

26 May 2017

Wellington House
133-155 Waterloo Road
London SE1 8UG

T: 020 3747 0000
E: nhsi.enquiries@nhs.net
W: improvement.nhs.uk

By email

Dear [REDACTED]

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

I refer to your email of 27 April 2017 in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority (“NHS TDA”) are operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means Monitor and the NHS TDA.

Your request

Your email is set out in full in the Annex to this letter. It contains the following questions (the numbering has been inserted by NHS Improvement for ease of reference):

1. Please provide any policy or procedure which applies to holding providers to account or intervention.
2. Please provide any information regarding actions undertaken by your organisation in which you have ever held any provider to account or intervened, detailing the policy or procedure that applied and any outcome.
3. Please identify and or provide if not already disclosed, any policy or procedure which would allow a member of the public to inform you of a situation requiring your intervention under any of the above policies and where that information is accessible by the public.
4. If no such policy or procedure exists, please specify how your organisation has learned of any issue which required intervention or holding to account previously.

Decision

NHS Improvement holds the information that you have requested. NHS Improvement has decided to disclose some of the information that it holds and withhold some of it on the basis of the applicability of the exemption in section 22 of the FOI Act, for the reasons outlined below.

Question 1 of your request

The [Single Oversight Framework](#) sets out NHS Improvement's approach to overseeing both NHS trusts and NHS foundation trusts.

The [Enforcement Guidance](#) explains the action we can take to enforce compliance with the provider licence and other regulatory obligations on providers and others required to provide NHS Improvement with information needed to perform its functions.

Question 2 of your request

In relation to NHS foundation trusts, the regulatory enforcement action that NHS Improvement has taken is published in the [foundation trust directory](#).

In relation to NHS trusts, NHS Improvement holds information regarding the actions it has taken equivalent to the actions taken for NHS foundation trusts (known as "mandated support"). There is not currently an equivalent to the foundation trust directory in relation to NHS trusts whereby mandated support is published on NHS Improvement's web-site. NHS Improvement has decided to withhold the information it holds regarding mandated support in relation to NHS trusts on the basis of the applicability of the exemption in section 22 of the FOI Act, as set out below.

The current policies under which the above actions were taken are the Single Oversight Framework and the Enforcement Guidance, as set out in our response to question 1 above.

Section 22 – information intended for future publication

Section 22 provides an exemption where information is held by a public authority with a view to future publication, if it is reasonable to withhold the information from disclosure until the date of publication.

NHS Improvement intends to publish the mandated support in relation to NHS trusts in or before autumn 2017. NHS Improvement is in the process of formalising the mandated support for any NHS trusts in need of this type of support and expects to have completed this exercise in or before autumn 2017. NHS Improvement intends to publish all of the mandated support for all NHS trusts together, in or before autumn 2017. Given this, and the settled intention for publication in the near future, we consider that it is reasonable in the circumstances to withhold the information requested.

Public interest test

Section 22 of the FOI Act is a qualified exemption and NHS Improvement is therefore required to carry out a public interest test to determine whether the exemption should be maintained. We recognise the general public interest in openness and transparency in relation to the NHS Improvement's oversight of NHS trusts. But our view is that the public interest will be met by the publication of this information in relation to all NHS trusts in need of mandated support together. Our conclusion is that the balance of public interest lies in withholding this information until its publication in or before autumn 2017.

Question 3 of your request

Our web-site sets out [here](#) how to raise complaints and concerns with us.

Question 4 of your request

Our answer to question 3 provides a link to our web-site setting out how complaints and concerns can be raised with us.

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.

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 black ink, appearing to read 'Tom Grimes', written in a cursive style.

Tom Grimes

Head of Enquiries, Complaints and Whistleblowing

Annex

On your web pages here <https://improvement.nhs.uk/about-us/who-we-are/> you state the following:-

"NHS Improvement is responsible for overseeing foundation trusts and NHS trusts, as well as independent providers that provide NHS-funded care. We offer the support these providers need to give patients consistently safe, high quality, compassionate care within local health systems that are financially sustainable. By holding providers to account and, where necessary, intervening, we help the NHS to meet its short-term challenges and secure its future. "

You specify that your responsibilities include "Holding providers to account and where necessary intervening"

Please provide any policy or procedure which applies to holding providers to account or intervention.

Please provide any information regarding actions undertaken by your organisation in which you have ever held any provider to account or intervened, detailing the policy or procedure that applied and any outcome.

Please identify and or provide if not already disclosed, any policy or procedure which would allow a member of the public to inform you of a situation requiring your intervention under any of the above policies and where that information is accessible by the public.

If no such policy or procedure exists, please specify how your organisation has learned of any issue which required intervention or holding to account previously.