

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 November 2016

Public Authority: The General Medical Council (GMC)
Address: 3 Hardman Street
Manchester
M3 3AW

Decision (including any steps ordered)

1. The complainant has requested information relating to advice issued by the GMC to doctors regarding taking strike action. The GMC has failed to respond to this request for information.
2. The Commissioner considers that the GMC breached section 10(1) FOIA in the handling of this request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The GMC must provide the complainant with a response to this request in accordance with its obligations under FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 5 September 2016 the complainant made the following request to the GMC:

"I see from the Guardian that the GMC is issuing advice to doctors on 5/9/16 regarding taking strike action

(<https://www.theguardian.com/society/2016....>)

Please provide all emails sent or received by the GMC in relation to creating, drafting, and distribution of this advice. Please state who requested that the new advice be created (given advice has previously been given on this subject). Please state if any external parties (including but not limited to the Department of Health) were involved in the decision to create the advice, or drafting of the advice, and provide full email correspondence with any input.

Please provide all drafts of the advice before it was published. Please provide any notes/comments made on these drafts. Please state the names and organisations of all people who received a copy of this advice before 5/9/16. Please provide a copy of all emails sending this GMC advice to any party before 5/9/16, including but not limited to Denis Campbell at the Guardian.

Please provide and emails sent/received discussing when GMC action would actually be taken against any striking junior doctors.

Please provide all attachments with emails. If any emails are withheld under any exemption under the FOIA, please state how many emails have been exempted."

6. The GMC has not provided a response to this request.

Scope of the case

7. The complainant contacted the Commissioner on 4 October 2016 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether the GMC dealt with this request in accordance with its obligations under section 10(1) FOIA.

Reasons for decision

9. Section 10(1) provides that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

10. Section 1(1) provides that:

"Any person making a request for information to a public authority is entitled –

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
(b) if that is the case, to have that information communicated to him.”*

11. The request was made on 5 September 2016 and a response is yet to be provided. The Commissioner therefore finds that the GMC breached section 10(1) in failing to respond within 20 working days.

Right of appeal

12. 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

13. 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.
14. 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

Gemma Garvey
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF