

20 July 2016

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By post
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Dear ██████████

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

I refer to your request for information under the FOI Act from NHS Improvement dated 22 June 2016. Since 1 April 2016, Monitor and the NHS Trust Development Authority (“the NHS TDA”) are operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means Monitor and the NHS TDA.

Your request

You made the following request:

Any information, whether on NHS Improvement’s website or included in internal guidance documents, which sets out what issues NHS Improvement is able (or not able) to look into.

Decision

NHS Improvement holds information you have requested and has decided to disclose that information.

This reflects information which is already on our website or in other publications.

General role

NHS Improvement is responsible for overseeing NHS foundation trusts, NHS trusts and independent providers. We offer the support these providers need to give patients consistently safe, high quality, compassionate care within local health systems that are financially sustainable. By holding providers to account and, where necessary, intervening, we help the NHS to meet its short-term challenges and secure its future.

NHS Improvement is the operational name for the organisation that brings together Monitor, the NHS TDA, Patient Safety, the National Reporting and Learning System, the Advancing Change team and the Intensive Support Teams.

The matters which we may look into and our areas of responsibility are determined by our functions under the legislation, which confers powers and duties on Monitor and on the NHS TDA. The following paragraphs explain our areas of responsibility and what matters we may look into.

Oversight of NHS foundation trusts and NHS trusts

NHS Improvement is responsible for overseeing NHS foundation trusts. In particular it oversees compliance with the licence issued to each trust under the Health and Social Care Act 2012. The licence sets out various obligations in relation to the provision of NHS services by the trust. NHS Improvement may investigate where it has concerns that a trust may be in breach of its licence powers and has various enforcement powers if it suspects or is satisfied that the trust is in breach. NHS Improvement also requests and scrutinises plans and reports prepared by trusts, in the light of their obligations under the licence. The content of the licence therefore indicates matters which NHS Improvement may look into. Each licence contains a set of standard conditions and we enclose a copy of those conditions and

related guidance. In outline the matters covered by the licence for FTs include –

- Continuity of NHS services and financial matters
- Governance
- Pricing of NHS services
- Choice and competition
- Integrated care
- General conditions (e.g. requirement to obtain any necessary registration with the Care Quality Commissioners; requirement to ensure directors are fit and proper persons).

In accordance with those conditions, NHS Improvement will look at both the finances of a trust and its governance (how well it is run) – the latter includes considering the trust’s arrangements for managing the quality of care it provides.

In relation to NHS trusts, NHS Improvement is responsible for overseeing, developing and supporting NHS trusts in England. This includes assessing clinical quality, governance and management of risk (including financial risk) and assessing trust’s compliance with relevant standards. “Relevant standards” means the requirements set by the Care Quality Commission (in relation to the quality of care) and standards set by the NHS TDA, including in the planning guidance issued to trusts. NHS Improvement is also responsible for ensuring that NHS trusts comply with certain conditions equivalent to the conditions of the licence applicable to NHS foundation trusts (see previous paragraph), and scrutinising NHS trust annual plans. In addition, NHS Improvement appoints and removes the chairs and non-executive directors of NHS trusts and carries out their performance appraisals.

We have enclosed two documents which are used by staff as guidance when overseeing and assessing trusts. These are the guidance documents that Monitor and NHS TDA staff use to oversee foundation trusts and NHS trusts respectively.

- 1) The Monitor Risk Assessment Framework: this guidance is used to assess foundation trusts and aims to identify significant risk to the

financial sustainability that endangers the continuity of key NHS services and/or poor governance at an NHS foundation trust, including poor financial governance and inefficiency.

- 2) NHS TDA Accountability Framework: this guidance document contains all the key policies and processes which govern the relationship between NHS trusts and the NHS TDA.

As mentioned earlier, Monitor and NHS TDA are operating as NHS Improvement. We are therefore in the middle of a consultation on a new NHS Improvement guidance document that will eventually replace the Risk Assessment Framework and NHS TDA Accountability Framework. We have enclosed the Single Oversight Framework consultation document for information.

In addition to these frameworks, NHS Improvement publishes guidance on how it exercises its enforcement powers in relation to NHS foundation trusts and independent providers that hold a licence. This sets out how we enforce, rather than the matters we look into, but let us know if you would like a copy.

In summary, in relation to both NHS foundation trusts and NHS trusts, NHS Improvement looks into both finances and governance, the latter including consideration of the arrangements trusts have for managing operational performance (including compliance with the waiting time standards set out in the NHS Constitution) and the quality of care (including meeting CQC standards). NHS Improvement is not however responsible for investigating whether individual health care professionals have complied with professional rules and standards (that is a matter for the relevant professional regulators) or for determining employment disputes between trusts and their staff. In relation to quality of care, NHS Improvement is not responsible for monitoring, inspecting and regulating the quality of the services provided by trusts – that is a matter for the Care Quality Commission and commissioners, although we work closely with both in supporting trusts to improve.

Independent providers

Independent providers, unless they fall within an exemption set out in regulations, must also comply with the licence issued by NHS Improvement. Independent providers are not however subject to the licence conditions which relate to governance.

Other matters we may look into

In addition to our responsibility for overseeing NHS foundation trusts, NHS trusts and independent providers, we also have responsibilities in the following areas:

1) Procurement, choice and competition in the NHS

NHS Improvement's role includes making sure that procurement, choice and competition operate in the best interests of patients and to step in if anti-competitive behaviour by NHS commissioners or providers goes against patients' interests.

2) Pricing. NHS Improvement is responsible, in conjunction with NHS England, for setting the National Tariff, which sets national prices and rules for pricing of NHS services. NHS Improvement is also responsible for overseeing whether commissioners and providers comply with national tariff requirements.

Please let us know if you would like copies of relevant guidance on these areas.

3) Patient safety:

- NHS Improvement is responsible for operating systems for collecting and analysing information relating to the safety of NHS patients and for giving advice and guidance for the purpose of maintaining and improving the safety of such services. This includes operating the National Reporting and

Learning System and the arrangements for issuing patient safety alerts to rapidly alert the healthcare system to risks and provide guidance on preventing incidents.

- The new Healthcare Safety Investigation Branch will form part of NHS Improvement, but will be operationally independent and separate from the other parts of the organisation. The Branch's functions include the investigation of certain incidents or accidents which in the view of the Chief Investigator evidence, or are likely to evidence risks affecting patient safety.

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.

If you wish to request an internal review, please send the last page of this letter to: NHS Improvement FOI Team, Wellington House, 133-155 Waterloo Road, London, SE1 8UG.

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,

NHS Improvement FOI Team

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