28 February

Dear [requester]

Ninewells correspondence etc

In your freedom of information request received on 31 January you asked for:

1. All notes from the meeting on the 1st of November between Ian Smith (Acting Chief Inspector), Robbie Pearson (Director of Scrutiny and Assurance), and Gerry Marr (Chief Executive of NHS Tayside).

2. All correspondence between the following:
   - Dr Frances Elliott and Gerry Marr
   - Dr Frances Elliott and Ian Smith
   - Ian Smith and Gerry Marr
   - Robbie Pearson and Gerry Marr
   - Robbie Pearson and Ian Smith

Relating to the September 2012 Healthcare Improvement Scotland inspection into the acute care of older people at Ninewells hospital.

In response

Please find the information requested in questions 1 and 2 accompanying this letter as PDF files 353a and 353b respectively.

It should be noted that the following postholders attended the meeting of 1 November:

- Ian Smith, Acting Chief Inspector HIS
- Robbie Pearson, Director of Scrutiny and Assurance
- Gerry Marr, Chief Executive of NHS Tayside

And

- Associate Nurse Director Medicine Directorate, NHS Tayside

NHS
The correspondence in 353b is set out in date and time order, with initials identifying for each exchange the individuals you list. Some information is redacted, and the exemptions and manner of redaction are detailed below.

A number of documents accompanied the correspondence. Each file is numbered and named in file 353b, matching the sequence of files accompanying this letter.

Personal information

I can confirm that Healthcare Improvement Scotland holds information as described by you. We do not believe the authority should provide you with the information you seek as it constitutes information which is exempt from disclosure under the terms of the Freedom of Information (Scotland) Act 2002. The grounds on which we claim exemption are:

Section 38 (1)(b) together with 38(2) of the Freedom of Information (Scotland) Act 2002.

Section 38 provides that we may refuse to provide information where considered as personal data as defined in the Data Protection Act 1998, and the release of the information would be in breach of the data protection principles, in particular:

• 1st Principle [Fair and Lawful processing];
• 6th Principle [Data Subject Rights]

as defined in the Data Protection Act 1998. This exemption is an absolute exemption under the Freedom of Information (Scotland) Act 2002.

These individuals are less senior members of staff with a reasonable expectation that their names and direct contact details (personal information) will not be released into the public domain. In other instances the exempted text relates to views on work that is linked to individuals, for example, the expression of thanks.

The redacted information is blacked out thus: [Redacted]

Prejudice to the conduct of public affairs

I can confirm that Healthcare Improvement Scotland holds information as described by you. We do not believe the authority should provide you with the information you seek as it constitutes information which is exempt from disclosure under the terms of the Freedom of Information (Scotland) Act 2002.

The grounds on which we claim exemption are Sections 30(b)(ii) and 30(c).
Section 30(b)(ii) provides that we may refuse to provide information where its disclosure under the Act would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation.

This exemption cannot be applied unless there is reasonable ground for anticipating that disclosure would cause substantial inhibition in future. The information is candid communication created to deliberate the inspection process. There is a real risk or likelihood that substantial inhibition to future candid exchange of view for the purposes of deliberation may follow disclosure.

Section 30(c) provides that we may refuse to provide information where its disclosure under the Act would otherwise prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs. The information is factual and relates to planned visits. There is a real risk or likelihood that disclosure of this information will compromise the effectiveness of inspections.

The Section 30 exemptions require that the public interest test is applied. We have concluded that the public interest in maintaining the exemptions outweighs that in disclosing the information, As stated, there is a real risk or likelihood that substantial inhibition to candid exchange of views, and prejudice to inspections will follow disclosure. The public interest lies in ongoing frank and effective communication at all levels and between all parts of an inspectorate, and in effective inspections.

Information to which 30(b)(ii) has been applied is indicated by ####### symbol in file 353b.

Information to which 30(c) has been applied is indicated by ==R===R==.

If you are not satisfied with this response, you have a right under the Freedom of Information (Scotland) Act 2002 to ask for an independent review within Healthcare Improvement Scotland.

Review requests must be made within 40 days of either (a) the 20th day after the submission of the request or (b) the date on which the applicant receives the information which is the subject of the review request, or you receive a notice of fees payable, of refusal, or that the information requested is not held by Healthcare Improvement Scotland. In addition to asking for a review, you should outline the nature of your complaint. Our obligation is to respond to this requirement for review promptly, and by no later than 20 working days. In order to ensure that a review request is handled independently within Healthcare Improvement Scotland, you should direct it to:

Dr Sara Twaddle
Head of Evidence and Technologies
Healthcare Improvement Scotland

NHS
If you are not satisfied with the outcome of such a review, you are entitled to refer the matter to the Scottish Information Commissioner (www.tspublicknowledge.info), telephone 01334 464 610, within six months of receiving the fee or review notice concerned, or of the expiry of the 20 working days allowed for issue of a review notice. Following the outcome of an appeal to the Scottish Information Commissioner, you have a right of appeal to the Court of Session.

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Please do not hesitate to contact me (direct line 0131 623 4605) if you require further information.

Yours sincerely

Health Information Scientist.