

NHS Greater Glasgow & Clyde	Paper No. 21/63
Meeting:	Board Meeting
Date of Meeting:	26 October 2021
Title:	QEUH / RHC Update
Sponsoring Director/Manager:	Tom Steele Director of Estates and Facilities
Report Author:	Tom Steele Director of Estates and Facilities

1. Purpose

The purpose of the attached paper is to:

Update the NHS GGC Board Meeting 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.
- The Rectification Programme
- Ward 2a/2b.
- The HSE Appeal.

2. Executive Summary

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 Positive

6. Engagement and Communication

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 and Issued

Date Prepared: 01/10/21

Date Issued: 20/10/21

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1. Introduction

This paper is presented to the NHS GGC Board Meeting 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 Further to publication of the Oversight Board Report and the Case Note Review Report, a comprehensive action plan 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, and has overseen progress against the action plan, with 95% of all actions now complete.

3.1.2 The significant progress made was acknowledged by the Advice, Assurance and Review Group (AARG), at the second meeting of this group held on the 19 August. Dialogue continues with the Scottish Government.

3.2. Public Inquiry

3.2.1 The Scottish Hospitals Public Inquiry (the Inquiry) was launched in August 2020.

3.2.2 The first substantive hearings of the Inquiry commenced on Monday 20 September 2021, running for 3 weeks until Thursday 7 October, with a 2 week break until recommencing on Monday 25 October for a further 2 weeks. The focus of this first set of hearings is to enable the Inquiry to understand the experiences of affected patients and their families. The Executive Oversight Group are identifying and reviewing themes across the evidence being given. At this stage in the process the Board is unable to respond in any way and we continue to co-operate fully with the Inquiry Team.

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 Meetings continue with the dedicated team from the Central Legal Office (CLO) and Inquiry Team Solicitors with documents now being transferred as requested in a coordinated manner.

3.2.5 Board members will have seen reference in the media announcements regarding a criminal investigation being established. The Board has not received any formal notification and our QC is seeking clarity on the overall position.

3.3 The 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 Monday 25 January 2021. The case has been remitted to the "Commercial Court". On 28 and 29 July Lord Tyre heard the legal debate on the matter of interrupted time bar. A written decision from Lord Tyre is awaited. If the result of the debate is unsuccessful then alternate means of advancing the action will be an appeal to the inner house. Senior Counsel remains confident about the prospects of success.

3.3.2 Within the original summons the loss and damage was reasonably estimated to be £72.8m. A further £18.2m was stated in an additional summons with regard to the chilled water.

3.3.3 Prior to lodging the action in January 2021, MacRoberts LLP provided NHS GGC with legal advice notes on the prospects of success in relation to each of the claims in the Court Action. These notes incorporated preliminary expert reports by independent technical experts and indicated that there were grounds to continue across all heads of claim. There is regular exchange of information, review and decisions required to meet the defined timescale to prepare for the legal debate. Alternate means of dispute resolution are being explored.

3.4 QEUH/RHC Rectification Programme

3.4.1 In advance of any outcome from the legal cases, a programme of remedial works to rectify technical issues that are the subject of the claim, will be undertaken. The cost of these works will initially be met by the Scottish Government with any recovery achieved transferred to Scottish Government Health Department.

3.4.2 To date the Board has incurred costs as a result of reactive maintenance and repairs and some specific rectification or risk mitigation works. The main areas of work there are 14 heads of claim in the legal action. Full rectification of the technical issues is complex, requiring careful planning, phasing and diligent qualitative review of proposals. A Principal Supply Chain Partner (PSCP) for all remedial works has been appointed along with independent Cost Advisors and Project Managers who will administer the contract on behalf of GGC. Procurement of Clerk of Works and Supervisor services have commenced. This team will deliver a programme of remedial actions sequenced and phased in response to risk or access constraints over forthcoming years. A decant ward may be needed to provide vacant access for works on a rolling programme

3.4.3 Collaborative dialogue is ongoing with Multiplex to develop and agree a Settlement Agreement incorporating a construction contract to replace the atrium wall linings. Works will comprise the replacement of wall linings on a number of stair and lift towers and to areas on the link bridge. Availability of materials and the necessary phasing to mitigate impact on service activity indicate that once works commence in early 2022 they will take around 12 months to complete.

3.4.4 We continue to meet regularly with statutory authorities and advisors including Fire and Rescue Service, Scottish Government and Glasgow City Council Building Standards to inform and assist with risk management and emerging legislative guidance.

3.5 RHC ward 2A/2B

3.5.1 Ward 2A is an in-patient haemato-oncology unit, also known as Schiehallion, and also houses the National Bone Marrow Transplant Unit and Teenage Cancer Trust. The day care service is in 2B. Significant remedial work to provide HEPA filtered environmental conditions suitable for use by immune-compromised patients including positive pressure single bedrooms and en-suite facilities is nearing completion. Two former patients have visited the new 8-12 year playroom included in the works as a result of their fundraising activities.

3.5.2 Commissioning of all systems is underway. Works were scheduled for completion on 6 October however there have been issues with the resistance testing of the new terminal in-room HEPA filters. The product manufacturer and the Board's Technical Advisors are engaged in product quality assurance. The impact of this is still being determined. NHS remobilisation activities have commenced, with weekly mobilisation meetings ongoing. As soon as rectified the ward will be ready for occupation.

3.6 HSE Update

3.6.1 On the 24 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.

3.6.2 Dates have been received by the CLO in respect of the Improvement Notice Appeal with a Preliminary Hearing now scheduled for the 7 March 2022 and an Evidential Hearing is now scheduled for the 21 March 2022 to 15 April 2022. A Case Management Conference will take place towards the end of January 2022.

3.6.3 In respect of the Notice of Contravention, the HSE have confirmed that they were satisfied that the improvements made have resulted in the ventilation system for the above areas being brought in the line with SHTM03-01 as far as is reasonably practicable. The HSE have updated their records accordingly.

3.6.4 The HSE confirmed that, other than the ongoing Appeal against the Improvement Notice, all other aspects detailed in the Notification of Contravention Letter have been addressed. These actions are now closed.

4. Conclusions

4.1 Significant activity continues across all the strands of work related to the QEUH/RHC which is likely to increase 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.

5. Recommendations

There are no specific recommendations.

6. Implementation

Not applicable at this stage.

7. Evaluation

Not applicable at this stage.

8. Appendices

There are no appendices.