

23 November 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 emails of 28 September 2017 in which you requested information under the FOI Act from NHS Improvement.

Your request

You made the following requests:

Please supply any reports or memos relating to Great Ormond Street Hospital's review of its gastroenterology department which began in summer 2015.

Please supply all correspondence and information including, but not limited to, emails, letters, minutes of meetings and telephone conversations, relating to Great Ormond Street Hospital's review of its gastroenterology department between July 2015 and the present date.

Decision

NHS Improvement holds the information requested.

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.

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. Disclosure of the documents requested would prejudice the exercise of NHS Improvement's functions. 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 NHS Improvement's 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.

To that end, I can inform you that NHS Improvement was notified by the trust that a review was to be carried out in its gastroenterology department which found that a number of patients may have been subject to unnecessary treatment. NHS Improvement worked with the trust to understand the actions being taken and sought assurance that the trust was taking appropriate steps to ensure that this could not happen again and provided oversight to the trust. On the basis of the information available to us, NHS Improvement considered that the trust's response to the concerns raised had been adequate and we did not take any further action. I also note there is information published about this matter on the GOSH website, which provides a summary of the outcome of the review.

On balance, taking into account the public interest in this matter in light of the information already available, I consider that the strong public interest in NHS Improvement being able to oversee, support 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. NHS Improvement will continue to support and oversee the trust, and consider any information received as appropriate and in line with our regulatory functions.

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 blue ink, appearing to read 'V Woodhatch', with a horizontal line underneath.

Victoria Woodhatch
Delivery and Improvement Director