

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 October 2016

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

Decision (including any steps ordered)

1. The complainant requested information about the qualifications of a named doctor. The General Medical Council (GMC) withheld the information, citing the exemption under section 40(2) of the FOIA (third party personal data) as its basis for doing so. The Commissioner's decision is that the GMC has correctly applied this exemption and does not need to take any further action.

Request and response

2. On 19 April 2016 the complainant wrote to the GMC and requested the following information:

'(redacted named doctor)'s qualifications... Many thanks for your 9th April 2013 letter assuring me that (named doctor) has met all the criteria to be included on your register. Sad to relate, that although I don't doubt your integrity, I just don't believe you. Is there any way you could have been tricked? Is there any way I can check things out for myself (FOI Act)?'

3. The GMC responded on 6 May 2016 and explained that any further information, including access to copies of the registration documents, was subject to an FOIA exemption. The only information that could be disclosed regarding the doctor's GMC registration is published on the list of registered medical practitioners: <http://www.gmc-uk.org/>
4. GMC stated that registration means that the named doctor has fulfilled the necessary requirements for such registration to be granted.

5. The complainant requested a review on 17 June 2016. The GMC confirmed that the primary medical qualification (PMQ) was in 1973 and that the named doctor was fully registered to practice medicine in the UK in 1996. The GMC refused to disclose further information concerning the qualifications, citing the exemption under section 40(2) of the FOIA (third person personal data).

Scope of the case

6. The complainant contacted the Commissioner on 24 July 2016 to complain about the way the request for information had been handled. On 14 September 2016 the Commissioner provided her initial view that the GMC was correct to refuse to disclose the information under FOIA but the complainant did not accept the initial view.
7. The Commissioner has focussed her investigation on whether the GMC has correctly applied the exemption under section 40(2) to the complainant's request.

Reasons for decision

Section 40(2) – Third party personal data

8. This exemption provides that any third party personal data is exempt if its disclosure would contravene any of the Data Protection Principles set out in Schedule 1 of the Data Protection Act 1998 (DPA).

Is the withheld information personal data

9. Personal data is defined by the DPA as any information relating to a living and identifiable individual. A named individual's qualifications and employment history is clearly personal data.

Would disclosure breach the Data Protection Principles?

10. The Data Protection Principles are set out in Schedule 1 of the DPA. The first principle and the most relevant in this case states that personal data should only be disclosed in fair and lawful circumstances. The Commissioner's considerations below have focused on the issue of fairness.
11. In considering fairness, the Commissioner finds it useful to balance the reasonable expectations of the individual, the potential consequences of the disclosure and whether there is legitimate public interest in the disclosure of the information in question.

Reasonable expectations

12. The GMC stated that all practising medical doctors in the UK must be registered with the GMC. The legal basis for the publication of the List of Registered Medical Practitioners (LRMP) is set out at section 34 of the Medical Act.
13. The GMC will publish a doctor's primary medical qualification (PMQ) and whether they are entered on the GP or Specialist Register. The Specialist Register was introduced on 1 January 1997. All doctors taking up a post as a consultant in the health service in the UK are now required to be on the Specialist Register.
14. Therefore the GMC has published the named doctor's PMQ on the website. The additional requested information on qualifications is not routinely published by the GMC and the named doctor would have no expectation that it would be disclosed to the public under FOIA.
15. The view of the Commissioner is that there is an expectation that a doctor will have a certain amount of information about them disclosed as part of the requirement to register. However, the complainant has asked for further information.
16. The Commissioner understands that the GMC would not routinely make public such information and that the doctor would have no expectation that further information would be disclosed.

Consequences of disclosure

17. The GMC has stated that as disclosure would be contrary to the named doctor's expectations, it would be an invasion of the doctor's privacy and as such may cause distress and would be unfair.
18. The Commissioner is satisfied that the named doctor would have a reasonable expectation that the information in question, that had been provided to the GMC in confidence as part of the application to register, would not be placed into the public domain by disclosure under the FOIA. Therefore she considers that disclosure of this information would be an invasion of the privacy of the individual, and as such may cause the named doctor some distress.

Balancing the rights and freedoms of the data subject with the legitimate interests in disclosure

19. Given the importance of protecting an individual's personal data, the Commissioner's 'default' position in cases where section 40(2) has been cited is in favour of protecting the privacy of the individual. Therefore, in order to find in favour of disclosure, it would need to be shown that

there is a more compelling interest in disclosure which would make it fair to do so.

20. The GMC acknowledges that there is a public interest in disclosure of a doctor's qualifications bearing in mind the responsibilities of the role. Disclosure can promote transparency and accountability in this respect. There is a legitimate interest in the public being confident that a doctor is appropriately qualified to carry out their role.
21. However, the publication of the named doctor's PMQ fulfils that public interest. The named doctor is not listed on the Specialist Register therefore no specialism is published by the GMC. The named doctor is appropriately qualified to carry out the role of registered medical practitioner.
22. The Commissioner notes that the complainant may have a personal interest in knowing further details of the doctor's qualifications as it relates to the interaction he had with the named doctor in 2013.
23. The Commissioner has considered whether there is a legitimate interest in the public (as opposed to the private interests of the complainant) accessing the withheld information.
24. The Commissioner accepts that there is a general public interest in terms of the transparency and accountability of the medical profession. However, there is no presumption that this should automatically take priority over personal privacy. The Commissioner judges each case on its merits.
25. In this case, the Commissioner is not convinced that the specific information requested, while of interest to the complainant, is of sufficient wider public interest to warrant overriding the protection of the third party personal data of those concerned.
26. The Commissioner has in previous decisions accepted that a dental or medical Council only needs to disclose the information published on the register to confirm the registration of the dentist or doctor and does not need to disclose the underlying detail that supported the application.
27. The Commissioner has already referred the complainant to the decision notice ([FS50463355](#)) where the Commissioner decided that it would be unfair to disclose the confidential information provided to the General Dental Council (GDC) as part of the application for registration. Similar arguments would apply in this case.
28. Having considered GMC's submission and the views of the complainant the Commissioner is satisfied that the complainant's arguments for disclosing the specific information in this case are not as compelling as

those that GMC has put forward for protecting the individuals' personal data, namely:

- the individual's likely expectations about how their personal data will be managed;
- the individual's lack of consent to its release; and
- the possible negative consequences to the individual of releasing the information.

Conclusions

29. The Commissioner considers that the withheld information is personal data and that disclosure would breach the first data protection principle as it would be unfair to the individual concerned. The Commissioner therefore concludes that the GMC was correct to refuse to disclose this information under section 40(2) of the FOIA.
30. As the Commissioner is satisfied that providing the requested information would contravene the first data protection principle, he has not gone on to consider the other data protection principles.

Right of appeal

31. 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

32. 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.
33. 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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