

Guidance on redacting Records of determinations (RoDs)

Purpose

1. This guidance has been developed to assist Medical Practitioners Tribunal Service (MPTS) decision makers when preparing RoDs for publication following a doctor's hearing before a medical practitioners tribunal (MPT). In this guidance, the term 'decision maker' refers to an MPTS Assistant Registrar unless otherwise specified.
2. The guidance sets out the principles that govern the MPTS's redaction processes and the general approach that should be taken when redacting RoDs, together with advice on specific areas that arise frequently. The guidance should be read alongside the GMC's [Publication and Disclosure Policy](#).
3. It is not possible to cover all scenarios in guidance. Preparation of RoDs for publication should be considered on a case by case basis and, in some circumstances, it may be appropriate to take a different approach to that set out in this document*. Decision makers may seek advice from their direct line manager and/or from MPTS Legal and/or GMC Policy colleagues where necessary.

Background

4. During the course of a hearing, documents known as determinations are prepared at each stage (for example, at the fact, impairment and sanction stage of a new MPT hearing). Those determinations set out the allegations against the doctor, evidence given during the hearing, the findings made and decisions taken by the tribunal, and the reasons for those findings and decisions.

* An example of this is that, while the MPTS's general approach is not to publish any information related to a doctor's health, we will consider doing so if that is requested by the doctor.

5. When completed, each individual determination is provided to all parties to the hearing and to anyone in attendance during the course of the hearing. They may, on request, also be provided to members of the public who do not attend the hearing. These may include members of the press and those with a professional interest in the hearing such as employers. Individual determinations containing private information (for example, about a doctor's health condition) will be provided only to the parties to the hearing.
6. After the hearing has concluded, all the determinations that have been generated at each stage of the hearing are combined into a single document, the RoD, which captures all the decisions made by the MPT. Copies of this RoD ('the original RoD') are provided to the parties to the hearing, the Professional Standards Authority for Health and Social Care, the Disclosure and Barring Service (DBS) or Disclosure Scotland (DS) where an assessment is made that it is necessary to do so, and, in the event of an appeal or other challenge to the MPT's decisions, to the relevant Court. Exceptionally, where it is considered to be reasonable and in the public interest to do so, they may also be provided on request to other public bodies such as the police.
7. MPTS Assistant Registrars will then consider whether any redaction of the original RoD is necessary before publication and, if it is, will make the appropriate redactions. Following that process, the redacted RoD ('the public RoD') will be published on the GMC and MPTS websites in line with the GMC's Publication and Disclosure Policy.
8. The individual determinations and original RoD may include information which is subsequently redacted when the public RoD is produced for online publication. After a hearing has concluded, it is generally the public RoD which will be provided in response to any request for information. However, where a request is made before the public RoD has been prepared, any individual determinations which have already been made available to those attending the hearing will be provided to the requestor. Private information may be redacted from such determinations prior to their provision.
9. Certain information is routinely redacted before the public RoD is published online. The names of all individuals mentioned during the course of the hearing are routinely redacted except the doctor, Tribunal Members, Legal Assessor, Tribunal Clerk, Counsel, and those mentioned in case law where cited. The MPTS will also redact any references to the doctor's health, private addresses, and information to protect the privacy of a third party. There may be other exceptional circumstances in which redaction is necessary. These may include,

for example, requests by another public body for information to be kept confidential.

10. Public RoDs will usually be published unless the case relates solely to impairment by reason of health, but in exceptional circumstances*, the MPTS may decide to publish only the front cover of a RoD, giving the hearing outcomes, or not to publish a RoD at all.

Location of publication

11. Information regarding a doctor's fitness to practise is published on the websites of both the GMC and the MPTS.
12. Public RoDs, except those which relate solely to a doctor's health, are published on the [MPTS website](#) for a period of 12 months.
13. Warnings and restrictions placed on a doctor's registration are published on the [online medical register](#) via the GMC website. Where these have been imposed at an MPT hearing, the public RoD from that hearing is also published, except in cases relating solely to the doctor's health. The medical register records any active measures on a doctor's registration, including interim action. It also contains historical information about a doctor's fitness to practise even if the measures are no longer active. The publication of this information is time limited and the GMC's [Publication and Disclosure Policy](#) sets out the approach to this.

Principles informing the MPTS's approach to redaction

14. The GMC has a statutory duty to publish decisions about a doctor's fitness to practise under the Medical Act.[†] Where those decisions have been reached following an MPT or IOT, that duty is delegated to the MPTS. The way in which the MPTS meets this duty is informed by our commitment to transparency about our MPTS' decision making.
15. Many doctors are understandably concerned about their reputation and personal life and find the publication of information about their fitness to practise difficult. Our overarching objective is the protection of the public and it is important that decisions taken in relation to a doctor's fitness to practise are transparent and

* For examples of such exceptional circumstances, see paragraph 33

[†] Medical Act 1983 (as amended) S 35B(4)

publicly accessible. The MPTS publishes all information, unless there is a strong justification for certain information not to be published, in which case that information will be redacted so as to allow the remainder of the RoD to be published.

16. The MPTS decides what information to redact in line with the principles of the GMC's [Publication and Disclosure policy](#) which are:
- ▶ Transparency about our processes and decisions. We believe that being open about the action we take in response to serious concerns about doctors is in the interests of the public and medical profession.
 - ▶ We will take a proportionate approach when displaying this information online or sharing with those who request it.
17. The MPTS may receive a request by a doctor or their representative to remove information that has already been published. This guidance should be considered, alongside the context and reason for the request. Where a request has been made to remove information and this request is refused, the MPTS will provide details to the doctor on how to challenge this decision. This type of request is categorised as a 'right to object' under the provisions of General Data Protection Regulation (GDPR), even if the requestor hasn't specifically mentioned GDPR*.

Redaction – common themes

18. Redaction topics that tend to arise frequently when redacting RoDs are outlined below.
19. As each RoD relates to an individual doctor, any redactions should be looked at on a case by case basis, taking into consideration the individual context and circumstances surrounding that case. Decision makers should take into account the following factors:
- ▶ The overall seriousness of any factual findings and their potential impact on public confidence
 - ▶ The risk to patient safety that the factual findings pose
 - ▶ Whether or not the doctor's fitness to practise was found to be impaired

* The following line has been agreed with GMC Information Governance for inclusion in these circumstances: 'If you are unhappy with the way we have considered your request relating to the information that we publish, you may raise your concerns with the GMC's data protection team who can be emailed at dpo@gmc-uk.org'

- ▶ Whether or not any sanction was imposed on the doctor's registration or any warning was issued.

20. The fact that something has already been placed in the public domain, for example in a criminal court or in the press, does not automatically mean that it should not be redacted in a RoD. The MPTS will make individual decisions about what should be published according to the principles which inform the GMC's [Publication and Disclosure policy](#), and taking into account the provisions of this guidance.

Health

21. Anything related to a doctor's health condition or concerns about health should usually be redacted, although the MPTS will consider the inclusion of health information if this is requested by the doctor.

22. Whilst original RoDs are prepared in all cases, in circumstances where the allegations relate solely to impairment by reason of a doctor's adverse physical or mental health, the MPTS will not produce a public RoD for publication. Where an original RoD covers both health and other heads of impairment, the health information will usually be redacted. Any information contained in sections of the RoD relating to other heads of impairment which refers to the doctor's health is likely to require redaction as the information published should not make confidential health information publicly apparent indirectly*.

23. There are however some more complex cases where the health and other grounds of impairment are so closely linked that removing all confidential information may mean the public RoD makes little sense. Where redaction of information regarding the doctor's health impacts significantly on the reader's understanding of the tribunal's reasoning for their decision, decision makers should weigh the seriousness of any factual findings made against the doctor, and any sanction imposed, against the need for confidentiality. The seriousness of a case may mean that the public interest in disclosure to ensure understanding of the public RoD outweighs the need for complete confidentiality. While the details of a doctor's health condition will always be redacted, the MPTS may publish information that a health condition exists, or information that implies the doctor may have a certain health condition, if the circumstances of the case necessitate this.

* This will generally include reference to rule 41(3)(b) which provides for the tribunal to sit in private to consider health matters. This should be redacted to rule 41XXX.

24. Alternatively, where the findings against the doctor are at a lower level of seriousness or no impairment of the doctor's fitness to practise has been found, it may be appropriate, where redaction would significantly impact on understanding of the public RoD, to decide that no public RoD should be published.
25. Where necessary, the decision maker may seek advice from their direct line manager and/or from MPTS Legal and/or GMC Policy colleagues on whether and to what extent, redactions should be made.

Identification of medication and conditions

26. Where the original RoD makes references to the names and/or quantity of medication taken by a doctor, these should be redacted in the public RoD. There may be occasions when it is appropriate to leave in generic terms such as 'controlled drugs' or 'antibiotics' if they help the reader understand the nature of the factual findings and the reasoning of the tribunal, but this will generally be where the findings are directly related to the drug in question (see section below on self-prescribing / self-administration / inappropriate or fraudulent prescribing and theft of drugs). Any schedules or annexes to the allegation relating to diagnoses or references to medical examinations of the doctor having taken place should also be redacted.
27. Any references to the type of illness or named conditions that a doctor has which are referenced in the original RoD should be redacted. This includes symptoms or side effects of any illness, for example, 'tics' or 'fits'. References to names of treatment centres and therapeutic courses should be considered and an assessment made as to whether or not they indicate a particular health condition and should therefore be redacted.
28. Words that relate to a doctor's health, for example, 'addiction' and 'psychological', may imply health-related issues and should be considered in light of the whole RoD to determine whether they should be redacted. The term 'psychological' may be qualified in relation to other matters, for example, anger management, in which case it is likely to be appropriate to keep the reference in the RoD. Where it relates to a health matter however, it should be redacted. Each case must be considered on its own merits, but examples of these two different situations are set out below:

- ▶ **Scenario 1:** ‘Dr A is now able to manage the stressors that previously led to his violent behaviour, utilising a variety of psychological tools he has learned through his anger management course and CBT therapy.’ This should remain in the RoD. It does not relate directly to health and it demonstrates why the tribunal were satisfied in a case involving violence that there was a low risk of repetition.
- ▶ **Scenario 2:** ‘Dr B sought psychological support following the death of her mother and remains under the care of a therapist’. This would generally all be redacted from the RoD as it relates directly to the doctor’s health.

Self-prescribing, self-administration, inappropriate or fraudulent prescribing and theft of drugs

29. Where these types of conduct are mentioned in either the allegation or the determination, decision makers should make sure that no details of the doctor’s health condition are disclosed in the public RoD. This includes details such as the names of the drugs that were prescribed, administered or stolen and any condition for which they were used. This does not include generic terms such as ‘controlled drugs’ or ‘antibiotic’ which can usually be left in. The actual acts of self or fraudulently prescribing, self-administering or stealing, where these are alleged as a matter of misconduct, can be included in the public RoD, even if this implies a health problem, provided that any details of that health problem are not disclosed.
30. Where allegations relate to prescribing or administering drugs inappropriately to family members, care should be taken to ensure that an identifiable family member’s health condition is not disclosed in the public RoD. This can be addressed either by anonymising the family member and obscuring their relationship, or, if that is not possible or appropriate in the interests of transparency, by redacting specific information about their health condition and medication.

Types of medical treatment

31. If there is reference to some form of treatment or therapy which the doctor is undergoing, decision makers should consider redacting the type of treatment that is mentioned. However, depending on the context of the overall RoD, it may be appropriate to keep in generic words such as ‘therapy’. References to courses, such as ‘anger management’, are likely to be appropriate to retain but each decision should be made taking into consideration the context and circumstances in which reference to the treatment or therapy is made.

32. Other words may require a particular passage of the RoD to be scrutinised in more detail to see if redaction is appropriate. Examples of these types of words are (but are not limited to):

- ▶ counselling
- ▶ stress
- ▶ unwell/sick
- ▶ occupational health.

Safety and wellbeing of doctors and third parties

33. In general terms, concerns a doctor has about the impact of publication on their reputation, or their work, social, family or personal life, are not enough to prevent publication of a public RoD. However, there may be exceptional cases where there is a clear and evidenced risk to a doctor's life (whether because of the risk of taking their own life or because the content of the RoD puts the doctor in danger from others) or a severe impact on their wellbeing (for example exacerbation of a serious health condition), which might mean that a public RoD should not be published, or should only be published in heavily redacted form. This may also arise if there is a similar risk to the life or wellbeing of a third party, for example a doctor's family member or a witness at the hearing.

34. Generally, these issues will arise following a request from a doctor or their representative to have publication of a public RoD withheld. But it is also open to decision makers to consider whether exceptional circumstances apply which could mean that publication should be withheld, even where a request has not been received. Each decision to withhold a RoD from publication must be considered on its own merits. In these circumstances, the MPTS Assistant Registrar must seek advice from their direct line manager and/or from MPTS Legal and/or GMC Policy colleagues. Consideration should also be given to whether any decision to withhold a RoD from publication should be reviewed after a period of time.

Requirement for evidence

35. In cases where a concern is raised that the publication of the RoD could have a serious impact on a doctor's health or wellbeing, or that of a third party, independent medical evidence or other objective information is usually required.

36. Examples of independent medical evidence include:

- ▶ GP reports
- ▶ Psychiatric reports
- ▶ Hospital discharge letters.
- ▶ Evidence considered as part of the MPT hearing will also be relevant and should be carefully reviewed, including obtaining a transcript of relevant evidence where necessary.

37. Sensitivity and flexibility may be required when requesting and reviewing medical evidence, considering the potential impact of the MPTS requesting further information from the doctor or a third party. In some cases, evidence from non-medical sources, for example police reports, may also be relevant. Evidence is expected to be sufficiently recent to enable an informed decision to be made. A request for updated evidence may be needed if a decision is to be reviewed after a period of time.

Third party privacy

38. As witness names are anonymised from public RoDs, third party privacy is generally protected. However, in some circumstances, a third party may be identifiable because of other information or a defined relationship with the doctor, for example, a spouse, child or other family member (known as 'jigsaw identification'). Redaction will need to be considered in these cases in order to protect a third party's privacy.

39. RoD redactions involving third party privacy most commonly arise when the allegation involves a domestic situation between the doctor and a third party. There are difficult balances here. As far as possible, decisions taken by a MPT and the reasons for them need to be clear from the public RoD. The public RoD should not be misleading – for example, by obscuring that a concern relates to a doctor's private life rather than their clinical practice. It is usually not possible therefore wholly to obscure the fact that the case involves someone with whom the doctor is, or has been, in a relationship. The aim is to obscure the identity of that person as far as possible. As in all cases, the context, circumstances and seriousness of the factual findings, whether or not the doctor's fitness to practise was found to be impaired and any sanction imposed will need to be kept in mind when deciding how the RoD should be redacted.

References to relationships between the doctor and others

40. Information that indicates a specific relationship between the doctor and a third party, by which that party can be identified, for example, the use of terms such

as ‘wife/husband/mother/father’, should usually be anonymised to Ms A, Mr B etc. References to marriage and domestic activities are also likely to require redaction.

41. Most information relating to children should be redacted in order to protect their identities. This includes references to a child’s age, any medical conditions or identifiable information.
42. Consideration should be given to whether explicit reference to ‘domestic’ when referring to abuse or violence should be redacted in order to protect the identity of a family member. In some cases, the RoD will refer to courses or treatment centres which the doctor has attended to remediate their behaviour. Where the names of these courses or centres make it apparent that allegations relate to abuse or violence in a domestic context, these may also need redaction.
43. In some cases, particularly those involving children, the MPT will hear a case in private because of the fact that a third party is identifiable from the surrounding circumstances. A redacted RoD will still be produced for publication after the hearing in these cases, and reference to the reasons for the private hearing will be given in it. It will usually be appropriate to redact the words ‘individual identifiable from the surrounding circumstances’ or equivalent in the public RoD, as they would otherwise be a clear indication as to the identity of the third party.
44. Decision makers should keep in mind that not all references to family members should be redacted. There will be circumstances where it is appropriate to include such a reference. For example, where a family member is giving a witness testimonial in support of a doctor, it is likely this should be kept in as readers will need to be aware of the context in which the evidence is being given.

References to domestic settings

45. Where the RoD refers to an incident or event that takes place in a family home, decision makers should consider redacting references to obscure the domestic setting and protect individuals it may involve, such as family members.
46. Information relating to domestic settings should be reviewed to determine whether redaction is appropriate. The following provide some examples, but this list is not exclusive:

- ▶ bathroom
- ▶ bedroom

- ▶ living room
- ▶ going upstairs to bed

47. Additionally, information relating to household items will also need to be reviewed to determine whether redaction is necessary. Examples include, but are not limited to:

- ▶ kitchen equipment and utensils
- ▶ children's toys
- ▶ television and remote control

References to sensitive third party information

48. Where information relates to sensitive and/or personal information about a third party, decision makers should consider whether this information should be redacted. Although the exact named relationship, e.g. wife, may be anonymised, there will remain a strong implication of the relationship in some cases. Decision makers should therefore consider whether references to sensitive and/or personal information about third parties are needed for the purpose of understanding the reasons for the decisions being taken. Examples of this type of information include health issues, pregnancy, or references to a third party's financial situation.

Interim orders

49. Where a hearing has concluded with a MPT finding that the doctor's fitness to practise is not impaired and no warning is issued, the MPTS will not disclose any information regarding an interim order imposed on the doctor during the course of the investigation. Any reference to an interim order and/or its revocation should be redacted in the public RoD in these cases.

50. However, there are occasions where an interim order will be mentioned in the public RoD for other reasons, for example where a breach of an interim order was the reason for the case going to an MPT hearing. Even if the case ends in a finding that the doctor's fitness to practise is not impaired and no warning is issued, in these circumstances it will usually be acceptable to retain these references in the public RoD. The individual context and circumstances should always be taken into account.

51. The MPTS will continue to publish information relating to interim orders where the hearing concludes with a finding that the doctor's fitness to practise is

impaired, a sanction is imposed or a warning issued by the MPT, or with the doctor being granted voluntary erasure.

Vetting and Barring decisions (DBS/DS)

52. Vetting and Barring assessments made by the DBS (in England, Wales and Northern Ireland) and DS (in Scotland), are separate from any GMC/MPTS decision. There should be no reference to the Vetting and Barring process in any documentation related to a MPT hearing. Any references to this should be redacted in the public RoD.

53. There are sometimes cases where the DBS/DS reference is to a routine check carried out, for example the completion of a DBS/DS form as part of a job application, rather than a specific referral or decision. In general terms, and taking into account all the circumstances, it is likely to be appropriate to keep these references in.

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