

8 October 2020

Our ref: IR1-2755827315

Dr S Ali

By email only to: request-673127-246b181d@whatdotheyknow.com

Dear Dr Ali

Information request review

Further to your email sent on 27 July 2020 regarding our refusal to supply information to you under the Freedom of Information Act 2000 (FOIA), I have now reviewed this matter. I am sorry for my delay in responding to you and thank you for your patience in awaiting a reply.

Chronology

Your original request sent by email on 28 June 2020 sought information in relation to ethnicity data about those involved in the fitness to practise investigation process, both doctors and complainants. You also asked for ethnicity data in relation to those GMC and MPTS staff involved in the fitness to practise investigation process and more generally (as groups).

Following clarification, Simon Willis responded to your request on 27 July 2020. He informed you that the information sought was subject to the 'costs limit' exemption at Section 12 of the FOIA.

My review

In your email of 27 July 2020 seeking to appeal Mr Willis' response you state as follows:

'I am not seeking the breakdown of 20,000 complaints, I hope this is clear as the above also states I explicitly do not want you to list personal information of the large number you have. I am fully aware, the GMC have collated the results and some data extraction is possible without going back to original submissions, manually as the GMC and or MPTS, has already processed the data. This is the second request, having refined the request to reduce time and allow automatic collation of processed data.'

In order to explain my opinion I feel it would be useful to copy the exact wording of your request, which is as follows:

'In the last 3 years, Please provide (ideally as a simple table):

- 1. The ethnicity of complainants if available against*
- 2. The ethnicity of defendants if available (no names please)*
- 3. Whether there was further investigation or curtailment, or a finding against the doctor*
- 4. Of those doctors with a finding/erasure, the ethnicity of the prosecution*
- 5. Only of those investigated, the route of their initial complaint i.e. was it by Responsible Officer, direct to the GMC by website/letter, or via another body / court / health process, GMC-liaison-backdoor service and Rule 12.*

Separately for the last 3 years

- 6. The ethnicity of the decision makers as a group*
- 7. The ethnicity of the investigator if present (as a group)*
- 8. The Ethnicity of the GMC Management as a group*
- 9. The Ethnicity of the GMC MPTS division as a group, if available'*

In relation to the elements of your request seeking analysis of fitness to practise complaints I would refer you to the data tables within the State of Medical Education and Practice in the UK (SOMEPE) report for 2019 which is available here: <https://www.gmc-uk.org/about/what-we-do-and-why/data-and-research/the-state-of-medical-education-and-practice-in-the-uk#data-tables>

I note that my colleague Matt McCoig-Lees pointed you towards this report in his email sent to you on 24 June 2020 (I also note that your questions in respect of that request are virtually the same as those under review here).

My interpretation of your request is that you are looking to link the data obtained with each question to the remainder – i.e. the impact of the ethnicity of each group on the outcome of the complaint - so providing you with tables for each question in isolation would not meet your requirements. I'm sure you will inform me if I have misinterpreted your requirements.

On the basis that you are presumably looking to link the data obtained with each question to the remainder it may first be useful to explain what data we do hold. So, to take each element of your request in turn my view is as follows:

1. The ethnicity of complainants

The data we hold on the ethnicity of complainants is very limited and is not collected as a matter of course. For example, for the period from 1 January 2013 to 31 December 2018 we hold ethnicity data for only 30% of complainants.

2. The ethnicity of 'defendants' – doctors subject to investigation

This data is held within the SOMEPE report (link as provided above) table 31 refers.

3. Whether there was further investigation or curtailment, or a finding against the doctor

As above, table 31 refers.

4. Of those doctors with a finding/erasure, the ethnicity of the prosecution

This information is not readily held in conjunction with the remaining data. Please see further below.

5. Only of those investigated, the route of their initial complaint i.e. was it by Responsible Officer, direct to the GMC by website/letter, or via another body / court / health process, GMC-liaison-backdoor service and Rule 12. (available at Table 2-5 within data tables)

Table 5 of the SOMEPE report linked above refers.

As Mr McCoig-Lees previously referenced, there is also data relating to your request available at tables 39, 47, 55, 62, 66, 70, 73, 75-6, 82 and 89.

To summarise, some of the data you seek is available and I have provided you with a link to the relevant data where this is available. However, the ethnicity of those GMC and MPTS staff involved in the investigation of doctors is not held in such a way that it could be extracted by automation and linked across to our fitness to practise systems where the remaining information is held. This would mean that, as Mr McCoig-Lees previously explained, we would have to go through each complaint and manually link the ethnicity of GMC/MPTS staff members involved with the complainants'/doctors' ethnicity where held on our records.

I am therefore satisfied that the FOI costs limit exemption calculation provided by Mr McCoig-Lees is relevant and appropriate.

I can confirm that even if you narrowed the three-year timeframe requested very significantly our inability to extract the full range of this information by automation would mean that the costs limit exemption would continue to be applicable. This is because we

would still have to manually link the staff ethnicity data to that held on the fitness to practise system records.

Turning now to questions 6, 7, 8 and 9, your deliberate separation of the elements of your request is useful in that we would be able to provide a good proportion of the data relating to those specific questions within the costs limit imposed by the FOIA. Para. 59 of the guidance provided by the Information Commissioner's Office (ICO):

[https://ico.org.uk/media/for-](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

[organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

makes clear that a public authority, under these circumstances, has an obligation to provide advice and assistance to enable you to make a refined request if you wish to do so. Therefore if you would us to respond to questions 6, 7, 8 and 9 separately please do let me know and I will arrange for a formal response to be provided.

Further action

Specifically in relation to the FOIA refusal you do have a further right of complaint to the ICO. Their contact details are as follows:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel. no: 0330 414 6649

Email: icocasework@ico.org.uk

Yours sincerely

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