

Example Charges

The example charges below relate to breaches of the Code taking place on or before 5 January 2014. Charges are drafted according to the Code in place at the time of the breach. It is proposed that we will use a narrative style of drafting for charges brought for misconduct from 6 January 2014.

1) Failure to complete CPD

Statement of Offence

Professional misconduct contrary to paragraph 202(b) and pursuant to paragraph 901.4 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX practised as a barrister having failed to complete the prescribed 12 hours Continuing Professional Development and/or failed to submit details of the CPD undertaken by him in *[insert relevant year]* on the prescribed form by 31 January *[insert relevant year]*, contrary to the requirements of paragraph 202(b) of the Bar's Code of Conduct and Rule 7 of the Continuing Professional Development Regulations (Annexe C to the Code of Conduct) and, having been informed of the need to complete the hours by letter *[insert date of fine letter]*, failed to take the necessary actions to cure the non-compliance *[insert if appropriate: by the extended due date of [insert date].*

2) Practising without practising certificate

Statement of Offence

Professional misconduct contrary to paragraph 202(c) and pursuant to paragraph 901.4 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX practised as a barrister from *[insert date from which practising certificate should have commenced]* until *[insert date of when practising certificate obtained or end of relevant calendar year]* without having a practising certificate issued by the Bar Council, contrary to paragraph 202(c) of the Code of Conduct and the Practising Certificate Regulations (Annexe D to the Code of Conduct) and having been informed of the need to obtain a practising certificate in a letter *[insert date of fine letter]*, failed to take the necessary actions to cure the non-compliance.

3) Failure to pay BMIF premium

Statement of Offence

Professional misconduct contrary to paragraph 402.2(a) and pursuant to paragraph 901.5 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, as a member of the BMIF, failed to pay immediately when due on *[insert due date for relevant year]* the insurance premium required by the BMIF in the sum of £*[insert amount]*, contrary to paragraph 402.2(a) of the Code of Conduct, despite reminders being sent by the BMIF by letters dated *[insert date of relevant letters]*. This failure was serious and therefore constitutes professional misconduct pursuant to paragraph 901.5 of the Code of Conduct, by virtue of its nature, extent combination with another failure to comply with the Code, and or previous failures to comply with the Code *[stipulate which factors are relevant]*.

4) Drink driving conviction

Statement of contrary to paragraph 301(a) (i) and Offence

Professional misconduct contrary to paragraph 301(a)(i) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX engaged in conduct which was discreditable to a barrister, contrary to paragraph 301(a)(i) of the Code of Conduct, in that on *[insert date of offence]* he drove a vehicle after consuming excess alcohol and was subsequently convicted on *[insert date of conviction]* under *[insert relevant provision, usually Section 34 (A) of the Road Traffic Act 1988]*.

5) Other criminal convictions

Example a

Statement of Offence

Professional misconduct contrary to paragraph 301(a)(i) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

[Barrister] engaged in conduct which was dishonest and discreditable to a barrister in that on or about *[insert date]*, s/he *[insert behaviour details, e.g. obtained property by deception on six separate occasions]*, for which conduct s/he was on *[insert date]* convicted at *[X Crown/Magistrates Court]* and sentenced to *[details of sentence]*

Example b

Statement of Offence

Professional misconduct contrary to paragraph 301(a)(i) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition)

Particulars of Offence

[BARRISTER], engaged in conduct which was dishonest or otherwise discreditable to a barrister contrary to paragraphs 301(a)(i) of the Code of Conduct in that on *[X date]* he assaulted *[VICTIM]* contrary to section *[x]* of the Criminal Justice Act 1988 for which he was convicted by the *[relevant court]* on *[date]* and sentenced to *[details of sentence]*.

6) Disciplinary action by another professional body

Statement of Offence

Professional misconduct contrary to paragraph 301(a)(i) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, engaged in conduct which was discreditable to a barrister, contrary to paragraph 301(a)(i) of the Code of Conduct, in that while in practice as an advocate and solicitor he failed to account for monies held by him in trust for a client, and in respect of such conduct on *[insert date of disciplinary order]* he was ordered to be struck off the Roll of Advocates and Solicitors of the High Court of Malaysia, pursuant to a finding by a Disciplinary Committee of the Advocates and Solicitors' Disciplinary Board, on *[insert date of disciplinary finding]* that he was guilty of misconduct.

7) Bringing the profession into disrepute

Statement of Offence

Professional misconduct contrary to paragraph 301(a)(iii) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX engaged in conduct likely to diminish public confidence in the legal profession or the administration of justice or otherwise brought the legal profession into disrepute, contrary to paragraph 301(a)(iii), in that on *[insert relevant date of alleged offence]* whilst *[insert summary of alleged behaviour e.g. whilst addressing a jury on behalf of YY in a trial alleging assault occasioning actual bodily harm, she ignored a ruling that the Defendant's character should not be referred to, by telling that there was no evidence that the Defendant was a violent man]*.

8) Misleading the Court

Example a

Statement of Offence

Professional misconduct contrary to paragraph 302 and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, on *[insert date of that behaviour occurred]* in proceedings before *[insert relevant Court]*, recklessly misled the Court, contrary to paragraph 302 of the Code of Conduct, by causing, allowing or inducing the Court to believe that *[insert details of how the barrister misled the Court e.g. an issue had not been determined by a Judge at an earlier hearing on the case on the 30th March 2005 when in fact that issue was res judicata]*.

Example b

Statement of Offence

Professional misconduct contrary to paragraph 302 and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX engaged in conduct contrary to paragraph 302 of the Code of Conduct in that he breached his overriding duty to assist the Court in the administration of justice by knowingly misleading the Court in that *[insert date alleged behaviour occurred and details of Court and Judge/Bench e.g. on 21 July 2006 before His Honour Judge T_____ sitting at Swansea Crown Court]*, s/he represented that *[insert details of the alleged behaviour e.g. s/he had been at Court since 10 am]* such representation was false and misleading and which representation s/he knew was false and misleading.

9) Discrimination against client

Statement of Offence

Professional misconduct contrary to paragraph 305 and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, between the dates of *[insert dates from which discrimination became known until last date of discrimination or date on which complaint raised whichever is the later]* refused to represent Y *[insert basis of discrimination/refusal e.g. refused to accept a brief to represent X on the grounds that X was a homosexual and/or was in a same sex relationship and/or because the brief involved you putting forward a case to assist X to remain in the United Kingdom on the basis of his sexual relationship with his male partner]*. As such you discriminated against X on the grounds of *[insert brief description of the grounds e.g. his sexual orientation]*, contrary to paragraph 305 of the Code of Conduct.

10) Undertaking work inappropriate for a self-employed barrister

Statement of Offence

Professional misconduct contrary to paragraph 401(b) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX on or about the *[insert date of alleged offence]* conducted *[insert summary overview of the inappropriate work e.g. litigation and/or inter partes work]* in the course of practice, contrary to paragraph 401(b) of the Code of Conduct, in that *[insert details of the inappropriate work e.g. s/he wrote a letter dated 6th October 2006 on behalf of a member of the public, namely TW, that constituted a letter before action, specifically a letter that demanded the return of property allegedly belonging to the said TW and stating that, should the property not be returned, the recipient of the letter would have legal proceedings commenced against him]*.

11) Undertaking work inappropriate for employed barrister

Statement of Offence

Professional misconduct contrary to paragraph 502 and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, an employed barrister, provided legal services within the meaning of paragraph 201(b) and contrary to paragraph 502 of the of the Bar's Code of Conduct, in that on or about [insert date of alleged offence] s/he [*insert details of alleged inappropriate behaviour e.g. offered to supply legal services as a barrister in relation to potential asbestos injury claims to members of the public who were not clients of his employer*].

12) Withholding advocacy because case is objectionable

Statement of Offence

Professional misconduct contrary to paragraph 601(a) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

Contrary to paragraph 601(a) of the Code of Conduct, between the dates of [*insert dates from which withholding of services was known to have started until it ceased or a complaint was raised whichever is the later*] **XX** withheld advocacy services from [*insert details or from whom the advocacy services were withheld and on what basis e.g. from AR on the basis that the nature of the AR's case were objectionable to XX or to his religion because AR is a homosexual and/or was in a same sex relationship and/or because the brief involved him putting forward a case to assist AR to remain in the United Kingdom on the basis of his sexual relationship with his male partner*].

13) Withdrawing from a case inappropriately

Statement of Offence

Professional misconduct contrary to paragraph 609(b) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX withdrew from *[insert details of the case, who the barrister was representing and the date on which the withdrawal occurred]* contrary to paragraphs 609(a) and/or 609(b) when there were no reasonable grounds for being satisfied within the meaning of paragraph 609 of the Bar's Code of Conduct that her professional conduct was being impugned and/or that there was some other substantial reason for doing so.

14) Rudeness

Statement of Offence

Professional misconduct contrary to paragraph 701 [specify sub paragraph] and pursuant to paragraph 901.5 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, on [insert date of alleged offence], whilst engaged in his professional activities [insert details of alleged offence e.g. outside Court 3 at the Crown Court sitting at X, failed to be courteous to Y, a paralegal, by speaking to her in an aggressive and intimidating manner and telling her to "shut up".

Such behaviour was contrary to paragraph 701 [specify sub paragraph] of the Code of Conduct and was serious and therefore constitutes professional misconduct pursuant to paragraph 901.5 of the Code of Conduct, by virtue of its nature, extent, combination of another failure to comply with the Code and / or previous failures to comply with the Code [stipulate relevant factor]

15) Drafting pleadings not supported by evidence

Statement of Offence

Professional misconduct contrary to paragraph 704(a) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

On or about *[insert date of alleged offence]*, **XX**, a barrister in independent practice, *[insert details of the relevant pleadings e.g. drafted an amended statement of case (an Amended Reply) in the case of xxxxxxxxx containing at paragraph 33 the statement of fact or contention in relation to a letter bearing a manuscript date of 20 May 1992 which purported to have been written by the Claimant, that the Claimant did not write the letter and that it did not bear his signature, which statement of fact or contention was not supported by his lay client or by his instructions]*, contrary to paragraph 704(a) of the Code of Conduct.

16) Breach of advertising regulations

Statement of Offence

Professional misconduct contrary to paragraph 710.2(b) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, *[insert date from which breach became known until date rectified or date on which complaint was raised whichever is the later]* used or permitted to be published *[insert details of advertising e.g. on his Chambers website an item which pre-judged the guilt of defendants in a pending Crown Court case he was prosecuting]*, and thereby engaged in advertising or promotion likely to diminish public confidence in the legal profession and/or the administration of justice, contrary to paragraph 710.2(b) of the Code of Conduct.

17) Failure to pay fine imposed under paragraph 901.1

Statement of Offence

Professional misconduct pursuant to paragraph 901.2 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, having been given 28 days to pay a financial penalty of £100 imposed on him/her *[insert date of fine letter from BSB]* in accordance with paragraph 901.1, failed to pay the said financial penalty by the due date *[insert latest date the payment of the financial penalty became due]*.

18) Failure to report criminal conviction

Statement of Offence

Professional misconduct contrary to paragraph 905(b)(ii) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX failed to report promptly to the Bar Council that s/he had been convicted on *[insert date of conviction]* of a relevant criminal offence as defined in Part 10 of the Code of Conduct, such failure being contrary to paragraph 905(b)(ii) of the Code of Conduct. Such criminal offence being *[insert details of the criminal offence if considered necessary]*.

19) Failure to respond

Statement of Offence

Professional misconduct pursuant to paragraph 901.5 of the Code of Conduct of the Bar of England and Wales (8th Edition – reissued 1 October 2005).

Particulars of Offence

XX failed to respond promptly to requests from the Bar Standards Board for comments or information on a complaint, in that he failed to respond to letters sent to him by the Bar Standards Board dated *[insert details of the letters, including formal reminders, sent to the barrister]*.

Such behaviour was contrary to paragraph 701 [specify sub paragraph] of the Code of Conduct and was serious and therefore constitutes professional misconduct pursuant to paragraph 901.5 of the Code of Conduct, by virtue of its nature, extent, combination of another failure to comply with the Code and / or previous failures to comply with the Code [stipulate relevant factor]

20) False declaration on Call

Statement of Offence

Professional misconduct pursuant to paragraph 902 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

XX, in his declaration on call to the Bar *[insert details of the Call declaration and to whom it was made e.g. to the Honourable Society of Lincoln's Inn on X]*, made a false declaration that *[insert details of the false declaration e.g. he had not been the subject of any conviction as a result of criminal proceedings brought against him when in fact he had been convicted on X of offences of possession of an imitation firearm, robbery and burglary, he engaged before Call in conduct which was discreditable to a barrister and which he failed fairly to disclose in writing before admission as a student and thereafter on his Call application to the Benchers of the Honourable Society of Lincoln's Inn, which was signed and dated by him]*, such conduct being discreditable to a barrister and/or is a material breach of an understanding given by him/her on Call.

21) Failure to respond to requests to attend Summary Hearing

Statement of Offence

Professional misconduct pursuant to paragraph 901.5 of the Code of Conduct of the Bar of England and Wales (8th Edition).

Particulars of Offence

Contrary to paragraph 905(e) of the Code of Conduct, **XX**, failed to respond promptly to letters of notification sent to him on *[insert dates of letters sent, including reminders, regarding the Summary Procedure date]* regarding attendance at a Summary Procedure Hearing.

Such behaviour was contrary to paragraph 701 [specify sub paragraph] of the Code of Conduct and was serious and therefore constitutes professional misconduct pursuant to paragraph 901.5 of the Code of Conduct, by virtue of its nature, extent, combination of another failure to comply with the Code and / or previous failures to comply with the Code [stipulate relevant factor]

22) Failure to comply with a sentence imposed by a tribunal or panel

Statement of Offence

Professional misconduct contrary to paragraph 905(f) and pursuant to paragraph 901.7 of the Code of Conduct of the Bar of England and Wales (8th edition).

Particulars of Offence

XX, a barrister, failed to comply in due time with a sentence imposed by a Summary Procedure Panel/Disciplinary Tribunal on *[insert date of the relevant hearing when the findings were made]* pursuant to the Disciplinary Tribunals Regulations that s/he *[insert details of the sentence/cost order e.g. pay a fine of £[x amount] by [x date], in that s/he failed to [insert details of the failure to comply e.g pay the fine or any part thereof by the date for payment]*, contrary to paragraph 905(f) of the Code of Conduct.