

28 September 2016

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By email [REDACTED]

Dear [REDACTED]

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

I refer to your email of **18 September 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 and the TDA.

Your request

You made a request for various data relating to annual members’ meetings at Homerton University Hospital NHS Foundation Trust (“the Trust”). Your request is set out in full in the annex to this letter.

Decision

NHS Improvement does not hold the information that you have requested.

It may help if I explain the role of NHS Improvement, to assist in understanding the type of information that NHS Improvement is likely to, or not to, hold.

NHS Improvement is responsible for overseeing foundation trusts and NHS trusts, as well as independent providers that provide NHS-funded care. We offer the support these providers need to give patients consistently safe, high quality, compassionate care within local health systems that are financially sustainable. By holding providers to account and, where necessary, intervening, we help the NHS to meet its short-term challenges and secure its future.

In relation to both NHS foundation trusts and NHS trusts, NHS Improvement looks into both finances and governance, the latter including consideration of the arrangements trusts have for managing operational performance. NHS Improvement is not, however, responsible for or

involved with the day-to-day management of meetings such as annual members' meetings, beyond assessing a trust's compliance with its constitution and investigating concerns identified in the process of considering enforcement action. Homerton University Hospital NHS Foundation Trust is not subject to any such enforcement action. NHS Improvement, therefore, does not hold the information you have requested.

I note from your request that you have contacted the Trust directly. Please note that NHS foundation trusts are subject to the FOI Act and as such it is open to you to seek information directly from them. They will need to consider whether information can properly be provided by them in response to any such requests within the terms of the FOI Act.

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,

NHS Improvement

Annex

17. Accordingly, this is a Freedom of Information Act request:-

(a) *In each of the years since the Trust was founded, has there been an AMM?*

(b) *If in any such year there was no AMM, why did one not occur?*

(c) *Are there extant minutes for each Trust AMM that has ever taken place?*

(d) *In respect of each year since the Trust's foundation, on the date of each AMM, how many public constituency members were there, and how many public constituency members attended that year's meeting?*

(e) *In the Trust's undated printed card headed 'Annual Members Meeting Thursday 22nd September 2016':*

i. what does the phrase 'of the year' add to the phrase 'Annual Review' or indeed to the word 'Annual', and

ii. does the phrase 'Annual Review of the year' refer to the Trust's Annual Report, and if not to what does it refer?

(f) *In deciding to purport to convene its 2016 AMM by means of an undated printed card referring to an amendment proposed to the Trust constitution no textual details or substantive particulars of which appear on the card itself, did the Trust's board:*

i. have any and if so what regard to the provisions in the Trust constitution governing the giving of notice of AMMs, including any stipulation as to notice of the business to be transacted at the meeting,

or

ii. seek advice or guidance about the validity or appropriateness of that procedure or method from any Department of Health team, including NHS Improvement's Monitor?

(g) *What are the full, precise, literal terms of the notice provisions referred to in sub-sub-paragraph (f) i above?*

(h) *What is the exact text of the operative part of the motion or other formal proposal to amend the Trust constitution referred to but not set out in the above-mentioned undated printed card?*

(i) *What is the estimated total cost of purporting to convene and hold the Trust's 2016 AMM pursuant to the printed card sent to members earlier this month?*

(j) *By how much is it estimated that the total cost of convening and holding the Trust's 2016 AMM would have been increased by including the text referred to in sub-para (h) above in a printed, mailed out notice of that AMM?*

(k) *On what occasion did the board decide to send the above-mentioned card?*

(l) Given the notice provisions referred to in sub-subparagraph (f) i above, by whom and why was it decided not to give the text of the proposed constitutional amendment, which is merely referred to and not detailed in the above-mentioned card, in the printed, mailed out notice of AMM?

(m) On what date was the above-mentioned card posted?

(n) By what class of post - first or second - was the above-mentioned card sent?

(o) How many members of each constituency are currently (i.e., in September 2016) entitled to attend an AMM?

(Continued in Part II.)

Part II

(p) How many 'places' are there to be for members at the Homerton Hospital Education Centre on Thursday September 22, 2016 : the place and time suggested in the card referred to in subparagraph (e) above for the Trust's 2016 AMM?

(q) How long are the annual report and accounts (and any distinct annual review) and how long a time has been allowed for their presentation to the AMM?

(r) Why was it decided, and without consulting members, that the annual report and accounts -

i. should not be sent to members before the AMM, and

ii. should not be made available at the AMM?

(s) In what formats are the annual report and accounts available online?

(t) Which of the formats in which documents (including the annual report and accounts) are uploaded to the Trust's website are alternatives that do, can or may afford readier access than Portable Document Format for people who, whether because of their own individual limitations or those of the technology available to them, cannot display, see, read or download a document in that common, old but not universal format?

(u) What provision was made by the board to facilitate understanding of the annual report and participation in the AMM (including participating by asking questions) by any members with various degrees of cognitive or other intellectual impairment?

(v) What does the board know, of the Trust's members, including those in the public constituency, what proportion are and what proportion are not able to access the internet, and what proportions do and do not do so regularly, efficiently or at all?

(w) Bearing in mind Jeremy Hunt's observation that health service digitisation is as much about people as about technology, how far does the board's provision of information

take account of the fact that some seekers of information about the Trust cannot and in all probability never will be able to go online or use a personal microcomputer of any kind?

(x) What are the respective purposes of the annual review and questions agenda items noted on the above-mentioned card and how much time is allocated to the questions item?

(y) How are the purposes of those two last-mentioned items served by withholding advance printed copies of the annual report etc. from members who do not specifically and actively seek them, and by not making prints of them available even at the AMM itself?

(z) How is the political policy and legislative intent of social ownership of the hospital thought by the board and council to be advanced, as distinct from being obstructively impeded, by their decision to withhold from public constituency members ready and convenient sources of information that members may require to enable them to ensure that its public governors are effectively performing their governance role, including that of holding the board to account?