

07 March 2017

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By email

Dear [REDACTED]

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

I refer to your email of **7 February 2017** in which you requested information under the FOI Act from Monitor. 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.

Your request

You made the following request:

“Please find below the freedom of information requests pertaining to the new national price for photodynamic therapy (code: JC46Z), as set out in the 2017/19 National Tariff Payment System.

1. *What methods did NHS Improvement use to reflect responses to the consultation in the final published version of the National Tariff Payment System 2017/19?*
 - a. *Were these methods applied to the PDT tariff to reflect responses received through the consultation on the proposed National Tariff Payment System 2017/19?*

2. *By what process did NHS Improvement reflect responses to the consultation in the final published version of the National Tariff Payment System 2017/19?*
 - a. *Was this process applied to responses received relating to the PDT tariff (JC46Z)?*
 - b. *Was there a prioritisation process involved with considering responses to the proposed National Tariff Payment System 2017/19?*
 - c. *If the answer to question 2b is yes, please provide details of the prioritisation process*

3. *Which roles and responsibilities in NHS Improvement were involved in the process of considering the responses to the consultation to the tariff and reflecting them in the final publication of the National Tariff Payment System 2017/19?*

- a. *How did the process of considering responses to the National Tariff Payment System 2017/19 break down into stages?*
 - b. *Which roles were responsible for each part of the process of considering responses to the tariff?*
4. *What are the reasons for the fact that no individual prices were changed as a result of the consultation on the proposed National Tariff Payment System 2017/19?*
5. *Did any of the responses to the National Tariff Payment System 2017/19 proposal argue for changes to the proposed PDT tariff (JC46Z)?*
6. *How many of the responses to the National Tariff Payment System 2017/19 proposal argued for changes to the proposed PDT tariff (JC46Z)?*
- a. *What proportion of responses relating to the PDT tariff argued for an increase in the tariff (JC46Z)?*
 - b. *What proportion of responses relating to the PDT tariff argued for a decrease to the PDT tariff?*
7. *What proportion of the responses to the consultation on the National Tariff Payment System 2017/19, relating to the PDT tariff (JC46Z), were submitted by clinicians?*
- a. *What changes to the PDT tariff were suggested by these responses?*
8. *What are the reasons that no changes were made to the PDT tariff (JC46Z) as a result of the responses received during the consultation period on the proposed National Tariff Payment System 2017/19?*
9. *Did the NHS Digital Expert Working Group suggest changes to individual prices that NHS improvement decided against including in the final version of the Nation Tariff Payment System 2017/19?*
- a. *If the answer to question 6 is yes what were the changes to specific prices suggested by the Expert Working Group?*
 - b. *If the answer to question 6 is yes what reasons for not incorporating the Expert Working Group's suggestions into the final National Tariff Payment System 2017/19 can NHS Improvement give?*
10. *Please could you provide me with a copy of all working documents and meeting papers specifically relating to the decision to leave the PDT tariff unchanged as a result of the consultation on the National Tariff Payment System 2017/19?"*

We have treated questions 1 – 9 above as enquiries and our Pricing Team will be in contact with you in response to the issues you raise. NHS Improvement's response to question 10 is set out below.

Decision

NHS Improvement holds the information that you have requested.

NHS Improvement has decided to withhold all of the information that it holds on the basis of the applicability of the exemptions in section 36 as explained in detail below.

Section 36(2) (prejudice to effective conduct of public affairs)

NHS Improvement has decided to withhold all of the information within the scope of this request on the basis that it falls within section 36(2)(b)(i) and/or (ii) of the FOI Act (prejudice to the effective conduct of public affairs).

This exemption is engaged as NHS Improvement's qualified person, its Chief Executive (Jim Mackey), is of the opinion that disclosure of this information would be likely to inhibit the free and frank provision of advice and/or the free and frank exchange of views for the purposes of deliberation (section 36(2)(b)(i) and (ii)).

The information being withheld consists of internal policy deliberations in relation to the feedback received in response to NHS Improvement's statutory consultation on proposals for the National Tariff 2017/2019, including the national price for photodynamic therapy. In order to carry out its statutory functions NHS Improvement must be able to hold free and frank discussions about policy decisions and advise on the same, without concern that the detail of those discussions or that advice will be disclosed. If this material were published, it would be likely to restrict the candour and frankness with which similar future discussions would be conducted, as individuals would be concerned about the possibility that those views and discussions would be made public. The result would be to reduce the quality of discussion and advice provided in such cases and an adverse impact on the ability of NHS Improvement to develop effective policy and carry out its functions.

Public interest test

This exemption is subject to a public interest test. NHS Improvement's view is that, on balance, the public interest in maintaining the exemption outweighs the public interest in disclosure. In considering the balance, we have considered the public interest in transparency and openness in relation to decisions by public bodies, particularly decisions about the NHS. In particular, in the present case, we accept that there is a public interest in understanding how NHS Improvement addresses consultation responses before finalising the national tariff.

We have also considered, however, the strong public interest in NHS Improvement being able to hold free and frank discussions about policy decisions, and advice on those decisions, without concern that the detail of those discussions will be disclosed. There is a public interest in ensuring that NHS Improvement is able to have open and confidential discussions necessary to ensure effective decision making. NHS Improvement engages with the service on the development of tariff proposals through its tariff engagement document, the use of expert working groups and other engagement events. Further, all tariff proposals are the subject to statutory consultation under s.118 of the Health and Social Care Act 2012.

Taking into account these considerations, our decision is that the balance of public interest is best served in this case by withholding the information requested.

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,



Chris Skilbeck

Head of Sector Engagement, Pricing