

14 November 2017

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**By email**

Dear [REDACTED]

### **Request under the Freedom of Information Act 2000 (the “FOI Act”)**

I refer to your emails of **19 October 2017** in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority (TDA) are operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means Monitor and the TDA.

### **Your request**

You made the following request (the numbering has been inserted by NHS Improvement for ease of reference):

- 1) *“Please confirm or deny if NHS Improvement has carried out any written assessment of the effects of leaving (a) European Union (b) the European Medicines Agency (c) Euratom on (i) the NHS (ii) the NHS workforce.*

*If confirm, please release any written assessment of the effects of leaving (a) European Union (b) the European Medicines Agency (c) Euratom on (i) the NHS (ii) the NHS workforce (iii) patient access to medicines and treatments.”*

- 2) *“Please confirm or deny if NHS Improvement holds any impact assessments, risk registers or similar documents on the effects of leaving the (a) European Union (b) the European Medicines Agency (c) Euratom on (i) the NHS (ii) the NHS workforce (iii) patient access to medicines and treatments.*

*If confirm, please release all impact assessments, risk registers or similar documents on the effects of leaving the (a) European Union (b) the European Medicines Agency (c) EURATOM on (i) the NHS (ii) the NHS workforce (iii) patient access to medicines and treatments held by NHS Improvement.”*

- 3) *“Please confirm or deny if NHS Improvement holds the NHS pay bill assumptions submitted to the Treasury by the Department of Health as part of the March 2017 budget*

*If confirm, please release the NHS pay bill assumptions submitted to the Treasury as part of the March 2017 budget.”*

- 4) *“Please confirm or deny if NHS Improvement holds any workforce planning documents for the NHS covering any of the next ten years*

*If confirm, please release any workforce planning documents for the NHS covering any of the next ten years held by NHS Improvement*

- 5) *“Please confirm or deny if NHS Improvement holds written records of any communications within the last six months between NHS Improvement and (a) the Department for Exiting the European Union (b) the Cabinet Office (c) the Home Office (d) the UK Permanent Representation to the EU (e) the Treasury (f) the Department of Health on the impact of leaving the European Union on the NHS workforce*

*If confirm, please release all written records of any communications within the last six months between NHS England and (a) the Department for Exiting the European Union (b) the Cabinet Office (c) the Home Office (d) the UK Permanent Representation to the EU (e) the Treasury (f) the Department of Health on the impact of leaving the European Union on the NHS workforce”*

- 6) *“Please confirm or deny if NHS Improvement holds written records of any communications within the last six months between NHS Improvement and (a) NHS England (b) Health Education England (c) any other arm’s length body of the Department of Health (d) any statutory health body on the impact of leaving the European Union on the NHS workforce*

*If confirm, please release all written records of any communications within the last six months between NHS Improvement and (a) NHS England (b) Health Education England (c) any other arm’s length body of the Department of Health (d) any statutory health body on the impact of leaving the European Union on the NHS workforce.*

*If confirm (e) please name the statutory health body.”*

- 7) *“Please confirm or deny if NHS Improvement has undertaken any assessment of the implications for (a) the NHS (b) the NHS workforce (c) patient access to medicines and treatments of a “no deal” Brexit scenario*

*If confirm, please release all assessments of the implications for (a) the NHS (b) the NHS workforce (c) patient access to medicines and treatments of a “no deal” Brexit scenario held by NHS Improvement”*

- 8) *“Please confirm or deny if NHS Improvement holds any written record of any communications by (a) a senior civil servant (b) a minister on the implications for (i) the NHS (ii) patients of the UK leaving EURATOM*

*If confirm, please release any written record of any communications by (a) a senior civil servant (b) a minister on the implications for (i) NHS (ii) patients of the UK leaving EURATOM.”*

## **Decision**

We have not been able to progress your request, because to do so would exceed the cost limit under section 12 of the FOI Act.

### *Aggregation of requests*

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 has provision for where two or more requests for information relate, to any extent, to the same or similar information, and are received within any period of sixty consecutive working days. In that situation, public authorities are to estimate the cost of complying with any of the requests as the cost of complying with all of them.

Therefore, NHS Improvement has been unable to progress your requests due to the combined total cost of complying with the eight requests received by NHS Improvement from yourself on the 19 October 2017.

### *Cost Limit under section 12 of the FOI Act*

Under section 12(1) of the FOI Act, NHS Improvement is not required to comply with any request that potentially exceeds the relevant cost limit. The relevant cost limit is £450, which is set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. This equates to a period of approximately eighteen hours in which to locate, retrieve and extract the information that you have requested.

In NHS Improvement's view, compliance with your request will exceed this limit because of the following two key reasons:

1. The scope of the request is very broad:
  - The category of information requested is broadly worded and would mean that we would have to review a significant amount of the documentation held to locate the information related to each request.
  - The scope of a number of the requests made in your emails is not restricted to a specific time period.
2. The volume of documents that would need to be reviewed to locate the information covered by the request is significant:
  - The requests for information are broadly worded and as such would create a large workload to gather all possible relevant information from across the organisation.

- There are a significant number of individuals who may hold some information relevant to your requests, from different teams throughout NHS Improvement. We would therefore need to search the records of a large number of individuals to identify the information requested.

#### *Advice and Assistance provided under section 16 of the FOI Act*

Under section 16 of the FOI Act, NHS Improvement is required, as a public authority, to provide advice and assistance so far as is reasonable, to individuals who have made a request to it under the FOI Act.

Given NHS Improvement's indication above of the volume of documentation that would need to be reviewed to locate the information sought, NHS Improvement would provide the following indications to assist you to make a request that can be complied with without the time limits in section 12 becoming applicable. You may wish to:

- narrow the scope of your request to describe more precisely the kind of information sought;
- narrow the scope of your request by limiting the timescale of the search;
- limit your request to certain employees/groups of employees at NHS Improvement; and/or
- consider the types of information that may be excluded from release under the FOI Act.

Please note that NHS foundation trusts, NHS Trusts, and the Department of Health are subject to the FOI Act and as such it is open to you to seek information directly from them. They will need to consider whether information can properly be provided by them in response to any such requests within the terms of the FOI Act.

#### **Review rights**

If you consider that your request for information has not been properly handled or if you are otherwise dissatisfied with the outcome of your request, you can try to resolve this informally by contacting the FOI mailbox at [nhsi.foi@nhs.net](mailto:nhsi.foi@nhs.net). If you remain dissatisfied, you may seek an internal review within NHS Improvement of the issue or the decision. A senior member of NHS Improvement's staff, who has not previously been involved with your request, will undertake that review.

If you are dissatisfied with the outcome of any internal review, you may complain to the Information Commissioner for a decision on whether your request for information has been dealt with in accordance with the FOI Act.

A request for an internal review should be submitted in writing to FOI Request Reviews, NHS Improvement, Wellington House, 133-155 Waterloo Road, London SE1 8UG or by email to [nhsi.foi@nhs.net](mailto:nhsi.foi@nhs.net).

Yours sincerely,

**NHS Improvement**