

NHS Greater Glasgow and Clyde	Paper No. 21/41
Meeting:	NHS Board
Meeting Date:	17th August 2021
Title:	QEUH/RHC Update
Sponsoring Director/Manager	Chief Executive
Report Author:	Head of Corporate Governance

1. Purpose

The purpose of the attached paper is to:

- Update the Finance Planning and Performance Committee on the position regarding the Queen Elizabeth University Hospital and Royal Hospital for Children in respect of;
 - The Oversight Board and Case Note Review Report
 - The Public Inquiry.
 - The Legal Claim.
 - Ward 2a/2b.
 - The HSE Appeal.

2. Executive Summary

The paper can be summarised as follows:

The paper describes the significant activity which continues across all of the strands of work related to the QEUH/RHC.

3. Recommendations

There are no formal recommendations within the paper.

4. Response Required

This paper is presented for assurance.

5. Impact Assessment

The impact of this paper on NHSGGC's corporate aims, approach to equality and diversity and environmental impact are assessed as follows:

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- **Better Health** Positive
- **Better Care** Positive
- **Better Value** Neutral
- **Better Workplace** Positive
- **Equality & Diversity** Neutral
- **Environment** Neutral

6. Engagement & Communications

The issues addressed in this paper were subject to the following engagement and communications activity: The issues described within the paper are subject to wide engagement across the organisation with each aspect led by a Corporate Director.

7. Governance Route

This paper has been previously considered by the following groups as part of its development: The issues described have been considered by the Executive Oversight Group, Chaired by the Chief Executive, and onwards to the Corporate Management Team, with regular Board updates.

8. Date Prepared & Issued

Prepared 10.08.21 Issued: 10.08.21

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1. Introduction

This paper is presented to the Board to update members on the position regarding a number of issues related to the Queen Elizabeth University Hospital (QEUH) and the Royal Hospital for Children (RHC). It is provided to the Board for the purposes of information and assurance.

2. Background

Board members will be familiar with the issues in respect of the QEUH and the RHC subsequent to Level 4 Escalation on the Scottish Government's Performance Framework, the lodging of Legal action against Multiplex, Currie and Brown and Capita, the Scottish Hospitals Public Inquiry and the ongoing HSE Appeal. This paper provides an update.

3. Assessment

3.1. Oversight Board

3.1.1 The Board received an update at the June meeting in respect of the Oversight Board Report and the Case Note Review Report, both published on 22nd March 2021. Significant progress has been made against the comprehensive action plan which was developed to ensure all the recommendations, including those of the External Review led by Drs Montgomery and Fraser, were being put in place to address the issues described in the reports. The work of the delivery group (Gold Command), chaired by the Chief Executive, continues to oversee progress against the action plan.

3.1.2 The second meeting of the Advice, Assurance and Review Group (AARG),

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which replaced the Oversight Board structure, is scheduled for 11th August 2021.

3.2. Public Inquiry

3.2.1 The Scottish Hospitals Public Inquiry (the Inquiry) was launched in August 2020. On 19th January 2021 Lord Brodie announced timescales for 2021 and on the 1st February 2021 issued core participants with formal evidence requests.

3.2.2 The first formal hearing of the Inquiry took place Tuesday 22nd June 2021. This was a procedural hearing ahead of the first substantive hearings of the Inquiry which will commence on Monday 20th September 2021, initially set for three weeks, however will likely run on into the additional time set aside by the PI Team. The focus of this first set of hearings is to enable the Inquiry to understand the experiences of affected patients and their families and it is those patients and families who will form the core of those wishing to give evidence in person at the initial hearings.

3.2.3 The next set of hearings will focus Royal Hospital for Children and Young People in Edinburgh with hearings and are scheduled for May 2022.

3.2.4 Significant activity continues to respond to the first information request received on 1st February around the 3 priority areas noted below;

- A/ Adequacy of ventilation, water contamination and other matters adversely impacting on patient safety and care.
- B/ Governance and Project Management
- C/ Effects of the issues identified on patients and their families.

3.2.5 A number of meetings have been held with the dedicated team from the Central Legal Office and Inquiry Team Solicitors with documents now being transferred as requested in a coordinated manner. This is likely to continue for a number of months. In addition, and in preparation for the September hearing, meetings have also been scheduled with our Senior and Junior Counsels in the coming weeks.

3.2.6 The Programme Management Office (PMO) resources have been increased with a single Project Team being created to manage both the Legal Claim and the Inquiry in light of the significant cross over in terms of issues, management and information. The Executive Oversight Group, chaired by the Chief Executive and attended by key Directors, has increased the frequency of meetings to weekly to ensure effective and swift decision making takes place.

3.2.7 A Board Development Seminar has been scheduled for the 15th September to update the Board members ahead of the commencement of the first round of substantive hearings as described above.

3.3 Legal Claim

3.3.1 The legal summons to defenders Multiplex Construction Europe Limited, BPY Holdings LP, Currie and Brown UK Ltd. and Capita Property and Infrastructure Ltd. was lodged on 22 January 2020. Action was lodged with the Court for calling on

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Monday 25th January 2021. The case has been remitted to the “Commercial Court”. Hearings on preliminary points were heard on 26th February and 20th May 2021.

As previously highlighted to Board Members, there has been challenge led by the Multiplex and Capita in respect of;

- Whether it was a contractual requirement for both parties to adjudicate prior to raising the Court action – this is a feature of NEC 3 contracts;
- Whether the NHSGGC claim was within the five year time bar when lodged through court action in January 2020.

The legal debate in respect of the issues outlined above were heard on the 29th and 30th July 2021. Despite some negative media on the matter, the summary from our legal team remains positive in terms of success in the debate. It is likely that the outcome will not be known for 8-12 weeks. In the meantime work will continue in assessing the expert witness position in order to move forward in anticipation of a favourable outcome.

3.4 Ward 2A/2B

The engineering systems re-fit and refurbishment of wards 2A and 2B is nearing completion with the Main Contractor handover expected at the end of September with specialist commissioning completion into early October. A wider communications note will be issued nearer the time to patients, families and staff as well as other key stakeholders to ensure that the handover and transition happens seamlessly.

3.5 HSE

3.5.1 On 24th December 2019, the Health and Safety Executive (HSE) served on NHSGGC an Improvement Notice in relation to the ventilation system for Ward 4C. Legal advice was sought and we appealed the Improvement Notice on the grounds that there was no basis in fact for the Improvement Notice to have been served.

3.5.2 After an initial hearing relating to the Board’s appeal against the HSE Improvement Notice, it was agreed that the legal representatives of the HSE and NHSGGC would meet. Due to COVID-19 there was a temporary suspension of activity. An initial hearing was held on 3rd September 2020 with a further preliminary hearing on the 23rd November 2020. The Court has provided a timeline for the appeal to proceed, with a further hearing scheduled for around October 2021. Dialogue continues with the CLO and Counsel with no further update at this stage.

4. Conclusions

Significant activity continues across all the strands of work related to the QEUH which is likely to increase even further in the coming months. The resource requirements of the senior leadership team and supporting elements, such as the PMO, remain under constant review. The senior team are clear of the priority that is required to ensure we respond effectively to the many requirements.

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5. **Recommendations**

There are no specific recommendations.

6. **Implementation**

The position regarding the implementation of recommendations from the respective reports will be described in the accompanying presentation.

7. **Evaluation**

Not applicable at this stage.

8. **Appendices**

There are no appendices.