

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 January 2023

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

Decision (including any steps ordered)

1. The complainant requested information from the General Medical Council ("the GMC"). The Commissioner's decision is that the request was vexatious and therefore the GMC was entitled to rely upon section 14(1) of FOIA to refuse it.
2. The Commissioner does not require any steps.

Request and response

3. On 6 March 2022, the complainant made the following request for information to the GMC in a public platform:
 - "1. Given a duty to declare conflict of interest. How many current MPTS tribunal members have been complainants to the GMC FTP directorate ever, and are currently live. Please also give this as a percentage.
 2. What percentage of direct and indirect MPTS complaints have been accepted by the GMC this year 2022 and last year 2021.
 3. How many FTP complaints has the GMC received from MPTS members this year and last year.
 4. How many of the current MPTS tribunal (medical component is only a third of a panel) have had GMC FTP action taken against them at any point in their lifetime. Please also give this as a percentage."

4. The GMC said the request was being refused because it was vexatious under section 14(1) of FOIA.

Reasons for decision

Section 14(1) – vexatious requests

5. This reasoning covers whether the public authority is correct to apply section 14(1) of FOIA to refuse the request. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.¹
6. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)² states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
7. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
8. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
9. The emphasis on protecting public authorities’ resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) (“Dransfield”)³. Although the case was subsequently appealed to the Court of Appeal, the UT’s general guidance was supported, and established the Commissioner’s approach.

¹ <https://www.legislation.gov.uk/ukpga/2000/36/section/14>

² <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

³ <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

10. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
11. The four broad themes considered by the Upper Tribunal in Dransfield were:
 - the burden (on the public authority and its staff);
 - the motive (of the requester);
 - the value or serious purpose (of the request); and
 - any harassment or distress (of and to staff).
12. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

“all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA” (paragraph 82).

The GMC's view

13. The GMC provided the Commissioner some background to the complainant's request. The complainant's complaint is in relation to an ongoing regulatory investigation.
14. The GMC states that the purpose of his request is to vent about his concerns publicly about their investigations against him and make false accusations. The GMC provided numerous examples to the Commissioner to demonstrate that this was the case.
15. The GMC believes that the complainant is using the platform to challenge them for an alleged wrongdoing without any logical basis for doing so and, therefore, it is the GMC's view that the value and purpose of the information has been reduced.
16. At the time of the GMC's response to the complainant's request, on 4 April 2022, the complainant had made 17 FOI requests to the GMC and MPTS in the prior 18 months. They have also received 13 communications which have been processed as corporate complaints from July 2021 and October 2022.
17. The complainant made his first request in June 2020 and it took until January 2022 for a request to be held as vexatious. The GMC has only started considering section 14 long after the complainant's public allegations and remarks.

18. The GMC also makes reference to the complainant's persistent history of remarks that are derogatory and offensive to them. Examples of this include:

- On 26 September 2020, the complainant accused the QC representing the GMC in another matter against him, and the panel of racism and being ignorant. These people could be identified on the complainant's entry on the List of Medical Practitioners.
- On 19 June 2021, the complainant made the following remark about the GMC:-

"...why are these silly officers investigating, misusing the law"

- He also suggested that "only GCSE's, maybe some other related experience and a pitbull mentality is needed for this investigating officer role.
- On 17 December 2021, the complainant described the GMC as undertaking "Gestapo actions".

19. The GMC argues that the complainant is using the requests to hurl personal abuse at their staff which is causing them significant and profound distress.

The Commissioner's decision

20. It is clear to the Commissioner that although the information sought would serve a particular purpose, namely the complainant's own private interest, the value of the request has been reduced. This is because it seems as though the complainant's primary motive in making an information request is to also publicly accuse the GMC of wrongdoing without any logical basis. It is apparent that the complainant is seeking to reopen previous and longstanding private issues between themselves and the GMC through FOIA which is not an appropriate use of the legislation. The frequency and volume of previous requests also demonstrates an unreasonable persistence in placing a burden upon the GMC.

21. It is also the Commissioner's view that the complainant has a history of using a public forum to attack the GMC and use offensive language against them. As the GMC has itself acknowledged, a public authority must show an amount of fortitude, especially if some comments are made generally rather than specifically. In the circumstances of this complaint, however, it is apparent that the complainant has gone far beyond any potentially reasonable criticisms they may have wished to make. The motive of the complainant is to attack the public authority

rather than attempting to obtain information. This is a clear misuse of FOIA.

22. The Commissioner therefore believes that the request was vexatious and that the public authority was entitled to rely on section 14(1) of FOIA to refuse the request.

Right of appeal

23. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. 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.
25. 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

Michael Lea
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