

2 February 2016

[REDACTED]

By email

[REDACTED]

Dear [REDACTED]

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

I refer to your email of 5 January 2016 in which you requested information under the FOI Act.

Your request

You made the following request in relation to the “*recently implemented rules*”:

- “1. *Total number of trust captured by the scope of the recent rules*
2. *Number of trusts reporting in the period*
3. *Number of trusts reporting the use of off framework agencies*
4. *Price Caps Breaches*
 - a. *Number of trusts breaching the price caps (any staff group)*
 - b. *Number of trusts breaching the price caps for Medical and Dental*
 - c. *Number of Trust breaching the price caps for AHPs*
 - d. *Number of Trust breaching the caps for Nursing and Midwifery*
 - e. *Number trust breaching the caps for Non clinical*
5. *Volume of shifts breached*
 - a. *Total number of shift breaches*
 - b. *Number of shifts breached for Medical & Dental*
 - c. *Number of shifts breached for AHPs*
 - d. *Number of shifts breached for Nursing & Midwifery*
 - e. *Number of shifts breached for Non Clinical*
6. *In relation to all points listed above can you indicate if you have seen an increase or a decrease since the previous period.”*

Your email contained a template for the information requested. We have interpreted your request to refer to “*Price caps for agency staff: rules*” published by Monitor in November last

year (the “Rules”)¹ and to cover the period from the week starting with which the price caps came into effect to the last full week of data before your request was received.

Decision

Monitor holds the information that you have requested and has decided to release it.

Question 1

Paragraph 3.2 of the Rules makes it clear that the rules on price caps apply directly to: all NHS trusts; NHS foundation trusts receiving interim support from DH; and NHS foundation trusts in breach of their licence for financial reasons. Paragraph 3.3 notes that the Rules do not currently apply to ambulance trusts and paragraph 3.5 states that all other trusts are expected to comply with the price caps.

Therefore a total of 228 trusts are captured by the scope of the Rules.

Question 2

The information is set out in the table below.

Question 2	No. of trusts reporting in the period
w/c 23 Nov 2015	205
w/c 30 Nov 2015	215
w/c 7 Dec 2015	191
w/c 14 Dec 2015	197
w/c 21 Dec 2015	199
w/c 28 Dec 2015	205

Question 3

Section 7 of the Rules explains the interaction with the nursing framework rules published by Monitor in September 2015 (the “Framework Rules”)². Section 4.5 of the Framework Rules make it clear that trusts are expected to procure all nursing agency staff through approved frameworks. They may, under certain circumstances, use existing arrangements with an agency supplier in which case they must seek prior approval from Monitor to do so. If they do not do so and use a non-approved off-framework agency, they must report this use. We have interpreted your request to refer to the use of off-framework agencies in these circumstances. The information is set out below.

1

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484834/price_caps_for_agency_staff_rules_final_rev11dec.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478488/Nursing_agency_guidance_2015-09-01.pdf

Question 3	No. of trusts reporting the use of off-framework agencies
w/c 23 Nov 2015	69
w/c 30 Nov 2015	79
w/c 7 Dec 2015	71
w/c 14 Dec 2015	70
w/c 21 Dec 2015	68
w/c 28 Dec 2015	67

Question 4

The information requested is set out in the Annex to this letter.

Please note that trusts may change the data they input into these weekly returns up to 4 weeks from the date of the report so there may be slight variations to these figures, particularly within the first few weeks of the monitoring process when trusts were less familiar with the submissions processes and forms. The figures above were taken from a review of the weekly returns as at 6 January 2016.

You have requested information on the number of trusts breaching the caps for "Non Clinical". This isn't a category available on the data submission form completed and returned by trusts. We have therefore only provided information on the categories detailed in the return.

Question 5

The information requested is set out in the Annex.

It may be helpful to provide some context to the information disclosed under question 5 of your request. Whilst Monitor does not hold information on the total number of shifts filled by agency staff, we estimate that this may be approximately 165,000 agency shifts per week across the country. Further you have requested information on the number of shifts breached for "Non Clinical". As noted above, this isn't a category available on the data submission form and we have provided the information we have available.

Question 6

As we have provided all the information requested, you will be able to see how this has changed on a weekly basis.

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.

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,



Katharine Robinson
Senior Manager – Finance

ANNEX

	Trusts reporting using shifts in excess of the price caps					
NUMBER OF TRUSTS USING STAFF IN EXCESS OF THE PRICE CAPS	w/c 23 Nov 2015	w/c 30 Nov 2015	w/c 7 Dec 2015	w/c 14 Dec 2015	w/c 21 Dec 2015	w/c 28 Dec 2015
Any staff group	186	201	180	186	191	194
Health Science	20	26	18	27	26	25
Healthcare assistants and other support	30	39	36	28	33	29
Other	19	20	19	19	21	20
Scientific, Therapeutic & Technical (AHPs)	102	114	109	114	105	97
Administration and Estates	104	120	109	121	119	115
Medical & Dental	145	153	134	143	141	139
Nursing, Midwifery & Health Visiting	156	160	143	150	146	155

	Individual Shifts used in excess of the price caps					
NUMBER OF SHIFTS IN EXCESS OF THE PRICE CAPS	w/c 23 Nov 2015	w/c 30 Nov 2015	w/c 7 Dec 2015	w/c 14 Dec 2015	w/c 21 Dec 2015	w/c 28 Dec 2015
Medical & Dental	10,358	10,955	9,877	9,806	8,741	7,944
Scientific, Therapeutic & Technical (AHPs)	3,121	4,076	3,353	3,171	2,284	1,771
Nursing & Midwifery & Health Visiting	14,913	14,943	14,016	12,035	8,797	7,848
Health Science	236	309	241	320	269	191
Healthcare assistants and other support	839	826	877	572	729	654
Administration and Estates	5,876	5,914	5,377	5,351	3,905	2,603
Other	319	386	307	485	427	266
TOTAL	35,662	37,409	34,048	31,740	25,152	21,277