

Code A

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From: Julian Graves Code A
Sent: 31 March 2011 15:45
To: Code A
Subject: RE: Internal review of Freedom of Information request - Dr Jane Barton request for erasure - response

Dear Code A

Thank you for your response below.

I have decided that no exemptions are applicable in respect of this information. I can confirm that Dr Barton's application for voluntary erasure from the medical register was received by the GMC on 22 December 2010.

Yours sincerely

Julian Graves

Julian Graves
 Information Access Manager
 General Medical Council
 3 Hardman Street
 Manchester
 M3 3AW

Tel. no. Code A

Email: Code A

-----Original Message-----

From: Code A
Sent: 28 March 2011 13:40
To: Julian Graves; Code A
Subject: Re: Internal review of Freedom of Information request - Dr Jane Barton request for erasure - response

Dear Julian Graves; Code A,

There are issues to do with the protection of public.

Also Equality issues to do with requests for performance assessment.

Yours sincerely,

Code A

-----Original Message-----

Our ref: IAT/ME/F11/3557

Dear Code A

I have now conducted a review of your request for the date that Dr

Jane

Barton applied for voluntary erasure from the medical register.

Having done so, I believe the only possible Data Protection Act 1998

condition that could be used to justify disclosure in this case would be

Schedule 2, condition 6. In order that I may reasonably assess whether

disclosure is appropriate on this basis, I would refer you to a recent

judgement of the First-tier Tribunal, *Johnston v ICO and Brecon Beacons*

National Park Authority, EA/2010/0130/0131:

http://www.informationtribunal.gov.uk/DBFiles/Decision/i499/20110321_Johnston_Determination_EA20100130-0131.pdf

I would specifically refer you to paras. 36 - 38 of this judgement which

I have reproduced below for ease of reference:

"Schedule 2 conditions

36. If disclosure would amount to fair and lawful processing, then the

next question is whether processing would also meet the conditions in

Schedule 2.

37. Schedule 2 contains 6 conditions which are applicable to the processing of any personal data. The only relevant condition in the present case is condition 6 which requires that:

"The processing is necessary for the purposes of legitimate interests

pursued by the data controller or by the third party or parties to whom

the data are disclosed, except where the processing is unwarranted in

any particular case by reason of prejudice to the rights and freedoms or

legitimate interests of the data subject."

38. Condition 6 involves a three-part test. First, is there a legitimate

interest in disclosure? Second, is such disclosure necessary to promote

that public interest? In *Corporate Officer of the House of Commons v*

Information Commissioner, "necessary" in the context of condition 6, was

taken to reflect the meaning attributed by the European Court of Human

Rights when justifying an interference with a Convention right, namely,

that there should be a "pressing social need" and the interference

should be "both proportionate as to means and fairly balanced as to ends". Third, would such disclosure cause unwarranted interference with the interests of the individual whose data is in issue? Even where disclosure is necessary, it is only permissible if it would not cause such interference."

Therefore in order that I may consider your appeal further, I would be grateful for your views as exactly in what way you believe there to be a legitimate interest in the disclosure of this specific information.

I will await your response.

Yours sincerely

Julian Graves

Julian Graves
Information Access Manager
General Medical Council
3 Hardman Street
Manchester
M3 3AW

Tel. no:
Email: [email address]

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