

30 March 2017

By email

██████████

Dear ██████████

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

I refer to your email of 2 March 2017 in which you requested information from NHS Improvement under the FOI Act. 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 on 2 March 2017:

“I would like to request the financial data gained through the Single Oversight Framework for all health providers, broken down by provider.

Initially I would like the past years data, i.e. January 2016 to January 2017. Going forward it would be useful if you could publish the monthly information through your website.”

Decision

NHS Improvement holds the information requested.

NHS Improvement has decided to withhold all of the information that it holds on the basis of the applicability of the exemption in section 33 of the FOI Act, as explained in detail below.

Section 33 (audit functions)

Section 33(1)(b) and 33(2) of the FOI Act provide that information may be exempt from disclosure where disclosure would, or would be likely to, prejudice the exercise of any public authority’s functions in relation to the examination of economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.

The conditions of Monitor’s provider licence enable Monitor to regulate the economy, efficiency and effectiveness of NHS foundation trusts under Chapter 3 of Part 3 of the Health and Social Care Act 2012.

Section 5 of The National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016 provides that the TDA must exercise its functions with the objective of ensuring that English NHS trusts are able to comply with their duty under section 26 of the NHS Act 2006. Section 26 sets out the general duty of NHS trusts to exercise their functions efficiently, economically and effectively.

NHS Improvement is of the view that disclosure of the financial data that it collects under the [Single Oversight Framework](#), broken down by trust, would be likely to prejudice the exercise of its functions in relation to the examination of economy, efficiency and effectiveness with which other public authorities (NHS trusts and NHS foundation trusts in this case) use their resources in discharging their functions.

NHS Improvement relies on the full and frank provision of information from NHS trusts and NHS foundation trusts in order to carry out its functions effectively. We operate a trust-based approach to our relationships with NHS trusts and NHS foundation trusts. Accordingly we would not wish to prejudice that relationship of trust and confidence. There is potential prejudice to that relationship, and accordingly to the ability of NHS Improvement to regulate NHS trusts and NHS foundation trusts, if sensitive information which those trusts provide to NHS Improvement is disclosed. In consequence there is a potential detriment to the system of regulation of NHS trusts and NHS foundation trusts.

Public interest test

Section 33 of the FOI Act is a qualified exemption and therefore requires that a public interest test is carried out to determine whether the exemption should be maintained. The test is whether, in all of the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We consider that there may be a public interest in disclosing trust specific financial data given the public interest in the effective delivery of health care. However, we consider that there is a stronger public interest in giving NHS Improvement and trusts a safe space to discuss this financial information and to consider how to address any issues identified.

In addition, NHS Improvement publishes on its web-site information on the quarterly performance of the sector. This information is available for Quarter 3 2016/17 [here](#). We consider that the information that NHS Improvement publishes is sufficient to meet the public interest in transparency.

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,

Sector Reporting & Analysis Team