

11 May 2018

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██████████
By email
████████████████████

Dear ██████████,

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

I refer to your emails of 09 April 2018 and 19 April 2018 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

On 09 April 2018, you made the following request:

“Please treat this as a request for all the information to which I am entitled under the Freedom of Information Act 2000.

Background:

This refers to the protected disclosure of malpractice by up-coding at Royal Wolverhampton Trust as referenced in the January 2016 Verita report: “Independent review of the handling by the Royal Wolverhampton NHS Trust of concerns raised by and related to ██████████ ██████████. (A report for NHS Trust Development Authority)

On Friday 6 April 2018 I received an email from NHSCFA informing me that “The original whistleblowing allegation made in respect of ‘up-coding’ had been investigated and no fraud against the NHS was identified.” My request relates to this investigation. (Neither the Verita investigation nor the subsequent Deloitte governance review commissioned by NHSI had a remit to investigate the alleged up-coding fraud.)

Please send me:

The date of completion and publication of the report of any investigation of the alleged up-coding fraud that NHSI is aware of.

The name of the investigators and/or the investigating organisation.

A full copy of the report.

*All documents (emails, letters, board minutes, transcripts or any others) in NHSI's possession which make a reference in any way to this report.
Any other information in NHSI's possession that relates to this report.*

I would like the above information to be provided to me as electronic copies sent to this email address."

NHS Improvement wrote to you on 13 April 2018 requesting a copy of the information you received from the NHS Counter Fraud Authority to assist us in locating the relevant information which may be held.

On 19 April 2018, you provided the following clarification:

"The response I have received from NHSCFA contains confidential information and I am not currently free to let you see it. I can however assure you that NHSI is thoroughly familiar with this matter and should have no difficulty in disclosing any information on the investigation report if it is in its possession.

The Verita report was commissioned by TDA in 2014 at the request of the Secretary of State for Health and published in 2016. As a result of this NHSI went on to commission a Deloitte governance review at RWH NHS Trust. Both reports are in NHSI's possession. I have attached them for your information. The reports both have their genesis in the disclosure to the trust of up-coding fraud.

The Verita report expresses an unreserved opinion that the Chief Executive at RWH, once he had heard allegations of up-coding fraud, should have had them properly investigated:

Mr [name redacted] knew of Mrs [name redacted]'s concerns about the trust's approach to the PCT with regard to coding irregularities by 20 April 2012. He did not, as he should have, initiate a whistleblowing investigation. Rather, he instructed two of his executive directors to ensure that Mrs [name redacted]'s concerns did not interfere with the Monitor visit. (3.22)

The Verita report is clear that no investigation was done. It is clear from both the Verita and Deloitte reports that investigating the veracity of the allegations of up-coding fraud were not investigated by them and they can express no opinion on this.

To clarify, my FOI request is to NHSI as the regulator that oversaw this matter and commissioned various reports is with respect to any investigation done on the up-coding fraud reported to RWT as described in the Verita report. NHSCFA has informed me that an investigation was completed. I can re-pose my request as follows:

Given this pre-amble, has NHSI any knowledge of an investigation of the allegations of up-coding fraud at RWT outlined in the Verita review?

*If Yes proceed as per the questions in my original request.
If No please say so. "*

Decision

NHS Improvement does not hold the information you have requested.

We have not commissioned any reports regarding the allegations of up-coding fraud at the Royal Wolverhampton NHS trust.

You are able to send a Freedom of Information request to the Trust or the NHS Counter Fraud Authority who may hold the information you seek. Their contact details have been provided below:

<https://cfa.nhs.uk/freedom-of-information>

<http://www.royalwolverhampton.nhs.uk/about-us/freedom-of-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.

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,

Murray Cochrane

Head of Resources, Programmes and Co-ordination