

Statement writing

During the course of your career as a health care worker, or in a personal capacity, you may be asked to produce a statement. This advice guide looks at different types of statements and how to prepare one. If you have been asked to write a statement as a witness, please also see *Being a Witness an RCND advice guide* available on www.rcn.org.uk/advice



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Assess the risk to yourself

Sometimes our members are worried that they may be putting themselves at risk by providing a statement. Often providing a statement is quite straightforward, but you do need to assess this risk yourself.

Ask yourself the following questions:

1. Have I done anything wrong?
2. Am I being treated as a suspect?
3. Could *my own* practice be called into question as a result of submitting a statement?
4. Could I be affected negatively by this?

‘YES’

If the answer is ‘yes’ to any of the above questions, and you have been asked for a statement for a work related incident then you should contact **RCN Direct**. It is likely that your statement will need to be seen by the RCN prior to submission. Remember: no one can be forced to give evidence or make a statement if it implicates them in a criminal offence.

‘NO’

If the answer is ‘no’, be confident in the knowledge that you only have to report what you witnessed. Follow the advice within this guide when you prepare your statement. The RCN does not usually attend meetings to support witnesses as it is often not required or necessary. An RCN representative often cannot talk on your behalf or question others. You should be able to take a companion with you to any meetings at work. If you need support or if you are concerned in any way, contact **RCN Direct**.

When might a statement be requested?

You may be approached to provide a statement for one of the following reasons:

Inquest or coroner’s court

An inquest decides only the facts surrounding a death (i.e. establishing the identity of the deceased, and when and how they died). It does not determine any question of civil or criminal liability, or attribute blame for the death. Depending on the circumstances, the coroner’s findings could nevertheless be used in subsequent proceedings, such as clinical negligence claims, NMC hearings or criminal prosecution.

The coroner’s office will request a statement relating to the death of a patient or client who has been in your care. You may be interviewed by the coroner’s officer who will ask questions, handwrite the statement and then ask you to sign it. It is common for a police officer to assist the coroner and to make enquiries on their behalf.

Check your local policy as you may be required to talk to management or your employer’s solicitor before speaking to the Coroner’s Office/officer. The policy should outline whether your employer will arrange representation for you to avoid incriminating yourself.

If there is a risk of you being prosecuted in connection with a death, or you may have contributed in some way to the death, call RCN Direct for advice prior submitting or signing any statement.

The RCN expects the employer to represent its employees at an inquest. However, in certain exceptional circumstances, the RCN may provide support where:

- there is a clear conflict of interest between the member and other staff involved in the patient’s care (such as doctors or other health care professionals), where it would be difficult for the employer’s lawyer/s to represent all staff as well as the employer
- the employer is refusing to represent, and the RCN cannot persuade the employer otherwise.

Employment Tribunal proceedings

Disciplinary or grievance issues may result in you being asked to provide a statement about a colleague which could later be used in an employment tribunal claim. Evidence in a tribunal is given under an oath or affirmation, and if you lie when giving evidence you can be convicted of perjury. The RCN does not usually attend tribunals to support witnesses as it is often not required or necessary. Please see *Being a Witness an RCND advice guide* on www.rcn.org.uk/advice.

Civil and criminal proceedings

Management may receive a complaint and request a statement about an incident which could result in a civil or criminal claim. For example, this could include loss of property, personal injury or death following treatment. If you have been asked to prepare a statement in connection with any potential litigation/legal action (for example a medical negligence claim) against you or your employer, call **RCN Direct** for advice **before you submit your statement**.

You may be required to speak to the police or a solicitor about an alleged criminal act committed by you. Again, please call RCN Direct for advice **before you submit your statement**. If you have been asked to prepare a statement regarding an alleged criminal act carried out by another/ others then assess the risk to yourself before you submit a statement and consider whether you need support.

Different types of statement

Different types of statements have specific purposes and effects. For example, a police statement could result in giving evidence in criminal proceedings or in a Coroner's Court.

Statement as a bystander witness

You could be asked to make a statement as an independent bystander or, as a health care professional, you may have witnessed bullying or poor practice. This could lead to formal proceedings against someone else and you may be required to attend a disciplinary or grievance hearing as a witness. The RCN does not represent members

when they are attending a hearing as a witness. Please assess the risk to yourself, prepare your statement in accordance with this guide and see *Being a witness an RCND advice guide* available on www.rcn.org.uk/advice.

Statement as a professional or involved person

Nurses have a duty to assist in investigations under the Nursing and Midwifery Council (NMC) Code; see Accountability and responsibility available on www.rcn.org.uk/advice. In addition, all employees have an implied duty to comply with any reasonable request by their employer. If you are making a statement as an involved person, you may well be under suspicion or implicated in an incident. This could result in disciplinary action, or dismissal for cases of gross misconduct. The wording and chronology in your statement is crucial and will form the basis for any decisions that will be used to prove or support your case. Assess the risk to yourself and call **RCN Direct** if you feel vulnerable.

Police statement in criminal proceedings

Naturally it can be very frightening to be questioned by the police. Assess the risk to yourself. It may be the case that you simply need to report what you have witnessed. However, if you are concerned about the incident or any aspect of your conduct or practice then you should call **RCN Direct** immediately. If this is not possible you must seek the support of the duty solicitor straight away. If you are a suspect (i.e. the police say that they will be interviewing you under caution) you should not answer questions or submit any statement until you have legal support.

If you have been interviewed as a suspect, you should not accept a caution without legal advice as it could affect your registration and it would have to be reported to the NMC.

Accountability and confidentiality

All employees have contractual responsibilities to their employer and are accountable in law for their actions. In addition, nurses and midwives are professionally accountable to the Nursing and Midwifery Council (NMC).

The NMC Code requires you as a professional to:

- be accountable for your actions and omissions including any delegation
- act lawfully whether professionally or personally
- cooperate with all investigations.

The duty of confidentiality generally prevents disclosure of patient information without the patient's consent. This can be overridden in exceptional circumstances for example where disclosure can be justified in the *public interest*, such as where it may protect the patient (or others) from, for example, criminal acts, child abuse, spread of infectious diseases. Remember, if you are asked to comment on a particular patient or their care, confidentiality rules mean you cannot generally disclose the identity of the patient or relatives without their consent. Check your local policies, involve your local management and if you have any further concerns, call **RCN Direct**.

Preparing and writing your statement

Preparing and writing a statement requires a lot of thought, time and consideration to ensure that your final version is accurate, concise and relevant. The following recommendations aim to guide you through each stage of producing your statement.

Before you start:

- make sure you have the request for a statement in writing so that you are clear about precisely what you are being asked to write
- ensure you have all the necessary information and resources
- a good statement can take longer to write than you might expect, so you may need to agree a time frame to complete it with your line manager.

Writing your statement

Here is a checklist of what you should and should not include in your statement:

- always keep patients' and relatives' identities anonymous, for example, use 'Patient X' throughout the statement. You must record your justification for any 'public interest disclosures' and are advised to speak to the RCN before disclosing any information
- state your professional qualifications and the basis for the statement. State what is personal recollection and what can be corroborated as fact, e.g. reference to health care records, reports, clinical guidelines or standards
- relate the facts from the beginning and keep in strict chronological order, giving precise dates and times (be consistent in using 'am' or 'pm' or the 24 hour clock)
- be clear about the times you were on and off duty on the days in question and about what you saw and heard. Include your professional/ service involvement, as appropriate, based on clinical records
- don't assume that the reader knows anything of the facts of the case, such as a patient's medical history, your environment or clinical routines and procedures
- explain clinical or health care procedures and avoid general statements such as 'routine observations were made'. If normal procedures were not followed, explain what is normal and then why there was a departure from the accepted procedure
- do not speculate, elaborate or exaggerate or use emotional language– you may be called as a witness to give oral evidence, based on your statement or as an expert witness
- remember that you could be challenged on the content and details of your account, and your statement could be used in criminal proceedings or disclosed to all parties in a disciplinary or grievance
- it is acceptable to form a view based on your professional judgement. Document the facts or evidence on which you based your conclusion. Relate how this impacts on patient care or service levels
- avoid giving opinions or making judgements that you cannot support by factual evidence or corroboration. You can reflect on what you have observed to be usual practice or experience

- hearsay is second hand, rather than first hand evidence. For example: ‘I heard Susan say that she had seen Jill give the injection’. It can be admissible in certain legal proceedings, but it must be clear that it is hearsay evidence. Only relate what you were told (third party information) as you have no way of verifying the accuracy of others’ accounts
- write your statement in simple terms and avoid jargon or official language. Be as brief as possible while covering all the essential points
- include references to documents, papers, books or notes, and where to find them, if relevant
- always sign your statement and give your full name and job title below your signature together with the date on which it was signed.

Statement structure and presentation

Your statement should follow the following format and layout:

- all pages must be numbered
- pages should have clear wide margins at each side
- all paragraphs must be numbered and should be short, precise and no more than six lines long.
- paragraphs should have subject headings, where appropriate
- lines should be double spaced
- write in the first person (for example, I)
- have your statement typed. If this is not possible, use plain white A4 paper and write neatly in black ink or ballpoint. It is likely to be photocopied several times.

Front page

- Your name.
- Your occupation or job title.
- Your professional address.
- Subject of statement (for example, patient/client X at what incident/location.)

Introduction (each point should be a new paragraph)

- ‘I am employed by [insert your employer]. I qualified as [profession] in [month/year of qualification]. My previous experience includes... I have worked in my current job for [months/years].’

- ‘This statement is based on [personal recollection/review of records, or combination.]’
- ‘I have been involved in the care of Patient X since [date].’
- ‘I am responding to allegations [you could list them for ease of reference] or a request for written statement.’

The narrative

- Explain the event, incident or accident in chronological order.
- Use sub headings and new paragraphs to structure your statement, for example:
 - Response to allegations (1, 2, 3, etc.)
 - Informal meetings
 - Telephone calls.

Summary or closing statement

- Recap the main points and avoid adding new information or comments.

Statement of truth

- ‘This statement is true to the best of my knowledge and belief.’
- Your signature and title
- Date

References

List all documents referenced in your statement, and, if possible, where to find them, including;

- Patient records, notes, and departmental documents
- Local policies or procedures
- National standards or evidenced based information
- Professional codes and guides.

Final check

You should always double check your statement before signing it. Review each paragraph carefully, checking that your statement communicates exactly what was asked for or required.

Check the content for:

- Accuracy – can the facts be evidenced?
- Relevance – are the facts and details clearly and objectively explained?
- Clarity – avoid generalisations and always write the subject of an abbreviation or acronym in full at first mention.
- Clear language – don't assume that the reader has any knowledge of the subject or environment of care; any intelligent lay person should be able to understand the content.
- Compliance – follow any professional codes local policies and confidentiality guidelines.

In certain circumstances, your statement will be prepared by someone else ready for you to sign. If you disagree with any aspect of the content it is extremely important that you do not sign/submit the statement. If there are elements that are missing then ask that they be added or if it is not an accurate and true reflection of the events, do not sign until you are 100 per cent happy with it.

Keep a copy

Always keep a copy of your statement for future reference. You might be required to give oral evidence at an inquest, in a court or before another type of hearing. If your oral evidence is significantly different from your written statement, this might affect your credibility.

Does the statement need to be checked?

As previously stated, if you need support or if you are concerned in any way, contact **RCN Direct**. Prepare your statement in accordance with this guide and keep a copy. It may also be helpful to read *Being a Witness* an RCN guide available on www.rcn.org.uk/guides.

If, however, you are an involved person and have concerns that formal action could follow as a result of submitting a statement then you should call **RCN Direct**. You should not submit any statement until you have legal support. If it is a police matter and it is not possible to contact **RCN Direct**, then you should seek the support of the duty solicitor.

Further information and useful resources

RCN support

RCN Direct provides information, advice and support online whenever you need it, or from advisers over the telephone from 8.30am to 8.30pm, 365 days a year on 0345 772 6100.

RCND Advice guides

- *Discipline and grievance advice guide*
- *Investigatory meetings advice guide*
- *Professional registration - fitness to practice guide*
- *Being a witness an advice guide*
- Advice A-Z

Useful information can be found in the Advice A-Z by clicking on or by searching for the following terms:

- police cautions, convictions and criminal processes
- discipline and dismissal
- NMC investigations
- coroner's court
- employment tribunals and the courts.

External websites

Gov UK England and Wales www.gov.uk
Scottish Courts www.scotcourts.gov.uk
Courts and Tribunal Service Northern Ireland
www.courtsni.gov.uk
Advisory, Conciliation and Arbitration Service Acas
www.acas.org.uk
Labour Relations for Northern Ireland
www.lra.org.uk
Coroner's Court for England and Wales:
www.coronerscourtsupportservice.org.uk
Coroner's Court Northern Ireland:
www.courtsni.gov.uk
Procurator Fiscal Scotland www.copfs.gov.uk
The Nursing and Midwifery Council www.nmc-org.uk
The General Medical Council www.gmc-uk.org
Medical Practitioners Tribunal Service
www.mpts-uk.org
Ministry of Justice www.justice.gov.uk
Victim Support www.victimsupport.org.uk

February 2015

Review date: February 2017

Publication: 004 748

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