

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

### **Decision notice**

**Date:** 18 March 2024

**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 about the numbers of current General Medical Council staff that have criminal convictions or community resolution orders, have received police warnings or cautions, or are under police investigation. The General Medical Council ('the GMC') refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the GMC was entitled to rely upon section 14(1) of FOIA to refuse the request.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 19 September 2023, the complainant wrote to the GMC and requested information in the following terms:  
  
"RE: Criminal GMC Staff  
  
Please can you provide the following, without names and without personal details:

1. -How many current GMC staff have criminal convictions or community resolution order, at any time in their lives
2. -How many current GMC staff have criminal convictions that have been filtered (in the risk register of a competent company)
3. -How many current GMC staff have received a warning or caution by the police
4. -How many current GMC staff (any department including MPTS and Outreach) are under Police Investigation.

Obviously, it is a breach of your contract not to inform your employer or contractor, thus you should have accurate numbers readily available via your Human Resources department.

I am obviously the complainant for yet another criminal investigation of GMC staff. Although, your private Quango company obviously self-prosecutes another self-complaints in-house against me, legally this is not an excuse to refuse a request for a FOIA request, given Public Interest in the request itself. I require this information for a month-long hearing next month. Thus, I do require the information within 20 working days please. If you plan to refuse the request or use [NAME REDACTED], then can it be stated now with a copy of the public interest test, rather than having to request an internal appeal after 20 working days which only illustrates bad-GMC-practice non-transparent governance.”

5. The GMC responded on 17 October 2023 and advised that it was refusing the request under section 14(1) of FOIA.
6. On 10 November 2023, the GMC provided its internal review response and maintained its previous position.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 21 November 2023 to complain about the way their request for information had been handled.
8. The Commissioner considers the scope of his investigation is to determine whether section 14(1) of FOIA has been applied correctly to refuse the request.

## Reasons for decision

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### Section 14(1) – vexatious requests

9. Section 14 of FOIA states that:

“Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.”

10. The Upper Tribunal considered the issue of vexatious requests in *Information Commissioner v Devon CC & Dransfield* [2012] UKUT 440 (AAC)<sup>1</sup>. It commented that ‘vexatious’ could be defined as the ‘manifestly unjustified, inappropriate or improper use of a formal procedure.’ The Dransfield case considered four broad issues: the value or serious purpose of the request, the burden imposed by the request (on the public authority), the motive of the requester, and harassment or distress of and to staff.

11. The Upper Tribunal cautioned that these considerations were not meant to be exhaustive. It emphasised that:

“...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”

12. When considering the application of section 14(1), a public authority can consider the context of the request and the history of its relationship with the requester. The Commissioner’s guidance states: “The context and history of the request can often be a major factor in determining whether a request is vexatious and may support the view that section 14(1) applies.”

13. Equally the context and history may weaken an argument that a request is vexatious in that the public authority needs to take into account any oversights on its part that may have led to the request.

14. However, the Commissioner is keen to stress that in every case, it is the request itself that is vexatious and not the person making it.

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<sup>1</sup> <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

## **The complainant's position**

15. The complainant has said that the GMC is providing pre-planned refusals of any request made by them as an individual, where the information can be used by the complainant or a member of the public to defend themselves against GMC prosecution action in medical practitioners tribunal hearings.
16. In their internal review request, the complainant stated that:

“The request is to obtain public information that a relevant tribunal and the public have a right to know and use to balance information and or submissions. If the GMC choose to focus on non-medical matters and also chooses to use their own staff as witnesses and self-complainants to pursue anti-whistleblowing agendas (background – Bewick Reports). Then relevant related questions about staff should be asked and be disclosed, obviously in the public interest the extent of objective criminal activities by your current staff is relevant. You are clearly aware of the misuse of Section 14(1) and with dossier collections at the General Regulatory Chamber, it is apparent resources have been used on circumventing and refusing FOIA requests, this is against openness and transparency.”

## **The GMC's position**

17. In its response to the complainant, the GMC advised that it believed the request was designed to cause disruption and annoyance to MPTS and GMC staff rather than to seek information. It added that the judgment was on the request alone and not on the complainant as a requester.
18. In its submission to the Commissioner, the GMC provided some background information about its previous and ongoing correspondence with the complainant. It explained that the complainant had previously submitted a number of requests in a similar manner, and the GMC had provided responses to the majority of these which did not rely on the section 14 exemption. As well as requests, the GMC explained that the complainant has also submitted a number of corporate complaints and made numerous annotations about the GMC on the WhatDoTheyKnow website.
19. The GMC does not consider that the burden of complying with this request alone is particularly high. It considers the request vexatious “given the form and context in which it was made, considering the relatively low public interest, substantial motive to attack the GMC and its staff (including identifiable and identified staff) and the non negligible distress and harassment this is likely to cause”.

20. The GMC explained that, in previous requests and annotations, the complainant has made disparaging comments about the GMC and some of its staff. While the complainant has moderated their language somewhat in the request in this case, it still contains references that can be interpreted to bring GMC's reputation into question. Examples within the handling of this request include:

"your private Quango company obviously self-prosecutes another self-complaints in-house against me"

"You/GMC are fully aware of the nuances of GMC procedure as well as 'prosecution at all costs' and 'race discrimination' ethos."

21. The GMC highlighted the wording of the last paragraph of the request as an indication that the complainant has used the request as a vehicle to continue a long running challenge to the fact that the GMC is investigating them, and to allege that the GMC is complicit or similar in some sort of wrongdoing. The GMC explained that in its view, this limits the value of the request substantially.

22. The GMC added that, prior to providing its response to the request, the complainant resubmitted it, and added reference to a member of GMC staff who was due to be a witness in a trial. The GMC explained that it believed the complainant had named this staff member on a public forum just prior to submitting the request. It considered this another reason to view the request as an attempt to cause distress and to discredit the GMC.

23. The GMC acknowledged that there is some public interest in the subject matter of the request. It accepted that there would be some merit in understanding how many GMC staff have convictions, warnings, cautions or were being investigated by the police. However, it added that on 17 May 2022, it publicly explained that it carries out basic background criminal checks on all staff and that these checks will identify any staff that have an unspent conviction (as opposed to a conviction at any point in their lifetime).<sup>2</sup>

24. The GMC explained that a check of this nature means it doesn't capture information as to whether staff have had a criminal conviction 'at any time in their lives' and it that would not be reasonable to believe that it would hold this information. It stated that it is also the case that since it

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<sup>2</sup> [https://www.whatdotheyknow.com/request/staff\\_statistics\\_8#incoming-2022681](https://www.whatdotheyknow.com/request/staff_statistics_8#incoming-2022681)

only carries out a basic check rather than a standard or enhanced check, it wouldn't hold information about warnings or cautions.

25. Therefore, the GMC stated that it was not clear how clarifying its earlier remarks in this way would advance the public interest by a huge amount, since materially no further information would be provided. The GMC was of the opinion that the complainant intended its response to be used to pursue their own private interest of defending themselves at a hearing. It stated that it was unclear how the information could offer any meaningful assistance to the complainant or indeed anyone else in this regard. The GMC acknowledged that this didn't undermine what public interest there was, and while requests can have a public and private interest, it considered that in this case a notable amount of the interest was private.

### **The Commissioner's position**

26. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
27. The Commissioner understands that the complainant believes they are being treated differently (and less favourably) to other requesters, by GMC. However, the Commissioner notes that the GMC has previously provided responses to other requests made by the complainant and has not relied on section 14 of FOIA as a blanket approach.
28. The Commissioner acknowledges that the subject matter may be of public interest. He accepts that, by seeking transparency and accountability, a request can have value or serious purpose.
29. In reaching a decision in this case however, the Commissioner has balanced the purpose and value of the request against the detrimental effect on the public authority.
30. He has also considered, in light of the nature, and degree, of the dealings between the complainant and the GMC, whether, at the time, the request crossed the threshold of what was reasonable.
31. Whilst the Commissioner does not necessarily consider that complying with the request itself would place a significant burden on the GMC, he recognises that the aggregated burden of dealing with the complainant's overall correspondence has placed a burden on the GMC and its resources.
32. The Commissioner notes that, during the course of the handling of this request and prior requests, there have been instances of abusive or

disparaging language being used, and of unfounded accusations being levelled against individual members of staff which would have caused them some distress.

33. The Commissioner is of the view that at least part of the complainant's motive has been to discredit the GMC and to vent their displeasure about an investigation involving them. The complainant's choice of language and tone when communicating with, and referring to, the GMC indicates that the motive is to attack the public authority, rather than present a genuine attempt to obtain information.
34. The Commissioner notes that he has previously issued decision notices concerning other requests, (IC-148403-R9L7 and IC-164398-B6S1), that the complainant has made to the GMC, and these concerned the same issues of burden, value and distress as described in this notice.
35. Having balanced the purpose and value of the request against the detrimental effect on the GMC, the Commissioner is satisfied that the request was not an appropriate use of FOIA procedure.
36. The Commissioner's decision is that the request was vexatious and therefore the GMC was entitled to rely on section 14(1) of FOIA to refuse the request.

## Right of appeal

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37. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

38. 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.
39. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Keeley Christine**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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