

30 March 2017

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By email
██

Dear ██████████

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

I refer to your letter of **27 February 2017** (received by NHS Improvement on 2 March 2017) in which you request information on behalf of Mr Chi Onwurah’s constituent. We are treating this as a request 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 response, NHS Improvement means Monitor and the TDA.

The request

The request is set out in full in the Annex to this letter. Please note that, for ease of reference, the numbering of the questions in the request has been corrected.

Decision

NHS Improvement holds the information that has been requested.

NHS Improvement has decided to withhold the information requested in questions 2 to 7, 9 to 17, 18 (ii) and (v), 23 and 25 (in part) on the basis of the applicability of the exemptions in sections 21, 40 and 41 of the FOI Act, as explained in detail below.

Where we are able to disclose information to you, we have set out the answers to your questions below, using the adjusted numbering per the Annex.

Questions 1

Paul Reeves’ full job title is Professional Nurse Adviser.

Question 8

Andrew McCallum's full job title is Strategic Nurse Adviser.

Question 17

The information requested is exempt under section 21 of the FOI Act, on the basis that it is publically available information and is therefore accessible to the applicant by other means.

However, notwithstanding this and further to our duty under section 16 of the FOI Act to advise and assist, please find links below to copies of the TDA's annual reports and accounts (ARA) for the years 2014/2015 and 2015/2016, which contain the information requested.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/451847/NTDA_Annual_Report_2014-2015.FINAL.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/542090/NTDA_annualreport2016_WEB.pdf

Question 18(i), (iii) and (iv)

Peter Blythin held the role of Director of Nursing at the TDA, reporting to the Chief Executive Officer. The salary range applicable to Mr Blythin was reported in the TDA's publicly available ARA: see our response to question 17.

Question 19

Peter Blythin held membership of the following meetings and committees:

Meeting/Committee	Frequency
TDA Board	Bi-monthly
TDA Executive Director Group	Weekly
TDA Investment Committee	Monthly with ad hoc additions
DH Mental Health Taskforce	Task and finish group involving a series of meetings over a short period
Virginia Mason Institute transformation Guiding Board	Monthly with additional ad hoc meetings
Strategic Workforce Forum	Bi-monthly
Representative of the TDA on the DH workforce committee	Met infrequently
Internal meetings relating to the Executive Team or directorate specific business	As required
Single purpose meetings	One-off meetings external to the TDA at which

	Peter Blythin represented the interests of the TDA
Professional Forum with National Nurse Leaders	As required

Question 20

Peter Blythin was professionally accountable to the Nursing and Midwifery Council (NMC).

Question 21

As notification to the NMC had already been made by, we understand, the nurse referenced in this question, and the decision of the Employment Tribunal in question remained (and remains) the subject of an appeal, the CEO of the TDA considered that additional notification was not required.

Question 22

Yes.

Question 24

NHS Improvement does not have an 'Executive Board'. It does have a board comprised of executive and non executive directors, and we presume that this question intended to refer to this board. However, no issues listed under sub paragraphs (i) to (iv) have ever been considered board level business and accordingly there has been no discussion at all of them at that level.

Approvals for relevant expenditure were dealt with by senior management.

Question 25

Ruth May holds an Honorary Doctorate and an Honorary Doctorate of Science.

The other information requested is being withheld under section 40 of the FOI Act, as explained below.

Question 26

The Chief Executive, Jim Mackey, is on secondment to NHS Improvement. The term of the secondment is due to end in the Autumn of this year.

Section 40 – personal information

Some of the information requested is being withheld from disclosure under section 40(2) of the FOI Act on the grounds that it is personal data and that the first condition of section 40(3)(a) is satisfied, namely, that disclosure would amount to a breach of the data protection principles (personal data should be processed fairly and lawfully).

This is because some of the information is personal data of employees of NHS Improvement and third parties, who would have a reasonable expectation that their personal information

would be withheld. This is an absolute exemption and consideration of the public interest in disclosure is not required.

Section 41 – information provided in confidence

Some of the information requested has been withheld under section 41 of the FOI Act on the basis that it was information obtained by NHS Improvement from third parties, disclosure of which would give rise to an actionable breach of confidence.

We consider that the aforementioned third parties would have a reasonable expectation that any confidential information would remain private. This information was not trivial, not readily available by other means and provided in confidence, which created an obligation of confidence.

Section 41 is an absolute exemption and does not require the application of the public interest test under section 2(2) of the FOI Act. However, in considering whether a confidence should be upheld, a court will have regard to whether the public interest lies in favour of disclosure. Whilst NHS Improvement recognises the public interest in transparency and accountability regarding the expenditure of public money, there is also a strong public interest in maintaining the duty of confidence. NHS Improvement does not consider there is a strong interest in disregarding the duty of confidence owed to third parties.

Review rights

If you consider that the 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 and the attached information 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 'Sarah McKinnon', written in a cursive style.

Sarah McKinnon
Senior Business Manager, Regulation Directorate

Annex

NHS Improvement

I am a constituent investigating NHS Improvement. I would be grateful if you could obtain the following information from NHS Improvement on my behalf as my Member of Parliament:

The Appointment of Paul Reeves as a 'Professional Advisor' at NHS Improvement

In August 2016 the Chief Executive of North Middlesex University Hospitals NHS Trust advised that Director of Nursing Paul Reeves would be leaving to commence a role with NHS Improvement.

Please provide

- 1) The full job title(s) of all role(s) performed by Paul Reeves at NHS Improvement commencing 01/06/2016 to date;
- 2) Details of all employment, engagement and/or contract/agency work undertaken by Paul Reeves for NHS Improvement. This includes:-
 - i) All remuneration paid since 01/06/2016 and contracted to be paid to date; to include any hourly remuneration rate and annual salary details, whether paid via any agency or limited company on his behalf or to him direct.
 - ii) All bonus and pension benefits to which he is entitled or has been paid;
 - iii) Whether any employment, contract or engagement is full time, fixed or part time; together with the hours worked. If fixed or part time, the number of hours worked and the duration of any contract;
 - iv) A copy of every job description or job specification applicable to Paul Reeves at NHS Improvement since 01/06/2016; and
 - v) A copy of Paul Reeves line management structure and the departmental structure worked in by Paul Reeves at NHS Improvement at any time since 01/06/2016.
- 3) Details of whether Paul Reeves reports to, accounts to, has reported to or accounted to Ruth May either directly or indirectly at any time at NHS Improvement since 01/06/2016.
- 4) The date Paul Reeves applied for the post of 'Professional Nurse Advisor' at NHS Improvement together with confirmation:
 - i) That he applied in writing;
 - ii) The identity of the employee or agent authorised to accept his application by or on behalf of NHS Improvement; the identity of their department; and the identity of their line manager;
 - iii) The date his application was accepted by or on behalf of NHS Improvement;
 - iv) The closing date for any such application(s);
 - v) The date he was notified he had successfully obtained any post;
 - vi) The identity of the individual who approved Mr Reeves appointment and communicated that appointment on behalf of NHS Improvement.

- 5) The identity of the publication(s) wherein the role of 'Professional Nurse Advisor' occupied by Paul Reeves, or any role occupied by him:-
 - i) Was advertised;
 - ii) the date(s) of publication;
 Please provide me with a copy of the advertisement.

- 6) If the role or any role occupied by Paul Reeves was not advertised confirmation of:-
 - i) The legal basis for the decision not to advertise the role. This should include an explanation how the failure to advertise the post complies with UK employment law and the Nolan Principles;
 - ii) The identity of the individual who authorised and/or approved no advertisement should be issued with the identity of their line manager;
 - iii) The identity of the individual who heads the department in which Paul Reeves works or is employed or has worked or been employed since 01/06/2016;

- 7) Please identify:-
 - i) Whether an agent, agency or executive search firm was involved in Mr Reeves appointment either directly or indirectly;
 - ii) The total number of job applications received for the position of 'Professional Nurse Advisor' in addition to that of Mr Reeves;
 - iii) The date(s) individuals were longlisted and/or shortlisted and the venue(s) of each interview;
 - iv) The identities of every Panel who interviewed Mr Reeves for the position of 'Professional Nurse Advisor'.

The Appointment of Andrew McCallum as 'Professional Advisor' at NHS Improvement

I am also investigating the above appointment. I would be grateful if you could obtain the following information in relation to this appointment:

- 8) The full job title(s) of all role(s) performed by Andrew McCallum at NHS Improvement commencing 01/06/2016 to date;

- 9) Details of all employment, engagement and/or contract/agency work undertaken by Andrew McCallum for NHS Improvement. This includes:-
 - i) All remuneration paid since 01/06/2016 and contracted to be paid to date; to include any hourly remuneration rate and annual salary details, whether paid via agency or limited company on his behalf or to him direct.
 - ii) All bonus and pension benefits to which he is entitled or has been paid;
 - iii) Whether any employment, contract or engagement is full time, fixed or part time; together with the hours worked. If fixed or part time, the number of hours worked and the duration of any contract;
 - iv) A copy of every job description or job specification applicable to Andrew McCallum at NHS Improvement since 01/06/2016; and
 - v) A copy of Andrew McCallum line management structure and the departmental structure worked in by Andrew McCallum at NHS Improvement since 01/06/2016.

- 10) Details of whether Andrew McCallum reports to, accounts to, has reported to or accounted to Ruth May either directly or indirectly at any time at NHS Improvement since 01/06/2016.
- 11) The date Andrew McCallum applied for the post of 'Professional Advisor' at NHS Improvement together with confirmation:
- i) That he applied in writing
 - ii) The identity of the employee or agent authorised to accept his application by or on behalf of NHS Improvement; the identity of the employee or agent authorised to accept his application by or on behalf of NHS Improvement; the identity of their department; and the identity of their line manager;
 - iii) The date his application was accepted by or on behalf of NHS Improvement;
 - iv) The closing date for any such application(s);
 - v) The date he was notified he had successfully obtained any post;
 - vi) The identity of the individual who approved Mr McCallum's appointment and communicated that appointment on behalf of NHS Improvement.
- 12) The identity of the publication(s) wherein the role of 'Professional Advisor' occupied by Andrew McCallum, or any role occupied by him:-
- i) Was advertised;
 - ii) The date(s) of publication;
- Please provide me with a copy of the advertisement.
- 13) If the role or any role occupied by Andrew McCallum was not advertised confirmation of:-
- i) The legal basis for the decision not to advertise the role. This should include an explanation how the failure to advertise the post complies with UK employment law and the Nolan Principles;
 - ii) The identity of the individual who authorised and/or approved no advertisement should be issued with the identity of their line manager;
 - iii) The identity of the individual who heads the department in which Andrew McCallum works or is employed or has worked or been employed since 01/06/2016;
- 14) Please identify:-
- i) Whether an agent, agency or executive search firm was involved in Mr McCallum's appointment either directly or indirectly;
 - ii) The total number of job applications received for the position of 'Professional Advisor' in addition to that of Mr McCallum;
 - iii) The date(s) individuals were longlisted and/or shortlisted and the venue(s) of each interview;
 - iv) The identities of every Panel who interviewed Mr McCallum for the position of 'Professional Advisor'.
- 15) If Mr McCallum is 'on secondment' please identify the substantive role he allegedly holds, the identity of his substantive employer and advise whether his substantive role is of permanent nature or fixed term. If fixed term, please provide the duration of the same.

16) Please advise the financial source of any remuneration paid to Mr McCallum in the role of 'Professional Advisor' at NHS Improvement.

Peter Blythin

On 1st April 2015 the NHS TDA and Monitor merged to become NHS Improvement. Two years have passed since Peter Blythin, formerly Director of Nursing for the NHS TDA, was revealed to have partaken in the victimisation of a fellow nurse by an Employment Tribunal judgment dated 30th January 2015.

17) Please advise the total remuneration paid to Peter Blythin at NHS Improvement (and its predecessor, NHSTDA) for the financial years

2014/2015

2015/2016

18) Please provide the details of all roles held by Peter Blythin at NHS TDA or NHS Improvement since 30th January 2015. For the avoidance of doubt this includes

- i) Job Title(s)
- ii) Contracted hours
- iii) Salary
- iv) The identity of his line manager(s)
- v) Any benefits to which he has/had contractual entitlement

19) Please provide the names of every committee, group, party and/or team Mr Blythin sits on or partakes in and/or has sat on or partaken in, on behalf of NHS Improvement (or its predecessor the NHS TDA) since 30th January 2015. Please advise the frequency of each collective (i.e. weekly, monthly, etc.).

20) Mr Blythin is a professionally regulated nurse. Please identify every individual to whom Mr Blythin has been professionally accountable to in his capacity as a professional nurse either directly or indirectly since 30th January 2015 while employed at NHS TDA and NHS Improvement.

21) Please advise the date(s) the NHS TDA or NHS Improvement notified the Nursing and Midwifery Council about Mr Blythin's involvement in the victimisation of a nurse following the 30th January 2015 judgement. If no notification was made please identify the individual at NHS TDA/NHS Improvement who deemed it was not required.

22) Please advise whether Peter Blythin has been involved in any Director of Nursing or Nurse related appointments on behalf of NHS TDA or NHS Improvement since 30th January 2015.

23) Please advise the total amount of money paid by NHS TDA/NHS Improvement since 2nd April 2014 to date in connection with the Saiger Employment Tribunal in 2014 and the subsequent related Employment Appeal Tribunal. For the avoidance of doubt please provide the total amount paid or payable

- i) To Hempsons Solicitors
- ii) To barrister Andrew Sugarman

iii) To David Reade QC

Please indicate whether any bonus payments have been entered into between any of the above parties and with NHS TDA/NHS Improvement and if so identify the amount.

24) Please indicate whether

- i) The findings against the NHS TDA and/or Mr Blythin
- ii) The Saiger appeal to the Employment Appeal Tribunal
- iii) The financial or any associated costs of (i) and/or (ii)
- iv) Any issue(s) arising from (i)-(iii) have been discussed at Executive Board level on any occasion since 1st April 2016 and indicate on which dates. If not, please advise how approvals for expenditure on the matter have been legally authorised and identify by whom.

Ruth May's 'Qualifications'

25) Please advise of all the professional qualifications held by Mrs Ruth May, the Director of Nursing at NHS Improvement. Please advise whether any degrees held by her have been obtained via the application of study (if so advise from where they were obtained) or awarded to her (as in her honorary doctorate).

Jim Mackey

26) The Department of Health publicly announced Jim Mackey was appointed as Chief Executive of NHS Improvement on 5th October 2015. He commenced on 1st November 2015. Is Jim Mackey employed by NHS Improvement or is Jim Mackey's role a secondment? If the latter, please advise for what length of time his secondment is expected to last.