

11 May 2017

Wellington House
133-155 Waterloo Road
London SE1 8UG

By email

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

Dear 

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

I refer to your email of **10 April** in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority have been operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means Monitor and the TDA.

Your request

Your request is set out in the annex to this letter.

Decision

NHS Improvement holds the requested information.

NHS Improvement has decided to withhold the information relevant to your request under section 31 of the Freedom of Information Act 2000.

Section 31 – law enforcement

NHSI 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).

NHSI considers that section 31(2)(c) is engaged and that disclosure of the information in question would be likely to prejudice the exercise by NHS Improvement of its functions for the purpose of ascertaining whether circumstances exist which would justify regulatory action in pursuance of an enactment. NHSI considers that releasing details of the group to

which providers have been assigned would be likely to prejudice its relationship with providers and therefore NHS Improvement's regulatory role in the performance management of the service.

NHSI relies on the full and frank information from trusts in order to carry out its functions effectively. NHSI relies on having a safe space in which providers are freely able to share sensitive and confidential information in the knowledge that the information, or any analysis derived directly from it, will not be disclosed more widely. To disclose that information more widely is likely to have a detrimental impact on the quality and content of exchanges between NHSI and the bodies it collectively regulates and its ability to make effective and fully informed regulatory decisions. The publication of this information in relation to London trusts, to which you refer in your request, was a not formally sanctioned and we are of the view further publication would be likely to prejudice effective performance of our functions.

Public interest test

Section 31 is a qualified exemption and therefore requires that a public interest test is carried out to determine whether the exemption should be maintained. There is a public interest in the performance of NHS providers, including A&E performance. However, NHS England collects and publishes performance and activity information for all NHS providers on a monthly basis, which can be found [here](#). NHS Improvement therefore considers that the public interest is addressed by the publication of this information and that the information you have requested should not be disclosed.

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,



Raghuv Bhasin
Deputy Director, Provider Projects

Annex

Dear Sir/Madam,

I would like to request some information under the Freedom of Information Act 2000. Please acknowledge receipt of my request by email.

All English hospital trusts have been put into one of four groups based on their emergency department performance as part of a new NHS Improvement programme.

The move is set out in an HSJ article here:

<https://www.hsj.co.uk/topics/quality-and-performance/exclusive-regulators-to-introduce-a-special-measures-regime/7016746.article>

The article shows which London trusts are in which group.

MY REQUEST: Please provide a comprehensive list of every English trust and in which group it has been assigned

Please provide the list in Excel with org codes so that it can be used to cross reference with other official data.

If you need any clarification of this request or if it is too broad in any way please feel free to email me. I would remind you that under your Section 16 duty to advise and assist I would expect you to contact me to discuss any practical difficulties that you may have in fulfilling this request so that I may narrow my request in a way that works for both of us.

If some parts of this request are more difficult to answer than others please release the answerable material as it is available rather than hold up the entire request for the contested data.

If FOI requests of a similar nature have already been asked could you please include your responses to those requests. I would be grateful if you could confirm in writing that you have received this request, and I look forward to hearing from you within the 20-working day statutory time period.