

19 September 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 19 August 2016 in which you requested information under the FOI Act from NHS Improvement. Since 1 April 2016, Monitor and the NHS Trust Development Authority are operating as an integrated organisation known as NHS Improvement. For the purposes of this decision, NHS Improvement means Monitor.

Your request

Your request relates to the undertakings accepted by NHS Improvement from Southern Health NHS Foundation Trust (“the Trust”) in June 2016. The full details of your request are set out below in bold in the “reasons for decision” section, together with our responses.

Decision

NHS Improvement holds some of the information that you have requested.

NHS Improvement has decided to provide you with the information that it holds. I have set out below for each question whether NHS Improvement holds the information you have requested and where it does, the information is outlined. We have treated most of your questions as enquiries since they do not seem to be requests for recorded information held by NHS Improvement. I have identified those questions where we have treated your request as an enquiry.

Reasons for decision

1. CQC Report

1.1 The Mazars Review was published in December 2015, the warning notice issued on 16 March 2016 and the inspection report published on 29 April

2016 and on 29/30 June 2016 Monitor requires matters to be resolved in, “A timely manner”.

In Monitor’s view, how many months/days constitute a, “A timely manner”?

Please provide a time line and specific time limits for completing each action outlined in paragraphs 1.2 to 1.6.

NHS Improvement has decided to treat this question as an enquiry. The trust has developed an action plan to address the concerns identified by the the Care Quality Commission in the warning notice dated 16 March 2016 and inspection report dated 29 April 2016 (“the CQC action plan”). The CQC action plan contains timeframes for completion of individual actions, including immediate actions to address patient safety concerns (1.2). The plan is updated on a rolling basis and published monthly in its board papers. The Trust’s board papers are available its website via the following link: [click here](#).

In relation to the joint governance review (1.3 and 1.4), the obligation of cooperation is ongoing until the review is completed. The review will begin shortly and there are no recommendations at present that the Trust can address. We will agree appropriate timescales for addressing those recommendations once they have been issued.

In relation to the stakeholder engagement review (1.5), we have asked the Trust to provide us with a proposal for how it plans to meet this requirement by 19 September 2016. We have not agreed any other timeframes in relation to this review at this time.

Subsequent to the undertakings being agreed, we have agreed with the Trust that the review referred to in 1.6 will be incorporated into the joint governance review referred to in paragraphs 1.3 and 1.4 of the undertakings. Details of relevant timeframes for that review are outlined above.

1.2 Bearing in mind that the enforcement notice was signed on 29/30 June 2016, what, “Immediate” steps has the Trust taken to address patient safety concerns.

NHS Improvement has decided to treat this question as an enquiry. The CQC action plan includes the immediate actions the Trust agreed to take to address patient safety concerns, and their progress in carrying out those actions. As outlined above, this is updated on a rolling basis and published on the Trust’s website monthly in its board papers. For your convenience, we’ve outlined below some immediate steps taken to address patient safety concerns since the CQC issued its warning notice to the Trust on 16 March 2016, although they are awaiting verification by the CQC:

- A new process has been designed and implemented to ensure delays to any estates work linked to patient safety are escalated to Trust Executive groups.
- Site-specific environmental work plans have been developed which include actions arising from ligature risk assessments, site visits, and staff feedback

- All Mental Health/Learning Disabilities inpatient units have a current ligature risk assessment in place. As well as being available on the unit, they are all held on a central SharePoint site which is accessible by ward staff.
- All Mental Health/Learning Disabilities inpatient deaths are now being reported as Serious Incidents Requiring Investigation (SIRIs). The procedure for Reporting and Investigating Deaths has been updated to reflect this change.
- The Ligature Management Policy has been updated to ensure the new risk assessment process is clearly documented.
- A dedicated full time Trust clinical ligature project manager has been appointed and started in post in May 2016.
- The Trust installed anti-climb guttering at Melbury Lodge to reduce the risk of service users accessing the roof and garden fencing in May 2016.

1.3 Regarding the planned joint review into governance and culture at the Licensee:

- i) What third parties (if any) have Monitor and the CQC appointed to support the planned joint review?**

We do not hold any information relevant to this request because there have not been any third parties appointed to support the planned joint review.

- ii) Will the CQC, Monitor and/or these third parties engage directly with bereaved families, carers, other service users and public governors (other than the Lead Governor)?**

The terms of reference do not include direct engagement with the above parties as part of this review.

- iii) Has Monitor published the brief given to the third parties and, if not, will it do so?**

We do not hold any information relevant to this request because we have not made any decisions about publishing this document.

- iv) Will Monitor publish the findings of the review in full?**

We do not hold any information relevant to this request because we have not made any decisions about publishing this document.

1.4 No questions other than timescale

Please see response to question 1.1 above.

1.5 What steps has the Licensee taken to date to ensure that it has in place appropriate systems and processes to engage effectively with service

users and their carers? I pose this question in the context of the following written statement by the Interim Chairman on 17 May 2016:

“I fully intend to meet with patient representatives, as part of my fact finding and considerations, and a programme is under development to enable me to do that.”

We have decided to treat this question as an enquiry. We do not have information about the programme referred to by the Chairman. From the information provided to us by the Trust, we understand that the Trust has commissioned an external consultant to conduct work to understand the experience for staff, families, carers, patients and service users involved in SIRI in the mental health and learning disability directorate. We understand that the Trust aims to use the results to improve the experience of and engagement with patients and their families. In addition, the Trust is required to undertake a Stakeholder Engagement Review, as referred to above, to understand the current issues and gaps in its engagement with stakeholders. We have asked the Trust to provide us with a proposal for how it plans to meet this requirement by 19 September 2016

Bearing in mind that many carers, service users and bereaved families have seen no evidence of such engagement to this day:

i) Has NHSI received a copy of this programme?

NHS Improvement has decided to treat this question as an enquiry. NHS Improvement has received a copy of the scope of the external consultant

ii) Does NHSI know if the programme exists?

NHS Improvement has decided to treat this question as an enquiry. NHS Improvement has received a copy of the scope of the review and has been notified by the Trust that the review has commenced.

iii) If not, will NHSI request a copy from the Licensee?

NHS Improvement has decided to treat this question as an enquiry. NHS Improvement has received a copy of the scope of the review, and has requested a copy of the draft report once this is available.

iv) When can proper engagement be expected to commence?

NHS Improvement has decided to treat this question as an enquiry. The Trust has notified us that the review has already started. NHS Improvement does not hold information about the day to day engagement of the review.

1.6 With regard to the external review of board capacity and capability:

i) What source has Monitor agreed to carry out the review?

As explained above in response to your question 1.1, the review will now form part of the joint review commissioned by NHS Improvement and the Care Quality Commission.

ii) On what date did the Licensee commission the review?

We do not hold any information relevant to this request. As explained above, we have subsequently agreed with the Trust that this review will be incorporated into the joint review by NHS Improvement and the Care Quality Commission so the Licensee will no longer need to commission this review.

iii) Will Monitor publish the brief provided to the external reviewer?

We do not hold any information relevant to this question because we have not made any decisions about publishing the brief for the joint review.

iv) Will the external reviewer engage directly with bereaved families, carers, other service users and public governors (other than the Legal Governor)?

The terms of reference do not include direct engagement with the above parties as part of this review.

v) Will Monitor publish the final report?

We do not hold any information relevant to this request because we have not made a decision as to whether the report for the joint review will be published.

1.7 Regarding a consolidated action plan incorporating all the actions required to meet the existing and new undertakings:

i) Has the Licensee prepared a consolidated action plan?

NHS Improvement has decided to treat this question as an enquiry. The Trust is preparing a consolidated milestone action plan which will show the Trust's progress against all of its quality action plans in one place. This will be supported by separate detailed action plans. The Trust is due to provide an update on progress with its consolidated milestone action plan to NHS Improvement by 19 September 2016.

ii) If not, when does Monitor expect to receive it?

NHS Improvement has decided to treat this question as an enquiry. NHS Improvement is expecting an update on progress with the consolidated milestone action plan by 19 September 2016. In the meantime, NHS Improvement has received regular updates on the Trust's CQC action plan and SIRI and Mortality action plan.

iii) Has Monitor approved it?

NHS Improvement has decided to treat this question as an enquiry. The consolidated milestone action plan has not been received yet for approval

iv) Will Monitor publish it?

We do not hold any information relevant to this question because we have not made any decisions about publishing this document. It should be noted that we do not usually publish action plans submitted to us by NHS foundation trusts in performance of a regulatory requirement.

2. General

2.1 There is no 2.1. Is this a redaction or a typographical error

This is a typographical error.

2.2 Consolidated into question 2.4

2.3 Ditto

2.4 With regard to progress reports, meeting etc.:

i) How many 'regular' reports has the Licensee provided to date?

NHS Improvement has decided to treat this question as an enquiry. Since the enforcement undertakings were signed on 30 June 2016, NHS Improvement has held three formal progress review meetings with the Trust, in advance of which the Trust has submitted requested documents.

In addition, a monthly Quality Oversight Committee has been set up where the Trust is held to account on its delivery of its SIRI and Mortality action plan and the CQC action plan. The meeting is attended by representatives from the Trust as well as representatives from all of its commissioning bodies, including NHS England, and NHS Improvement. CQC receives a copy of the papers. Two meetings have been held since 30 June 2016, and the Trust has submitted requested documents in advance.

ii) Will Monitor publish these reports?

NHS Improvement has decided to treat this question as an enquiry. NHS Improvement does not intend to publish the reports.

iii) How many meeting and conference calls have taken place to discuss progress?

Please see 2.4(i) above.

iv) How does Monitor audit the accuracy of progress reports emanating from the Trust?

NHS Improvement has decided to treat this question as an enquiry. NHS Improvement does not audit the accuracy of progress reports but regularly challenges and holds the Trust Board to account for the assurances it receives.

v) What other ‘attendees’ has Monitor specified to date?

We do not hold any information relevant to this request because we have not specified any additional attendees aside from the Trust and NHS Improvement at progress review meetings.

However, the Quality Oversight Committee referred to above is attended by representatives from the Trust as well as representatives from all of its commissioning bodies, including NHS England, and NHS Improvement. CQC receives a copy of the papers.

vi) Does Monitor invite (as ‘attendees’ at these meetings) experts by experience of the Trust to verify what the Trust is reporting: for example, bereaved families, carers, other service users and public governors (other than the Lead Governor)?

NHS Improvement has decided to treat this question as an enquiry. Standing members of the Quality Oversight Committee include Chief nurses, Directors of Quality and Quality Improvement and Medical Directors for mental health from NHS Improvement and commissioning bodies, including a lay member of a CCG.

vii) If the answer to (vi) is “No”, why not?

The Quality Oversight Committee forms part of our (and others’) regulatory oversight of the Trust. We do not invite members of the public to observe regulatory oversight meetings but we do publish a large amount of information about the performance of foundation trusts, including:

- Our assessment of the risk of each foundation trust’s non-compliance with the continuity of service and governance conditions of their licence;
- Whether Monitor has opened an investigation into a foundation trust’s non-compliance with its licence; and
- Any enforcement action taken by Monitor against each foundation trust for non-compliance with its licence.

This information can be accessed via the following link: [click here](#).

3. Associated Questions:

3.1 Why has Monitor to date refused to engage with bereaved families, carers, other service users and public governors (other than perhaps the Lead Governor)?

We do not hold any information relevant to this request because NHS Improvement has previously engaged with bereaved families, service users and public governors of the Trust.

3.2 What specific plans does Monitor have in place (if any) to meet the stakeholders defined at (3.1).

[REDACTED]

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.

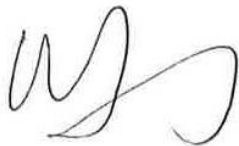
If you are dissatisfied with the outcome of any internal review, you may complain to the Information Commissioner for a decision on whether your request for information has been dealt with in accordance with the FOI Act.

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,



Victoria Keilthy
Deputy Regional Director