

**HEALTH OVERVIEW AND SCRUTINY PANEL
3 DECEMBER 2009**

**UPDATE ON HEATHERWOOD & WEXHAM PARK HOSPITALS NHS
FOUNDATION TRUST
Assistant Chief Executive**

At the Panel's last meeting on 3 September 2009, Members considered the Heatherwood and Wexham Park Hospitals NHS Foundation Trust's (the Trust) financial situation. The Panel followed this up with a letter to Chief Executive, and indicated that they wished to return to the issue at the Panel's next meeting.

The following documents are attached:

1. A letter dated 15 October from the Chief Executive of NHS Berkshire East, regarding the financial and service situation of the Trust.
2. A letter dated 13 October from the Chief Executive of the Trust, Julie Burgess, to Cllr Leake advising of key developments at the Trust.
3. The Chief Executive's response of 14 October to the follow up letter from the previous Panel meeting.
4. The statutory intervention notice from Monitor and related correspondence.

The Chief Executive of the Trust will be attending the meeting to give Members a further update on the Trust's position, with reference to the Trust's response to the Panel's written questions, also the action being taken by the Trust on:

- a. The statutory intervention notice issued by MONITOR; and
- b. The Ratings of the Trust's performance by the Care Quality Commission. The CQC rating for H&WP's quality of service is 'fair' (previously 'good') and financial management is 'fair' (previously 'excellent').

Contact for further information

Richard Beaumont, Head of Overview and Scrutiny – 01344 352283
Richard.beaumont@bracknell-forest.gov.uk



Chairman:
Chief Executive:

Sally Kemp
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15th October 2009

Dear Stakeholder,

You may be aware of local and national media reports surrounding the financial situation at Heatherwood and Wexham Park Hospitals NHS Foundation Trust (HWPFT) and the resignation of their Chairman, Dr Tim Lincoln.

There are a host of reasons for this deficit, including reliance on agency staff to fill vacancies, project costs associated with IT projects that have overrun, and budgetary pressures that have affected the Trust. In particular, the adverse impact of Market Forces Factor on out of London trusts. This is a payment in addition to tariff that is based on activity and reflects the differences in costs of different providers across the country.

The Trust has confirmed that a number of redundancies will be made as part of their cost improvement programme. However, the PCT has received assurance that there will be no reduction of front line staff, as patient safety and care is of paramount importance and will not be compromised.

NHS Berkshire East is continuing to work with the Trust to make sure that the services we commission from them are delivered to the highest standard. HWPFT has already achieved Levels 1 and 2 in the NHS Litigation Authority risk management standards.

They received a 'fair' rating for quality in the Care Quality Commission (CQC) ratings for 2008/09 published today (Thursday 15th) and are working hard at improving quality and safety standards for the next CQC core standards declaration, which contain 44 indicators on safety and quality of services.

Next month there will be a new half-yearly review of core standards by the CQC with HWPFT submitting a full annual review to the CQC by 1 May 2010. There are some key improvements to be made to ensure that the Trust is fully compliant with the core standards; action plans are in place and the Trust has deployed significant effort into making those improvements.

NHS Berkshire East holds regular meetings with HWPFT to understand where improvements have taken place and where further improvements are needed. We look forward to continuing to build on these effective working relationships under a new interim Chairman, Chris Langley.

Yours sincerely

Lise Llewellyn
Chief Executive

Heatherwood and Wexham Park Hospitals

NHS Foundation Trust

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13th October 2009

Councillor Ian Leake
Chairman
Health Overview and Scrutiny Panel
Bracknell Forest Council
Easthampstead House
Town Square
Bracknell
RG12 1AQ

Dear Councillor Leake

I am writing to you to inform you of three developments at Heatherwood and Wexham Park Hospitals NHS FT.

Dr Tim Lincoln

Our chairman, Dr Tim Lincoln, has announced that he is standing down from his position. I would like to pay tribute to the leadership and commitment he has shown the Trust since he joined in January 2007.

Care Quality Commission Standards for Better Health

The Care Quality Commission (CQC) is publishing its annual Standards for Better Health on Thursday this week. As yet, we do not know what our rating is, but we do not expect it to be favourable.

I am keen to brief you personally on our rating and the improvements we have made and are continuing to make. I will know where we stand later today and I will send you a further embargoed briefing which I will be happy to amplify in person either by telephone or face-to-face.

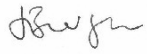
Monitor

We are expecting a letter from Monitor, the independent regulator for Foundation Trusts, later this week. It will contain concerns about our current financial position and our ability to meet the terms of our operating licence. It will also comment on our current turnaround plans which are designed to return us to a sound financial and operational position. I will share the contents of the letter with you and our response to it.

Contd.....

If you would like to arrange a booked telephone conversation or a meeting with me please telephone my PA, Julie Robinson on 01753 633576 or respond to this e-mail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Julie Burgess'.

Julie Burgess
Chief Executive

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14th October 2009

Councillor Ian W Leake

Chairman
Bracknell Forest Health Overview and Scrutiny Panel
Bracknell Forest Council
Easthampstead House
Town Square
Bracknell
Berkshire
RG12 1AQ

Dear Councillor Leake,

Re: Update on the Trust's financial position

Thank you for your questions of 23rd September. I have reproduced your questions below, together with a set of detailed responses from the Trust.

1. a) We were struck by the speed with which the Trust has been able to secure in-year savings of over £10 million. Why did it take a near-crisis to generate this effort by the Trust?

Answer: The Trust has delivered savings plans every year for the past several years. In 2007/08 we delivered savings of £4 million, and in 2008/09 of £3 million. This means that we already have previously been able to identify and deliver savings schemes each year, although not to the same scale as now. With hindsight the Trust has experienced a relatively prosperous period, and whilst this has allowed us to invest in our clinical services, we had also become rather too complacent about our pattern of expenditure.

b) For the avoidance of doubt, will you confirm that the savings of £10 million will be achieved within the current fiscal year?

Answer: Yes, the savings of £10 million will be achieved in the 2009/10 fiscal year.

2. Will the plan being pursued by the Trust provide a permanent solution to achieving financial stability? If so, by what year?

Answer: The plan will make the Trust's financial position much more stable. Our 'best case' plans will result in a modest surplus by 2011/12. However, we believe that we have more work to do before we can consider ourselves to have found a permanent solution.

3. a) Please provide further information on the actual and expected reduction in tariff rates. Please supply examples of the rates and indicate what, if any, is the scope for 'local' adjustment by the PCT.

Answer: We anticipate an overall 3.5% reduction in tariff rates in 2010/11 and a 4% reduction in 2011/12. This will be confirmed by the Department of Health later this year. The PCT does not have the scope to impose any local adjustments on the tariff. Approximately 20% of the Trust's income from the PCT is based upon 'local' prices for services not included in the national tariff. This is subject to local negotiation between the PCT and the Trust.

b) Has any such adjustment been made?

Answer: No, the PCT has never adjusted national tariff rates.

4. In relation to the Back Office/Support strategic options on page 15:

a) Should they/could they be outsourced?

Answer: We are considering outsourcing as an option, for example we recently reached the decision to outsource our payroll function and are now implementing this change.

b) If so (and subject to the EU Procurement Directives), would the proposal be to outsource within the UK or outside?

Answer: We don't have a firm view either way and will need to consider this on a case by case basis.

c) What functions would be outsourced?

Answer: We haven't reached firm decisions, but will evaluate the savings available from outsourcing human resources, finance transactional work, some elements of IT, Occupational Health and the Trust staff nursery at Wexham Park (the Heatherwood nursery is already outsourced).

d) How could patient confidentiality be maintained?

Answer: None of these functions deal directly with patients, but we would still impose contractual conditions relating to confidentiality including the provisions included in the Data Protection Act.

e) How easily would the transferred functions be accessed?

Answer: It is difficult to answer this question, but we would include contractual clauses to ensure access as needed.

5. In relation to sickness absence:

a) Since the start of the financial year, what has been the level of staff (permanent/ non agency) sickness?

Answer: The monthly staff sickness rate amongst or permanent staff has ranged from 2.5-3.5% per month during the first six months of this financial year.

b) How does your staff sickness level compare with other NHS hospitals?

Answer: Our staff sickness level is similar to that of other NHS hospitals

6. In relation to Swine Flu:

a) How many cases of swine flu have been recorded at each hospital and do these relate to 'actual' as 'reported' cases?

Answer: We have recorded 13 cases of swine flu at the hospital this year. However, in line with Department of Health guidance we no longer swab patients with suspected of swine flu to confirm a diagnosis. These are actual cases.

b) Is it possible to determine the cost to the Trust of treatment?

Answer: The Trust has spent £55,000 on additional personal protective equipment (masks etc.) for staff. We will recover income for inpatient stays in hospital via PCT's using the tariff system.

c) Is there additional financial support from the government for this pandemic?

Answer: No

d) Is it necessary to supply additive specialist beds?

Answer: Appropriate arrangements have been made for grouping flu patients together on wards (cohort nursing) and for additional critical care capacity should this be required.

7. As previously mentioned, rumours continue to abound about the possible closure of Heatherwood Hospital. We would welcome the Trust's comment on the appearance on entering the hospital from Kings Ride; there are a couple of small signs saying 'hospital' which are dwarfed by large 'apartments for sale' signs. We understand this has been brought to the Trust's attention, but it appears that the developers are in charge and this seems to give credibility to the rumours. Specifically, should too much land be sold, would not the scope for any future changes at the hospital be impaired?

Answer: We do not have any plans to close Heatherwood Hospital.

Our medium term plan for Heatherwood is to maintain it as a centre for planned work, as was discussed in our recent public consultation. If we chose to sell more land in the future we would need to ensure that this did not jeopardise any further changes that we might need to make at a later date.

The Trust sold a discrete parcel of land to the developers in a single transaction in 2006, and the remainder of the site remains under our ownership and management.

I note your comments about signage on the site.

8. We have read press reports referring to the probability of 157 redundancies at the Trust. If there is substance to these reports:

a). How long has the Trust suspected this?

Answer: The Trust has known that a reduction in head count was required since June 2009. We believe that we will need to reduce headcount by 153 posts during 2009/10, with the likelihood of more to follow in 2010/11. We are seeking to minimise redundancies and to reduce headcount via reducing agency usage and other means wherever possible for example by utilising the Trust's 10% annual staff turnover.

b). Why was the matter not mentioned on 3 September?

Answer: It would be difficult to save £10 million without some redundancies, and I think we assumed that it would be obvious that we might need to do this, although perhaps we should have been more explicit.

c). If the 'discovery' of the need to make these redundancies occurred after 3 September, why was the Health Panel not advised of that fact?

Answer: The redundancies are an important issue for the Trust and our staff, but I am unclear why they are of such interest to the OSC. We will manage the redundancies to make sure that they do not have an adverse impact on patient care and safety.

d). On what date was the HRI form signed and submitted?

Answer: The form was signed and submitted on 3rd September 2009

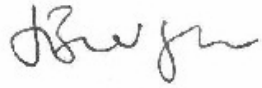
9. We have been advised that over the next 5 years the PCT is likely to cut its budget by 15-20%. What impact do you anticipate this having?

Answer: We have included an assumption of £75m reduction in PCT funding by 2014/15. This will have a significant impact on the Trust and we are working through this at the moment.

Please do not hesitate to contact me should you require further information or clarification on the above. I look forward to seeing you at the next Scrutiny Committee meeting on 3rd December 2009.

Kind regards

Yours sincerely

A handwritten signature in black ink, appearing to read 'Julie Burgess', written in a cursive style.

Julie Burgess
Chief Executive

National Health Service Act 2006 ("the Act")

NOTICE of exercise of intervention powers under section 52 of the Act

**To: The Board of Directors and The Board of Governors
Heatherwood and Wexham Park Hospitals NHS Foundation Trust
Wexham Park Hospital
Wexham Street
Slough
Berkshire
SL2 4HL**

1. On the basis of information made available to the Independent Regulator of NHS Foundation Trusts ("Monitor") by Heatherwood and Wexham Park Hospitals NHS Foundation Trust ("the Foundation Trust") and having taken into account representations made to Monitor by the Foundation Trust, Monitor is satisfied:

(1) that the Foundation Trust has contravened, and is failing to comply with its terms of Authorisation, in particular, Condition 2, which requires the Foundation Trust to exercise its functions "*effectively, efficiently and economically*"; and

(2) that the contravention and failure are significant under section 52(1) of the Act.

2. This Notice constitutes formal notification of the immediate exercise by Monitor of its statutory powers under section 52(3) and (4) of the Act.
3. Without prejudice to any further action which Monitor may take under the Act, Monitor:
 - (i) appoints with immediate effect Chris Langley as Interim Chairman of the Foundation Trust for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may direct; and
 - (ii) requires the Foundation Trust to appoint as Interim Medical Director, such person as Monitor may direct, for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may further direct.



Dated 14 October 2009
William Moyes
Executive Chairman

Annex to NOTICE dated 14 October 2009 of exercise of intervention powers under section 52 of the Act to:

Heatherwood and Wexham Park Hospitals NHS Foundation Trust (the Foundation Trust)

Currently Monitor has no reason for concerns as to the quality of the clinical care provided by the Foundation Trust to its patients.

The formal intervention relates at this stage to matters of strategic and operational leadership capacity. The Foundation Trust currently has a financial risk rating of 1, and forecasts that this rating will remain throughout the financial year 2009/10. The aim of this formal intervention is to assist the Foundation Trust in acquiring the leadership skills it will need in order to complete and then successfully deliver its recovery plan.

It is clear, in particular, that the Foundation Trust will need strong board and clinical leadership to design and then implement the level of organisational and resourcing change necessary to deliver against its plan.

Currently, the Foundation Trust has in place an acting Medical Director who will continue in the role until a longer term solution is identified and agreed at the earliest opportunity by Monitor working with the Foundation Trust. Under section 52 of the Act, Monitor may make interim appointments only.

Overall, intervention is a secure mechanism of ensuring that appropriate regulatory control is in place to help stabilise the Foundation Trust, assist in its successful recovery and to protect the services it provides for patients.

14 October 2009

Julie Burgess
Chief Executive Officer
Heatherwood and Wexham Park Hospitals NHS Foundation Trust
Wexham Park Hospital
Wexham
Slough
Berkshire
SL2 4HL

By e-mail

Dear Julie

Heatherwood and Wexham Park Hospitals NHS Foundation Trust (the Trust) National Health Service Act 2006 (the Act): exercise of section 52 intervention powers

I am writing to you following the special board meeting of Monitor's Board that took place yesterday.

In summary and following the decision of Dr. Tim Lincoln to stand down as Chair of the Trust, my Board decided to exercise the formal powers of intervention available to it under section 52 of the Act to:

- appoint an Interim Chair of the Trust, and
- direct the Trust to appoint an Interim Medical Director in the absence of a current substantive appointee to that executive position on the Trust's Board.

Background

Monitor's Board noted that financial and operational performance at the Trust declined rapidly during quarter 4 in 2008/09, with the governance rating falling to red and the financial risk rating (FRR) falling to 2. The FRR2 reflected in the main significant activity ahead of contracts unsupported by underlying data which both disguised operating inefficiency and ultimately was not paid for by your main commissioner. The Trust's financial forecasts identified likely delivery of

significant financial deficits in the current financial year and challenging cash pressures. The Trust currently has the lowest FRR of 1.

Formal escalation meetings were held on 13 May and 2 July 2009. In summary, these demonstrated that the Trust had failed to undertake measures that could have reasonably been expected within an acceptable timescale to:

- identify and address the significant decline in operational and financial performance in 2008/09;
- identify and address the challenges faced as a consequence of breaches of its contractual arrangements with its commissioners; and
- put in place the skills, structure and capacity to address the issues faced in that financial year, and in the development of stable recovery plans for the current and future years.

In consequence, Monitor's Board at its meeting on 29 July 2009 determined that the Trust was in significant breach of its Authorisation and by letter dated 30 July 2009 required the Trust to:

- deliver against the short term stabilisation plan presented to Monitor on 2 July 2009;
- design an effective plan to recover the Trust's position on a sustainable basis; and
- put in place the necessary skills and resources to deliver those plans.

The Trust committed to deliver a recovery plan as required by Monitor and to address the gaps in skills and resources by the end of September 2009.

On 8 October 2009, the Trust attended a meeting at Monitor's offices and presented its recovery plan, consisting of:

- actions to strengthen the governance process;
- actions to improve coding and data quality;
- a series of CIP programmes to be delivered in 2009/10;
- further un-validated productivity and income recovery actions for 2010/11; and
- an estates strategy to release some costs and cash from 2010/11 onwards.

The Trust accepted that, taken together, the above did not return the Trust to a sustainable position and that substantial deficits were forecast in 2009/10 and future years. The Trust did highlight further actions, including an initial analysis of potential productivity gains that it believed may be sufficient to return the Trust to a breakeven position on an ongoing basis, but these were not fully developed and the opportunity and risk had not been quantified.

The plan also described the ongoing need to make permanent appointments to a number of key executive posts. In particular, given the need to ensure recovery actions do not negatively impact the services provided by the Trust, the current lack of a substantive Medical Director (the current Medical Director being appointed on an acting basis only) was of concern. The acting Medical Director would continue in this role, however, until a longer term solution was identified.

In summary, based on the presentation and ensuing discussions, it was clear that the plan reflected a considerable level of activity undertaken by the Trust since March 2009 in an attempt to stabilise its short-term position. However it did not amount to a deliverable plan to return the Trust to a sustainable financial and operational position longer term, whilst at the same time ensuring that the safety of patients and the quality of care is protected. Furthermore, the presentation highlighted a number of executive positions on the Trust board which remained without a substantive appointment. In addition, on 12 October 2009 Monitor received written notice from Dr. Tim Lincoln of his decision to stand down as Chairman of the Trust.

Monitor's Board meeting on 13 October 2009

Monitor's Board met on 13 October 2009 at a specially convened meeting to consider the Trust's current position, including the leadership of the Trust in light of the resignation of the Chair, and possible use of Monitor's formal powers of intervention to facilitate recovery by the Trust within an acceptable timeframe.

Monitor's Board noted progress made by the Trust since July 2009, but also the outstanding areas of key concern, including the capacity of the Board to design and implement a credible and deliverable medium to long term action plan to recover stability at the Trust on a sustainable basis. The Board noted in particular:

- the Chair's resignation and lack of a substantive Medical Director left the Trust without crucial elements of both strategic and operational leadership to address the shortcomings of the existing recovery plan and develop a revised and sustainable plan for the future;
- the Trust being unlikely to be able to make credible succession arrangements within an acceptable timeframe;
- the Trust failing to meet the conditions set out in Monitor's aforesaid letter of 30 July 2009; and
- that, accordingly, the Trust continued to be in significant breach of its Authorisation due to its failure to exercise its functions effectively, efficiently and economically.

In this context, Monitor's Board made the decision to exercise its formal powers under section 52 of the Act to:

- (i) appoint with immediate effect Chris Langley as Interim Chairman of the Trust for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may direct; and
- (ii) require the Trust to appoint as Interim Medical Director, such person as Monitor may direct, for such period or periods, and on such terms with respect to remuneration and allowances, as Monitor may direct.

Monitor's section 52 notice is enclosed, together with its short annex. I shall be grateful if you will ensure that this documentation is immediately shared with your Board of Directors and Council of Governors.

The Trust should be aware that Monitor is obliged by law to make public the fact of this statutory intervention: the requisite notice under section 52 of the 2006 Act will be on Monitor's website today, together with this letter.

The governors will know that, by law, they have the power to appoint or remove the chair and that within the Trust's constitution, the process of appointment of the Trust's executive team is defined. These powers and those of Monitor to intervene at its discretion where there is a significant breach of the Trust's authorisation do not, however, conflict. Where justified by the evidence and the circumstances, Monitor will move very swiftly to use its regulatory powers to arrest failure, protect patient care and ensure the Trust returns to a stable and well governed position from which it may properly discharge its range of healthcare duties. Monitor may only use its formal powers in the circumstances outlined above and any appointments made in consequence are interim only. Once the Trust is no longer in significant breach of its authorisation, Monitor would expect the Trust's formal recruitment processes to supersede any interim arrangements at the appropriate time. Monitor will determine what interim term is appropriate for each of these roles in the context of the challenges the Trust faces and in our discretion.

Finally, I consider it important to state that currently Monitor has no reason for concerns as to the quality of the clinical care provided by the Trust to its patients. The formal intervention relates to matters of strategic and operational leadership capacity. The aim of this formal intervention is to assist the Trust in acquiring the Board and leadership skills it will need in order to successfully deliver a recovery plan.

Any questions should go to Edward Lavelle, Regulatory Operations Director
(direct line: 020 7340 2492).

Yours sincerely

A handwritten signature in black ink, appearing to read 'William Moyes', with a horizontal line drawn underneath the name.

William Moyes
Executive Chairman

CC: Trust Board of Director
Trust Council of Governors