviour amounting to violent or abusive behaviour just fell short of a conclusion that the PA or AA poses a current and ongoing risk to public protection, and there are no other concerns requiring restrictive action, a warning may be appropriate. This may be where the concern falls towards the lower end of the spectrum of seriousness and / or where there is no relevant context that increases risk, and the PA or AA has demonstrated insight and remediation and kept their knowledge and skills up to date.

4. Discrimination

27. As unlawfully discriminating in relation to characteristics protected by law will usually indicate a starting point of a high level of seriousness, a conclusion that the PA or AA poses a current and ongoing risk to public protection will usually have been made.

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- 28.** For all types of discrimination that just fell short of a conclusion that the PA or AA poses a current and ongoing risk to public protection, and there are no other concerns requiring restrictive action, a warning will often be appropriate. This may be where the specific type of behaviour falls towards the lower end of the spectrum of seriousness and / or where there is no relevant context that increases risk, and the PA or AA has demonstrated insight and remediation and kept their knowledge and skills up to date.

5. Clinical concerns

- 29.** A wide range of behaviour and / or poor performance is frequently seen in these cases. Where there is a wide range of clinical concerns, a conclusion that the PA or AA poses a current and ongoing risk to public protection will usually have been made.
- 30.** However, where the specific type of behaviour or poor performance amounting to the clinical concern just fell short of a conclusion that the PA or AA poses a current and ongoing risk to public protection, and there are no other concerns requiring restrictive action, a warning will often be appropriate. This may be where the specific type of behaviour or poor performance falls towards the lower end of the spectrum seriousness and / or where there is no relevant context that increases risk, and the PA or AA has shown insight and remediation and kept their knowledge and skills up to date.

6. Impact of a health condition

- 31.** Where the concern relates solely to the impact of a health condition on the PA or AA's ability to provide care to a sufficient standard, a warning will not be appropriate due to the nature of the concern and the specific purpose of warnings.

7. Knowledge of English language

- 32.** Where the concern relates solely to a PA or AA's knowledge of English, a warning will not be appropriate due to the nature of the concern and the specific purpose of warnings.

8. Criminal convictions and cautions and determinations by another body responsible for the regulation of a health or social care profession

- 33.** Certain types of convictions, cautions and determinations will usually indicate a starting point of a high level of seriousness, and so a conclusion that the PA or AA poses a current and ongoing risk to public protection will usually have been made.
- 34.** However, for other types of conviction, caution, and determination cases, where the circumstances of the case just fell short of a conclusion that the PA or AA poses a current and ongoing risk to public protection, and there are no other concerns requiring restrictive action, a warning will often be appropriate. This may be where the nature of the conviction, caution or determination falls towards the lower end of the spectrum of seriousness and / or where there is no relevant context that increases risk, and the PA or AA has demonstrated insight and remediation and kept their knowledge and skills up to date.