

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 August 2015

**Public Authority:** General Medical Council  
**Address:** 3 Hardman Street  
Manchester  
M3 3AW

#### Decision (including any steps ordered)

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1. The complainant has requested information about doctors dismissed from their employment for failing to pay the Annual Retention Fee. The General Medical Council (GMC) says that to provide a response would exceed the appropriate limit under section 12 of the FOI and it is therefore not obliged to comply with the request.
2. The Commissioner's decision is that the General Medical Council has correctly applied section 12 to this request. He does not require the GMC to take any further steps.

#### Request and response

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3. On 5 January 2015, the complainant wrote to the GMC and requested information in the following terms:  
*"Please provide information, under the FOIA, for the last three years.*
  1. *How many doctors were erased from the medical register for failure to pay the Annual Retention Fee?*
  2. *How many doctors, who were erased from the medical register for failure to pay the Annual Retention Fee, subsequently applied to be restored to the medical register ASAP?*
  3. *How many doctors erased from the medical register solely due to a failure to pay the Annual Retention Fee and who applied to be restored ASAP;*

*(a) Were dismissed solely for failure to pay Annual Retention Fee?*

*(b) Were already subject to a fitness to practice investigation?*

*(c) Were subsequently reported by their employers to the GMC due to concerns about their fitness to practice?*

*(d) Were subsequently the subject of a fitness to practice investigation by the GMC?"*

4. On 2 February, GMC responded and provided information with respect to three parts of the request, for the years 2012-2014. It did not appear to have responded to part 3a of the request.
5. Correspondence followed that clarified what was being requested at part 3a. The complainant confirmed that at this part, he is requesting information about the number of doctors dismissed from employment for failing to pay the Annual Retention Fee. GMC said it did not hold this information.
6. Following an internal review the GMC wrote to the complainant on 17 March. GMC said that it is not routinely told when a doctor is dismissed from employment but that in correspondence with an employer as part of a fitness to practice investigation, it might (or might not) be told of a dismissal. Consequently, in order to respond to part 3(a) of the complainant's request, it would need to review the records of the 368 doctors concerned to determine whether it held this information in each case. GMC said that this exercise would exceed the appropriate cost and time limit under section 12 of the FOIA. GMC says it is therefore not obliged to comply with the complainant's request.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 29 April to complain about the way his request for information had been handled.
8. The Commissioner has investigated whether GMC has correctly applied section 12 to part 3a of the complainant's request, and is not obliged to comply with this part.

### **Reasons for decision**

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9. Section 12 of the FOIA says that a public authority is not obliged to comply with section 1(1) of the Act if the authority estimates that the

cost of complying with the request would exceed the appropriate limit. The estimate must be reasonable in the circumstances of the case.

10. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to GMC. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
  - (a) determine whether it holds the information
  - (b) locate the information, or a document which may contain the information
  - (c) retrieve the information, or a document which may contain the information, and
  - (d) extract the information from a document containing it.
11. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16. The Commissioner has considered this aspect of the GMC's approach at paragraph 17.
12. In this case, the GMC says that determining whether it holds the information that has been requested - part (a) above - would exceed the appropriate limit.
13. The GMC has explained to the Commissioner that, in order to maintain registration with the GMC, doctors are required to pay an Annual Retention Fee (ARF). In a case of non-payment, the GMC may erase a doctor's name from the Medical Register, and remove their licence to practice, should they hold one. A doctor who is not on the Register is not able to practise medicine in the UK.
14. The GMC has told the Commissioner that it does not hold detailed employment records for doctors. There is no statutory duty for it to hold this information and it does not maintain records on doctors who are dismissed from employment because they fail to pay their ARF. It is the responsibility of individual employers to check that a doctor they employ is both registered and holds a licence to practise with the GMC. There is no obligation for an employer to inform the GMC that they have dismissed a doctor for failing to pay their ARF.
15. In response to part 2 of the complainant's request, the GMC had identified 368 restoration applications in the last three years from

doctors who had been erased for failing to pay the ARF. The GMC says that: any information that it may hold on the relevant 368 doctors' records would have been provided to it on an ad-hoc basis; be far from comprehensive and would not be information that it had necessarily have verified. The information, if held, would not be held in any structured way within each doctor's records.

16. The GMC says it would need to manually check each of the 368 doctors' records to determine whether it holds relevant information and that to check each file would take a minimum of 15 minutes per file. It acknowledges that the 15 minute timeframe is an estimate of the time it would need to review each file, and not the result of a sampling exercise. It nonetheless maintains that this is a realistic and sensible estimate. GMC also says that reviewing each file in this way is the quickest, and only, means available to it of determining whether it holds the information in question.
17. With regard to GMC's obligations under section 16 – to offer advice and assistance – the GMC says that it did not offer to help the complainant refine his request. This is because it would be unable to offer even one year's worth of information within the cost limit due to the number of doctors being erased and applying for restoration each year. The Commissioner considers that, in the circumstances of this request, this approach is satisfactory.
18. Having considered the GMC's arguments, the Commissioner is satisfied that the estimate it has provided for the length of time it would need to see if it holds the information that has been requested is credible. 368 files at 15 minutes per file would take 92 hours to review at a cost of £2,300. Even if it only took five minutes to review each file, this would still take longer than the 18 hours and £450 that are the limits under section 12. The Commissioner is satisfied that the GMC is consequently not obliged to comply with this request.

## Right of appeal

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19. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

20. 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.
21. 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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**