

1 March 2016

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

Dear ██████████

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

I refer to your email of 3 February 2016 in which you requested information under the FOI Act.

#### **Your request**

You made the following request:

*‘I would be grateful if you could inform me of the occasions since 2013 (if any) when Monitor has been asked by providers to give its approval to the disposal of relevant assets subject to Commissioner Requested Services and Asset Register obligations, identifying the providers and assets involved, and stating whether Monitor did or did not approve the disposal.’*

#### **Decision**

We have understood your request to be for information about any applications received by Monitor for consent to dispose of assets on a licensee’s asset register, in accordance with licence condition CoS2(4). Monitor does not hold the information that you have requested. This is because Monitor has not received any such applications.

#### **Additional information**

It may assist you to know that the requirement to seek consent for the disposal of assets on a licensee’s asset register only arises in specified circumstances. Further information about when this obligation arises is set out below.

Under licence condition CoS2, providers are required to establish, maintain and keep up to date a register of the assets used in the provision of Commissioner Requested Services (CRS). CRS are services that have been designated by their commissioners because

- there is no alternative provider close by;
- removing them would increase health inequalities; or
- removing them would make other related services unviable.

CRS providers are subject to the continuity of services conditions in [Monitor’s provider licence](#), meaning they have to share certain financial information with Monitor, accept

possible restrictions on their ability to [dispose of CRS assets](#) and co-operate with Monitor if they get into financial difficulty. Further information is available about CRS and their designation in our guidance <https://www.gov.uk/guidance/nhs-commissioners-designate-commissioner-requested-services>.

Under licence condition CoS2(4), if Monitor is concerned about the ability of a provider to carry on as a going concern, it may give notice of this in writing to the provider. The obligation referred to in your request (i.e. the obligation to seek consent to dispose of assets on the register) only applies where Monitor has issued a notice of concern to a licensee. Issuing such a notice has very rarely been used by Monitor since 2013. Licensees that have not been issued with any such notice are not required to get consent from Monitor to dispose of assets on their asset register. However, they are obliged under their licence to keep their asset register up to date in a manner that reasonably would be regarded as both adequate and professional.

### **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](mailto: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,



**Stephanie Coffey**  
Deputy Director of Operations & Performance