



01200250

General Medical Council	
Original was a Photocopy	<i>Some</i>
Original was Poor Quality	
Date rec for scan	<i>- 6 OCT 2015</i>
Original has been Photocopied to improve Scan Quality	
Document had physical objects ref:	

✓

RED TOP (S&FTP) **CORPORATE COMPLAINT**

Assignee: Chris Couchman → Code A

Section: DO IAT

Date: 09-08-11

Ref:	<u>2011-721</u>		
SR No.:			
Complaint Reference(s):	<u>N/A</u>		
Correspondent's Name:	Code A	UID:	Code A
Doctor(s) concerned:	<u>Mr Christopher Bulstrode</u>	UID:	Code A
Subject:	<u>Requesting info re complaints made to GMC re Prof. Bulstrode's non-declaration & conflict of interests.</u>		

Action Required:

- Reply direct
 DO to review

Draft reply for:

- Draft for AD / HoS
 Corp. Comps Mgr (CC)
 DCE / Director (PP)
 Chief Executive (ND)
 Chair (PR)

Complaint Info:

- 1st
 2nd
 3rd - ref. to CCM
 Further

Deadline for referral back to CCM:

DEADLINE:

23-08-11

NOTES:

CC to respond.

07/10 CC: Pan to IAT - Code A - thinks they've dealt with. If not, will do + will send draft to CC for approval.

11/10 - Reply sent Code A.

Code A

From: Christine Couchman Code A
Sent: 09 August 2011 14:00
To: Niall Dickson Code A
Cc: Paul Philip Code A
Subject: Re: Fwd: Professor Bulstrode GMC Council member and non-declaration of conflict of interests

Niall

Yes, will do.

Chris

From: Niall Dickson Code A
Sent: Tuesday, August 09, 2011 12:58 PM
To: Christine Couchman Code A
Cc: Paul Philip Code A
Subject: Fwd: Professor Bulstrode GMC Council member and non-declaration of conflict of interests

Chris

Can you please respond ?

Thanks

Niall

Begin forwarded message:

From: Code A
Date: 9 August 2011 11:47:51 GMT+01:00
To: "Niall Dickson" Code A "GMC Fitness to Practise" <gmcftp@gmc-uk.org>
Subject: Professor Bulstrode GMC Council member and non-declaration of conflict of interests

Dear Mr Niall Dickson, Chief Executive of GMC,

There have been a number of complaints to GMC regarding Professor Bulstrode's non-declaration of conflict of interests. What was the outcome of those complaints?

Thanking you for your kind attention.

Yours sincerely,

Code A

Code A

From: Code A

Sent: 07 October 2011 12:22

To: Code A

Subject: FW: Fwd: Professor Bulstrode GMC Council member and non-declaration of conflict of interests

Hi Code A

Please find below Code A email regarding Mr Christopher Bulstrode, which I understand you think may already have been dealt with.

If so, please can you forward me a copy for our records? And if not, I believe you are to be drafting.

Thanks,

Code A

From: Christine Couchman Code A

Sent: 09 August 2011 14:00

To: Niall Dickson Code A

Cc: Paul Philip Code A

Subject: Re: Fwd: Professor Bulstrode GMC Council member and non-declaration of conflict of interests

Niall

Yes, will do.

Chris

From: Niall Dickson Code A

Sent: Tuesday, August 09, 2011 12:58 PM

To: Christine Couchman Code A

Cc: Paul Philip Code A

Subject: Fwd: Professor Bulstrode GMC Council member and non-declaration of conflict of interests

Chris

Can you please respond ?

Thanks

Niall

Begin forwarded message:

From: Code A

Date: 9 August 2011 11:47:51 GMT+01:00

To: "Niall Dickson" Code A "GMC Fitness to Practise" <gmcftp@gmc-uk.org>

Subject: Professor Bulstrode GMC Council member and non-declaration of conflict of interests

Dear Mr Niall Dickson, Chief Executive of GMC,

07/10/2011

There have been a number of complaints to GMC regarding Professor Bulstrode's non-declaration of conflict of interests. What was the outcome of those complaints?

Thanking you for your kind attention.

Yours sincerely,

Code A

11 October 2011

Our Ref: IAT/ME/M10128

**General
Medical
Council**

3 Hardman Street
Manchester M3 3AW

Telephone: 0161 923 6200
Facsimile: 0161 923 6201
Email: gmc@gmc-uk.org
www.gmc-uk.org

Code A

By E-mail only

Dear **Code A**

I refer to your e-mail of 9 August 2011, addressed to Niall Dickson, regarding complaints that the GMC may have received concerning Professor Bulstrode's non declaration of a conflict of interests. I have been asked to reply on Mr Dickson's behalf. I apologise for the delay in responding to you on this matter.

I note that you raised this issue earlier this year, as a request under the Freedom of Information Act 2000 (FOIA). My letter of 21 February 2011 was sent in response to that request. I attach a copy of my letter for ease of reference.

I am aware that you subsequently appealed the decision set out in my letter and that Julian Graves responded to that appeal by way of his e-mail dated 23 March 2011. I am also attaching a copy of Mr Graves' e-mail.

I trust that this clarifies the position regarding the question you have posed in your latest e-mail.

Yours sincerely

Code A

**Information Access Team
Registration and Resources Directorate**

Code A

21 February 2011

Our Ref: IAT/ME/F11/3558

**General
Medical
Council**

Code A

St James's Buildings
79 Oxford Street, Manchester M1 6FQ

By E-mail only

Telephone: 0845 357 8001
Facsimile: 0845 357 9001
Email: gmc@gmc-uk.org
www.gmc-uk.org

Dear Code A

Freedom of Information Act 2000 response

I write in response to your e-mail 6 February 2011 in which you ask for details of any complaints the GMC may have received regarding Professor Bulstrode. You state that the nature of these complaints will be Professor Bulstrode's non-declaration of a conflict of interests. Your request has been considered in accordance with the Freedom of Information Act 2000 (FOIA).

I can confirm that there are no complaints against Professor Bulstrode which have been heard by a Fitness to Practise Panel.

In relation to whether any other complaints have been made against Professor Bulstrode, we believe we are under no obligation to confirm or deny if we hold any other information regarding the existence or non-existence of any other complaints made against him.

Section 40(5)(b)(i) of the FOIA states that the duty to confirm or deny whether information is held does not arise if the act of confirmation or denial would breach any of the principles of the DPA. We believe that it is reasonable for doctors to expect that, if complaints are made against them which are not progressed to a public hearing or do not result in any action upon their registration, whether or not such complaints had been made would be kept confidential and would not be released into the public domain. Therefore, we believe that to confirm or deny the existence or non-existence of complaints against Professor Bulstrode would breach the first principle of the DPA, which requires that the processing of personal data is fair and lawful.

You have the right of appeal against this decision. If you wish to appeal please set out in writing your grounds of appeal, and send it to Julian Graves, Information Access Manager, General Medical Council, 3 Hardman Street, Manchester M3 3AW. Alternatively you can email Code A. You also have the right of appeal to the Information Commissioner, the independent regulator of the FOIA. If applicable, Mr Graves will provide you with details of how to make an appeal to the Information Commissioner.

Yours sincerely

Code A
Information Access Team
Registration and Resources Directorate

Code A

Code A

From: Julian Graves Code A
Sent: 23 March 2011 09:09
To: 'request-61323-846d5ecf@whatdotheyknow.com'
Subject: Internal review of Freedom of Information request - Professor Christopher Bulstrode - response

Our ref: IAT/ME/F11/3558

Dear Code A

I have now conducted a review of your request for the number of complaints we have received regarding Professor Bulstrode's non-declaration of conflict of interests regarding his sister Dr Jane Barton.

Having done so I am satisfied that the original decision to refuse to provide this information citing the FOIA exemption at Section 40(5)(b)(i) was correct. In my view disclosure of this information would breach the First Principle of the Data Protection Act 1998 (DPA) as the processing of personal data in this matter would be neither fair nor lawful. In this case there would be a requirement for a condition in Schedule 2 of the DPA to be met and I do not consider that to be the case.

In your request for internal review you have cited various sections of the DPA which, in your view, would allow for disclosure of this information. I have reviewed each of these and reject your argument on each.

Firstly, you cite Schedule 2, Section 3:

"The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract."

I do not consider there to be any legal obligation in place that necessitates the disclosure of this information.

Secondly, you cite Schedule 2, Section 5(a):

"The processing is necessary—
 (a) for the administration of justice"

I have not identified any reason why the disclosure of the requested information would be 'necessary' for the administration of justice.

Thirdly, you cite Schedule 2, Section 5(d):

"The processing is necessary – (d) for the exercise of any other functions of a public nature exercised in the public interest by any person."

In this case we do not consider that disclosing the information you have requested is 'necessary' for the exercise of the functions described in this section.

Fourthly, you cite Schedule 3, Sections 6(a) and (b):

The processing—
 (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings), (b) is necessary for the purpose of obtaining legal advice

Again the main focus here is the word 'necessary' and we would argue that disclosure of the number of complaints made against Professor Bulstrode is not necessary in relation to either legal proceedings or for the obtaining of legal advice.

Lastly you cite Section 7(1)(a) and 9(b). These sections relate to the disclosure of personal data where the requestor is the subject of that data. This is clearly not the case here and therefore these sections are not of relevance.

I have provided a link below to a previous decision of the ICO relating to doctors' complaint histories. I believe that your request is similar to the background to this decision and do not believe that we are compelled to disclose the

requested information to you:

http://www.ico.gov.uk/~media/documents/decisionnotices/2006/FS_50064698.ashx

Finally, in summary, there is a clear disclosure process involved in the investigation of complaints received against doctors. To disclose information about those complaints outside of that prescribed disclosure process would, in our view, be a breach of the First Principle of the DPA as it would go beyond the expectations of both doctor and complainant.

Should you remain dissatisfied with my decision on this matter 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: 0303 123 1113
Email: mail@ico.gsi.gov.uk

Yours sincerely

Julian Graves

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

Code A

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

From: Julian Graves [Code A]

Sent: 22 February 2011 15:02

To: 'request-61323-846d5ecf@whatdotheyknow.com'

Subject: Internal review of Freedom of Information request - Professor Christopher Bulstrode - acknowledgement

Dear [Code A]

Your appeal below has been forwarded to me for consideration. I will consider your appeal in line with our comments and complaints procedure for information requests. This sets a target response time of 20 working days. I will endeavour to respond to you within this timeframe.

Yours sincerely

Julian Graves

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

Code A

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

From: [Code A] [mailto:request-61323-846d5ecf@whatdotheyknow.com]

Sent: 21 February 2011 12:27

To: [Code A]

Subject: Internal review of Freedom of Information request - Professor Christopher Bulstrode

Dear [Code A]

I would like to request Internal Review of the response in view of the fact that Data Protection Act 1998 (DPA 1998) principle I has been misapplied in refusing my request for information.

DPA Schedule 2 Section 3, 5(a) (d) and Schedule 3 Section 6 (a), (b) and Section 7 (1) (a) and 9 (b) allow the disclosure of the information asked for.

There are complaints made in public interest. You have not supplied Code of Public Interest test as applied for under different FOIA request. Breach of FOIA 2000.

Information requested is required for legal advice, it would be used in legal proceedings, it is necessary for measuring compliance with equality issues.

Professor Bulstrode was a member of the governing body of GMC and is a white English male. He has a duty to declare conflicts of interests just like everybody else. He did not. GMC did not take any action against him. This can be appealed through the courts, as you know. Court Procedure Rules allow the disclosure of this information too.

Yours sincerely,

[Code A]

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

Dear [Code A]

Please see attached letter in response to your e-mail of 6 February 2011.

Regards

[Code A]

Unless otherwise expressly agreed by the sender of this email, this communication may contain privileged or confidential information which is exempt from disclosure under UK law. This email and its attachments may not be used or disclosed except for the purpose for which it has been sent.

If you are not the addressee or have received this email in error, please do not read, print, re-transmit, store or act in reliance on it or any attachments. Instead, please email the sender and then immediately delete it.

General Medical Council

3 Hardman Street, Manchester, M3 3AW

Regents Place, 350 Euston Road, London, NW1 3JN

The Tun, 4 Jacksons Entry, Holyrood Road, Edinburgh, EH8 8AE

Regus House, Falcon Drive, Cardiff Bay, CF10 4RU

9th Floor, Bedford House, 16-22 Bedford Street, Belfast, BT2 7FD

The GMC is a charity registered in England and Wales (1089278) and Scotland (SC037750)

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies: <http://www.whatdotheyknow.com/help/officers>

Please use this email address for all replies to this request: request-61323-846d5ecf@whatdotheyknow.com

If you find WhatDoTheyKnow useful as an FOI officer, please ask your web manager to suggest us on your organisation's FOI page.
