

Edinburgh children's hospital - update

Purpose

To update on the delay in the construction of the new Edinburgh Children's Hospital.

Priority

Routine.

Background

On 27 July 2018, you were briefed that in order for the Edinburgh Children's Hospital to reach practical completion by October 2018, NHS Lothian, in conjunction with Scottish Government, had agreed a proposed £11.6 million Settlement Agreement which would formalise the compromise agreement and allow the hospital to be completed by the revised completion date. Since then, NHS Lothian have been working with Integrated Health Solutions Lothian (IHSL, the Special Purpose Vehicle) and Multiplex (the contractor) to agree the commercial and technical issues which need to be resolved.

Current Issues

When the business case for the Settlement Agreement (SA) was approved by Scottish Government, NHS Lothian were of the view that the SA was agreed in principle and there were only a small number of technical and commercial issues needing to be finalised before both parties could sign the agreement. Since then, further commercial and technical issues have arisen which means that the hospital will not be complete by 31 October.

The main problem is the drainage system where the proposed system delivered by the contractor, does not meet the specification requested by NHS Lothian. For example, NHS Lothian requested that all drainage pass through a single point, whereas the constructor designed a multiple point system which was at risk of not being able to cope with drainage flow during peak activity. IHSL has accepted that it does not deliver the required specification and that it will need to be rectified and while they have suggested a technical fix, NHS Lothian are not confident that it will work. It is not clear what the agreed technical fix is or how long it will take to deliver (once it has been identified), but it is likely to be several weeks beyond the end of October.

Additionally, IHSL have indicated that they are required to make a payment of £5.8 million on 28 September 2018 to their funders, but do not currently have the necessary cash available. While NHS Lothian could assist, they are reluctant to commit any further funds at this point. IHSL's immediate priority is to make this payment in time and they are exploring options including IHSL's investors injecting additional debt into the project or making a claim against Multiplex for breach of contract. The contract between IHSL and Multiplex allows damages to be applied of around £40k per day for each day the contract is late, but for reasons which are not clear, IHSL have not applied these liquidated damages since November 2017.

Why Has this Happened

In NHS Lothian's view, IHSL have failed to manage the contractor in terms of their delivery of the construction contract and have failed to apply their contractual rights against them, such that IHSL are now in significant financial distress and are short of cash. Also as it is a revenue funded project, NHS Lothian are more reliant on IHSL providing appropriate technical information and delivering the agreed outcomes against key programme dates, for example, the drainage design referenced above was only recently provided to NHS Lothian and when it was, they immediately realised the flaw in the proposal.

Immediate Implications

Given the financial pressures on IHSL and the inevitable questions over its solvency, NHS Lothian will critically evaluate the robustness of any of IHSL's proposals before any further public funds are committed. In the event of IHSL defaulting on their loan agreement, there are complex issues to resolve, which will require considerable legal and financial analysis before any way forward is agreed. Given these issues are commercially confidential, we do not expect at this point for the issue to become public.

Wider Implications

The contractor for this project is Multiplex which is the same contractor that built the Queen Elizabeth University Hospital in Glasgow, where you will be aware that there are ongoing issues with the water management system, external cladding and glazing. While the external cladding is a different system and is not a cause for concern, NHS Lothian are in regular contact with Health Facilities Scotland to ensure that any lessons learned on water management and glazing are applied to the Edinburgh Children's Hospital.

Summary

You are invited to note the additional risks around the project and be aware of the current issues which NHS Lothian are managing; we will update you as the position develops.

Alan Morrison
Health Finance
20 September 2018

Cabinet Secretary for Health and Sport