

8 January 2016

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

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

I refer to your email of **12 December 2015** in which you requested information under the FOI Act.

#### **Your request**

You made the following request (we have added numbering for ease of reference in our response):

*“Recently agency worker price caps were introduced in England for agency staff in the UK - on 23/11/2015. I would like to make a freedom of information request to identify what specific pieces of evidence were used to develop the price cap values?”*

- 1. The response of the consultation?*
- 2. The names of individuals/role of those involved in Monitor that decided on the price caps i.e. the working group or committee?*
- 3. The summary of evidence utilised for introducing the price cap?*
- 4. The summary of evidence from the consultation period?*
- 5. Minutes of meetings of the working group/committee that introduced and recommended the idea of price caps.”*

#### **Decision**

Monitor holds the information that you have requested. You have asked for the specific pieces of evidence that were used to develop the price cap values and we have understood this to cover the 5 questions in your request.

#### **Questions 1, 3 and 4**

Please refer to:

(i) the impact assessment that we carried out regarding the introduction of the price cap rules, which is available on our website:

<https://www.gov.uk/government/consultations/national-price-caps-for-agency-staff-working-in-the-nhs>

(ii) the response document to the consultation, which is available on our website:

<https://www.gov.uk/government/consultations/national-price-caps-for-agency-staff-working-in-the-nhs>

The information within these documents answers questions 1, 3 and 4 in your request.

### Questions 2 and 5

Two of Monitor's internal committees were involved in the policy decisions around the price cap rules. These are Provider Regulation Executive (PRE) and Provider Policy Executive (PPE). The members are:

David Bennett, Chief Executive (who left Monitor in October 2015 and has been replaced by Jim Mackey).

Stephen Hay, Managing Director of Provider Regulation

Miranda Carter, Executive Director of Provider Appraisal

Catherine Davies, Executive Director of Co-operation and Competition

Adrian Masters, Managing Director of Sector Development

Kate Moore, Executive Director of Legal Services (non-voting member)

Adam Sewell-Jones, Executive Director of Provider Sustainability

Hugo Mascie-Taylor, Medical Director/Executive Director of Patient and Clinical Engagement

You may be aware that on 2 June 2015, Monitor announced with the Department of Health and the NHS Trust Development Authority that we would introduce controls over nursing agency spending. Details of this are on our website –

<https://www.gov.uk/government/publications/helping-nhs-foundation-trusts-adopt-best-financial-practice>

In particular –

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431643/Letter\\_to\\_Chairs\\_and\\_CEs\\_of\\_FT\\_s\\_020615.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431643/Letter_to_Chairs_and_CEs_of_FT_s_020615.pdf)

PRE and PPE met over the course of a few months between August and October 2015 about the price cap rules before they came into force in November 2015. Monitor has decided to withhold the information within the minutes of these meetings under section 36 of the FOI Act, which is explained in detail below.

### *Section 36*

We consider that section 36(2)(b)(ii) of the FOI Act is engaged in relation to the information contained in the minutes of the PRE and PPE meetings that took place around the price cap rules.

Section 36(2)(b)(ii) provides that information is exempt from disclosure if it would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation.

The information in question represents colleagues exchanging views with the aim of arriving at a final strategy regarding the rules around price caps. We consider that disclosure of this internal correspondence on the subject of the request would be likely to inhibit Monitor staff to express themselves openly, honestly and completely, and to explore extreme options, when giving their views as part of a process of deliberation.

This in turn is likely to impair the quality of decision making by Monitor of future policies, as the loss of frankness and candour may damage the quality of deliberation and lead to poorer decision making.

To the extent that information covered by this exemption is included in the information requested, that information is being withheld from disclosure under section 36 of the FOI Act and Monitor's qualified person (Chief Executive) has approved the use of this section.

#### *Public interest test*

Monitor considers that the public interest in maintaining the exemption does outweigh the public interest in disclosure of the information, as staff within Monitor need to be able to have candid discussions and express themselves openly when deliberating over major policies with each other.

Monitor notes your view and recognises that, as a public body, it should be transparent and open in the conduct of its public functions. In recognition of this, we have published details of our decision making at each stage on our website, in the form of our engagement document and guidance, impact assessment and our response to the consultation:

<https://www.gov.uk/government/consultations/national-price-caps-for-agency-staff-working-in-the-nhs>

As disclosure of the information is likely to inhibit the expression of views in relation to a recently launched policy, Monitor has decided that the public interest in disclosure is outweighed by the need to safeguard the free and frank exchange of views within Monitor.

#### **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 Monitor of the issue or the decision. A senior member of Monitor'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 conducted by Monitor, 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, Monitor, Wellington House, 133-155 Waterloo Road, London SE1 8UG or by email to [foi@monitor.gov.uk](mailto:foi@monitor.gov.uk).

## **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 'Chris Mullin', with a long horizontal stroke at the end.

**Chris Mullin**  
Economics Director