

16 March 2017

Wellington House  
133-155 Waterloo Road  
London SE1 8UG

T: 020 3747 0000  
E: [nhsi.enquiries@nhs.net](mailto:nhsi.enquiries@nhs.net)  
W: [improvement.nhs.uk](http://improvement.nhs.uk)

By email [REDACTED]

Dear [REDACTED]

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

I refer to your email of **1 February 2017** 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 TDA. We apologise for the delay in responding to you.

### **Your request**

You made the following request:

- “1) When did NHS Improvement (and or its predecessor bodies) first become aware of the fraud allegations against Paula Vasco-Knight?”*
- 2) How did NHSI become aware of the fraud allegations against Paula Vasco-Knight? What was the source or sources of information by which NHSI became aware of the fraud allegations?”*
- 3) When did NHSI first learn that the police had decided to charge Paula Vasco-Knight with fraud?”*
- 4) When was first contact made between NHS Protect and NHSI about Paula Vasco-Knight’s case?”*
- 5) Please disclose all correspondence, with attachments, between NHS Protect and NHSI about Paula Vasco-Knight.*
- 6) Please disclose all correspondence, with attachments, between NHS England and NHSI about the fraud involving Paula Vasco-Knight.*
- 7) Please disclose all correspondence, with attachments, between the Care Quality Commission and NHSI about the fraud involving Paula Vasco-Knight.*
- 8) Has NHS Improvement (or its predecessor bodies) reviewed its processes for vetting managers for entry to its interim pool, since it first learned of the fraud allegations against Paula Vasco-Knight? If so, please share the outcome of the review.”*

## **Decision**

NHS Improvement holds information relevant to your request and has decided to withhold some of the information on the basis of the applicability of the exemptions in sections 31 and 36 of the FOI Act, as explained in detail below.

In response to questions 1-4 inclusive of your request, NHS Improvement was contacted by NHS England on 29 April 2016 and NHS Protect on 17 January 2017 to inform us of the allegations against Paula Vasco-Knight.

The correspondence requested under questions 5-7 inclusive has been withheld, as explained below.

In response to question 8, NHS Improvement holds details of individuals who have expressed an interest in interim work who have an executive NHS background. This database has been described as a pool of candidates and consists of a set of individuals that trusts might like to consider for certain roles. If a trust decides to appoint an individual from NHS Improvement's database, they are still required to ensure the suitability of the individuals they then go on to appoint (in terms of legal requirements and the skills that are required for that particular role). The pool is merely a list of names that have been submitted and this does not amount to an approved group. NHS Improvement is in the process of reviewing what details are held.

### **Section 31 – law enforcement**

NHS Improvement considers that the information which you request in your questions 5 and 6 is exempt from disclosure under section 31(1)(g) of the FOI Act which provides that information is exempt 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 sections 31(2)(a) and (b) are engaged regarding email exchanges between NHS Improvement and NHS Protect. Disclosure of the information would be likely to prejudice the exercise of ascertaining whether any person is responsible for any conduct which is improper. The relevant information provided by NHS Protect relates to ongoing investigations into the allegations against Paula Vasco-Knight. Disclosure of details of an ongoing case is likely to prejudice the ongoing legal proceedings, undermining the ability of NHS Protect to investigate crime, and the ability of NHS Improvement to provide and discuss information in relation to these investigations. The public interest test is engaged here and is considered in detail below.

### **Section 36 – prejudice to effective conduct of public affairs**

We consider that the exemptions in section 36(2)(b)(ii) and 36(2)(c) of the FOI Act are engaged in relation to email correspondence between NHS Improvement and NHS England and the Care Quality Commission ("CQC") (your question 7).

The exemptions are engaged as NHS Improvement's qualified person, its Chief Executive (Jim Mackey), is of the opinion that disclosure of this information would inhibit the free and frank exchange of views for the purposes of deliberation, and would be likely to otherwise prejudice the conduct of public affairs.

*Section 36(2)(b)(ii) free and frank exchange of views*

The email in question represents senior executives exchanging views about the investigations against Paula Vasco-Knight. The email was intended to prompt discussion and learning from the allegations against Ms Vasco-Knight, and how this situation could be avoided in the future. Sharing information between bodies ensures that we are able to respond to situations effectively and efficiently. In order to carry out their functions, the officials of NHS Improvement, NHS England and CQC must be able to exchange information freely, without concern that the detail of that information exchange will be disclosed inappropriately. If the information were published, it would be likely to restrict the organisations' willingness to share and discuss information, due to the possibility that this information may be made public. That would have an adverse impact on the ability of NHS Improvement, NHS England and CQC to liaise effectively on leadership and operational issues at NHS trusts and foundation trusts and would inhibit the free flow of information.

*Section 36(2)(c) other prejudice*

This exemption is engaged as disclosure of email exchanges on how to prevent similar conduct in the NHS as that alleged in the Vasco-Knight case may damage the relationship of trust and confidence between NHS Improvement and other national bodies involved, as well as inhibit the free flow of information. As such, disclosure of the information would be likely to otherwise prejudice the conduct of public affairs.

*Public interest test*

Sections 31 and 36 are qualified exemptions and therefore require that a public interest test be carried out to determine whether the exemption should be maintained.

We recognise that there is a general public interest in accountability and transparency in relation to public decision-making. We also recognise that in relation to any allegations of fraud or illegality in the NHS there is a public interest in transparency, particularly in order to aid understanding of the process by which information is detected and how allegations are pursued. We have however weighed these considerations against the public interest considerations in favour of withholding the information, as set out below.

In relation to section 31, the organisations named in your request for information have a responsibility to prevent and detect crime in the NHS. If these organisations considered that information they provided could be disclosed, this would be likely to hinder the sharing of sensitive and confidential information, which would have a detrimental impact on the ability of NHS Improvement, CQC and NHS England to perform their law enforcement functions, and on their ability to assist NHS Protect in conducting investigations and proceedings. This view has been confirmed by the other relevant bodies mentioned.

In relation to section 36, there is a strong public interest in NHS Improvement, NHS England and CQC being able to hold free and frank discussions and exchange information without concern that that information will be disclosed inappropriately. There is a public interest in ensuring those organisations are able to have the open and confidential discussions necessary to ensure effective decision making.

Taking into account these considerations, our decision is that, in relation to both exemptions, the public interest in maintaining the exemption outweighs the public interest in disclosing this information.

### **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,



**Jonathan Brown**  
Head of Private Office

## Information Access

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**From:** Paterson, Naomi  
**Sent:** 17 May 2016 20:25  
**To:** Lloyd-Jones, Rebecca; Behan, David; Richards, Mike  
**Subject:** RESTRICTED: St George's and Fit and Proper Persons Test

To see. Rebecca, what's your advice re person to speak to given ref to NHS Protect?  
Naomi.

Naomi Paterson  
Policy Advisor to the CEO  
Care Quality Commission  
Telephone: [REDACTED]  
Mobile: [REDACTED]

-----Original Message-----

**From:** [REDACTED] (NHS IMPROVEMENT - [REDACTED]) [mailto:[REDACTED]@nhs.net]  
**Sent:** 17 May 2016 17:29  
**To:** Paterson, Naomi  
**Subject:** RE: St George's and Fit and Proper Persons Test

Hi Naomi

Hope you are well.

I was wondering if you could point me in the direction of someone who can help me understand better CQC's input to the fit and proper persons checks carried out by providers. I am following up on Jim's ask that I look at the timeline around what was done at St Georges on FPP in regards to PVK.

Many thanks and happy to discuss

[REDACTED]

[REDACTED] | Senior Advisor - Exec Office NHS Improvement

Direct Line 020 3747 [REDACTED]  
Wellington House, 133 - 155 Waterloo Road, London SE1 8UG

-----Original Message-----

**From:** Easterling Tom (NHS ENGLAND)  
**Sent:** 03 May 2016 19:54  
**To:** Mackey Jim (NHS IMPROVEMENT - [REDACTED]); Mike Richards  
**Subject:** RE: St George's and Fit and Proper Persons Test

Jim

Yes that's fine.

We became aware of this last Thursday afternoon: NHS Protect contacted us to inform us that [REDACTED] was being charged with fraud. The material that they sent indicated that [REDACTED] was being charged alongside PVK [REDACTED]. I passed the material on to [REDACTED] on Friday morning.

Tom

Tom Easterling  
Director of the Chair and Chief Executive's Office NHS England



Health and high quality care for all, now and for future generations

-----Original Message-----

From: Mackey Jim (NHS IMPROVEMENT - [redacted])  
Sent: 03 May 2016 19:12  
To: Easterling Tom (NHS ENGLAND); Mike Richards  
Subject: St George's and Fit and Proper Persons Test

Simon, Mike,



Jim

Sent from my iPad

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-----Original Message-----

From: [REDACTED] (NHS IMPROVEMENT - [REDACTED]) [mailto:[REDACTED]@nhs.net]

Sent: 18 May 2016 13:25

To: [REDACTED]

Subject: FW: St George's and Fit and Proper Persons Test

Hi [REDACTED]

Would it be possible to find 30minutes with Sir Mike to discuss this? I can of course be flexible and can meet anywhere convenient for him.

Best wishes

[REDACTED]

[REDACTED] | Senior Advisor - Exec Office NHS Improvement

Direct Line 020 3747 [REDACTED]

Wellington House, 133 - 155 Waterloo Road, London SE1 8UG

-----Original Message-----

From: Richards, Mike [mailto:[REDACTED]@cqc.org.uk]

Sent: 18 May 2016 08:12

To: Mackey Jim (NHS IMPROVEMENT - [REDACTED]); Easterling Tom (NHS ENGLAND)

Cc: Paterson, Naomi; Behan, David; Lloyd-Jones, Rebecca

Subject: RE: St George's and Fit and Proper Persons Test

Jim

Sorry I didn't respond to this. I would be very happy to talk to [REDACTED] about this.

Mike

Professor Sir Mike Richards

Chief Inspector of Hospitals, Care Quality Commission [REDACTED]@cqc.org.uk

Executive PA: [REDACTED]

[REDACTED]@cqc.org.uk

Tel: (Ext) [REDACTED] (Int) [REDACTED]

151 Buckingham Palace Road, London SW1W 9SZ

-----Original Message-----

From: Mackey Jim (NHS IMPROVEMENT - [REDACTED]) [mailto:[REDACTED]@nhs.net]

Sent: 03 May 2016 19:12

To: Easterling, Tom; Richards, Mike

Subject: St George's and Fit and Proper Persons Test

Simon, Mike,

[REDACTED]

[REDACTED]

Jim

Sent from my iPad

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