

# Voluntary removal applications (Physician Associates and Anaesthesia Associates)

Voluntary removal is the process where a PA or AA requests to be removed from the register. A PA or AA may request voluntary removal for a number of reasons including moving overseas, retirement or for other reasons that mean they are no longer able to or wish to practise as a PA or AA. The GMC will usually manage requests for voluntary removal as part of their registration services, but where there are fitness to practise concerns the request for voluntary removal will be considered by an MPTS tribunal.

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## Introduction

1. A physician associate (PA) or anaesthesia associate (AA) who is registered with the General Medical Council (GMC) may apply to be removed from the register at any time. This is known as making an application for voluntary removal (VR) from the register.
2. Where an unresolved fitness to practise concern<sup>1</sup> has led to an allegation being referred to be determined by an Associates Tribunal (AT) at a hearing and the hearing has commenced, the AT will be required to make a decision on whether to grant the voluntary removal application. Where a VR application is referred to the AT, they must first decide what stage of the ongoing proceedings should be reached before it is appropriate for them to consider the VR application.
3. In all cases, a VR application cannot be considered until the hearing has commenced. Following this, it will usually be appropriate to consider a VR application once findings of fact have been made. However, where there are exceptional circumstances, an AT may decide it is more proportionate to consider a VR application before making findings of fact.
4. When deciding whether to grant or refuse a VR application, the AT will need to decide if removal at this time is consistent with their role to protect the public.
5. Public protection means acting in a way that:
  - ▶ protects, promotes and maintains the health, safety and wellbeing of the public (patient safety)
  - ▶ promotes and maintains public confidence in the profession (public confidence), and
  - ▶ promotes and maintains proper professional standards and conduct for members of the profession (professional standards).

This legal duty is explained in more detail in the section [Protecting the public](#) in the [Guidance for MPTS tribunals \(PAs and AAs\)](#).

<sup>1</sup> An unresolved concern is where a fitness to practise initial assessment is ongoing or where a case has been referred to the Case Examiners or referred to an Associates Tribunal (AT) hearing and there has been no outcome yet. Where there has been a previous finding on impairment and/or a final measure of conditions or suspension is currently in effect on the PA or AA's registration, and there are no new concerns or allegations under consideration, there will not be an unresolved concern and so any application for VR will usually be decided by a GMC decision maker.

6. In all cases, granting an application for VR, even where there is an unresolved concern, will achieve patient safety because the PA or AA will no longer hold GMC registration and so will not be able to practise in the UK or in other jurisdictions that require them to hold GMC registration.
7. However, as public protection is wider than just patient safety considerations, in some cases the GMC and MPTS' ability to maintain and promote public confidence and professional standards will be undermined if the fitness to practise process is not progressed.
8. A good decision about a PA or AA's fitness to practise should protect the public, be proportionate, be transparent and be fair. In the context of making decisions on VR, to be proportionate, the AT will need to weigh and balance the relevant considerations to inform their view on whether VR, at a specific stage of the hearing, will achieve public protection. The AT also needs to satisfy themselves that any grant or refusal of a VR application is the most proportionate outcome.
9. The purpose of this guidance is to support fair and consistent decision making by ATs when deciding what stage of the ongoing proceedings should be reached before it is appropriate for them to consider a VR application from a PA or AA, and whether to grant or refuse a VR application.

## **When in the proceedings should the AT consider and decide a VR application?**

10. The AT should first decide what stage of proceedings should be reached before it is appropriate for them to consider a VR application. This decision must be made considering the individual circumstances of the case.
11. In all cases, the AT must not consider a VR application before the hearing has commenced. The hearing before the AT will have commenced once the PA or AA has been identified, and the allegations and any admissions are confirmed<sup>2</sup>. Following this, the stage at which it is appropriate to consider and decide a VR application is for the judgment of the AT, considering the following:
  - ▶ The AT must ensure that it has sufficient knowledge of the facts and circumstances of the case to make a decision that achieves public

<sup>2</sup> Rule 47(1)(b)(ii) of the General Medical Council (Fitness to Practise) (Anaesthesia and Physician Associates) Rules 2024 (the Rules)

protection. As a minimum this will mean the AT having a clear understanding of which paragraphs of the allegation are admitted and which are denied.

- ▶ Where all, or a significant proportion, of the paragraphs of the allegation are admitted by the PA or AA, it is likely to be proportionate to consider and decide the VR application once the Chair has announced that those facts have been found proved<sup>3</sup>. ‘Significant proportion’ could include admissions of the most serious allegations or the main substance of the allegations.
- ▶ Where all, or a significant proportion, of the paragraphs of the allegation are in dispute, the AT should not consider and decide the VR application until a decision on the facts has been made<sup>4</sup> unless there are exceptional circumstances that outweigh the need to decide the facts of the case before the PA or AA leaves the register. This will mean the AT is appropriately sighted of all relevant facts and circumstances relevant to deciding the application. Again, ‘significant proportion’ could include disputes of the most serious allegations or the main substance of the allegations.
- ▶ It is not necessary for the AT to consider impairment before considering the application for VR. However, when deciding whether to grant or refuse a VR application, the AT will need to make an overall assessment of whether VR at this stage of the hearing will achieve public protection. This will include consideration of the risk posed by a future re-entry application<sup>5</sup> and whether not proceeding to a decision on impairment and or consideration of a final measure would undermine public confidence.

## General approach

12. A VR application should not usually be considered until findings of fact have been made in relation to at least a significant proportion of the allegation. This is because until this stage of the proceedings is reached, the seriousness of the allegation will not be clear.

<sup>3</sup> Rule 47(1)(b)(iii) of the Rules

<sup>4</sup> Rule 47(1)(b)(v) of the Rules

<sup>5</sup> The AT should bear in mind that when a PA or AA applies for re-entry to the register the burden of proof will be on them to satisfy the GMC that their fitness to practise is not impaired ie they are fit to practise on an unrestricted basis. See Rule 25(1) of the General Medical Council (Registration) (Anaesthesia Associates and Physician Associates) Rules 2024.

13. Once a significant proportion of the allegation has been determined, there will be factual findings available to support a future assessment of any current and ongoing risk to public protection posed by the PA or AA if they apply for re-entry to the register. As the AT's determination on facts will be published on the MPTS website, this will also achieve transparency.
14. However, where there are exceptional circumstances, the AT may decide it is more proportionate to decide the VR application before a decision on the facts has been made. To decide when it is appropriate to consider the VR application, the AT should balance any exceptional circumstances against any relevant public protection considerations.

### **Are there any exceptional circumstances?**

15. Exceptional circumstances are, by definition, unusual, and so will rarely arise. However, this threshold may be met where there is sufficient evidence presented to the AT that demonstrates the PA or AA is unable to participate in the hearing at all, whether in person or through providing instructions to a representative, due to the impact of a health condition or because of the impact the proceedings themselves will have on their health.
16. When considering if there are exceptional circumstances in respect of a PA or AA's health, the AT should consider:
  - ▶ the impact of a health condition on the PA or AA's ability to respond to the case, in any form, at a hearing
  - ▶ their likelihood of recovery, and
  - ▶ the likelihood and extent of any risk of harm to the PA or AA arising directly from the continuation of the hearing, including, if relevant, any risk to the PA or AA's life<sup>6</sup> that cannot be appropriately mitigated through the AT adjusting its procedures or making any reasonable adjustments.
17. Evidence addressing the basis for the exceptional circumstances will usually be provided by, or on behalf of, a PA or AA seeking VR, although further information can be requested by the AT if required. However, as this may require an adjournment and delay the conclusion of the hearing, the AT should invite submissions from the parties on whether this is appropriate and

<sup>6</sup> With reference to Article 2(1) of the European Convention on Human Rights: "Everyone's right to life shall be protected by law" and the duty under the Human Rights Act 1988 to act in a way which is compatible with ECHR rights.

proportionate, applying the guidance in the section on [Adjournments](#) in the [Guidance for MPTS tribunals \(PAs and AAs\)](#).

18. It is not exceptional or even unusual for those involved in fitness to practise proceedings to find them stressful, including the PA or AA. The MPTS has put processes in place to try and minimise that stress insofar as possible. Evidence to support exceptional circumstances should therefore indicate how the ongoing proceedings will create an exceptional impact on the PA or AA.
19. Where the AT has been provided with objective and up to date evidence that the PA or AA is unable to understand or participate in the hearing due to the impact of an ongoing health condition that is unlikely to resolve within a reasonable time frame for the hearing to proceed, or there is likely to be a significant risk of harm to the PA or AA arising directly from the continuation of the hearing, this will usually amount to exceptional circumstances that weigh in favour of considering the VR application at any stage of the proceedings as long as the hearing has commenced.
20. However, before deciding to consider the application, the AT must weigh and balance the exceptional circumstances presented to them against any relevant public protection considerations.

## **Are there any relevant public protection considerations?**

21. The relevant public protection considerations include, but are not limited to:
  - ▶ the extent to which relevant evidence may be lost if disputed facts are not decided, including the likelihood of being able to secure the attendance of any key witnesses at a future hearing
  - ▶ the seriousness of the allegation that remains in dispute, and
  - ▶ the extent to which the allegations have been reviewed by other public adjudicatory bodies and the outcome.

## **The extent to which relevant evidence may be lost if disputed facts are not decided**

22. If a PA or AA disputes a significant proportion<sup>7</sup> of the allegations and findings of fact are not made before they leave the register, there is a risk that the GMC

<sup>7</sup> 'Significant proportion' could include admissions of the most serious allegations or the main substance of the allegations.

will not be able to revive the unresolved concern if the PA or AA applies for re-entry to the register in the future. This is because evidence may be lost, deteriorate or a witness's memory may fade, or they may become uncontactable or have died. An issue with revival may also arise due to documentary evidence being destroyed, deliberately or otherwise.

23. However, this risk is reduced or eliminated where the allegation is about a PA or AA's performance, the impact of a health condition or knowledge of English language, because objective evidence of their fitness to practise can usually be obtained at the point a re-entry application is made by them undertaking a relevant assessment.
24. In cases where the AT has received a certificate of conviction or determination, as this amounts to conclusive evidence of the offence committed or of the findings made by another regulator about the PA or AA's fitness to practise, it also reduces or eliminates this risk.
25. If the PA or AA disputes a significant proportion of the allegation and there is a risk that relevant evidence may be lost that cannot be appropriately mitigated, this may weigh towards allowing the hearing to progress up to at least the point that findings of fact are made before it is appropriate for the AT to consider the VR application.

### **The seriousness of the allegation that remains in dispute**

26. The AT will first need to reach a view on the seriousness of the allegation by applying the guidance in the section [\*Step 2b: Decide where on the spectrum of seriousness the allegation lies\*](#) in the [\*Guidance for MPTS tribunal \(PAs and AAs\)\*](#) which takes into account the nature of the allegation.
27. Public confidence in the medical professions is less likely to be damaged if a PA or AA leaves the register where the allegation falls at the lower end of the spectrum of seriousness on the basis the nature of the allegation means it is more likely to be easily remediable. This often includes where the allegation relates solely to a PA or AA's performance, the impact of a health condition or knowledge of English language.
28. Where the allegation falls at the higher end of the spectrum of seriousness and/or resulted in significant public concern, the impact on public confidence will usually weigh towards allowing the hearing to progress up to at least the

point that findings of fact are made before it is appropriate to consider the VR application.

### **The extent to which the allegations have been reviewed by other public adjudicatory bodies and the outcome**

29. Where there has been consideration of the circumstances giving rise to the allegation by another public or adjudicatory body and the outcome is in the public domain, an argument that considering the VR application before findings of fact have been made would harm public confidence or undermine professional standards may be less compelling. This includes consideration of the matter by another healthcare regulator.
30. However, where regulatory proceedings have been recommended by another body, there may be a reasonable public expectation that the fitness to practise process will be followed through to a specific stage to maintain public confidence. Where this is the case, this will usually weigh towards allowing the hearing to progress up to at least the point that findings of fact are made before considering the VR application.

### **Decision on when it is appropriate to consider and decide a VR application**

31. The decision on when it is appropriate to consider and decide a VR application is for the AT's judgment, attaching such weight as they consider appropriate to any exceptional circumstances and relevant public protection considerations.
32. Where the AT decides there are no exceptional circumstances, or where any relevant public protection considerations outweigh the exceptional circumstances, the AT should proceed to make findings of fact and then consider and decide the VR application.
33. Where the AT decides there are exceptional circumstances that outweigh any public protection considerations, the AT can consider and decide the VR application before findings of fact are made, provided the hearing has commenced<sup>8</sup>.

<sup>8</sup> This means that the hearing has reached and completed the stage at Rule 47(1)(b)(ii) of the Rules.

## Should an AT grant or refuse a VR application?

34. When deciding a VR application, the AT should consider the following questions to inform their decision on whether to grant or refuse VR, taking into account all relevant information and evidence available to them:
- Are there any relevant public protection considerations?
  - What is the risk associated with a future re-entry application from the PA or AA?
  - Are there any exceptional circumstances?
  - Is a decision on impairment and/or consideration of a final measure needed to maintain public confidence?

### a. Are there any relevant public protection considerations?

35. Relevant public protection considerations include:
- ▶ patient safety
  - ▶ public confidence
  - ▶ maintenance of professional standards.

### Patient safety

36. In principle, patients will be kept safe by the AT granting VR as the PA or AA will be removed from the register and no longer able to practise in the UK, or anywhere else requiring GMC registration. Therefore, any risk to patients in those jurisdictions is removed.
37. However, patients elsewhere may be placed at risk if a PA or AA who is not fit to practise is able to practise overseas. Where there is information that indicates the PA or AA is already working outside the UK, or there is evidence available that suggests they are likely to work outside the UK, this will weigh against granting VR before any facts decision is made.
38. This is because if the PA or AA continues to practise in a jurisdiction that does not require them to hold GMC registration, there may still be a risk to patients and the public; both those resident overseas and UK patients who have travelled overseas for treatment. In these instances, it is important the fitness to practise process is allowed to proceed so an outcome on the facts can be reached and any decision regarding a PA or AA's fitness to practise can be made and published.

## Public confidence and maintenance of professional standards

39. The AT needs to consider whether it would undermine public confidence and/or the maintenance of professional standards if the PA or AA was allowed to leave the register before the conclusion of the fitness to practise proceedings. Where it would, this weighs against granting VR.
40. Relevant considerations include:
- ▶ the seriousness of the allegation, and
  - ▶ the extent to which the allegation has been reviewed by other public adjudicatory bodies and the outcome.

### The seriousness of the allegation

41. The AT will first need to reach a view on the seriousness of the allegation, which takes into account the nature of the allegation, by applying the guidance in the section [Step 2b: Decide where on the spectrum of seriousness the allegation lies](#) in the [Guidance for MPTS tribunals \(PAs and AAs\)](#).
42. Public confidence in the medical professions is less likely to be damaged by granting VR where the allegation falls at the lower end of the spectrum of seriousness on the basis the nature of the allegation means it is more likely to be easily remediable. This often includes where the allegation relates solely to a PA or AA's performance, the impact of a health condition or knowledge of English language. Generally for these types of allegation, the AT can grant VR, even where the PA or AA has indicated they may seek to return to practice in the future.
43. However, where the allegation falls at the higher end of the spectrum of seriousness or resulted in significant public concern, the AT should consider, along with all other available evidence and information, whether a decision on impairment may be needed to maintain public confidence. This is because, in these circumstances, allowing the PA or AA to be removed from the register before an impairment decision has been made may undermine public confidence and/or the maintenance of professional standards.
44. In cases where a VR application is being considered after the AT has reached a decision on impairment, the AT should refer to their view on impairment ie whether the PA or AA poses any current and ongoing risk to public protection requiring restrictive action in response as this takes into account their assessment of seriousness.

45. Where the AT has decided the PA or AA's fitness to practise is not impaired, VR can usually be granted. However, the AT may wish to balance a decision to grant VE against whether they consider a warning should first be imposed to maintain public confidence or uphold professional standards. This is because once the MPT has granted VE they cannot go on to impose a warning in cases where this would otherwise have been appropriate.
46. In cases where the AT have decided the PA or AA's fitness to practise is impaired and the PA or AA poses a low or medium level of risk to public protection, VR can usually be granted. However, where the AT decides the PA or AA's fitness to practise is impaired on the basis the PA or AA poses a high level of risk to public protection, the AT should consider if a decision on a final measure may be needed to maintain public confidence.

#### **The extent to which the allegation has been considered by other public adjudicatory bodies and the outcome**

47. Where there has been consideration of the circumstances giving rise to the allegation by another public or adjudicatory body and the outcome is in the public domain, an argument that granting VR would harm public confidence or undermine professional standards may be less compelling. This includes consideration by another healthcare regulator.
48. However, where regulatory proceedings have been recommended by another body, there may be a reasonable public expectation that the fitness to practise process be allowed to run its course. Granting VR prior to the AT hearing concluding may therefore have the impact of undermining public confidence.

#### **b. What is the risk associated with a future re-entry application from the PA or AA?**

49. When considering if VR is appropriate, the AT should be mindful that any current and ongoing risk the PA or AA poses to public protection might still exist if they later apply for re-entry to the register.
50. Re-entry can only be granted where the individual satisfies the GMC that they are fit to practise on an unrestricted basis. If at the time a PA or AA is removed from the register there is an unresolved concern about their fitness to practise, this matter will need to be considered when deciding any re-entry application.

51. This includes where a decision on facts had been made but a decision on impairment had not at the time VR was granted, or where a decision had been made that the PA or AA's fitness to practise was impaired but no final measure was imposed as VR was granted.
52. The AT should therefore assess the risk associated with a re-entry application being made when deciding whether to grant or refuse VR. Where any risk is significant and cannot be appropriately mitigated, this will weigh against granting VR.
53. The overall risk associated with a re-entry application should be assessed by considering:
  - ▶ the likelihood of the PA or AA seeking re-entry, and
  - ▶ the GMC's ability to revive an unresolved concern.
54. Where there is a low likelihood of the PA or AA seeking re-entry, there is less likely to be a risk associated with a future re-entry application. In these circumstances, the GMC's ability to revive an unresolved concern is less relevant and so this will usually weigh in favour of granting VR.
55. However, where the AT considers there is more than a low likelihood of the PA or AA seeking re-entry to the register, the GMC's ability to revive an unresolved concern is more relevant to the assessment of any risk associated with a future application for re-entry.
56. Where a PA or AA may apply for re-entry in the future and, should they do so, the AT consider the GMC will have obvious difficulties reviving an unresolved concern or case, the risk arising from a future re-entry application will weigh against granting VR, unless there are exceptional circumstances that mean it would still be appropriate for the AT to grant VR.

### **The likelihood of the PA or AA seeking re-entry**

57. The AT must assess the likelihood of the PA or AA seeking re-entry based on the information and evidence available to them about the case and the individual circumstances of the PA or AA. This may include:
  - ▶ the PA or AA's health, and
  - ▶ the PA or AA's career intentions.

### **The PA or AA's health**

58. If a PA or AA provides objective evidence that they have a health condition which is serious and has a low likelihood of recovery, this is likely to be a strong indicator that they are unlikely to seek re-entry to the register in the future and so the risk associated with a future application is likely to be low. This will weigh towards granting VR.

### **The PA or AA's career intentions**

59. Where there is objective evidence that a PA or AA has fully retired from practise or is pursuing an alternative career, the AT may conclude the likelihood of the PA or AA applying for re-entry to the register is low.
60. In some cases, PAs or AAs may demonstrate genuine insight into allegations about their fitness to practise and express an intention to pursue an alternative career path. Evidence of that intention may include paperwork confirming enrolment in alternative training or academic study. However, caution should be applied where the PA or AA is at an early or mid-point in their career, where the prospect of wanting to return to work as a PA or AA is significantly higher.
61. Where there is evidence that suggests the PA or AA intends to return to practice after a short break, this will indicate that the likelihood of them applying for re-entry is high and weigh towards refusing VR.
62. When considering the likelihood of the PA or AA seeking re-entry to the register, the AT should also consider the length of time since the PA or AA last practised. In general, a PA or AA is less likely to apply for re-entry if they have not worked for a significant period. When assessing their work history, time spent practising overseas should be treated with equal weight to that of practising in the UK. Where there is evidence that a PA or AA intends to continue to practise overseas, this may indicate that the likelihood of applying for re-entry in the future may be higher.
63. In cases where there is evidence to suggest that a PA or AA's intention to cease practice is not genuine, the AT may treat this as an indication that the likelihood of them applying for re-entry is high. The AT should therefore carefully consider any available information about the PA or AA's motivation for seeking VR, particularly to assess if they have applied for VR solely to avoid a final measure being imposed or otherwise circumvent the fitness to practise process.

## The GMC's ability to revive an unresolved concern

64. Where the GMC would be able to revive the unresolved concern should the PA or AA later seek re-entry to the register, this may reduce or eliminate any risk arising from a future re-entry application. Where revival of an unresolved concern would be possible this will weigh towards granting VR. Where the AT has already made findings of fact, this is likely to be the case.
65. However, where the AT considers there will be obvious difficulties in the GMC's ability to revive the unresolved concern, this is likely to indicate that any risk from a future application for re-entry cannot be mitigated and will weigh against granting VR. This would likely only apply where a VR application is being considered before findings of fact have been made.
66. Where VR is being considered before findings of fact, the AT should be satisfied that steps have been, or can be, taken to safeguard against any risk that evidence will not later be available, will be destroyed, or its value will be degraded over time. They should also assess how feasible it would be for the GMC to revive the unresolved concern in the future by considering the following evidential matters:
- ▶ any criminal conviction or a determination by another regulatory body that can be relied on as conclusive evidence of the offence committed or fitness to practise findings by another regulator
  - ▶ whether the PA or AA accepts or disputes the allegation, noting that it is possible for admissions made to be withdrawn, and
  - ▶ any new evidence that may be available at the time a re-entry application is made.

### **Any criminal conviction or a determination by another regulatory body**

67. Where the AT has received a certificate of conviction or determination, this amounts to conclusive evidence of the offence committed or of the findings made about the PA or AA's fitness to practise. This will mean the unresolved concern can more easily be revived in the event of a re-entry application. This may indicate that the risk associated with a future re-entry application is low and weigh towards granting VR.
68. However, where the conviction or determination is of a particularly serious nature, then public confidence may be impacted if VR is granted before an impairment decision is reached in cases where it is likely that the seriousness would result in the AT imposing a final measure of removal.

### **Whether the PA or AA accepts or disputes the allegation**

69. Where the PA or AA has accepted a significant proportion of the paragraphs of the allegation or otherwise made admissions in a form that can be relied on in the future<sup>9</sup>, this will make it easier to revive any unresolved concern. This may indicate that the risk associated with a future re-entry application is low and weigh towards granting VR.
70. However, if a PA or AA disputes a significant proportion of the allegations and findings of fact are not made before they leave the register, there is a risk that the GMC will not be able to revive an unresolved concern if the PA or AA applies for re-entry to the register in the future. This is because evidence may be lost, deteriorate or a witness's memory may fade, or they may become uncontactable or have died.
71. An issue with revival may also arise due to documentary evidence being destroyed, deliberately or otherwise. In these circumstances there is likely to be a risk arising from the GMC not being able to revive the allegation. This may weigh towards refusing VR.
72. However, in cases where the AT has received a certificate of conviction or determination, as this amounts to conclusive evidence of the offence committed or of the findings made by another regulator about the PA or AA's fitness to practise, there is less likely to be a risk arising from the PA or AA's denial. This may weigh towards granting VR.

### **New evidence that is likely to be available at the time a re-entry application is made**

73. The AT should also consider whether the nature of the allegation means that objective evidence relevant to the assessment of the PA or AA's fitness to practise can be obtained in the event of a re-entry application.
74. Where the allegation relates to a PA or AA's performance, the impact of a health condition or knowledge of English language, objective evidence of their fitness to practise can usually be obtained at the time of the re-entry application by the PA or AA undertaking a relevant assessment. This may weigh towards granting VR.

<sup>9</sup> Admissions should be clear, unambiguous and recorded.

### **c. Are there any exceptional circumstances?**

75. In some cases, there may be exceptional circumstances which mean VR can be granted even when there are relevant public protection considerations and/or a significant risk arising from a future re-entry application which would usually mean that VR should be refused.
76. Exceptional circumstances are, by definition, unusual, and so will rarely arise. However, this threshold may be met where there is sufficient evidence presented to the AT that demonstrates the PA or AA is unable to participate in the hearing at all, whether in person or through providing instructions to a representative, due to the impact of a serious health condition that will not improve to enable the proceedings to resume at a later date or because of the impact the proceedings themselves will have on their health which cannot be mitigated in any way.
77. When considering if there are exceptional circumstances in respect of a PA or AA's health, the AT should consider:
- ▶ the impact of a health condition on the PA or AA's ability to respond to the case at a hearing in any form
  - ▶ their likelihood of recovery, and
  - ▶ the likelihood and extent of any risk of harm to the PA or AA arising directly from the continuation of the hearing, including, if relevant, any risk to the PA or AA's life that cannot be appropriately mitigated through the AT adjusting its procedures or making reasonable adjustments.
78. Evidence addressing the basis for the exceptional circumstances will usually be provided by, or on behalf of, a PA or AA seeking VR, although further information can be requested by the AT if required. However, as this may require an adjournment and delay the conclusion of the hearing, the AT should invite submissions from the parties on whether this is appropriate and proportionate, applying the guidance in the section on [Adjournments](#) in the [Guidance for MPTS tribunals \(PAs and AAs\)](#).
79. The AT should be mindful that it is not exceptional or even unusual for those involved in fitness to practise proceedings to find them stressful, including the PA or AA. The MPTS has put processes in place to try and minimise that stress insofar as possible. Evidence to support exceptional circumstances should therefore indicate how the ongoing proceedings will create an exceptional impact on the PA or AA.

80. Any risk of harm to the PA or AA should be evidenced with specific reference as to how the proceedings will exceptionally impact on the PA or AA and how the proceedings cannot fairly proceed with any adjustments in place.
81. Where the AT has been provided with objective and up to date evidence that the PA or AA is unable to understand or participate in the hearing due to the impact of an ongoing health condition that is unlikely to resolve or there is likely to be a significant risk of harm to the PA or AA arising directly from the continuation of the hearing, irrespective of whether they intend to attend the hearing, this will usually weigh in favour of granting VR at any stage as long as the hearing has commenced.

#### **d. Is a decision on impairment and/or consideration of a final measure needed to maintain public confidence?**

82. This question only needs to be considered where the allegation falls at the higher end of the spectrum of seriousness and/or has resulted in significant public concern. This is because public confidence is most likely to be impacted in such cases.
83. Generally, the level of public confidence will increase the further a hearing progresses. However, proceeding with an AT hearing has resource implications and impacts on all those involved in the hearing, including patients, witnesses or members of the public. The AT will therefore need to balance these considerations to decide whether the risk to public confidence is such that it is necessary for the fitness to practise process to reach its full conclusion.
84. Usually, a decision on impairment and/or consideration of a final measure will not be needed to maintain public confidence, even where the allegation falls at the higher end of the spectrum of seriousness and/or has resulted in significant public concern, provided that findings of fact have been made. This is because, once findings of fact have been made, the seriousness of the allegation will be clear and the AT's determination will usually be published on the MPTS website in line with the [Publication and Disclosure Policy](#).
85. However, in rare cases, the seriousness and/or impact of an allegation may require a decision on impairment and/or a final measure to be made to maintain public confidence before VR can be granted. When reaching a view on this, the AT should bear in mind that any decision that a PA or AA's fitness to practise is impaired will be published on the register.

86. Where the AT concludes that a decision on impairment and/or consideration of a final measure is not needed to maintain public confidence, this will weigh towards granting VR provided findings of fact have been made. However, where the AT is of the view that a decision on impairment and/or consideration of a final measure is needed to maintain public confidence, this will weigh towards refusing VR and allowing the hearing to proceed.
87. In cases where a VR application is being considered after the AT has reached a decision on impairment but before a decision on a final measure has been made, when deciding whether a decision on a final measure is needed, the AT should consider their view on impairment ie whether the PA or AA poses any current and ongoing risk to public protection requiring restrictive action in response. If the AT has concluded that the PA or AA's fitness to practise is impaired and that they pose a risk to public confidence, this may weigh towards them refusing VR and instead proceeding to consider imposing a final measure.
88. Consideration of imposing a final measure is more likely to be needed where the likely proportionate outcome is one of a final measure of removal<sup>10</sup>. This is because following this type of removal a PA or AA cannot apply for re-entry to the register for a period of five years and upon doing so, the onus is on them to demonstrate they are now fit to practise on an unrestricted basis. Proceeding to impose a final measure of removal may therefore better achieve public protection than granting VR.

## Deciding whether to grant or refuse a VR application

89. The decision on whether to grant or refuse VR is one for the AT's judgment, attaching such weight as they consider appropriate to any relevant matters.
90. When considering multi-factorial cases, the AT should consider each allegation, with more weight being given to any relevant public protection considerations arising from the most serious matters.

<sup>10</sup> To reach a view on the likely final measure, the AT should refer to the guidance on final measures in [Part C: step three – final](#) measures of the MPTS Guidance for tribunals and any relevant final measure bandings.

91. Where the application for VR is refused, the hearing will continue to progress in the normal way.
92. In all cases, the AT should ensure that they provide clear reasons for their decision to ensure it is transparent. The PA or AA needs to be able to understand any reasons for refusing an application for VR so they can decide whether they want to exercise their right of appeal<sup>11</sup>.

<sup>11</sup> Under Article 16(1) of The Anaesthesia Associates and Physician Associates Order 2024.