

20 June 2017

Wellington House  
133-155 Waterloo Road  
London SE1 8UG

T: 020 3747 0000  
E: [nhsi.enquiries@nhs.net](mailto:nhsi.enquiries@nhs.net)  
W: [improvement.nhs.uk](http://improvement.nhs.uk)

By email

Dear [REDACTED]

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

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

### **Your request**

You made the following request:

*Please release any information pertaining to the meeting that took place between the **medical director of NHS improvement, a Deputy Chief Inspector of Hospitals of the CQC, Michael Marsh** (NHS England), **Vinod Diwakar** (then Medical Director of Great Ormond Street Hospital), and **Peter Steer** (the Chief Executive of Great Ormond Street Hospital), that took place in **July 2016**.*

*The information sought includes the agenda, the meeting notes, the meeting minutes and any email correspondence from and to the medical director of NHS improvement about the meeting.*

### **Decision**

NHS Improvement holds some of the information requested. The meeting referred to was held with the Deputy Medical Director of NHS Improvement at the time.

NHS Improvement has decided to withhold the information that it holds on the basis of the applicability of the exemptions in section 31 of the FOI Act as explained in detail below.

### **Section 31 – law enforcement**

NHS Improvement considers that the withheld information is exempt from disclosure under section 31(1)(g) of the FOI Act which provides that information is exempt information if its

disclosure would, or would be likely to, prejudice the exercise by any public authority of its functions for any of the purposes specified in section 31(2).

Section 31(2)(c) of the FOI Act exempts from disclosure information that would or would be likely to prejudice the exercise by NHS Improvement of its functions for the purposes of determining whether regulatory action is justified. I consider that this exemption is engaged.

Meetings such as in the present case enable NHS Improvement to obtain information relevant to performing its regulatory activities in relation to NHS foundation trusts. NHS Improvement relies on a relationship of trust and confidence with the trusts it regulates, and on the full and frank disclosure of information from those trusts in order to carry out its functions effectively. In particular, NHS Improvement relies on having a safe space in which trusts are able to share sensitive and confidential information freely in the knowledge that the information will not be disclosed more widely. In the present case, the meeting was intended to be confidential and the trust would have a reasonable expectation that the details of its meeting with NHS Improvement would not be disclosed. To disclose that information more widely is likely to have a detrimental impact on the relationship with this and other trusts, and reduce the quality and content of exchanges between NHS Improvement and those trusts. This would impact adversely therefore on its ability to make effective and fully informed regulatory decisions.

#### Public interest test

I have considered whether, in all the circumstances of the case, the public interest in maintaining the exemption from disclosure outweighs the public interest in disclosing information, and decided that it does.

I have considered the public interest in disclosing this information on the grounds of accountability and transparency, both in relation to how NHS Improvement carries out its role and in relation to quality of care provided by NHS foundation trusts. But I consider that the strong public interest in NHS Improvement being able to oversee and regulate trusts effectively, and the need to ensure that trusts are able to share confidential or sensitive information with NHS Improvement without concern that such information will enter the public domain, outweigh the public interest in disclosure of the information being withheld.

Please note that NHS foundation trusts 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 with the person who dealt with your request. 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).

### **Publication**

Please note that this letter will shortly be published on our website. This is because information disclosed in accordance with the FOI Act is disclosed to the public at large. We will, of course, remove your personal information (e.g. your name and contact details) from the version of the letter published on our website to protect your personal information from general disclosure.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Victoria Jeffries', with a stylized flourish underneath.

**Victoria Jeffries**

Head of Delivery and Improvement