

19 October 2016

Wellington House
133-155 Waterloo Road
London SE1 8UG

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

By email

Dear [REDACTED]

Request under the Freedom of Information Act 2000 (the "FOI Act")

I refer to your email of **26 September 2016** in which you requested information under the FOI Act from NHS Improvement.

Your request

You made the following request:

"I understand that Stephen Hay is a director of NHSI. I understand that this is the same Stephen Hay who held a senior role at Monitor, as head of provider regulation, during the period reviewed by Sir Robert Francis when the pressure on Trusts to achieve Foundation Trust status was given priority over the basic and fundamental humanity of providing acceptable care to patients. This led to the well documented and tragic deaths at Mid Staffs and probably other NHS organisations.

Did the board of NHSI subject Stephen Hay to a fit and proper person test before appointing him as director?

Have the board of NHSI ever asked Stephen Hay to explain why he has not apologised for his role in any of the failings highlighted by the Francis review?

Have the board of NHSI ever asked Stephen Hay to explain how he can with integrity continue to fulfil any role within the NHS or the publicly funded healthcare system in the UK following the system failings highlighted by the Francis review?"

Decision

You pose various questions around the appropriateness for senior office at NHS Improvement of Stephen Hay.

Mr Hay is the Executive Director of Regulation and Deputy Chief Executive Officer at NHS Improvement and previously held a very senior role at Monitor from 2004. Mr Hay is an executive member of the Board of NHS Improvement.

Regulation 5 of the Health & Social Care Act 2008 (Regulated Activities) Regulations concerns the 'fit and proper person test'. This regulation applies to service providers. As NHS Improvement is not a service provider the Regulation has no applicability to Mr Hay.

On appointment to his current role, Mr Hay underwent a selection process and interview, the latter involving a senior leader from the NHS.

Mr Hay gave evidence in writing and in person to the Mid Staffordshire NHS Foundation Trust Public Inquiry. His written statement included the following at paragraph 54: *"In terms of Monitor's own position in the wake of its experience with the Trust, we acknowledge that there are things we could, and should, have done differently in order to take advantage of the opportunity we had to identify what was happening at the Trust. It is right for us to say that openly, both in view of our role as regulator and in justice to all those who have been so badly affected by the Trust's failure to provide the care it should have. Beyond recognising the areas where it has fallen short, the best thing Monitor can do is put those shortcomings right..."* Mr Hay goes on in his statement to refer to areas in Monitor's then regulatory processes where necessary improvements had been made or which were in process.

Accordingly, it is clear that Mr Hay reflected upon his role as a Monitor employee in the Mid Staffordshire failings, and Monitor's then Board was well aware of this reflection and acknowledgement, alongside that of other employees connected with the matter.

Mr Hay had at all times the full support of Monitor's board, and continues to have the full support of NHS Improvement's Board.

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 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 black ink, appearing to read 'H. Buckingham', with a long horizontal stroke extending to the right.

Helen Buckingham
Director of Corporate Affairs

