

# Practical drafting issues

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## How we structure the charge

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The charge follows a chronological order wherever possible. There may be exceptional cases where a different order will make it clearer to the reader, helping them to understand the charge.

For example, in a lack of competence case, it may be clearer to group the different facts by the type of clinical practice, rather than listing events chronologically.

We'll aim for a simple structure and try to avoid multiple clauses and sub-clauses where we can.

## We use plain English whenever possible

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Where we need to do so and it's appropriate, we'll briefly explain any clinical terminology.

## The preamble, or introduction to the charge

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As a general rule, the charge will start with:

*“That you, a registered nurse [or registered midwife or nursing associate]...”*

Where it's relevant or necessary, the charge may refer to the nurse, midwife or nursing associate's professional role, or their workplace. For example, where a midwife's level of experience is relevant to the seriousness of a misconduct charge, the charge might read:

*“That you, while employed as a band 6 midwife...”*

Another example of where a nurse, midwife or nursing associate's professional role might be relevant is in a charge of neglect or abuse of vulnerable patients in a care home. The preamble might then read:

*“That you, while employed as a manager at Sandythorne Care Home...”*

Sometimes, we'll specify the dates between which we say the facts happened, at the beginning of the charge.

For example:

*“That you, between 14 February and 30 June 2015...”*

Alternatively, where we identify the dates of particular incidents in the main part of the charge itself, we won't need to specify any dates in the preamble.

Except in the particular circumstances described above, it's rarely necessary for us to specify the dates of a nurse, midwife or nursing associate's employment in a particular place, since it's the dates of the period during which the conduct took place, rather than the dates of employment, which are relevant to the charge.

## Charging facts in the alternative - 'and' 'or'

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Sometimes, it may be appropriate for us to present the alleged facts in the alternative. For example, if the evidence shows that a nurse, midwife or nursing associate has either not administered medication, or has failed to record that they have administered medication, we may draft the charge to make this clear.

For example:

*“On 1 January 2018, you failed to administer medication to Patient X or, in the alternative, failed to record that you had administered medication to Patient X.”*

In other circumstances, where it's appropriate, we may use 'and/or'. We'll use this where the nurse, midwife or nursing associate could have done one thing or the other, or both.

For example:

*“On 1 January 2018 you punched and/or slapped Patient A.”*

We may also use 'and/or' where we want to allege that one or more of the things we say the nurse, midwife or nursing associate did, or failed to do, show that they had a motive or state of mind that makes the case more serious than it would be if it just made up of the actions themselves.

For example:

*“On 1 January 2016 you kissed Colleague A.*

*On 2 January 2015 you put your arm around Colleague A's shoulder.*

*Your actions in charge 1 and/or 2 were sexually motivated.”*

## Schedules

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We can use schedules to make the charges easier to understand.

For example, if we're alleging that a nurse, midwife or nursing associate has claimed sick pay while working elsewhere on a number of different dates, we'll include a general factual statement within the main body of the charge, alleging that the nurse, midwife or nursing associate has claimed sick pay while working elsewhere on one or more of the occasions set out in the schedule.

We'll then list all the dates in the schedule.

Where there are so many alleged facts that the charge could become unnecessarily long, we may condense these by the use of a 'sample charge'. By using a sample charge we'll keep the number of factual decisions the Fitness to Practise Committee needs to make to a minimum, while making sure that the charge captures the seriousness of the allegation.

For example, in a lack of competence case, a nurse may have failed to properly record appointments on hundreds of occasions over a period of years.

In a cases like this, we might only need to include a proportion of the incidents; the appropriate number will vary from case to case.

Occasionally, it may be necessary for us to include information in the charge which shouldn't be in the public domain. In such cases, a separate schedule may be used. This will be appropriate if we need to describe the nurse, midwife or nursing associate's state of health or, in rare cases, to particularise sexually explicit or offensive language.

## Anonymity

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We'll always anonymise the identity of individuals such as patients, colleagues, or members of the public in the charge.

We use standard formats such as: 'Patient A', 'Resident A', 'Colleague A' and so on.

We'll draw up an identification key, sometimes called a 'schedule of anonymity', to be used by all parties at the hearing and this is kept separate from the charge.