

14 May 2020

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Mr Duncan Long

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Dear Mr Long

### **Freedom of Information Act 2000 (FOIA) - Internal Review**

Thank you for your email dated 13 March 2020. I have now carried out a review of our response to your request for information concerning Dr Sarju Man Shrestha. I'm sorry for the delay in responding to you.

To recap, on 9 March 2020 we wrote to explain that we could not confirm whether or not we hold the information you request. We provided a link to the doctor's entry on our online register and explained that we may only disclose information relating to fitness to practise complaints in certain circumstances. We stated that the exemption listed at section 40(5B)(a)(i) of the FOIA applies; Ms Gormley set this out as follows:

*"Section 40(5B)(a)(i) of the FOIA applies where the information, if held, would be the personal data of a third party and where confirming whether it's held would breach any of the principles relating to the processing of personal data listed at Article 5 of the GDPR. I believe that to publicly confirm or deny whether we hold the information would breach the first principle, which requires that the processing of personal data is fair, lawful and transparent. I do not believe that any of the legal bases for processing listed at Article 6 of the GDPR are met and therefore giving you the information would be unlawful."*

### **My review**

I have carefully considered the application of this exemption. My view is that the exemption was appropriately applied and therefore our position remains that the exemption set out at section 40(5B)(a)(i) of the FOIA applies.

To explain, the FOIA obliges us to firstly confirm whether the requested information is held, and secondly to provide it. Both obligations are subject to a number of exemptions. Therefore, my first step is to consider if we can confirm whether or not the requested information is held.

We have a publication and disclosure policy which sets out when and where we will publish fitness to practise information. This is available at <https://www.gmc-uk.org/-/media/documents/dc4380-publication-and-disclosure-policy-36609763.pdf>.

We can confirm that there is no fitness to practise information publicly available about this doctor in line with our policy. In relation to whether or not we hold any other fitness to practise information we do not believe that it is appropriate to confirm or deny whether any other information is held. We believe that doing so would be in breach of the principles relating to the processing of personal data listed at Article 5 of the General Data Protection Regulation (as set out in our response of 9 March 2020).

### **Next steps**

I'm am sorry that we are unable to assist further regarding your request for information under the FOIA. You can appeal this decision to the Information Commissioner's Office; further details are available at <https://ico.org.uk/make-a-complaint/>.

Yours sincerely

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