

13 December 2016

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By email [REDACTED]

Dear [REDACTED]

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

I refer to your email of 15 November 2016 in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority 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:

“Under the Freedom of Information Act I wish to request the following information:

- 1) *Copies of all written internal correspondence regarding the merger, or long-term partnership between Sherwood Forest Hospitals and Nottingham University Hospitals*
- 2) *Copies of correspondence between NHS Improvement and Department of Health regarding the merger/long-term partnership*
- 3) *Copies of correspondence between NHS Improvement and the two trusts regarding the merger/along-term partnership*
- 4) *The figures provided by the two trusts to NHS Improvement when asked to tally up costs of the merger/long-term partnership process – submitted on week commencing November 7*
- 5) *Any further costs amassed by NHS Improvement in the process of the merger/long-term partnership process”*

Decision

NHS Improvement holds information relevant to your request. NHS Improvement has decided to withhold the information requested under parts 1 to 3 of your request on the basis of the applicability of the exemption in section 12 of the FOI Act as explained in detail below.

NHS Improvement has decided to release the information requested under parts 4 and 5 of your request.

In relation to part 4 of your request, the figure provided by Nottingham University Hospitals NHS Trust (**Nottingham**) in respect of the costs associated with the proposed long term partnership between Nottingham and Sherwood Forest Hospitals NHS Foundation Trust (**Sherwood**) was £10 million. This comprised:

- Clinical support: £1 million
- Nottingham professional adviser fees: £6.6 million
- Nottingham backfill costs: £1.5 million
- Sherwood backfill costs: £0.9 million

I thought it would be helpful to provide some background in relation to the above figures, NHS Improvement first took regulatory action in relation to Sherwood in October 2012 and it was placed into special measures in July 2013 following the Keogh review. Sherwood was rated as 'inadequate' following the Care Quality Commission's inspection in June 2015 - a deterioration on its previous rating. As a result, both the CQC and NHS Improvement set out that Sherwood needed a long term partner in order to improve.

Nottingham was selected by Sherwood as its long term partner in February 2016, in part due to the strategic fit between the two trusts and their existing patient flows.

Since February 2016, both trusts, with the support of NHS Improvement, worked to create a combined organisation. Both trusts and their regulators wanted to complete the long term partnership by autumn 2016 so that the new, combined organisation could focus on winter pressures with the long term partnership completed. However, the long term partnership was paused in September 2016 to allow Nottingham to focus more fully on improving its operational performance.

The costs set out above reflect the accelerated timeline the trusts and regulators wanted to work to. The clinical support and backfill costs incurred across both trusts made a significant contribution to Sherwood exiting special measures in November 2016 and its two warning notices being lifted by the CQC during 2016.

The professional adviser fees comprise consultancy fees (£6.1 million) and legal fees (£0.5 million). A significant element of the professional advisor fees incurred to date has laid the foundation for greater collaboration and integration between the two trusts and both trusts are utilising this work to develop a Memorandum of Understanding ('MOU') which will set out how they will work jointly and collaborate together going forwards under a strategic partnership.

In relation to part 5 of your request, the external costs incurred by NHS Improvement in relation to the proposed long term partnership between Nottingham and Sherwood are £36,665.80. We have interpreted part 5 of your request to be for external costs incurred by NHS Improvement not including expenses incurred by NHS Improvement staff, for example travel expenses in attending meetings in connection with the proposed long term partnership.

Cost limit under section 12 of the FOI Act

Under section 12(1) of the FOI Act, NHS Improvement is not required to comply with any request that potentially exceeds the appropriate cost limit. The limit is £450, as 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 requested.

In NHS Improvement's view, compliance with your request will significantly exceed this limit because the scope and time frame of the request is very broad and we would have to review a large volume of documentation to find, retrieve and extract the information within the scope of your request. This is because:

- The intensive nature of the support provided by NHS Improvement to Nottingham and Sherwood in relation to the proposed long term partnership has generated a large amount of internal correspondence and correspondence between NHS Improvement and external organisations including the two trusts and the Department of Health.
- There have been a significant number of individuals, from a number of different teams within NHS Improvement, involved in supporting the trusts in relation to the proposed long term partnership. We would therefore need to search the records of a large number of individuals to identify the information requested.

Advice and assistance provided under section 16 of the FOI Act

Under section 16 of the FOI Act, NHS Improvement is required, as a public authority, to provide advice and assistance so far as is reasonable, to individuals who have made a request to it under the FOI Act.

In light of our assertion that this request in its current form would exceed the cost limit under the FOI Act, you may wish to:

- limit your request to certain employees/groups of employees at NHS Improvement, for example NHS Improvement's Chief Executive;
- limit the documents requested by type, for example, so the request relates only to email correspondence; and/or
- specify a shorter time period for which you seek information.

Please note that NHS foundation trusts and NHS trusts are subject to the FOI Act and as such it is open to you to seek information directly from them. They will need to consider whether information can properly be provided by them in response to any such requests within the terms of the FOI Act.

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,

A handwritten signature in black ink, appearing to read 'Mark Shires', with a period at the end.

Mark Shires

Senior Advisor (Restructuring)