

7 February 2018

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██████████  
**By email**  
████████████████████

Dear ██████████

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

I refer to your email of 15 January 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:

*“In its January board papers, UCLH make reference to a review of cancer performance carried out by NHSI, can I have a copy of this review please?”*

<i>Cancer Waits</i>	<i>We have now received the final reports from both the governance and operational delivery and improvement work streams of NHS Improvement’s review. We are refreshing our trajectory in response to the NHSI reviews, and it will show delivery of overall compliance from July 18.</i>
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<i>We did not meet our 62 day STF trajectory for November and we are unlikely to meet this in the current financial year. In November we reported 10 internal breaches (+1 from compared to October): urology (3), Lower GI (2), lung (2), and head and neck (3). Some of these were due to complex reasons. A number of delays were initiated by patients.”</i>
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### **Decision**

NHS Improvement holds the information that you have requested and has decided to withhold all of the information that it holds on the applicability of section 31 of the Freedom of Information Act 2000, 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).

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

NHS Improvement conducted a review of the trust's cancer performance. NHS Improvement considers that releasing the reports would be likely to prejudice its relationship with providers and therefore NHS Improvement's regulatory role in overseeing them.

NHS Improvement relies on the full and frank information from trusts in order to carry out its functions effectively. NHS Improvement relies on having a safe space in which providers are freely able to share 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 NHS Improvement and the bodies it collectively regulates and its ability to make effective and fully informed regulatory decisions.

#### *Public interest test*

Section 31 of the FOI Act is a qualified exemption and therefore requires that a public interest test be carried out to determine whether the exemption should be maintained.

We 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 the services provided by NHS foundation trusts and NHS trusts. But we consider that the strong public interest in NHS Improvement being able to oversee and regulate trusts effectively, and the need to ensure that trusts are able to share confidential or otherwise 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.

#### **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.

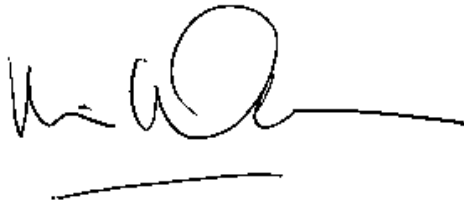
If you are dissatisfied with the outcome of any internal review, you may complain to the Information Commissioner for a decision on whether your request for information has been dealt with in accordance with the FOI Act.

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,

A handwritten signature in black ink, appearing to read 'V. Woodhatch', with a horizontal line underneath.

**Victoria Woodhatch**  
Director of Delivery and Improvement (NENCL)