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From: FOITeamCRMMailbox (NHS England & NHS Improvement - X24) <REDACTED>

To: REDACTED Sent: Fri, 10 Jun 2022 15:41

Subject: Freedom of Information Request (Our Ref: FOI- 2205-1768541)  
NHSE:0426591

10 June 2022

REDACTED

**By email**

REDACTED

Dear REDACTED,

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

We refer to your email of DD Month 2022 in which you requested information under the FOI Act from NHS Improvement.

The Healthcare Safety Investigation Branch (HSIB) is the safety investigation branch of the National Health Service Trust Development Authority, established under the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) Directions 2016. HSIB has been operational since 01 April 2017.

HSIB was set up to discharge the Secretary of State duties in relation to the promotion of a comprehensive health service and securing continuous improvement in the quality of services. Its purpose is to conduct effective investigations, and by sharing what we learn, improve patient safety, raise standards, and support learning across the healthcare system in England.

In 2017 the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) (Additional Investigatory Functions in respect of Maternity Cases) Directions 2018 gave additional functions to HSIB in respect of maternity cases.

Monitor and the National Health Service Trust Development Authority have come together under the operational name NHS Improvement, combining the functions and responsibilities of the two statutory bodies in a single integrated organisation. For the purposes of this letter, NHS Improvement means the National Health Service Trust Development Authority.

**Your request**

You made the following request:

*“1. Please disclose how many letters of concern HSIB has issued to NHS trusts regarding maternity services between 1 April 2018 to 31 March 2022.*

*2. Please disclose how many NHS trusts have received HSIB letters of concern related to maternity care*

*3. Please disclose the range in the number of HSIB letters of concern received by NHS trusts - have some trusts received more than one letter, and if so, what is the greatest number of letters of concern received by an NHS trust to date?*

*4. Please disclose HSIB’s policy on sending letters of concern*

*5. Please disclose what process follows HSIB sending an NHS trust a letter of concern.*

*Who follows up on whether the trust acts on the recommendations?*

*Please disclose any relevant HSIB policy and protocols, including any inter-agency protocols such as with the Care Quality Commission, which govern how NHS trusts’ responses to HSIB letters of concern are overseen*

*6. Please advise what due diligence NHSI undertook to ensure that appointments to regional HSIB maternity investigation teams were not compromised by conflicts of interest.*

*7. Please advise of HSIB’s approach to eliminating conflicts of interest in individual maternity investigations, by regional teams. Please disclose any relevant written guidance, policy or protocol.*

*8. How many complaints and concerns has HSIB received about actual, potential or perceived conflicts of interest in maternity investigations by regional teams?”*

## **Decision**

NHS Improvement holds information in relation to the information you have requested.

In relation to question 1 and 2, Maternity services and maternity care are interchangeable; the numbers cannot be divided. The total number of letters of concerns sent to trusts between 1st April 2018 and 31st March 2022 is 152

In relation to question 3, there are some trusts who have not received any letters of concerns, whilst others have received more than one. The greatest number of letters sent to one trust is 15.

Please note birth rates at trusts in England vary due to size of maternity services and

location. The number of concern letters sent to a trust can't be looked at in isolation. The birth rate has to be taken into consideration.

In relation to question 4, please see attached. Escalation procedure. This is HSIB organisational policy.

Please note, we consider certain information to be exempt under section 40 of the FOI Act.

Information is exempt under section 40(2) where that information constitutes personal data (other than that of the requester) and one of the conditions set out in section 40(3) is satisfied. Under the FOI Act disclosure of this information would contravene data protection principles. Section 40(2) is an absolute exemption and therefore not subject to the public interest test when considering disclosure of information.

In this instance, the name and contact details of all staff members at or below Band 9 have been withheld, as have job titles in instances where the release of that information could be reasonably used to identify individuals who have a reasonable expectation of privacy.

In relation to question 5, the process is described within escalation procedure. This includes a flow chart and step by step guide for a 4-stage approach.

In relation to who follows up on whether the trust acts on the recommendations. Safety recommendations are made in maternity reports as part of the analysis, they are not part of the escalation procedure.

As part of the escalation procedure a safety concern can be made to a trust at any point in the investigation the response from the trust should include: -

1. Acknowledge the safety concern raised by HSIB.
  2. Articulate specific actions that the investigation team consider sufficient and reasonable to address the safety concern.
  3. Specify the time frame for completion of the above actions.
- HSIB does not have regulatory powers. We do not have any remit or enforcement powers to ensure trust are acting on recommendations or complete action plans.

In relation to your request to disclose any relevant HSIB policy and protocols, including any inter-agency protocols such as with the Care Quality Commission, which govern how NHS trusts' responses to HSIB letters of concern are overseen.

The escalation procedure is shared as part of the answer to question 4. We do not have any interagency protocols. As outlined in the step by step guide, we may refer to the commissioners or regulators as part of the escalation process.

In relation to question 6, NHS England and Improvement have not been involved, at any stage, in appointments or organising maternity teams. All maternity employees of HSIB are required to and have completed an annual declaration of interest form,

highlighting trusts they have previously worked in or other known associated conflicts of interest. Maternity investigators do not carry out investigations in trusts they have previously worked in. Individuals are required to flag any conflicts of interest that may present during an investigation to enable them to be removed from the case, these may not relate to the trust.

In relation to question 7, This is as described in answer 6. All maternity programme employees complete a declaration of interest form. Maternity investigators do not investigate in trusts they have previously worked in. Additionally, clinical advisors do not review or offer clinical advice in trusts they work in or have any associated conflicts of interest.

In relation to question 8, HSIB have received no complaints, that relate to actual, potential or perceived conflicts of interest relating to any part of the HSIB organisation.

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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, Skipton House, 80 London Road, London SE1 6LH or by email to [nhsi.foi@nhs.net](mailto:nhsi.foi@nhs.net).

### **Publication**

We reserve the right to publish this letter 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 any version of the letter published on our website to protect your personal information from general disclosure.

Yours sincerely,

## NHS Improvement

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