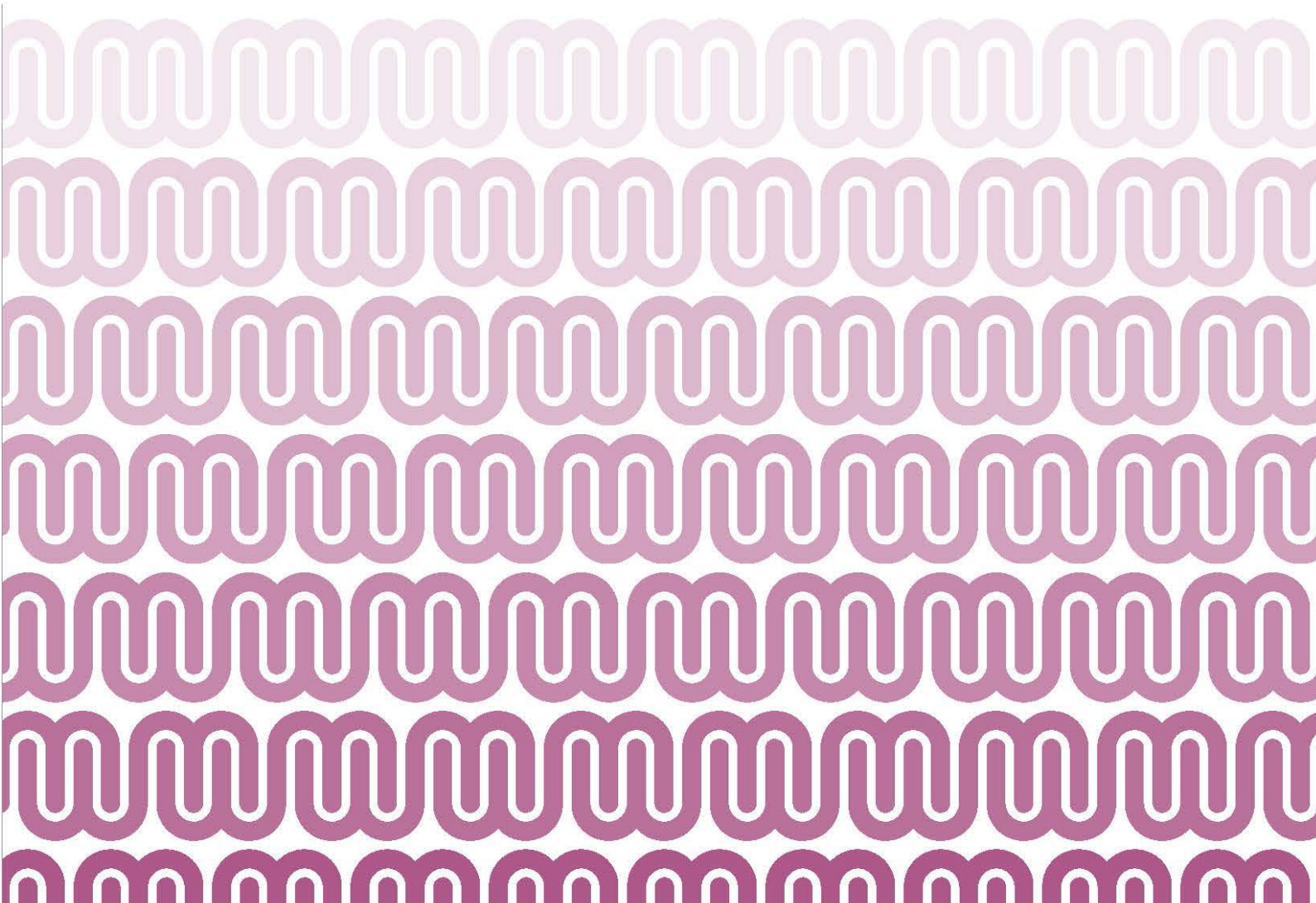
mental welfare commission for scotland

Who is the responsible medical officer (RMO)?

Advice note

August 2026



Our mission and purpose

Our Mission

To be a leading and independent voice in promoting a society where people with mental illness, learning disabilities, dementia and related conditions are treated fairly, have their rights respected, and have appropriate support to live the life of their choice.

Our Purpose

We protect and promote the human rights of people with mental illness, learning disabilities, dementia and related conditions.

Our Priorities

To achieve our mission and purpose over the next three years we have identified four strategic priorities.

- To challenge and to promote change
- Focus on the most vulnerable
- Increase our impact (in the work that we do)
- Improve our efficiency and effectiveness

Our Activity

- Influencing and empowering
- Visiting individuals
- Monitoring the law
- Investigations and casework
- Information and advice

This guidance was first published in June 2021. It was reviewed and updated in August 2026.

Contents

Purpose

This guidance explains:

- who is the responsible medical officer (RMO) under the Mental Health (Care and Treatment) (Scotland) Act 2003 (Mental Health Act),
- how an RMO is appointed, and
- the circumstances in which another approved medical practitioner (AMP) may lawfully exercise RMO functions.

Questions about who has authority to act as the RMO arise regularly in clinical practice, particularly during annual leave, on-call arrangements, service reconfiguration, and where patients move between inpatient and community services. Uncertainty can lead to statutory functions being exercised without the necessary legal authority, potentially affecting the validity of decisions taken under the Act.

Audience

This guidance is intended for responsible medical officers (RMOs), approved medical practitioners (AMPs), psychiatrists, medical managers, mental health officers (MHOs), hospital managers, Mental Health Act administrators, health boards, independent hospitals providing care under the Mental Health Act, and others responsible for the governance and administration of compulsory measures under the Act.

Key principles

The following principles underpin the statutory arrangements:

- Every patient for whom the Mental Health Act requires an RMO must have an identifiable RMO appointed by the relevant hospital managers as soon as is reasonably practicable after the relevant statutory event.
- An RMO must be an approved medical practitioner (AMP) appointed by the relevant hospital managers under section 230 of the Act.
- Individual consultants cannot personally transfer or delegate statutory RMO functions to another doctor.
- Where another AMP exercises RMO functions, they do so because they have been appointed or authorised by hospital managers in accordance with section 230, not simply because they are providing clinical cover or are the duty psychiatrist.
- Terms such as *covering RMO*, *temporary RMO* or *acting-up RMO* are commonly used in practice but are not terms used in the legislation. The legal authority to exercise RMO functions derives from section 230, not from clinical rota arrangements or local custom. A rota may identify the practitioner who is to act at a particular time, but only where the necessary appointment or authorisation under section 230 has been made by the relevant hospital managers.
- Hospital managers are responsible for ensuring that appropriate arrangements are in place so that statutory RMO functions can always be exercised by a suitably authorised AMP.

Legislative framework

Section 230 of the Mental Health Act requires the managers of the relevant hospital to appoint an AMP to be the patient's RMO as soon as reasonably practicable after an appropriate event has occurred.

Section 230 also sets out the circumstances in which hospital managers may appoint or authorise another AMP in relation to the exercise of RMO functions. These arrangements are considered later in this guidance.

Appointment of the RMO

Section 230(1) of the Mental Health Act requires the managers of the relevant hospital to appoint an AMP to be the patient's RMO as soon as reasonably practicable after the occurrence of an appropriate event in relation to the patient.

Once appointed, there is one RMO for the patient at any given time. The appointment of the RMO is a statutory function of the relevant hospital managers. The Code of Practice recognises that appointment may be possible on the same day but, where the RMO has to come from another hospital or service, 'as soon as is reasonably practicable' may mean the next working day. Local arrangements should nevertheless establish without delay or uncertainty who is to act where an RMO function is required.

Appointment of another RMO

Section 230(3)(a) provides that the relevant hospital managers may appoint another Approved Medical Practitioner in place of the existing RMO.

This provision enables responsibility for the patient to transfer from one RMO to another where appropriate. Examples include changes in consultant responsibility, transfer of care between services, or other circumstances where responsibility for the patient's care is formally assumed by another AMP.

When another AMP is appointed under section 230(3)(a), they become the patient's RMO and assume all of the statutory responsibilities attached to that role.

Authorisation to act in place of the RMO

Section 230(3)(b) provides that the relevant hospital managers may authorise an AMP to act, whether for a particular purpose or in particular circumstances, in place of the patient's RMO.

This enables hospital managers to make arrangements for another AMP to fulfil the role of the RMO for the purpose or circumstances specified in the authorisation. This may, for example, allow another AMP to undertake particular statutory functions

where the patient's usual RMO is unavailable or where another AMP is required for a specific purpose.

The extent of the authority derives from the authorisation made by the hospital managers under section 230(3)(b). Local arrangements should clearly identify the purpose or circumstances for which the AMP is authorised to act in place of the patient's RMO.

Practical implications

Clinical arrangements such as consultant cross-cover, annual leave, on-call rotas or day-to-day involvement in a patient's care do not, of themselves, determine who is the patient's RMO or confer authority to act in place of the RMO under the Mental Health Act.

An individual RMO cannot personally transfer statutory responsibilities to another doctor. Where another AMP is required to act as, or in place of, the patient's RMO, this must be through arrangements made by the relevant hospital managers under section 230.

Hospital managers should ensure that local governance arrangements clearly identify the patient's RMO and the circumstances in which another AMP has been appointed or authorised under section 230. These arrangements should be sufficiently clear to ensure there is no uncertainty about who is responsible for exercising statutory functions under the Act at any given time.

The Commission recommends that the relevant hospital managers have documented local procedures describing how appointments and authorisations under section 230 are made and recorded. These procedures should ensure that there is no ambiguity about who is the patient's RMO, or who is authorised to act in place of the RMO, during periods such as annual leave, less than full-time working, on-call arrangements, sickness absence, study leave, and other planned or unplanned absences.

Making section 230 arrangements work in practice

The Mental Health Act places responsibility on the relevant hospital managers. In an NHS hospital this will normally be the health board. The Board should therefore ensure that its governance arrangements identify how the section 230 function is to be exercised in practice, including outside normal working hours. It should not depend on an individual consultant informally finding another doctor to act.

A practical approach may include a formally approved scheme of delegation or other documented governance arrangement identifying the office-holder or role authorised to make and record appointments under section 230(1) and 230(3)(a), and authorisations under section 230(3)(b), on behalf of the hospital managers. The local

scheme should be clear about the scope of that authority, any limits on it, and the arrangements that apply during evenings, nights, weekends and public holidays.

Section 230(3)(b) also permits hospital managers to authorise an AMP to act in place of the RMO for a particular purpose or in particular circumstances. This allows services to make prospective arrangements for predictable situations. For example, hospital managers may authorise the AMP who is rostered to provide consultant or senior psychiatric cover for a defined service to act in place of the RMO when the usual RMO is unavailable out of hours, provided that the authorisation itself has been properly made under section 230(3)(b) and its scope is clear. The rota then identifies which AMP falls within the pre-existing authorisation at that time; the rota does not itself confer the statutory authority.

For planned absence, services may use the same mechanism or may make a patient-specific appointment or authorisation in advance. For prolonged absence or a substantive transfer of clinical responsibility, appointment of another RMO under section 230(3)(a) may be more appropriate than relying on repeated short-term authorisations.

Out of hours, staff should be able to establish promptly: who is the patient's appointed RMO; whether the duty AMP is authorised under section 230(3)(b) to act in the relevant circumstances; and who has authority on behalf of the hospital managers to resolve any uncertainty or make a further appointment or authorisation where required. These arrangements should be accessible to the duty medical team, Mental Health Act administration and relevant managers, rather than depending on knowledge held by an individual member of staff.

The Commission does not prescribe a single model. Health boards and independent hospitals may organise these arrangements differently. The essential requirements are that the authority derives from the relevant hospital managers, the person exercising an RMO function is an AMP where the Act requires this, the scope of any section 230(3)(b) authorisation is identifiable, and there is a reliable record of the arrangement.

Statutory functions requiring the RMO or an authorised AMP

Many statutory functions under the Mental Health Act must be carried out by the patient's RMO. Where another AMP undertakes these functions, they must have been appointed or authorised under section 230 to act in place of the RMO.

The Commission has encountered situations where statutory decisions have been made by doctors who had clinical responsibility for the patient but had not been appointed or authorised under section 230. Depending on the statutory provision and the nature of the defect, the resulting decision may be open to legal challenge.

The following examples have given rise to particular difficulties.

Extension of compulsory treatment orders and compulsion orders

Applications to extend a compulsory treatment order (CTO) or compulsion order (CO) must be made by the patient's RMO or by an AMP who has been appointed or authorised under section 230 to act in place of the RMO. Although another doctor may undertake parts of the clinical assessment, the statutory certificate should only be completed by a doctor with the necessary authority under the Mental Health Act.

T2 certificates

A T2 certificate must be completed by the patient's RMO or by an AMP who has been appointed or authorised under section 230 to act in place of the RMO. It cannot be completed by a doctor who is not an AMP.

Part 16 treatment for patients aged under 18

Certain treatment decisions under Part 16 of the Mental Health Act require the involvement of a child specialist (as determined by the Mental Welfare Commission for Scotland). Where the patient's RMO is not a child specialist, hospital managers may authorise a child specialist AMP under section 230(3)(b) to act in place of the RMO for the relevant statutory purpose.

This commonly arises where a young person is receiving care in an adult mental health service but requires a statutory treatment certificate under Part 16.

Recall from community compulsion

Where a patient subject to community compulsion has failed to comply with the order, the powers in section 113 are exercised by the patient's RMO or by an AMP authorised under section 230(3)(b) to act in place of the RMO. Under section 113(6), once the patient has been conveyed to hospital, the RMO must either carry out the medical examination or arrange for another AMP to do so. That examining AMP does not require separate authorisation under section 230 merely to carry out the section 113(6) examination.

Section 114 concerns any subsequent certificate authorising continued detention pending review or an application for variation. That certificate is an RMO function. It must therefore be granted by the patient's RMO or by an AMP who is authorised under section 230(3)(b) to act in place of the RMO for that purpose or in those circumstances.

Approved medical practitioners

Section 22 of the Mental Health Act provides for health boards to approve medical practitioners as having special experience in the diagnosis and treatment of mental disorder and to maintain lists of approved medical practitioners (AMPs).

A medical practitioner who is included in a health board AMP list may exercise the statutory functions of an AMP throughout Scotland. Doctors do not require separate approval for each health board in which they practise.

The AMP training programme is administered by Public Services Delivery Scotland (PSDS), the successor organisation to NHS Education for Scotland (NES). Following completion of initial or update training, PSDS records completion of the required training and maintains a national electronic dashboard which generates a publicly available national list of AMPs. This supports health boards in maintaining accurate local AMP lists and identifying practitioners approaching mandatory update training. Responsibility for approving medical practitioners under section 22 of the Act, and for maintaining each health board's list of AMPs, remains with the relevant health board.

To maintain AMP status, doctors are required to complete mandatory update training every five years. PSDS provides both a multi-specialty update programme and specialty-specific update training for psychiatrists practising in child and adolescent psychiatry and forensic psychiatry.

Individual AMPs should keep a record of when their mandatory update training is due and ensure that it is completed in good time. If a doctor whose AMP status has lapsed undertakes statutory functions requiring AMP approval, the resulting statutory decisions may be open to legal challenge.

Doctors taking up a new appointment, undertaking locum work, moving employer or returning from retirement should confirm that they hold current AMP status and are included on a health board AMP list before exercising statutory functions under the Act.

Health boards should maintain accurate local AMP lists and have robust systems to ensure that changes in AMP status, completion of mandatory update training and changes in employment are reflected promptly. The Commission recommends that health boards periodically review their AMP lists to ensure they remain accurate and up to date.

Good practice

The Commission recommends that relevant hospital managers have clear governance arrangements to support the appointment of RMOs and the exercise of statutory functions under the Mental Health Act.

These arrangements should include:

- ensuring an accurate and up-to-date local list of AMPs;
- ensuring there is no ambiguity about who is the patient's RMO at any given time;
- documenting appointments and authorisations made under section 230;
- having clear procedures for annual leave, less than full-time working, on-call arrangements, study leave, sickness absence and other planned or unplanned absences;
- where functions of the hospital managers are exercised through a scheme of delegation or equivalent governance arrangement, identifying the role or office-holder authorised to make and record section 230 appointments and authorisations, including out of hours;
- where prospective section 230(3)(b) authorisations are used, defining clearly the purpose or circumstances covered and how the AMP who is authorised at a particular time can be identified, for example by reference to an on-call rota;
- ensuring that out-of-hours teams have a clear route for resolving uncertainty and, where necessary, obtaining a lawful appointment or authorisation without avoidable delay;
- ensuring that clinicians, managers and administrative staff can readily identify both the patient's current RMO and any AMP authorised under section 230(3)(b) to exercise RMO functions at any given time, including during annual leave, sickness absence, weekends, on-call arrangements and other planned or unplanned absences;
- reviewing local arrangements periodically to ensure they remain consistent with current legislation and national guidance.

Individual AMPs should ensure that they maintain their AMP approval, complete mandatory update training within the required timescale and satisfy themselves that they are appropriately authorised before exercising statutory functions under the Act.

Where uncertainty exists about who is the patient's RMO or whether an AMP has been appointed or authorised under section 230, this should be clarified before statutory decisions are taken. Taking time to resolve uncertainty at the outset is

likely to avoid errors that may render subsequent statutory decisions open to legal challenge.

Key points

- Every patient for whom the Mental Health Act requires an RMO must have an identifiable RMO appointed by the relevant hospital managers as soon as is reasonably practicable after the relevant statutory event.
- Clinical arrangements such as cross-cover, annual leave, on-call rotas or less than full-time working do not, of themselves, alter who is the patient's RMO or authorise another doctor to act in place of the RMO.
- Where another AMP is required to act as, or in place of, the patient's RMO, this must be through arrangements made by the relevant hospital managers under section 230.
- Doctors exercising statutory functions requiring AMP approval should ensure that they maintain current AMP status, complete mandatory update training within the required timescale and are included on a health board AMP list.
- Relevant hospital managers should have clear governance arrangements for appointing RMOs, authorising AMPs under section 230 and ensuring continuity of statutory decision-making during planned and unplanned absence. These should address out-of-hours decision-making and, where used, schemes of delegation or prospective authorisations linked to defined roles or rotas.
- Health boards should ensure that accurate local AMP lists are maintained.
- Where there is uncertainty about who is the patient's RMO or whether an AMP has the necessary authority under section 230, this should be resolved before statutory decisions are taken. Failure to do so may render subsequent statutory decisions open to legal challenge.

References

1. Mental Health (Care and Treatment) (Scotland) Act 2003, particularly sections 22 and 230
2. Mental Health (Care and Treatment) (Scotland) Act 2003 Code of Practice, Chapter 9 (Responsible Medical Officer) and Chapter 1 (Principles)
3. The Mental Health (Care and Treatment) (Scotland) Act 2003 (Qualifications, Experience and Training of Approved Medical Practitioners) Directions 2019
4. Approved Medical Practitioner (AMP) Initial Training

Related Mental Welfare Commission guidance

Readers may also find the following Commission guidance helpful:

- Medical treatment under Part 16 of the Mental Health Act (including T2, T3 and safeguards)
- When things go wrong: Responding to errors in the application of mental health legislation

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