

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 July 2015

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

Decision (including any steps ordered)

1. The complainant has requested correspondence between the Prince of Wales and the GMC over the last two decades. The GMC confirmed that some information was held which was already in the public domain. It refused to confirm or deny whether any further information was held under section 37(2) FOIA.
2. The Commissioner's decision is that the GMC has correctly applied section 37(2) FOIA in this case.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 2 February 2015 the complainant requested information of the following description:

'All correspondence between Prince Charles, Prince Charles' secretaries, and Clarence House with the GMC for the last two decades.'
5. On 16 March 2015 the GMC responded. It confirmed that some information was held which was already in the public domain. It refused to confirm or deny whether any further information was held under section 37(2) FOIA.

6. It explained in its response to the complainant that the information in the public domain was all part of a Council paper which was considered by the GMC's Council in May 1998. It added that it is committed to publishing Council papers in the public domain and therefore these documents were provided to the complainant because of their public domain status rather than being considered for disclosure under FOIA.
7. The complainant requested an internal review on 16 March 2015. The GMC sent the outcome of its internal review on 30 April 2015. It upheld its original position.

Scope of the case

8. The complainant contacted the Commissioner on 8 May 2015 to complain about the way his request for information had been handled.
9. The Commissioner has considered whether section 37(2) was applied correctly in this case.

Reasons for decision

10. Section 37(2) FOIA states that, "The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1)."
11. Section 37(1)(aa) FOIA states that, "Information is exempt information if it relates to— communications with the heir to, or the person who is for the time being second in line of succession to, the Throne,".
12. Sections 37(1)(aa) is class-based and an absolute exemption. This means that if the information were held and it would fall within the class of information described in the exemption in question, it is exempt from disclosure. It is not subject to a balance of the public interest test.
13. Communications with the heir to the Throne are not necessarily made directly by, or to the Prince of Wales. The exemption will also include communications made or received on his behalf by his officials. Furthermore the communication need not be a written one; the exemption would apply equally to discussions with the heir to the Throne, in person or via telecommunications.

14. Section 37(2) has been applied to correspondence between Prince Charles, Prince Charles' secretaries, and Clarence House with the GMC. If held, this information would fall within the class of information set out in section 37(1)(aa) FOIA. The duty to confirm or deny whether this information is held does not therefore arise.
15. As stated above section 37(1)(aa) is an absolute exemption and therefore there is no need to consider the public interest test.
16. The Commissioner considers section 37(2) FOIA was correctly applied in this case.

Right of appeal

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: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: 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
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