

25 July 2018

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████████████████████
By email
██

Dear ██████████

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

We refer to your email of 2 July 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

You made the following request:

“I would like to request the following information:

- 1) *All discussions, meeting minutes, notes, emails, and records surrounding any consideration of a merger with NHS England.*
- 2) *Confirm what the motivations behind such discussions are*
- 3) *Please confirm what statutory powers NHS Improvement would gain by way of such a merger.”*

Decision

Whilst NHS Improvement holds some of the information that you have requested we have not been able to progress your request because to do so would exceed the cost limit under section 12 of the FOI Act.

Section 12 – Exemption where cost of compliance exceeds appropriate limit

Under section 12(1) of the FOI Act, NHS Improvement is not required to comply with any request that potentially exceeds the relevant cost limit. The relevant cost limit is £450, which is set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. This equates to a period of approximately eighteen hours in which to locate, retrieve and extract the information that you have requested.

In NHS Improvement’s view, compliance with your request will exceed this limit because:

(1) The scope of the request is very broad:

- The category of information requested is extremely broadly worded and would mean that we would have to review a significant amount of the documentation held to locate it.
- The scope of your request is not restricted to a specific time period.

(2) The volume of documents that would need to be reviewed to locate the information covered by the request is significant. To locate all discussions, meeting minutes, notes, emails and records surrounding any consideration of a merger with NHS England is likely to require a significant number of people to review thousands of documents to clarify whether the information falls in scope of your request.

Advice and assistance provided under section 16 of the FOI Act

We are mindful of our duty under section 16 of the FOI Act to provide reasonable advice and assistance to you, and specifically to advise how you might narrow your request so that it complies with the time limit.

In March 2018, NHS Improvement and NHS England announced the steps we are taking to bring our organisations closer together. Please refer to the links below for further details:

- <https://improvement.nhs.uk/news-alerts/nhs-england-and-nhs-improvement-working-closer-together/>
- <https://www.england.nhs.uk/2018/03/nhs-england-and-nhs-improvement-working-closer-together/>

We also refer to you a board paper published by NHS England which details the proposals for joint working:

<https://www.england.nhs.uk/wp-content/uploads/2018/03/07-pb-28-03-2018-proposals-on-delivering-joint-working-nhs-england-nhs-improvement.pdf>

In response to item (3) we confirm that no change to statutory powers or duties is anticipated.

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,

NHS Improvement