

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 September 2022

Public Authority: General Medical Council
Regent's Place
350 Euston Road
London
NW1 3JN

Decision

1. The Commissioner's decision is that the General Medical Council (GMC) is entitled to rely on section 40(2) of FOIA to withhold the requested information as it is the personal data of a third party and disclosure would be unlawful. The GMC is not required to take any corrective steps.

Request and response

2. The complainant made the following information request to the GMC on 2 December 2021:

"I am making a formal request for the release of the enquiry the GMC has made in the case of [redacted]."
3. The GMC's final position was to apply section 40(2) of FOIA to the request. The GMC explained the circumstances under which it would publish information concerning complaints about doctors, in line with its Publication and Disclosure Policy. The GMC provided certain relevant information to the complainant outside of FOIA.

Reasons for decision

4. This reasoning covers the GMC's reliance on section 40(2) of FOIA.
5. Section 40(2) says that information is exempt information if it is the personal data of another individual and disclosure would contravene one of the data protection principles.
6. In this case, the complainant has requested information on an enquiry concerning a named individual (the data subject) who, the Commissioner has noted, was subject to some media coverage in 2018. The Commissioner is satisfied that the requested information is the data subject's personal data – they can be identified as they are named in the request and the information relates to them.
7. The Commissioner appreciates that, for personal reasons, the complainant has a legitimate interest in this information that would be met through disclosing the information. As the GMC noted, there is also a wider public interest in transparency about doctors' fitness to practice.
8. However, given the guidance set out in its Publication and Disclosure Policy the Commissioner considers that the individual named in this case would reasonably expect that their personal data would not be disclosed to the world at large under FOIA and that disclosure would therefore cause that individual harm or distress.
9. The Commissioner considers that the complainant's legitimate interest has been met to an adequate degree through the information that the GMC disclosed to them. And that the wider public interest in complaints about doctors is satisfied through the information the GMC publishes in line with its Publication and Disclosure Policy.
10. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subject's fundamental rights and freedoms. The Commissioner therefore considers that disclosing the requested information would be unlawful as it would contravene a data protection principle; that set out under Article 5(1)(a) of the UK General Data Protection Regulation.

Right of appeal

11. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

12. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
13. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF