

11 April 2017

Ian Alexander

By email

[REDACTED]

Dear Mr Alexander

Request under the Freedom of Information Act 2000 (the "FOI Act")

I refer to your email of 14 March 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 the NHS TDA.

Your request

You made the following request:

*"1) When did NHS Improvement discover that Jon Andrewes former chair of Royal Cornwall Hospitals NHS Trust had falsified his CV and invented qualifications that he did not in fact hold?
2) How did NHS Improvement find out about this fraud?
3) Did NHS Improvement alert any other NHS bodies to this fraud, and if so, which bodies and when?
4) What checks did NHS Improvement (or its predecessor NHS TDA) undertake on Jon Andrewes' background and qualifications when it appointed him to the post of non executive director at Devon Partnership NHS Trust?
5) Please disclose all correspondence between NHS Improvement and the Department of Health about Jon Andrewes' falsification of his CV and his inappropriate appointments to NHS board positions."*

Decision

NHS Improvement holds the information that you have requested.

NHS Improvement has decided to withhold some of the information that it holds on the basis of the applicability of the exemptions in sections 31 and 40 as explained in detail below.

Our responses to your questions are set out below.

Question 1: When did NHS Improvement discover that Jon Andrewes former chair of Royal Cornwall Hospitals NHS Trust had falsified his CV and invented qualifications that he did not in fact hold?

Concerns about the validity of Jon Andrewes' qualifications and career history were first brought to the attention of NHS Improvement on 14 July 2016. These concerns were confirmed at Exeter Crown Court on Friday 27th January 2017 when Jon Andrewes pleaded guilty to the related Fraud Act charges he faced.

Question 2: How did NHS Improvement find out about this fraud?

NHS Improvement was notified by the Department of Health Anti-Fraud Unit (DHAFU).

Question 3: Did NHS Improvement alert any other NHS bodies to this fraud, and if so, which bodies and when?

NHS Improvement notified the Chief Executives of Royal Cornwall Hospitals NHS Trust, Torbay and South Devon NHS Foundation Trust and the Chair of Devon Partnership NHS Trust in October 2016.

Question 4: What checks did NHS Improvement (or its predecessor NHS TDA) undertake on Jon Andrewes' background and qualifications when it appointed him to the post of non-executive director at Devon Partnership NHS Trust?

NHS Improvement did not carry out a check of the qualifications Mr Andrewes claimed to hold in his application for the role of non-executive at Devon Partnership NHS Trust. At that point in time, the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 ("the fit and proper person regulations") had not come into force, and the additional checks we now carry out were not undertaken. Some additional checks may have been undertaken by the Devon Partnership NHS Trust but we have no record of this.

In April 2014, when Mr Andrewes was appointed to the role at Devon Partnership NHS Trust, he was already in post as a non-executive director at Torbay & Southern Devon Health and Care NHS Trust (since 1 April 2012) where he was the acting Chair. Prior to that he had served on the Primary Care Trust – details of his appointment history are attached in the Annex. As you see, he was well known to the NHS with a strong performance history. The practice at the time for those already appointed and known to NHS Improvement was to rely on references for previous roles and appraisals in that role. The information considered by the Appointments Committee of the NHS Trust Development Authority when making the appointment was:

- Application for the post, including CV, application letter, monitoring form
- Panel interview
- Two written references from a previous post
- Appraisals provided from previous non-executive roles including his self-assessment and appraisal documentation as Acting Chair of Torbay & Southern Devon Health and Care NHS Trust for the period 2013-14 and collated results of 360 feedback from the Trust's Executive Team and the non-executive directors.

In February 2015 after the fit and proper person regulations came into force, NHS Improvement wrote to all existing Chairs and non-executive directors to notify them about a number of changes that had been made to the terms of appointment to reflect the new requirements and to update the arrangements for suspending and terminating appointments to ensure that NHS Improvement was able to take appropriate action if an individual was found to be "unfit" to hold office. All existing appointees were also asked to provide a self-declaration which confirmed that they had read and understood the revised terms of appointment and that they meet the requirements of the fit and proper person regulations. This confirmation was received from Jon Andrewes.

It may assist you to know that NHS Improvement carried out the checks outlined below, all of which it found to be satisfactory, prior to deciding to invite Mr Andrewes to serve as Chair of Royal Cornwall Hospitals Trust:

- Review of application, including review of CV, application letter, monitoring form and 360 feedback relating to previous position
- Panel interview
- Search of insolvency and bankruptcy register
- Search of disqualified directors register
- Review of two written references provided for the post
- Review of two written references from a previous post
- Review of Google and news search
- Review of appraisals provided from previous non-executive roles
- Written confirmation from Mr Andrewes that he is a "fit and proper person"

NHS Improvement did not carry out a check of the qualifications Mr Andrewes claimed to hold in his application for the role at Royal Cornwall NHS Hospitals Trust. The current policy approach is not to routinely request proof of qualifications unless a particular qualification is listed in the person specification (for example, if the post holder required a finance qualification, proof of relevant qualification(s) would be sought). In any case, where this check is deemed relevant, we would usually ask the Trust to which the appointment is to be made to carry it out. NHS Improvement is currently considering its approach to this issue.

NHS Improvement did not carry out a Disclosure and Barring Scheme (DBS) check. This check and a number of other checks are left to the NHS trust to which the appointment is being made to carry out, where appropriate to the role. NHS Improvement's appointment is subject to satisfactory completion of the relevant checks.

Question 5: Please disclose all correspondence between NHS Improvement and the Department of Health about Jon Andrewes' falsification of his CV and his inappropriate appointments to NHS board positions

NHS Improvement has decided to withhold this information under sections 31(1)(a), (b) and (c) and 40(2) of the FOI Act, as explained below.

Section 31 – law enforcement

Section 31(1)(a), (b) and (c) of the FOI Act provides information is exempt from disclosure if its disclosure would, or would be likely to, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders or the administration of justice.

Your request covers correspondence between NHS Improvement and DHAFU in relation to the fraud committed by Jon Andrewes and related matters. Making available the withheld information would be likely to prejudice the DHAFU's current or future investigations of fraud within the NHS by alerting potential fraudsters to the unit's activities, its methods and the information it holds. This is likely to prejudice the prosecution of offenders and the administration of justice. It is imperative that the DHAFU's investigations remain confidential and that regulatory bodies such as NHS Improvement

can freely exchange views and information with them in relation to the detection of crime. Any disclosure that would deter open communication of this type could have a detrimental impact on the DHAFU's activities and the successful prosecution of fraud cases in the future.

Public interest test

Section 31 is a qualified exemption and therefore requires us to consider the public interest test in determining whether the exemption should be maintained. We have balanced the arguments in favour of maintaining the exemption with the factors of disclosing the information and consider that the public interest in preventing and detecting crime and apprehending and prosecuting relevant offenders outweighs the general public interest in transparency about the activities and operations of public sector bodies.

Section 40 – personal information

I consider that some of the information you have requested is exempt from disclosure under section 40(2) and 40(3)(a) of the FOI Act on the grounds that it contains personal data and that the first condition under section 40(3)(a) is satisfied, namely, that disclosure would amount to a breach of the first data protection principle (personal data should be processed fairly and lawfully). This is an absolute exemption and consideration of the public interest test is not required.

The information being withheld includes information about Mr Andrewes' appointments within the NHS, which Mr Andrewes would have a reasonable expectation would not be disclosed. In addition, it includes the contact details of members of staff of NHS Improvement who would have a reasonable expectation that they would not be disclosed.

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,

Janice Scanlan
Head of Non-executive Development

Annex

Organisation	Post Type	Last Name	First Names	Start Date	End Date	Term
Torbay Care Trust	Non-executive Director	Andrewes	Jon	19-Sep-07	18-Sep-11	1
Torbay Care Trust	Non-executive Director	Andrewes	Jon	19-Sep-11	31-Mar-13	2
Torbay & Southern Devon Health and Care NHS Trust	Non-executive Director	Andrewes	Jon	01-Apr-12	31-Mar-13	1
Torbay & Southern Devon Health and Care NHS Trust	Non-executive Director	Andrewes	Jon	01-Apr-13	31-Mar-15	2
Devon Partnership NHS Trust	Non-executive Director	Andrewes	Jon	01-May-14	30-Apr-16	1
Torbay & Southern Devon Health and Care NHS Trust	Non-executive Director	Andrewes	Jon	01-Apr-15	31-Mar-17	3
Royal Cornwall Hospitals NHS Trust	Chair	Andrewes	Jon	01-Jul-15	30-Jun-17	1

Devon Partnership NHS Trust

Non-executive
Director

Andrewes Jon

01-May-
16

30-Apr-
17

2