

08/02/2017

[REDACTED]

By email

[REDACTED]

Wellington House
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London SE1 8UG

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E: nhsi.enquiries@nhs.net
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Dear [REDACTED]

Request under the Freedom of Information Act 2000 (the "FOI Act")

I refer to your email of 11 January 2017 in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, NHS Improvement is the operational name of the organisation bringing together Monitor and the NHS Trust Development Authority. For the purposes of this decision, NHS Improvement refers to both Monitor and the Authority.

Your request

You made the following request:

"I would in like to be provided with reports or evidence packs compiled by the NHS Improvement Economic Team which relate to options to improve the operational performance of NHS trusts. My request is limited to the outputs of projects completed in the period between April and October 2016."

Decision

NHS Improvement holds the information that you have requested, but has decided to withhold that information, subject to the disclosure set out below. The information is being withheld on the basis of the exemption in section 36(2) of the FOI Act, as explained below.

Section 36 – prejudice to conduct of public affairs

NHS Improvement has decided to withhold the information on the basis that it falls within section 36(2) of the FOI Act (prejudice to public affairs) and that the public interest in maintaining the exemption outweighs the public interest in disclosure.

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

The reports and evidence packs to which you refer in your request were part of work carried out by NHS Improvement's Economics Team ("the Team") looking at potential options for improving the operational efficiency of NHS trusts and NHS foundation trust. Although there is an intention to publish some of this material at an appropriate stage in the future, the information you requested was prepared in 2016 for internal use, and includes the analysis, advice and views of members of the Economic team on the various options. NHS Improvement is still analysing the material with a view to deciding what should be published, which options should be promoted or recommended, and the form in which any report or evidence is to be made available for use by the NHS. If the advice and views of the Team such as those in this work were generally made public, this would reduce the candour and frankness with which views were expressed or advice given by NHS Improvement staff when providing advice and analysis in relation to policy matters. This would in turn reduce the quality of the NHS Improvement policy decisions informed by those views or that advice.

Public interest

NHS Improvement's view is that 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, in particular decisions affecting the NHS. We have considered the specific public interest in patients, the NHS and the public being informed of options for improving efficiency.

We have however also considered the strong public interest in allowing officials within NHS Improvement to have free and frank discussions about policy options and related matters, informed by open, honest, frank and detailed advice. There is a strong public interest in ensuring that NHS Improvement staff are able to have the open and confidential discussions necessary to ensure the effective development of its policies in relation to the NHS. We have also taken into account that in this case:

- (a) the work was prepared for internal use and there has as yet not been any final policy decision in relation to the options discussed;
- (b) NHS Improvement's intention is that once its consideration of the Team's work has been completed, some of the material will be published in order to assist trusts in improving the efficiency of their operations.

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

Information disclosed

The work includes a bibliography listing the published information that was considered by the Economics Team. As this is published information, we have disclosed that bibliography – see the attached annex.

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 and attached information 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 'Toby Auterson', with a large 'PP' written to the left of the signature.

Toby Auterson
Senior Economist

