

## HEALTH POLICY AND PERFORMANCE BOARD

*At a meeting of the Health Policy and Performance Board held on Tuesday, 28 July 2015 in the Council Chamber, Runcorn Town Hall*

Present: Councillors J. Lowe (Chairman), S. Hill (Vice-Chairman), S. Baker, C. Gerrard, Dennett, M. Lloyd Jones, C. Plumpton Walsh and Sinnott and Mr T Baker

Apologies for Absence: Councillors Horabin, Osborne and Wallace

Absence declared on Council business: None

Officers present: L. Derbyshire, J. Farmer, A. Plant, S. Wallace-Bonner and L Wilson

Also in attendance: Councillors: J Gerrard, P. Lloyd-Jones, C. Loftus, A. Lowe, McDermott and N. Plumpton-Walsh. In accordance with Standing Order 33, Councillor Wright, Portfolio Holder Health and Wellbeing, Ms M Pickup and Mr S McGuire (Warrington and Halton Hospitals NHS Foundation Trust), 3 members of the press and 3 members of the public.

### ITEMS DEALT WITH UNDER DUTIES EXERCISABLE BY THE BOARD

*Action*

*Note: Councillor M Lloyd Jones declared a Disclosable Other Interest in the following item of business as her husband was a Governor of Warrington and Halton Hospitals NHS Foundation Trust.*

HEA10 WARRINGTON AND HALTON HOSPITALS NHS FOUNDATION TRUST (WHHFT) - CAR PARKING ARRANGEMENTS/PENALTY CHARGES

The Board considered a report of the Strategic Director, Communities, which provided Members with an opportunity to scrutinise the current car parking arrangements in place both at the Halton and Warrington Hospital sites and associated parking penalty charges. Ms Mel Pickup, the Chief Executive of Warrington & Halton Hospitals NHS Foundation Trust (WHHFT) and Mr S McGuire attended the meeting to discuss the current arrangements.

The Board was advised that in 2014, WHHFT had

entered into an agreement with Highview Parking Limited to undertake the control and enforcement of the car parks at Warrington and Halton Hospitals. As part of the car parking arrangements, any driver that currently overstays in the car parks would be issued with a £75 penalty charge, reduced to £40 if paid within 14 days.

It was reported that since the introduction of these new arrangements, a number of issues/concerns had been raised by patients and their families with Elected Members, and in particular Councillor Thompson in his capacity as Ward Councillor. A copy of the letter Councillor Thompson had sent to the Chief Executive of WHHFT on 20 June 2015 outlining the areas of concern and requesting that the Trust urgently review the parking arrangements was set out in Appendix 1 to the report. Councillor Thompson, had also sent additional correspondence outlining information from patients and visitors in relation to their experiences of the car parking arrangements, along with two Freedom of Information requests in respect of the management and control of the Hospital car parks. Councillor Thompson attended the meeting in his capacity as Ward Councillor and addressed the Board on the issues in respect of the car parking system.

The following questions had been submitted to the Trust prior to the meeting:-

- The Tender Process – It was reported that a large number of charges had been issued due to motorists keying in registration numbers incorrectly. Parking systems existed to minimise these problems. A Freedom of Information (FOI) request on Bristol Eye Hospital revealed that no parking charges whatsoever had been issued in a three month period at their car park.

Question - Did any of the tender responses for the contract propose this or a similar type of technology? If so, why was it not chosen?

Question - Is it possible to switch over to this type of technology now? If not, why not?

- Government guidelines explicitly warned against awarding contracts let on any basis that incentivised additional charges.

Question - There are 18 NHS patient, visitor and staff car parking principles. Has the Trust audited

against these and if so what are the results?

Question - Did the Trust consult with other hospitals who had previously awarded contracts on the basis of incentive charges, especially ones which have had to sack the parking contractor because of the huge number of complaints and problems (e.g. ParkingEye at Northumbria NHS and Yeovil)? If not, why not?

Question - If the Government bans such models completely in NHS car parks, how long are the Trust stuck with the contract?

Question - Is the Trust aware of the Somerfield vs ParkingEye case? Has the Trust assessed the cost of early termination of the contract? According to FOI it would be the annual rate of £1.27m for the length of the contract. Contract law does not provide relief for a 'bad bargain' or incompetent negotiation in company to company contracts.

- Patient Confidentiality – Personal data was confidential and if a patient parked on hospital property and was timed and photographed by the Trust's agent, this was not personally identifiable information which fell under their duty of care and required explicit permission for its release.

Question - Was this duty of care taken into consideration?

Question - Was the Trust's Caldicott Guidance consulted on this and what were the comments and when were they made?

Question - Since the system involved people (registered keepers) who may not have been present at the parking event, what procedures have been put in place to protect personal information (date and time of patient visit) to a third party? Was this information sent to a company such as a car lease organisation such as Mobility. This appears to be another breach of the ICO Regulations.

Question - Was the Trust's Caldicott Guardian consulted on this? What were the comments and when were they made?

Question - Has the Trust consulted the Information Commissioners Office about the breach of patient confidentiality and the breach of other's confidentiality i.e. those on the highway?

- Equality Act – An article from the Trusts website was highlighted.

Question - What provision has been made within the current system for the disabled (not just Blue Badge (BB) holders). Was this covered either in the tender or current operational procedures?

Question - How many BB holders / disabled people have been charged for overnight staying when they ought to have been allowed more time?

Question - Where on the signage at the disabled bays does it tell disabled people they are legally allowed extra parking time for their money?

Question - Where on the signage does it tell people what to do, to get one cancelled by the NHS Trust (not appeals)?

Question - How is the management of disabled bays handled as an ANPR system cannot do this?

Question - If a future disability discrimination case is raised, who will pay for this? Will it be the Trust or the contractor?

Question - What impact assessment or review by their disability awareness team did the NHS Trust carry out under the Equality Act before allowing the scheme?

Question - If the third party sues patients and even staff, what will the NHS Trust do about it? There are numerous examples of this happening throughout the country.

- The British Parking Association and Signage at the Trust – In respect of the leaflet on WHHFT's website, giving advice and information on car parking on their sites; it was reported that the Trust says "we believe the signage on our sites is

fully compliant and has been authorised by British Parking Association (BPA) Standards". It was reported that BPA was not a regulator only a Trade Association. However, it was highlighted that they do have an audit team that checked signs for clarity of terms and visibility within a site.

Question - When did the audit take place and where are the results of the audit?

Question - Why was the failure to erect signs in the car park, previously detailed by Councillor Thompson not addressed?

Question - What timescale has the BPA put on the rectification of failures picked up by this audit?

- Refunds

Question - What are the Trusts plans to rectify the situation, apart from putting the onus on the wronged to prove it to be an organisation that has been incentivised to refuse/deny such failures?

Question - How many tickets have been issued to drivers using the areas where no signs were present?

Question - How many tickets have been issued to drivers who did not go on hospital land at all?

Question - What plans, if any, do the Trust have to refund the unlawfully enforced fines on the public highway?

Question - As the Trust has everyone's addresses either via the DVLA link or through any payment made, does the Trust intend to contact patients, visitors and staff who may have been caught by this failure?

Question - Who will bear the cost?

Mr McGuire reported that a full and detailed response on the questions raised above would be provided to Members of the Board in writing. The Board agreed to this course of action.

The Board was advised that the management of car parking across the sites had been problematic over the last

few years, with many people not paying the parking charges and as a result this had been contracted out through a procurement process. It was reported that a number of different contractors had applied and they had been evaluated against a set of criteria and a contractor, Highview Parking Limited had been chosen and the system had been implemented. However, it was reported that subsequent to the implementation and due to recent issues being brought to the Trust's attention, discussions had taken place with the contractors in respect of signage and communication and this was in the process of being rectified.

The Board raised the following comments / questions at the meeting:-

- The Board noted that the British Parking Association (BPA) and its Members had access to DVLA data in order to identify and issue parking notices when necessary. Highview were a member of the BPA. Appeals against such penalty notices, if unsuccessful against the parking company could then be made to POPLA (Parking On Private Land Appeals). It was also noted that POPLA's annual report had been published this week outlining the performance of all parking companies and it was noted that if POPLA decided a penalty notice was unfair the contractor would not be able to pursue the charge;
- Concern was raised at the stress and strain that had been put on patients visiting the hospital, particularly under emergency situations who had received penalty notices for £75 for over parking for a few minutes; for inputting an incorrect registration number and for not purchasing a ticket due to a lack of understanding of the new system. The Board also raised concern at the inadequate, contradicting and in some instances a lack of appropriate signage located at the sites and highlighted the confusion this had caused to patients attending the hospital. In response, it was reported that a survey had been undertaken by the BPA on the sites and although the official report findings were not available as yet, it had been verbally reported that they were all BPA compliant and some only required a minor adjustment. However, it was reported that there was a difference between compliance and helpfulness and as a result of feedback from

patients, the Trust, over the last few weeks, have increased and changed some of the signage to make them clearer and more informative. The Trust acknowledged and apologised for the signage, although compliant, had not been more helpful and that the old signs and machines had not been taken down in a timely fashion;

- It was reported that when the Trust had made the decision to implement the new system they had ensured there was a fair and equitable appeals process and as a result 25% of appeals had succeeded and charges had been cancelled. The Trust, it was reported, had recognised the confusion regarding registration numbers and that a visit to the hospital could be an emotional time and as far as possible, people had been given the benefit of the doubt and charges cancelled;
- It was noted that Halton was a deprived area and clarity was sought on why the penalty charges were so high at £75 in comparison to other NHS Trust charges. It was highlighted that guidelines state that the level of charge should be fair to the area and £75 was excessive for Halton. In addition, it was reported that the machines were difficult to use and clarity was sought on whether they could be replaced with an easier model. In response, it was reported that the new system had been put in place as a consequence of people not paying their parking charges and that the machines were widely used and an industry standard. Where people had inputted incorrect registration numbers, they would be given the benefit of the doubt and the penalty notice would be cancelled. It was highlighted that in hindsight it would have been interesting to have undertaken a full costing of a barrier system. However, this would have been more expensive; the Automatic Number Plate Recognition (ANPR) system was cheaper and the Trust had to undertake a financial balance between funding for patient care and other activities. It was also reported that parking revenue was reinvested into patient care;
- It was highlighted that parking systems should be as simple as possible for people to understand and they should not cause distress in what was already a stressful situation. In addition, if the system was simple it would avoid the necessity to

appeal against the penalty notice and the fact that 25% of the appeals had been successful proved that the system was not fit for purpose. In response, it was reported that the system had been implemented in September 2014 and appeared to be working satisfactorily. However, the issue had escalated when the company began to issue penalty notices as a period of time had elapsed. However, it was reported that the Trust were trying to respond positively to all feedback; some areas of concern were under investigation and improvements would continue to be made;

- It was noted that BPA were not a regulatory body, but a body who represented it's members one of which was Highview Parking Limited. It was also noted that a complaint had been made to BPA in respect of Highview Parking Limited not complying with numerous parts of BPA's Code of Practice;
- It was noted that the highest error rate across the North West was 6% and that 25 % was unacceptable; that research showed that older people tended to get more parking tickets than younger people and that people should not be receiving penalty notices for incorrect registration numbers as the guidance stated that they should be manually checked. The Board also noted and expressed concern that in a period of 89 days, March 2015-April 2015, 4200 penalty notices had been issued. Elected Members, MP's; the Citizens Advice Bureaux and various newspapers had been inundated with complaints about the penalty charges. Furthermore, it was highlighted that other NHS Trusts such as Clatterbridge and Bristol were successfully operating ANPR systems;
- Photographs of the sites were available at the meeting and in light of the scale of the issue; conflicting terms and conditions; non signage and the number of successful appeals, clarity was sought on whether people who had received a penalty notice would be refunded. In response, it was reported that the Trust recognised the genuine stress and anxiety that the new system had caused and that they were working through the system to try to alleviate some of the issues.

In addition, it was reported that BPA gave companies the privilege of access to DVLA data and if any member were in breach of their code they would take appropriate action. Furthermore, in respect of the refund, it was reported that it was not clear that there had been a breach of signage or the contract and the Trust could not, at this time, lawfully spend tax payers money on refunds without an identified breach;

- Clarity was sought on why the machines did not have the facility to give change and it was suggested that this was an additional stress to patients visiting the hospital as they incurred additional costs. In response, it was reported that this would be looked into. However, it was reported that previous machines did not have the facility to issue change and subject to financial implications, consideration would be given to upgrading the machines to recognise registration numbers and include bank card facilities;
- Concern was raised that it could take half an hour or more to find a parking space at the site and charges commenced on entry to the site. It was suggested that the system should be that you find a parking space and then parking charges commence. In response, it was reported that there was a grace period of 30 minutes for dropping patients off at the hospital, which did not incur a charge, which meant that if you paid £3 for 5 hours parking, effectively you would receive 5 ½ hours.

It was highlighted that a penalty notice could be issued to a patient who had experienced long delays to see a consultant and had been there for over 5 ½ hours. This, it was reported, would be additional stress and upset for the patient and a penalty notice would not be an appropriate course of action.

The congestion at the car park was discussed and it was reported that there may be long term plans to address the congestion, but it was not an option at the current time due to the financial cost. In respect of receiving a penalty notice due to hospital delays, it was reported that this would be viewed favourably at the appeal. In addition, it was reported that evidence suggested that such

delays were rare and as you paid on exit this would not be an issue;

- It was reported that 30 minutes was not a grace period and that Halton Trading Standards had confirmed that the grace period was 15 minutes (after the first 30 minutes which should be free). An individual's penalty notice was highlighted showing that they had only been 11 minutes over and had received numerous notices for payment, one stating that legal action was pending with a £115 fine. The wording of the letters was also inappropriate and the timescales for dealing with the appeals were conflicting and the process was also taking too long. Clarity was sought on whether the Trust had authorised the contractor to pursue debt recovery and to take individuals to court. In response, it was reported that these matters were not the responsibility of the Trust. It was the contractor's decision how they pursued penalty notices and it could be assumed that they would pursue penalty charges through the court process. In addition, it was reported that the procurement process for the contractor had been won on robust criteria and numerous parties had been consulted on the new car parking system that had been subsequently implemented;
- It was confirmed at the meeting that records showed that the camera, which was collecting data from the adopted highway but was situated on hospital land and required planning permission and an application had been invited. In addition, some of the signage also required an application and this had also been invited. It was also confirmed that a Highway status took precedence over land ownership;
- It was suggested that consideration should be given to car parking charges when allocating patient appointments. If a patient had more than one appointment during the day, it resulted in them having to wait on site for a considerable time to avoid paying two separate 5 hour car parking charges. If the appointments took account of the car parking charges i.e. shorter timescales, it would free up parking spaces and avoid the additional costs. In response, it was reported that an individual could aggregate two periods of time into one with the same ticket as it

would only take account of the actual parking time on the site;

- It was suggested that consideration should be given to enabling patients to transfer tickets to both sites as currently an individual could have an appointment at Halton and then be referred to Warrington which resulted in two car parking charges. It was reported that previously tickets were transferrable between the two sites. In response, it was reported that his matter would be looked into as there was a process to have the ticket cancelled at the hospital. However, an undertaking was given to making sure the process was clear; and
- The Healthwatch representative reported that he was a frequent visitor to both sites and due to the difficulties with car parking and penalty charges, he was now using public transport. In response, it was reported that the Trust acknowledged that the site was not suitable for purpose but due to the current financial restraints there were no alternative options available.

The Chairman thanked Ms Pickup and Mr McGuire for their attendance and it was agreed that they would provide a written response to the questions outlined above that had been sent prior to the meeting; that Members' comments above be given consideration and that they would attend the Health PPB meeting scheduled on 3 November 2015 to update the Board on the car parking situation at the hospital sites.

RESOLVED: That

- (1) the question and responses be noted;
- (2) Ms Mel Pickup and Mr S McGuire be thanked for their attendance; and
- (3) an update report on the car parking arrangements at Warrington and Halton Hospitals NHS Foundation Trust be presented to the meeting of the Board on 3 November 2015.

*Meeting ended at 8.00 p.m.*