

14 March 2017

Wellington House
133-155 Waterloo Road
London SE1 8UG

T: 020 3747 0000
E: nhsi.enquiries@nhs.net
W: improvement.nhs.uk

By email
[REDACTED]

Dear [REDACTED]

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

I refer to your email of **22 December 2016** and **30 January 2017** in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority (NHS TDA) are operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means the NHS TDA.

Your request

You made the following request on 22 December 2016:

“Please can you provide, under the freedom of information act, any recorded information held over the past 3 months relating to the East of England Ambulance Service and SSG Health.

I am particularly interested in any recorded information to/from SSG and/or the East of England Ambulance Service over the past 3 months.

Please also include, but not limit this search to any recorded information where NHSI has instructed, discussed or encouraged SSGs engagement with the East of England Ambulance Service.”

On 30 January, you then clarified that your request was for information from the 3 months prior to your original request date until 30 January 2017.

Decision

We have interpreted your request to be for information which contains reference to both East of England Ambulance Service NHS Trust and SSG Health as opposed to information which refers to just one of the organisations. We have searched for all information relevant to your request from 22 September 2016 to 30 January 2017.

NHS Improvement holds the information that you have requested and has decided to release some of the information that it holds. Please see Annex 1 for a copy of that information redacted as appropriate.

The information we hold is in the form of emails and letters. NHS Improvement has decided to withhold the remainder of the information that it holds on the basis of the applicability of sections 31, 33, 40 and 43 of the Freedom of Information Act 2000 as explained in detail below.

Section 31- law enforcement

Some of the information you have requested concerns NHS Improvement's regulatory approach and intentions towards the Trust. NHS Improvement considers that some of the requested information is exempt from disclosure under section 31(1)(g) of the FOI Act which provides that information is exempt information if its disclosure would, or would be likely to prejudice the exercise by any public authority of its functions for any of the purposes specified in section 31(2).

NHS Improvement considers that section 31(2)(c) is engaged and that disclosure of the information in question would be likely to prejudice the exercise by NHSI of its functions for the purpose of ascertaining whether circumstances exist which would justify regulatory action in pursuance of an enactment.

Section 5 of The National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016 ("the 2016 Directions") provides that NHS Improvement must exercise its functions with the objective of ensuring that English NHS trusts are able to comply with their duty under section 26 of the NHS Act 2006. Section 26 sets out the general duty of NHS trusts to exercise their functions efficiently, economically and effectively – by, for example, establishing and maintaining best practice corporate governance arrangements and financial management standards, and effectively implementing systems and processes.

The information we are withholding relates to issues with the Trust's financial performance and financial management standards and those issues are presently under consideration by NHSI and will inform its regulatory approach.

Section 33 - audit functions

Sections 33(1)(b) and 33(2) of the FOI Act provide that information may be exempt from disclosure where disclosure would, or would be likely to, prejudice the exercise of any public authority's functions in relation to the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.

NHS Improvement considers that the withheld information is exempt under section 33(1)(b) on the basis that it has functions relating to the economy, efficiency and effectiveness with which NHS trusts use their resources in discharging their functions, which is likely to be prejudiced by the release of the information that is being withheld.

NHS Improvement relies on the free and frank provision of information from trusts without fear of this being shared more widely, and considers (as explained above) that disclosure would be likely to have a detrimental impact on the quality and content of those exchanges in the future if details or any analysis derived from those details was published to the public at large. This would in turn be likely to have a prejudicial impact on the exercise of NHS Improvement's regulatory functions.

Section 43 – commercial interests

We consider that a large part of the correspondence between SSG and East of England Ambulance Service and correspondence between NHSI and SSG is commercially sensitive. Section 43(2) of the FOI Act provides that information is exempt if its disclosure would, or would be likely to prejudice the commercial interests of any person, in this case SSG.

Some of the correspondence you have requested contains information relating to SSG's fees, fee structure and its business approach which by its nature is commercially sensitive and disclosure of which is highly likely to be detrimental to its legitimate commercial interests. For example, parties seeking to negotiate contracts with SSG could use the information relevant to your request to strengthen their own bargaining position. In addition, competitors may be able to use such information to their advantage to the detriment of SSG's legitimate business interests.

Public interest test

Sections 31, 33 and 43 are qualified exemptions and therefore require that a public interest test is carried out to determine whether the exemptions should be maintained. NHS Improvement relies on the relationships it builds with trusts. In particular, it relies upon open and candid relationships in order to obtain information from trusts. To disclose the requested correspondence and documents is likely to have a detrimental impact on the quality and content of exchanges between NHSI and the bodies it collectively regulates and consequently its ability to make effective and fully informed regulatory decisions.

The public interest in accountability and transparency by making access to the information available has been weighed against the detrimental impact that is likely to ensue if disclosure is permitted. We consider that there is a stronger public interest in giving NHS trusts the space to openly exchange information with its suppliers such as SSG and with NHS Improvement without NHS Improvement disclosing that information to a wider audience.

Section 40- personal data

Some of the information in the attached correspondence is exempt from disclosure under section 40(2) and 40(3)(a) of the FOI Act on the grounds that this contains personal data and that the first condition under section 40(3)(a) is satisfied, namely, that disclosure would amount to a breach of the first data protection principle (personal data shall be processed fairly and lawfully). This is an absolute exemption and consideration of the public interest test is not required.

The information withheld is the names of the members of staff at both NHS Improvement and East of England Ambulance Service NHS Trust who worked on the Financial Improvement Plan and the Business case. The members of staff would have a reasonable expectation that their names would not be published in any way.

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.

Publication

Please note that this letter and the attached information 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,



Jayne Rhodes

Senior Oversight and Regulation Lead- Midlands and East

[REDACTED]

From: OCE EEAST <OCE.EEAST@eastamb.nhs.uk>
Sent: 23 December 2016 12:06
To: [REDACTED] NHS IMPROVEMENT- [REDACTED] (NHS IMPROVEMENT - T1520); [REDACTED] NHS IMPROVEMENT - T1520)
Cc: [REDACTED]
Subject: EEAST FIP Engagement
Attachments: EEAST FIP Engagement 16.12.16.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear All

Please find attached a copy of the letter of engagement for the EEAST FIP programme with SSG for your information.

Best regards

Office of Chief Executive

Office of Chief Executive | East of England Ambulance Service NHS Trust

W: [REDACTED]

E: [REDACTED]

Innovative. Responsive. Excellent. Always community focused. Always patient driven.

[REDACTED]

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[REDACTED]

From: [REDACTED] (NHS IMPROVEMENT - T1520)
Sent: 06 January 2017 16:16
To: [REDACTED] (NHS IMPROVEMENT - T1520)
Cc: [REDACTED] (NHS IMPROVEMENT - T1520)
Subject: EEAST FIP

Follow Up Flag: Follow up
Flag Status: Completed

[REDACTED]

I've advised the national FIP team that we will manage this programme in the region.

As discussed with [REDACTED] earlier this week can you pick up with the trust about them submitting a 'Consultancy Business case'? this should be straight forward as they can use the engagement letter they've agreed with SSG to populate. We can then approve asap.

I have spoken to [REDACTED] from SSG this morning and agreed that he will provide us with fortnightly bullet point updates and a copy of the monthly progress report they will provide to the trust board as reported through their finance committee. If we need anything else we can work that through with them as we go. We will also need to ensure we 'touch base' with the trust on how they feel the work is progressing.

Regards
[REDACTED]

[REDACTED] **Head of Business & Finance (North Midlands)**

M: [REDACTED]
E: [REDACTED] W [improvement.nhs.uk](mailto:[REDACTED]@improvement.nhs.uk)
Cardinal Square, 10 Nottingham Road, Derby DE1 3QT

NHS Improvement

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NHS Improvement is responsible for overseeing 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, NHS Trust Development Authority, Patient Safety, the National Reporting and Learning System, the Advancing Change team and the Intensive Support Teams.

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Thank you.

[REDACTED]

From: [REDACTED] (NHS IMPROVEMENT - T1520)
Sent: 19 January 2017 11:37
To: [REDACTED]
Subject: SSG business case
Attachments: Consultancy_controls_guidance.pdf; Consultancy_expenditure_template.docx

Hi [REDACTED]

As discussed, we need the trust to complete a consultancy expenditure business case template for the SSG work. Template and related guidance attached. You can also access this and some further information on our website: <https://improvement.nhs.uk/resources/consultancy-spending-approval-criteria-providers/>.

Please contact me if you need any help with this but hopefully you can use the SSG engagement letter to complete most of it.

Thanks
)

[REDACTED] Senior Oversight and Regulation Lead – Midlands and East

T [REDACTED]
E [REDACTED] W improvement.nhs.uk
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