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**GMC response - LIBE committee report on the protection of individuals with regard to the processing of personal data, and the free movement of such data (General Data Protection Regulation)**

**20 December 2013**

**Introduction**

1. The [General Medical Council](http://www.gmc-uk.org) (GMC) is the independent regulator for doctors in the UK. Our purpose is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine.
2. The law gives us four main functions:
  - keeping up-to-date UK registers of qualified doctors
  - fostering good medical practice in the UK
  - promoting high standards of medical education in the UK
  - dealing firmly and fairly with doctors whose fitness to practise is in doubt.
3. To fulfil these functions we collect and use personal data in order to register doctors and to carry out our fitness to practise processes. We also provide guidance for doctors on standards of professional conduct. This includes guidance on the confidentiality of patient information, which we expect doctors to understand and follow.
4. We have closely followed the review of the Data Protection Regulation and have produced the following briefing which sets out the GMC's position on a number of key articles adopted in the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) ahead of negotiations with the Council of Ministers.
5. This briefing focuses on those issues of importance to safe and effective medical regulation and patient safety:
  - a. Processing exemptions (article 21);
  - b. Right to be forgotten (article 17);
  - c. Procedures and mechanisms for exercising the rights of the data subject (article 12).

## **A. Processing exemptions (article 21)**

6. As the body responsible for doctors' registration and fitness to practise in the UK, the GMC has a statutory responsibility to keep a register of doctors who are safe and fit to practise medicine. To carry out our statutory functions, we may also hold information concerning past and present registration, including doctors no longer on the register for administrative or disciplinary reasons.

7. It is essential that the exemptions in article 21, paragraph 1, subparagraphs (d) and (e), allowing us to '*prevent, investigate, detect and prosecute*' doctors whose fitness to practise is impaired, and allowing for '*a monitoring, inspection or regulatory function in the framework of the exercise of a competent public authority...*' are maintained. The fundamental right to the protection of personal data should not endanger patient safety.

**The GMC supports article 21.1 (d) and (e) which safeguards our statutory duty to assess the fitness to practice of doctors and to protect the public.**

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## **B. Right to be forgotten (article 17)**

8. The GMC supports the provisions of article 17 and recognises the importance of rectification and erasure in prescribed circumstances. Personal data should only be retained for a proportionate time period.

9. The GMC welcomes the derogations outlined in article 17, paragraph 3, subparagraph (d) '*for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued*'.

10. The GMC clearly has duties of publication and disclosure which must be underpinned by our retaining data. This article would allow us to continue to hold personal data to fulfil our statutory obligations to protect, promote and maintain the health and safety of the public.

**The GMC supports article 17.3 (d) which safeguards our statutory duty to assess the fitness to practice of doctors and to protect the public.**

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## **C. Procedures and mechanisms for exercising the rights of the data subject (article 12)**

11. The GMC broadly supports the provisions of article 12 and recognises the importance of the ability of the data subject to exercise their rights in relation to the processing of personal data. Personal data should be available to a data subject without delay. Data subjects should be able to request rectification, erasure and to

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exercise the right to object and be provided with a response within a reasonable timeframe.

12. The GMC welcomes the extension of time permitted under article 12.2: *'The controller shall inform the data subject without undue delay and, at the latest within 40 calendar days of receipt of the request... This period may be prolonged for a further month, if several data subjects exercise their rights and their cooperation is necessary to a reasonable extent to prevent an unnecessary and disproportionate effort on the part of the controller.'*

13. In addition the GMC would seek an extension to the timeframe for compliance where there are multiple third party consent issues. Some requests can involve a combination of both the data of the requestor and third party data. In determining whether it would be reasonable in all of the circumstances to disclose third party data, an important consideration is whether this party has provided consent. In order to allow the GMC to seek consent, we would welcome an extension to the timeframe for compliance along the same lines of article 12.2.

14. The GMC notes that article 12.4 provides that where 'requests are manifestly excessive, in particular because of their repetitive character, the controller may charge a reasonable fee taking into account the administrative costs for providing the information to the controller or taking the action requested.'

15. We would welcome further clarity on how to define 'manifestly excessive'.

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