

22 January 2018

General
Medical
Council

3 Hardman Street
Manchester M3 3AW

Email: gmc@gmc-uk.org
Website: www.gmc-uk.org
Telephone: 0161 923 6602
Fax: 0161 923 6201

Dear Ms White,

Your information access request - F17/9298/SW

Thank you for your email of 20 December 2017. I have considered your request under the Freedom of Information Act 2000.

You have asked for information relating to the Supreme Court judgment of 1 November 2017 in the case of Michalak (Respondent) v General Medical Council and others (Appellants). The premise of your request is that their decision *"is in the interests of fairness and respect for the rights of doctors to be treated fairly and without discrimination, malice or harassment by the GMC."*

The background of the case is set out in paragraphs 1 to 6 of the judgment which is published at :-

<https://www.supremecourt.uk/cases/docs/uksc-2016-0084-judgment.pdf>

In August 2013, Dr Michalak issued proceedings against the GMC and two of its staff members in the Employment Tribunal raising number of allegations including discrimination. The GMC applied for the case to be struck out on the basis that the tribunal did not have jurisdiction to hear the claim and this was partly successful in the first instance.

This issue on jurisdiction was referred to the Employment Appeal Tribunal, which struck out the claim completely but their decision was reversed by the Court of Appeal.

The purpose of the Supreme Court Hearing is explained at paragraph 7 of the judgment :-

"The appeal to this court raises a single issue. It is whether the availability of judicial review proceedings in respect of decisions or actions of the first appellant

[the GMC] *excludes the jurisdiction of the Employment Tribunal by virtue of section 120(7) of the Equality Act.*"

The proceedings before the Court of Appeal and Supreme Court therefore concerned the jurisdiction of the Employment Tribunal to consider Dr Michalak's claims. No substantive hearing, let alone any determination, of any of Dr Michalak's allegations has therefore been made and proceedings remain ongoing accordingly and are fully defended by the GMC and the other Respondents.

Accordingly, none of Dr Michalak's claims have been allowed by any court or Tribunal and, as no such decision has been made, the GMC has issued no appeal against any such decision. Given that the remainder of your request therefore pertains to an event which has not actually taken place, we are unable to provide a response because we do not hold such information.

If you wish to rephrase your request or ask for other information, I would be happy to consider it afresh.

If you have any queries about this, please feel free to contact me.

Yours sincerely

Simon Willis
Information Access Officer
Resources & Quality Assurance Directorate