

Drafting charges in health cases

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Health allegations where a nurse, midwife or nursing associate appears responsible for incidents

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In cases where the concern about the nurse, midwife or nursing associate's practice involves their **physical or mental health**, we draft the charge depending on how their health condition has presented a risk to patients.

It is important that we are able to provide details and specific examples in the health charge, in order to explain to the nurse, midwife or nursing associate and the panel of the Fitness to Practise committee why we say the health condition is a source of concern.

For example:

- the nurse, midwife or nursing associate has done things as a result of their health condition,
- there is strong evidence about the incidents themselves, and
- sound medical evidence that the incidents would not have happened if the nurse, midwife or nursing associate did not have the health condition.

In these cases, our concern is about the way in which the health condition manifests itself to cause risks, rather than about blaming the nurse, midwife or nursing associate for their actions.

This means that we should consider the charge in terms of impaired fitness to practise by reason of health.

Separate concerns in cases involving health

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If a case also involves a separate concern that doesn't have anything to do with the nurse, midwife or nursing associate's health, we could allege that their fitness to practice is impaired for more than one reason.

We would do this if there were separate regulatory concerns about:

- misconduct
- lack of competence
- criminal offending
- not having the necessary knowledge of English
- a regulatory decision by another health or care organisation.

In these circumstances, we could ask the Fitness to Practise Committee to consider these two or more regulatory concerns, based on two or more different factual backgrounds, at the same time, as part of the same charge.

Exceptional cases: health-related conduct incompatible with continued registration

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In exceptional cases, there may be alleged incidents which are so serious that there would be a real risk to the public's trust in nurses, midwives or nursing associates if there was not an immediate striking-off order.

In these cases, the allegation should be about misconduct (or a conviction, if the nurse, midwife or nursing associate was convicted after the incident), even if the incidents would not have happened had the nurse, midwife or nursing associate not had a particular health condition.

This is because in this small category of very serious cases, the immediate removal from the register can only happen if the case is based on misconduct or conviction.

This very unusual situation only arises in the most serious cases where the nurse, midwife or nursing associate could not be allowed to continue practising, for example, in cases where a nurse or midwife has deliberately harmed a patient because of a health condition they had.

Privacy

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We respect the privacy of nurses, midwives or nursing associates and will not publish details of health conditions on our website. This information would be provided in a private schedule that would not be published.

A nurse, midwife or nursing associate should co-operate with the NMC if they are under investigation.

If a nurse, midwife or nursing associate has not co-operated with our investigation into their physical or mental health, we can consider adding this failure to co-operate to the allegations we consider.

This may be taken into account by the Fitness to Practise Committee when it determines whether or not the nurse, midwife or nursing associate's fitness to practise is impaired by reason of their physical or mental health.¹
1 Rule 31(5)(b).