

11 March 2016

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Review of your request under the Freedom of Information Act 2000 ("the FOI Act")

Request

I refer to your email of 17 February 2016 in which you requested an internal review of Monitor's decision of 03 December 2015. That decision addressed your original request (4 November 2015) in which you requested the following information:

- "(1) The response from the Chairman of CMFT to a letter from the Board of the University Hospital of South Manchester NHS Foundation Trust ("UHSM") about the current partnership agreement
- (2) Monitor's letter in response, having been copied into the correspondence."

Decision

I have undertaken a review of your original request and I have decided that the information held by Monitor should be withheld under section 31 of the FOI Act. My reasons reflect those adopted by Shona Milton in her letter of 03 December 2015. For the sake of brevity I will not repeat those details in this letter.

I note your comment that the UHSM Board had raised matters of clinical concern. The response from the Chairman of CMFT to UHSM, which was copied to Monitor, was no doubt provided in that context. However, in performing its statutory functions, Monitor relies on information and opinions it receives from a variety of sources, including information that is provided voluntarily. In this case I have no doubt that the response from the Chair of CMFT was written with an expectation of confidence. Further, I consider that if this information was to be disclosed Monitor's decision to do so would have a significant impact on the willingness of providers to supply information openly in future. Whilst Monitor does of course have power to compel the provision of information under s.104 of the Health and Social Care Act 2012, it is my view that we are better able to perform our functions when certain information is provided voluntarily.

These matters are directly relevant to the public interest test. I recognise the strong public interest in accountability and transparency in relation to the actions of NHS foundation trusts and in the performance of our regulatory functions. Those factors must however be balanced against the detrimental impact if the information were to be disclosed. Taking into account the reliance that Monitor places on the voluntary provision of information and opinions by providers and third parties in support of its regulatory functions, and the impact that disclosure would have in this respect, I have concluded that the public interest in this case is better served by withholding the information requested.

Review rights

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

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,

Paul Chandler

Regional Director