

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 27 July 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 as to how many doctors had been dismissed from their employment for "gross misconduct" in the period 2012-2014. The GMC refused to comply with the request under section 12 of the Freedom of Information Act 2000 (FOIA) as it said it would exceed the cost limit to do so.
2. The Commissioner's decision is that the DWP has correctly applied section 12 FOIA in this case.
3. The Commissioner requires no steps to be taken.

#### **Request and response**

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4. On 17 March 2015 the complainant requested information for the number of doctors who have been dismissed from their employment for gross misconduct in the period 2012-2014.
5. On 15 April 2015 the GMC responded. It denied holding the requested information under section 1(1)(a) FOIA.
6. The complainant requested an internal review on 15 April 2015. The GMC sent the outcome of its internal review on 20 April 2015. It said that it was possible that employers may have incidentally informed the GMC that they have dismissed a doctor but there was no compulsion for them to do so. Any such information, where held, would not be recorded in any defined way.

7. Rather than maintaining that it does not hold the information, the GMC subsequently informed the Commissioner that it was applying section 12 as it considers that it will exceed the cost limit under section 12 FOIA to determine what information it does hold relevant to the scope of the request.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 23 December 2013 to complain about the way his request for information had been handled.
9. The Commissioner has considered whether the DWP was correct not to comply with this request under section 12 FOIA.

### **Reasons for decision**

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10. Section 12(1) FOIA states that, "Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."
11. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "Regulations") sets the appropriate limit at £600 for the public authority in question. A public authority can charge a maximum of £25 per hour for work undertaken to comply with a request which amounts to 24 hours work in accordance with the appropriate limit set out above. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken in:
  - (a) determining whether it holds the information,
  - (b) locating the information, or a document which may contain the information,
  - (c) retrieving the information, or a document which may contain the information, and
  - (d) extracting the information from a document containing it.
12. The GMC said that to provide the complainant with the number of doctors that it has been informed have been dismissed for gross misconduct during 2012-2014 would exceed the appropriate limit which in this case is £450.
13. It said that due to the way it holds information there are two ways in which it could attempt to retrieve the information. The first and most

comprehensive method would be to manually review the complaint documentation it holds on those enquiries that it has investigated. However it explained that in 2012 alone the GMC investigated 4,108 complaints. It said that to read through the documentation it holds on each of these cases would be unfeasible due to the volume of documents that it holds in connection with these investigations. It provided some context, it explained that investigations on average routinely include in excess of 50 individual documents.

14. The GMC argued that even if it were to narrow the search to focus only on those complaints referred from a 'person acting in a public capacity' (a category which would include referrals from employers and police forces and which it would more reasonably expect would hold information about doctors being dismissed for gross misconduct) the numbers of these complaints it has investigated mean that to review the documents on these cases would again go over the appropriate limit. It explained that in 2012 alone it investigated 880 of these type of complaints.
15. As an alternative to finding the information it also separately has the capability to run a key word search within the documentation that it holds within the complaint management system. It therefore conducted a search using the search term "gross misconduct". It said that this would return any documents held on investigations that included this phrase. The search, focussing exclusively on a three year period 2012-2014, returned 3,800 results. It said it would need to manually review each of these documents to understand the context in which the phrase was used and whether it was relevant to the request. It argued that even allowing a conservative five minutes to review the context of each of the results it would take over 316 hours (equivalent to a cost of over £7,916) to undertake the task. It concluded that clearly this would take it considerably over the £450 limit set down in the Fees Regulations.
16. Due to the fact that it is not compulsory for employers to inform the GMC that they have dismissed a doctor, this type of information is not recorded in a defined way. The GMC has explained that sometimes employers will provide this information incidentally. However to determine exactly what was held would involve a significant manual search which would vastly exceed the cost limit. The Commissioner does therefore consider that the cost limit in this case would be exceeded to comply with this request in full. Section 12 was therefore correctly engaged in this case.

## Right of appeal

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17. 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: 0116 249 4253

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)

18. 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.
19. 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**