

29 September 2017

[REDACTED]

[REDACTED]

**By email**

[REDACTED]

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Dear [REDACTED]

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

I refer to your email of **1 September 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 and the TDA.

### **Your request**

You made the following request:

*“Please provide:*

*1. Data and analysis held by NHS Improvement on the number of "stranded" and "medically fit for discharge" patients in NHS acute trusts and foundation trusts, covering 2015-16 and 2016-17 (and additional years if this is included in a relevant analysis). Please provide summary analysis/reports (including on the situation during winter 2016-17 and subsequently), and - for each of the two categories - provide national-level figures, and figures at a trust level, where these are held.*

*2. Data and analysis held by NHS Improvement on the number of "outlier" patients (patients in beds outside their correct specialty/division), in NHS acute trusts and foundation trusts, covering 2015-16 and 2016-17 (and additional years if this is included in the relevant analysis). Please provide summary analysis/reports (including on numbers of outliers during winter 2016-17), figures at a national level, and figures at a trust level.”*

### **Decision**

NHS Improvement holds part of the information that you have requested.

In relation to part (1) of your request, the information that NHS Improvement holds on “stranded” patients for 2016/17 can be found [here](#). NHS Improvement does not hold any information on “stranded” patients for 2015/16.

For "medically fit for discharge" patients, NHS Improvement holds information falling within the scope of the request. NHS Improvement has decided to withhold the information that it holds on the basis of the applicability of the exemption at section 36(2) of the FOI Act as explained in detail below

In relation to part (2) of your request, NHS Improvement does not hold this information.

#### *Section 36(2) – prejudice to the conduct of public affairs*

NHS Improvement considers that the information on MFFD patients requested under part 1 of the request is exempt under section 36(2)(c) of the FOI Act, which provides that information may be withheld where in the reasonable opinion of a qualified person disclosure of the information would otherwise prejudice, or would be likely otherwise to prejudice the effective conduct of public affairs.

In relation to information held by NHS Improvement, the Chief Executive (Jim Mackey), is the qualified person for the purposes of section 36(2) for both Monitor and the TDA. The Chief Executive’s opinion is that disclosure of the information that NHS Improvement holds on MFFD patients would be likely to otherwise prejudice the conduct of public affairs.

In order to conduct its operational and policy business, other NHS organisations must be able to exchange information about regulatory and NHS operational matters affecting the NHS with NHS Improvement without concern that the detail of that information will be disclosed inappropriately. NHS Improvement also relies on a relationship of trust and confidence with other organisations and a relationship of trust and confidence with those it regulates in order to act effectively as a national NHS organisation.

Disclosing information provided to it by another NHS organisation would damage this relationship of trust and confidence and inhibit the free flow of views and information resulting in a detrimental impact on the quality of policy development and national decision-making in relation to the NHS and on the ability of NHS Improvement and other organisations to provide effective and co-ordinated support and management of the NHS.

#### *Section 36(2) - public interest test*

NHS Improvement’s view is that the public interest in maintaining the exemption in section 36(2) of the FOI Act outweighs the public interest in disclosure.

In considering the balance, we have considered the public interest in transparency and openness in relation to decisions by public bodies, in particular decisions affecting the NHS. We have however also considered the public interest in allowing senior officials at NHS Improvement and senior officials of other NHS organisations to have discussions and share information about NHS policy and the handling of major NHS operational issues. If this information was generally made public, this would reduce the information that was

exchanged, which would affect the quality of policy making in the NHS. There is a strong public interest in ensuring that NHS Improvement and other organisations are able to have open and confidential discussions at a senior level and share information, in order to ensure effective and co-ordinated support and management of the NHS.

Taking into account these considerations, our decision is that the balance of public interest is in withholding this information.

### **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.

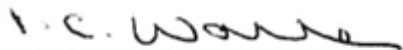
If you are dissatisfied with the outcome of any internal review, you may complain to the Information Commissioner for a decision on whether your request for information has been dealt with in accordance with the FOI Act.

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,



**Iain Wallen**

Director of Information and Analytics