

11 May 2016

██████████
By email only: ██████████

Dear ██████████

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

Thank you for your email of 29 March 2016, which sought information under the FOI Act about the number of NHS staff who have contacted Monitor to ‘blow the whistle’ on their employers.

Please note that 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 your request, which predated the integration, the terms “NHS Improvement”, “NHSI” and “we/us/our” refers to Monitor.

I have set out our response to your specific questions below, but I think it might be helpful to explain that in 2015 we reviewed our handling of whistleblowing concerns and (for cases received from July 2015 onwards) have a newly strengthened team that deals with all complaints and whistleblowing cases we receive. As explained in our annual report, this will further improve the service we provide people who take time to raise concerns with us, as well as improve how we use the intelligence they give us about the health sector. It will also provide more enhanced record keeping.

Your request

You made the following request:

“For the last three calendar years, how many times were Monitor contacted by NHS staff members wishing to “blow the whistle” on their employers? For clarity, by “blow the whistle” I mean any concerns that would be covered in a NHS whistle blowing policy.

Out of the information requested above, please disclose how many of these concerns/complaints have never reached an outcome and whistle blowers are still waiting for a final conclusion from Monitor.

Please disclose your complaint procedure for whistle blowers.”

On 13 April 2016 you amended the reference in the first sentence from “calendar years” to “financial years” upon being notified that this is the format in which NHSI collates its whistleblowing statistics.

Our overall approach to whistleblowing during the three financial year period

NHSI defined whistleblowers, as set out in our whistleblowing policy, as concerns raised with us by:

“those who work within, or have worked within, an organisation involved in the provision or commissioning of NHS health care services (including NHS foundation trusts and clinical commissioning groups) and other kinds of organisations relevant to our role”.

The nature of the whistleblowing concerns we received in the last three years was wide ranging covering governance issues, trust performance issues, financial issues, employment matters and quality issues. Each whistleblowing disclosure was individually analysed and added to the other information we hold on the relevant trust. However, the wide ranging nature of the cases meant that some were not relevant to our role and/or did not result in us looking into the concern further. In addition, some whistleblowing cases are brought to us anonymously, and so we cannot communicate the outcome of the case to the individual. It may also be that the individual is not happy with the conclusion we reached.

There are, therefore, three main routes for a whistleblowing case we have received being concluded from NHSI’s perspective:

1. where we do not think the concerns are relevant to NHSI’s role and/or do not indicate wider governance concerns regarding the relevant foundation trust;
2. where we decide to look further into the matters to establish whether they are indicative of wider governance concerns (for example, by contacting the relevant trust and/or the CQC), and conclude they are not; and
3. where, having looked further into matters, we decide they do indicate wider governance concerns and start a formal investigation to decide whether the foundation trust has breached its provider licence.

In all three scenarios, we always aim to notify the whistleblower of the conclusion and reasons for it (unless they have raised their concern anonymously, or we are otherwise unable to contact the individual).

Whistleblowing cases received in the last three financial years and how many remain open

We have provided the number of cases received in the last three financial years, which is published in our annual reports for 2013/14 and 2014/15:

- In 2013/14, we received 39 whistleblowing cases about foundation trusts, none of which remain open or are awaiting a final conclusion.
- In 2014/15, we received 28 whistleblowing cases about foundation trusts, one of which remains open while we await the outcome of a CQC inspection.

We have provided this information to be helpful although, under the FOI Act, we are not obliged to given that it is already accessible to you via our annual reports.

- In 2015/16, we received 60 whistleblowing cases about foundation trusts. Of these, 17 remain ongoing, although in 11 of these cases (nine of which relate to the same

trust) we have decided to keep the matter open until planned CQC inspections have concluded and reported.

Complaints procedure for whistleblowers

Where whistleblowers are not happy with how we have handled the concern they have raised with us, they can use our process for complaints about NHSI. I attach a copy of that policy. While it excludes whistleblowing, this exclusion relates to concerns raised by NHSI staff (what we refer to as internal whistleblowers). It does not exclude looking at how we handled an external whistleblowing case. One contributing factor for the changes we made to our approach to external whistleblowing (set out above) was the learning from investigating complaints about NHSI from (external) whistleblowers. Again, we have provided this information to be helpful although, under the FOI Act, we are not obliged to given that it is already accessible to you via our website.

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, I am happy to discuss it to try to resolve any concerns informally. 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



Tom Grimes

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