

10 February 2017

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By email

████████████████████

Dear ██████████

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

I refer to your email of 11 January 2017 in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority (NHS TDA) are operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means Monitor and NHS TDA.

Your request

You made the following request:

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

- Please provide a list of the twenty trusts participating in the Financial Improvement Programme
- Please provide the external suppliers and turnaround directors assigned to each
- Please provide the length of time/amount of man hours the external supplier has already contributed – and the expected timeline
- Please provide the cost already incurred and the estimated future costs for each
- Please provide the number of staff at NHS Improvement whose job relates to monitoring or improving financial performance of NHS providers
- Please provide the total annual salary of these staff

Decision

NHS Improvement holds some of the information that you have requested.

NHS Improvement has decided to withhold some of the information that it holds on the basis of the applicability of the exemption in section 41 and of the FOI Act as explained in detail below.

Please provide a list of the twenty trusts participating in the Financial Improvement Programme and the external suppliers and turnaround directors assigned to each

The Financial Improvement Programme (FIP) is a nationally supported opt-in programme, with external suppliers supporting trusts over two core phases to deliver in-year savings and improvement to their finances. The first phase included a rapid review of the trusts' ability to find and deliver better ways of working and cost savings, and the second phase involved tailored implementation support to fully develop and deliver savings.

NHS Improvement supported national programme delivery including scoping of work and maximising value for money through a centrally supported procurement. As a result of this procurement, external suppliers were appointed by the trusts listed in the attached annex. Please note this includes more than 20 trusts as there have been subsequent entries to the programme, through local procurement.

As part of the programme scope, NHS Improvement recommended participating trusts appoint turnaround/financial improvement directors (or equivalent) alongside the external supplier, providing senior capacity to drive savings development and delivery.

In some cases, trusts appointed an independent individual to perform this role with guidance from their supplier, in others this role was undertaken by a partner or director from the supplier they appointed through FIP. Although some of these individuals were appointed board directors, none had voting rights.

However, a number of trusts chose not to appoint an external party to undertake this role, some of whom had an internal candidate already performing an equivalent role.

The annex to this letter therefore lists the external turnaround directors that were appointed by trusts as part of the FIP, but not those already in role before FIP started at the trust, or who are members of trust staff.

Please provide the length of time/amount of man hours the external supplier has already contributed – and the expected timeline

NHS Improvement holds some of this information and has decided to withhold this information on the basis of section 41 of the FOI Act. NHS Improvement does not routinely track and report the man hours used by suppliers at individual trusts in the programme. Please note that 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.

The first wave of the FIP is due to end on 31 March 2017.

Please provide the cost already incurred and the estimated future costs for each

NHS Improvement holds some of this information and has decided to withhold this information on the basis of section 41 of the FOI Act. NHS Improvement approved consultancy expenditure by trusts on the FIP but does not routinely track and report the level of spend against these approved levels by individual trusts in the programme. The consultancy expenditure approved through the programme totals £28.1 million (which includes approved funding for a number of trusts that requested to undertake Phase 3 of the programme to support delivery of additional in-year savings).

As part of its approval of the trusts' consultancy spend NHS Improvement considered the return on investment expected (in terms of the costs incurred vs. the level of savings delivered as a result of the programme) and we are already seeing savings well in excess of the original £50m anticipated at the beginning of the programme. Later this year we intend to make public the overall savings delivered through this programme.

Section 41 – Information provided in confidence

We consider that the information relating to time external suppliers have contributed and costs already incurred are exempt under section 41 of the FOI Act. Section 41(1) provides that information is exempt if:

*“(a) it was obtained by the public authority from any other person (including another public authority) and
(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.”*

The test in section 41(1)(a) is met as the information was obtained by NHS Improvement from third parties, in this case providers and/or external suppliers.

The test in section 41(1)(b) is met if it is demonstrated that disclosure would amount to an actionable breach of confidence. This means:

- (i) the information must have the necessary quality of confidence about it;
- (ii) the information must have been imparted in circumstances giving rise to an obligation of confidence;
- (iii) disclosure must amount to an unauthorised use of the information to the detriment of the confider.

NHS Improvement considers that disclosure of the information would amount to an actionable breach of confidence. The information shared by providers and/or suppliers is potentially commercially sensitive and is shared by them on an expectation that it would be kept confidential by NHS Improvement.

Section 41 is an absolute exemption and does not require the application of the public interest test under section 2(2) of the FOI Act. However, in considering whether (in an action for breach of confidence) a confidence should be upheld, a court will have regard to whether the public interest lies in favour of disclosure. We have considered the public interest in transparency and in disclosing information about expenditure of public funds by NHS bodies. But where a duty of confidence exists, there is a strong public interest in favour of maintaining that confidence. We also consider that it is crucial for trust to be maintained by providers who impart information openly in such circumstances, and that disclosure of

information which is imparted in confidence may inhibit the full and frank disclosure to NHS Improvement of information we need to fulfil our functions. In the present circumstances, therefore, NHS Improvement does not consider that there is a strong public interest in disregarding the duty of confidence.

Please provide the number of staff at NHS Improvement whose job relates to monitoring or improving financial performance of NHS providers and the total annual salary of these staff

As part of NHS Improvement's regulatory functions, and in particular under Monitor's statutory functions, trusts are monitored and supported in relation to their financial performance and sustainability. NHS Improvement is also responsible for work on sustainability and transformation plans, the financial special measures regime and ensuring the provider sector is on course to achieve financial and service performance targets.

In order to exercise these functions, we have 179 staff members whose role relates to monitoring or improving financial performance of NHS providers. This figure is not based on staff members who exclusively carry out this function, but includes staff whose role includes monitoring or improving financial performance, alongside other responsibilities. The total annual salary of these staff is approximately £12,800,000, which includes the salaries of executive directors.

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 be 'David Hill', with a long horizontal stroke extending to the right.

David Hill

Transactions and Sustainable Solutions Director and Financial Improvement Programme
Director

Annex

Trust	Supplier	External turnaround director & title under FIP
Barnet, Enfield, and Haringey Mental Health NHS Trust	PwC – for Phase 1	
Bedford Hospital NHS Trust	EY	
Birmingham Children's Hospital NHS Foundation Trust	PwC – joint appointment for Phase 1	
Birmingham Women's NHS Foundation Trust		
Brighton and Sussex University Hospitals NHS Trust	McKinsey	
Central Manchester University Hospitals NHS Foundation Trust	McKinsey & Four Eyes	
Doncaster and Bassetlaw Hospitals NHS Foundation Trust	KPMG – for Phase 1	
East Midlands Ambulance Service NHS Trust	SSG Health	James Shillito, SSG Health – Turnaround Director
Imperial College Healthcare NHS Trust	PwC	David Morris, PwC – Sustainability Director
Kettering General Hospital NHS Foundation Trust	McKinsey & Four Eyes	Margaret Pratt – Turnaround Director
Maidstone and Tunbridge Wells NHS Trust	KPMG – for Phase 1	Jane Hurst, KPMG – Improvement Director
Mid Yorkshire Hospitals NHS Trust	Deloitte & Four Eyes	
Milton Keynes Hospital NHS Foundation Trust	EY	
Norfolk and Norwich University Hospitals NHS Foundation Trust	PwC	Ian Miller – Turnaround Director
Nottingham University Hospitals NHS Trust	EY	
Royal Liverpool and Broadgreen University Hospitals NHS Trust	Deloitte & Four Eyes	

Southend University Hospital NHS Foundation Trust	Grant Thornton	Steve Benger – Turnaround Director
Stockport NHS Foundation Trust	KPMG	Andrew Burn, KPMG – Financial Improvement Director
Taunton and Somerset NHS Foundation Trust	PwC	
The Princess Alexandra Hospital NHS Trust	PwC	
University Hospital of South Manchester NHS Foundation Trust	KPMG	Jitka Roberts, KPMG – Improvement Director
Warrington and Halton Hospitals NHS Foundation Trust	EY	