

5 August 2016

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**By email**

████████████████████

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Dear ██████████

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

I refer to your email of **8 July 2016** in which you requested information from NHS Improvement under the FOI Act. Please note that since 1 April 2016, Monitor and the NHS Trust Development Authority have been operating as an integrated organisation known as NHS Improvement.

### **Your request**

You made the following request:

*“I believe NHSI has recently completed an investigation of the Royal Surrey Hospital Foundation Trust and imposed new conditions to its licence. Could you please provide me with a copy of your investigation findings and of any comments /conditions imposed as a result.”*

### **Decision**

NHS Improvement holds the information that you have requested.

I have included in this letter hyperlinks to a NHS Improvement press release in relation to the outcome of this investigation, the enforcement undertakings that have been agreed with the Royal Surrey Hospital Foundation Trust (the trust) and the additional licence condition. NHS Improvement holds some further information within the scope of your request but has decided to withhold it on the basis of the applicability of the exemption in section 31 of the FOI Act (law enforcement). I have set out our reasoning below.

### **Section 31 – law enforcement**

We consider that the withheld information is exempt from disclosure under section 31(1)(g) and section 31(2)(c) of the FOI Act. Section 31(1)(g) 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 subsection (2). Those purposes

include the purpose of ascertaining whether circumstances exist or may arise which would justify regulatory action in pursuance of an enactment.

The investigation was opened in order to address concerns about financial governance at the trust and subsequently expanded to address concerns about the Trust's performance against the A&E waiting time standard. In undertaking investigations with a view to determining whether further action may be necessary, NHS Improvement relies upon the relationships that it builds with providers. In particular, it relies upon open and candid relationships in order to obtain information with a view to completing investigations quickly and efficiently. In this case the information provided included confidential information in relation to financial governance at the trust. The information was provided in the expectation of confidence and in our view the disclosure of it would undermine our relationship with the trust and its willingness to support further work with us. We also consider that the public disclosure of confidential information would be likely to prejudice the willingness of other providers to work with us voluntarily in similar circumstances.

### *Public Interest Test*

The public interest in accountability and transparency, which favours disclosure of the information that has been withheld, has been weighed against the detrimental impact that disclosure would have. NHS Improvement accepts that there is a public interest in the transparency of decision making and in the efficiency and effectiveness of both the providers it regulates and in the conduct of investigations by NHS Improvement itself. For this reason we do make our findings public and we publish details of any further regulatory action resulting from an investigation.

Following our investigation into this trust, NHS Improvement published on its website [a press release](#), a copy of the [additional licence condition](#) and a copy of the [enforcement undertakings](#) agreed with the trust. We are providing these to you through these links. The enforcement undertakings in particular summarise the issues we identified at the trust as well as the actions the trust will take to address them. NHS Improvement considers that this information is sufficient to meet the public interest in transparency and that, in these circumstances, the public interest is best served by withholding the other information which NHS Improvement holds on the outcome of the investigation.

### **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](mailto:nhsi.foi@nhs.net).

### **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,

A handwritten signature in blue ink, appearing to read 'Alistair Glen', with a long horizontal flourish extending to the right.

**Alistair Glen**  
Senior Regional Manager