

3 December 2015

[REDACTED]

By email [REDACTED]

Dear [REDACTED]

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

I refer to your email of 5 November 2015 in which you requested information under the FOI Act.

Your request

You made the following request:

‘Under the auspices and provisions of the above Act I request the following information for the financial years 2013/2014; 2014/2015 and 2015/2016 to date (“the relevant years”).

‘1a The number of investigations undertaken by Monitor staff into Provider Trusts (excluding those directly related to the Foundation Trust application process)

1b The number of investigations or reviews commissioned or required by Monitor into Provider Trusts

1c The costs of the investigations in 1a & 1b above

1d The number of investigations undertaken by the top 10 appointed firms in each of the relevant years, whether directly appointed by Monitor or by Provider Trusts.

2 Details of the internal processes which must be followed within Monitor before an investigation can be outsourced either by Monitor or a Provider Trust, including value for money justification processes and post-completion reviews processes of the work undertaken.

3a The number of Monitor staff in the Provider Regulation division who have worked in a directly-employed substantive post in a Provider Trust (not just Foundation Trusts) at Deputy Director level and above, for at least a year.

3b The number of Monitor staff in the Provider Regulation division who have worked in a directly-employed substantive post in a Provider Trust (not just Foundation Trusts) at Deputy Director level and above, for at least a year, since 2010.’

Decision

We have not been able to progress your request, because to do so would exceed the cost limit under section 12 of the FOI Act.

Cost Limit under section 12 of the FOI Act

Under section 12(1) of the FOI Act, Monitor is not required to comply with any request that potentially exceeds the relevant cost limit. The relevant cost limit is £450, which is set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. This equates to a period of approximately 18 hours in which to locate, retrieve and extract the information that you have requested.

In Monitor's view, compliance with your request will exceed this limit because the scope of the request is very broad. The volume of documents that would need to be reviewed to locate the information covered by the request is significant. In relation to questions 3a and 3b, Monitor estimates that it has employed over 285 people in the Provider Regulation directorate at grade 2.1 (senior manager) and above and that it would take over 35 hours to gather the information you have requested. This time would be spent identifying relevant files, locating files in our on-site records storage or requesting files from our archive and identifying the relevant information on the CVs.

Advice and Assistance provided under section 16 of the FOI Act

Under section 16 of the FOI Act, Monitor is required, as a public authority, to provide advice and assistance so far as is reasonable, to individuals who have made a request to it under the FOI Act.

To further assist you, I have provided information below that we are able to disclose. I have also suggested possible changes to the scope of some of your questions, which may narrow the scope of the requests so that they can be complied without engaging the cost limit in section 12 of the FOI Act:

- **Question 1a:** In responding to this question, I should explain that in addition to conducting formal regulatory investigations, Monitor also reviews individual trusts where potential financial or governance concerns are raised, before deciding whether to investigate formally. Since April 2013, Monitor has completed 54 formal regulatory investigations at foundation trusts. Monitor does not record the number of cases in which concerns are informally reviewed centrally and locating this information would likely exceed the cost limit.
- **Question 1b:** Monitor does not commission formal regulatory investigations, it carries these out itself. Monitor does, however, require trusts to carry out reviews e.g. board governance reviews – this may be required by enforcement action, or otherwise carried out at Monitor's request. To analyse the information we hold to identify the number of these reviews would likely exceed the cost limit of the FOI Act. You may therefore wish to narrow the scope of your question, for example, to limit it to reviews required by Monitor's formal enforcement action and to a narrower time period (e.g. the previous year).

- **Question 1c:** For the reasons indicated in question 1a, I am unable to provide details of the internal costs of Monitor's formal investigatory work. Regarding broader costs involved with review work at foundation trusts, it is usually the trust itself that incurs the cost. Monitor's involvement relates to reviewing and agreeing the scope of the work to be completed, but Monitor does not have record of the eventual costs of this work.
- **Question 1d:** Monitor does not record this information.
- **Question 2:** When outsourcing investigations/reviews regarding audit, accountancy or consultancy functions, as with any requirement for external management consultancy support, foundation trusts must follow their own internal processes. This year, Monitor has also introduced an additional process, details of which are available [here](#). Regarding guidance for Monitor's review of cases, Monitor does not currently have a formal document but the main steps are as follows:
 1. Monitor's FT Approvals Team receive a business case from the Trust;
 2. Monitor's FT Approvals Team review business case against pre-set criteria (value for money, necessity and governance arrangements);
 3. Monitor's FT Approvals Team either return the case to the Trust with requests for clarification or submit the case directly to Monitor's FT Consultancy Approvals Panel with recommendations to approve case or to reject the case (providing rationale for recommendation);
 4. Monitor's FT Consultancy Approvals Panel makes a decision on whether a case is approved or rejected; then
 5. Monitor's FT Approvals Team communicates FT Consultancy Approvals Panel decision back to Trust.
- **Questions 3a and 3b:** You may wish to modify your request to narrow its scope – for example, 'the number of Monitor staff currently employed in the Provider Regulation division at role level 2.1 and above who have worked in a Provider Trust with a job title that contains the word 'director', for at least a year, since 2010.'

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-nhsft.gov.uk.

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 'Stephanie Coffey', with a stylized flourish at the end.

Stephanie Coffey

Deputy Director of Operations & Performance, Provider Regulation