

08 September 2016

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

Dear ██████████

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

I refer to your email of **10 August 2016** 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 the TDA.

#### **Your request**

You made the following request:

*“Any list you maintain, or have possession of, of potential turnaround/transformation directors for trusts in special measures or other difficulties (encompassing both individuals and companies who could supply such directors).*

*Any guidance/directions for trusts around using this list”.*

#### **Decision**

NHS Improvement holds part of the information that you have requested.

We maintain a database of people who may be suitable for interim roles for a wide range of turnaround, transformation and improvement work. This database has also been described as a pool of candidates and consists of a set of individuals that trusts might like to consider for certain roles. We consider that these candidates may have some of the specific skills and experience required for the categories of roles detailed below.

If they wish, trusts and foundation trusts can use the list as one way of seeking candidates. They are, of course, free to find candidates for these roles independently, from other sources. This does not apply to trusts who have been required to have an Improvement Director through, for example, quality or financial special measures.

In the case of Interim Board Directors and Turnaround Directors, 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 a required for that particular role) and so NHS Improvement does not hold information on guidance or directions on using the list.

NHS Improvement has decided to withhold the information that it holds on the basis of the applicability of the exemption in section 40 of the FOI Act as explained in detail below.

### Section 40 – personal data

We consider that the information NHS Improvement holds is exempt from disclosure under section 40(2) and 40(3)(a) of the FOI Act on the grounds that the names of potential candidates for the roles described above constitutes personal data and that the first condition under section 40(3)(a)(i) is satisfied, namely that disclosure would amount to a breach of the first data protection principle (personal data shall be processed fairly and lawfully). We consider that, until such time as any individual on the list is actually appointed to a trust or foundation trust for any of the purposes specified above, they have a reasonable expectation that their name (and therefore the possibility that they may apply or be considered for such a position) would not be disclosed. Therefore disclosing this information without consent would amount to unfair processing and a breach of the first data protection principle. This is an absolute exemption and consideration of the public interest test is not required.

Please note that NHS foundation trusts and NHS trusts are subject to the FOI Act and as such it is open to you to seek information directly from them. They will need to consider whether information can properly be provided by them in response to any such requests within the terms of the FOI Act.

### 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,

A handwritten signature in black ink, appearing to read 'Phil Groves', with a long horizontal flourish extending to the right.

**Phil Groves**  
Deputy Director, Media Relations