

18 March 2016

[REDACTED]
[REDACTED]

By email [REDACTED]

Dear [REDACTED]

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

I refer to your email of **1 March 2016** in which you requested information under the FOI Act.

Your request

You made the following request:

'i would like to make a request under the Freedom of Information Act please. The minutes of this committee refer to https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/501931/BM16_12_Joint_Corporate_report_2_.pdf refers to an internal audit for "distressed finance cases". i would like to see a copy of the outputs of this audit please.'

Decision

Monitor does hold the information that you have requested and has decided to withhold all of the information that it holds on the basis of the applicability of the exemption in section 41 of the FOI Act as explained in detail below.

Section 41 – information provided in confidence

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 internal audit report to which you refer was prepared for Monitor by the Health Group Internal Audit Service (HGIA) which is part of the Department of Health. It contains detailed, confidential information about the auditors' findings and it reflects conversations between the auditors and Monitor which were held in confidence. It also includes the auditors' assessment of internal control issues identified and recommendations on actions that should be taken to rectify those issues. The report was provided under the expectation that it would be read by Monitor management only and not by a wider audience.

Monitor has previously sought the views of HGIA about release of internal audit reports under the FOI Act. Their policy is not to publish or release such reports. They have previously pointed out that internal audit services are supplied to Monitor under a service level agreement which stipulates that property in working papers and reports are retained by HGIA. Their view is that disclosure of such reports would, or would be likely to, prejudice the internal audit function that HGIA provides by discouraging cooperation with auditors, thereby adversely impacting on their ability to fulfil their responsibilities to Monitor and other audited bodies in the future. I agree with this view.

Public interest test

The public interest test inherent in section 41 is such that confidential information should not be disclosed unless the public interest in its disclosure outweighs the public interest in withholding the information. There is a strong public interest in maintaining duties of confidence which should not be readily displaced. Against this, I have considered (and I accept) that there is a public interest in fostering transparency in relation to the processes of public bodies including Monitor. Monitor publishes the main findings of internal audit reviews and the overall risk rating for those reviews on our website. The report you requested was presented to Monitor's Audit and Risk Committee on 18 February 2016 and the minutes of that meeting will be published on our website [here](#).

Furthermore, the overall outcome of the assurance work performed by Monitor's internal audit function will be published shortly as part of the Governance Statement in Monitor's annual report. Having weighed up these competing factors, I have concluded that the public interest in this case does not favour disclosure of the 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 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.

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 'JD', written in a cursive style.

Jason Dorsett
Financial Reporting and Risk Director