

2 May 2017

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By email

[REDACTED]

Dear [REDACTED]

Request for an Internal Review of a decision under the Freedom of Information Act 2000 (the “FOI Act”)

I refer to your email of 2 February 2017 in which you requested an internal review of Monitor’s decision of that same date. That decision concerned your request for results of a survey on leadership and culture that was conducted for the Royal Manchester Children’s Hospital which is part of the Central Manchester NHS Foundation Trust.

Since 1 April 2016, Monitor and the NHS Trust Development Authority (“the TDA”) 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

In your email dated 2 February 2017 you made the following request:

“I would be grateful if you could release the results of a survey on leadership and culture that was conducted by yourselves for the Royal Manchester Children’s Hospital which is part of the publicly funded Central Manchester Foundation Trust. The survey was concluded on the 14th December 2016 and had 101 responses on the survey monkey system. I am happy for you to release the results to me via email.”

Monitor’s Original Decision

Monitor decided to withhold the information requested on the basis of the application of the exemptions in sections 40 and 41 of the FOI Act (confidentiality and data protection).

Your request for an internal review

In your email dated 2 March 2017 made a number of points. In summary:

- (1) The third party to which NHSI asserted that it owed a duty of confidence was a public body.
- (2) NHS Staff surveys are conducted in the same way and are disclosable to the public.
- (3) Information that could identify a specific member of staff could be removed.

Internal Review - Decision

I have now conducted a review of the original decision. I have decided that it should be upheld and that the information should not be disclosed for the following reasons.

I have reviewed the available material and I am satisfied that the full results which you requested were held by NHS Improvement subject to a duty of confidence, that disclosure would constitute an actionable breach of confidence and that there was no overriding public interest reason for disclosure. The fact that the third party in question is a public body does mean that a breach of a duty of confidence owed to that body is not actionable. In my view, the exemption in section 41 of the FOI Act was correctly applied.

In relation to section 40 (data protection), disclosing the full results held by NHS Improvement would have disclosed personal data, in breach of the first data protection principle. Individuals completing the survey have a reasonable expectation that their personal information would not be disclosed. Any information disclosing identifiable personal information was therefore properly withheld pursuant to section 40 of the Act. I recognise however that it would be possible to produce the results in a form which ensures as far as practicable, that personal data is not disclosed.

I understand that since the original decision, a version of the results has now been made available by the Trust to the consultants at your hospital. In particular it was presented at a meeting to which all consultants were invited. The results, in a form removing personal information, are now therefore reasonably accessible to you by means other than a request under the FOI Act. As such, the information would be exempt from disclosure under section 21 of the FOI Act.

Complaint rights

If you are dissatisfied with the outcome of the 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.

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 'S. Bailey', with a long horizontal stroke extending from the end.

Suzie Bailey

Director of Leadership and Quality Improvement