GMC & PROFESSIONAL REGULATION | MODULE 06

# Evidence, statements and confidentiality

Build an accurate evidence set, prepare defensible statements and protect patient and colleague information throughout parallel proceedings.

✓ 18 min reading

✓ Full teaching, practical next steps and reflection

✓ Six practice questions with answers and explanations

✓ Complete source list and jurisdiction notes

Prepared for SAS, locally employed and other UK doctors

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# Using this module

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| **Independent education** | This is general professional information, not individual clinical, legal, employment, immigration, regulatory, tax or pensions advice. Current official instructions and the circumstances of the individual case remain controlling. Practice scores do not establish professional competence or accreditation. |

## The short answer

Preserve originals, build an index, distinguish direct knowledge from hearsay and use authorised disclosure. A persuasive statement is accurate and limited to the writer's role; it does not improve the facts through certainty, advocacy or retrospective alteration.

## Three next actions

- Create an evidence index showing location, relevance, owner and disclosure status.
- Write from contemporaneous sources and label any later recollection.
- Ask the relevant adviser before sharing confidential, privileged or third-party material.

## Learning objectives

- Distinguish clinical records, personal chronology and formal evidence.
- Write accurate witness or reflective material.
- Apply minimum-necessary confidentiality and secure disclosure.

# Preserve original evidence

Do not delete messages, alter rotas, amend records improperly or invite others to rewrite accounts. Preserve the version received and note where the authorised original is held. Metadata, audit trails and version history may matter.

A doctor should not conduct unauthorised searches of patient records to prepare a defence. Ask the organisation or defence adviser for lawful access and disclosure.

- Keep originals intact.
- Use authorised access.
- Record provenance.

# Build an evidence index

For each item record date, description, source, relevance, authorised location, confidentiality and whether disclosed. An index reduces unnecessary copying and allows advisers to identify gaps. Include potentially adverse documents; hiding them can damage credibility.

Group material by allegation and process. Mark duplicates and versions. A large indiscriminate bundle is not a substitute for analysis.

- Index rather than hoard.
- Include adverse evidence.
- Connect items to allegations.

# Define the writer's role

State position, duties, involvement and sources. Distinguish what you saw, did, recorded, were told or learned later. Avoid commenting outside expertise or authority. If writing as a manager about another doctor, separate management decisions from clinical expert opinion.

Use dates and specific actions. Explain standard practice only where qualified and identify the source. Do not use templates that create facts not present in the record.

- State role and scope.
- Separate observation and hearsay.
- Avoid expert conclusions without expertise.

# Memory and uncertainty

Human memory changes. If you do not remember independently, say that the record was made contemporaneously and use it to describe what it documents. Do not convert usual practice into certainty about a specific event unless the distinction is explicit.

Correct errors promptly and transparently. A reasoned correction is safer than defending an obvious mistake.

- Do not overclaim memory.
- Label usual practice.
- Correct transparently.

# Confidentiality and redaction

Use secure organisational or adviser-approved channels. Remove patient identifiers unless necessary and lawfully requested. Consider indirect identification through rare diagnosis, location, dates or role. Do not circulate witness statements or investigation reports beyond authorised recipients.

Redaction should not make evidence misleading. Keep an authorised original and record who made the redaction and why.

- Protect direct and indirect identity.
- Use minimum necessary information.
- Retain an authorised original.

# Privilege and disclosure

Legal privilege is technical. Do not label a document 'privileged' and assume protection. Ask the lawyer who is the client, what communication is protected and whether sharing may waive privilege. Union, advocate and peer-support communications have different confidentiality terms.

Court, tribunal, regulator and investigation duties may require disclosure. Never destroy material because it is unhelpful. Obtain advice on preservation and lawful response.

- Privilege needs legal analysis.
- Sharing can affect protection.
- Preserve relevant material.

# Worked example: factual witness statement

A generic doctor is asked to describe a review performed many months earlier. Their statement identifies their role, the request received, the contemporaneous notes, what those notes record and what they independently remember. Where there is no independent recollection, the statement says so. It does not turn the doctor into an expert on another specialty or offer an opinion on the patient’s later condition without evidence.

The draft is checked against the record and chronology. Any correction is made transparently before signature. The doctor confirms the declaration of truth required by the process only after understanding the document and receiving appropriate advice.

- Role and scope.
- Source and memory.
- Truth declaration understood.

# Evidence handling risk check

For each item ask: Do I have lawful access? Is this the authorised original or a copy? Does it contain patient, colleague or third-party information? Is it necessary for the stated purpose? Has the receiving route been approved? Could metadata reveal more than intended? Is there a preservation or disclosure duty?

If access is lost or material may disappear, notify the employer and adviser and request preservation. Do not solve an access problem through passwords, unofficial screenshots, covert downloads or messages to witnesses.

- Authority before access.

- Necessity before copying.
- Preservation through proper channels.

# Common mistake

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| **Avoid this** | Collecting confidential material without authority can create a new professional concern even when the intention is self-protection. |

## Pause and reflect

Could an independent reader tell which parts of your account are direct fact, source-based reconstruction, hearsay and opinion?

## Takeaways

- Preserve originals and provenance.
- Accuracy includes admitting the limits of memory.
- Confidentiality, privilege and disclosure are different concepts.

# Knowledge check

Choose one best answer. These practice questions support reflection; they do not assess a real case or confer accreditation. Answer positions match the browser edition.

**1. A doctor needs records for a statement but no longer has clinical access. What is safest?**

A. Ask the patient directly

B. Guess from memory

C. Use a colleague's login

D. Request authorised access or disclosure through the employer and adviser

**2. Which evidence set is most useful?**

A. A sourced index linked to each allegation, including adverse material

B. Unlabelled screenshots

C. Every email ever sent

D. Only favourable documents

**3. A treating doctor is asked for an opinion on a patient's current capacity months later without reassessment. What is safest?**

A. Ask police to write the opinion

B. Use the earlier assessment as sufficient evidence of the patient’s present capacity

C. State the limits of current knowledge and the time-specific nature of the original assessment

D. Give a definitive current opinion

**4. What should a doctor say when only usual practice is remembered?**

A. Present it as direct memory

B. Omit the limitation

C. Change the notes

D. Describe it as usual practice and avoid claiming specific recollection

**5. A rare case can be recognised without the patient's name. What should happen?**

A. Assume removal of name is enough

B. Change clinical facts

C. Publish it as anonymised

D. Assess indirect identification and redact or limit disclosure proportionately

**6. A manager asks for a lawyer's advice sent to the doctor. What is safest?**

A. Post it to the team

B. Forward a summary of the legal advice without first checking the implications for privilege

C. Forward immediately

D. Ask the lawyer before forwarding it

# Answers and explanations

**1. D — Request authorised access or disclosure through the employer and adviser**

Request authorised access or disclosure through the employer and adviser This reflects the safer principle explained in “Preserve original evidence”.

Re-read “Preserve original evidence” and identify the action, adviser or evidence needed before proceeding.

**2. A — A sourced index linked to each allegation, including adverse material**

A sourced index linked to each allegation, including adverse material This reflects the safer principle explained in “Build an evidence index”.

Re-read “Build an evidence index” and identify the action, adviser or evidence needed before proceeding.

**3. C — State the limits of current knowledge and the time-specific nature of the original assessment**

State the limits of current knowledge and the time-specific nature of the original assessment This reflects the safer principle explained in “Define the writer's role”.

Re-read “Define the writer's role” and identify the action, adviser or evidence needed before proceeding.

**4. D — Describe it as usual practice and avoid claiming specific recollection**

Describe it as usual practice and avoid claiming specific recollection This reflects the safer principle explained in “Memory and uncertainty”.

Re-read “Memory and uncertainty” and identify the action, adviser or evidence needed before proceeding.

**5. D — Assess indirect identification and redact or limit disclosure proportionately**

Assess indirect identification and redact or limit disclosure proportionately This reflects the safer principle explained in “Confidentiality and redaction”.

Re-read “Confidentiality and redaction” and identify the action, adviser or evidence needed before proceeding.

**6. D — Ask the lawyer before forwarding it**

Ask the lawyer before forwarding it This reflects the safer principle explained in “Privilege and disclosure”.

Re-read “Privilege and disclosure” and identify the action, adviser or evidence needed before proceeding.

# Official and professional sources

Confirm the current source version and applicable nation, contract, scheme or specialty. A source list is not a statement that every rule applies to every reader.

GMC: Good medical practice 2024
UK · https://www.gmc-uk.org/professional-standards/the-professional-standards/good-medical-practice

GMC: How we investigate concerns about doctors
UK · https://www.gmc-uk.org/concerns/information-for-doctors-under-investigation/how-we-investigate-concerns

MDU: Fitness to practise procedures
UK · https://www.themdu.com/guidance-and-advice/guides/fitness-to-practise-ftp-procedures

MPTS: How medical practitioners tribunals work
UK · https://www.mpts-uk.org/hearings-and-decisions/hearing-types/how-a-hearing-works-for-doctors/medical-practitioners-tribunals

## Edition and verification

Editorial edition: 9 September 2026. The page source-review date is 2026-09-07. A publication date, editorial edit and substantive source check have different meanings. See sasdoctors.com/corrections for material corrections and the scope of review.

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