

An Roinn Sláinte
Department of Health
Secretary General



Ms Sarah Cremin
Committee Secretariat
Committee of Public Accounts

By email: PAC@oireachtas.ie

5th October 2023

Ref: S1409 PAC33

Dear Ms Cremin,

I refer to your correspondence of 31st July 2023, where the Committee sought the following information:

1. a copy of the outcome of the contractor's review of the impact of moving the grilles in each of the 11 theatres in the National Children's Hospital. When the Department became aware of the issue, the cost of the alterations required, whether the alterations will delay the project and why the matter was not acted on in May 2022 when it was first discovered. The Committee notes that a Member of this Committee, who is also a Member of the Joint Committee on Health, asked whether any issues had been identified with theatres in the hospital on 5 October 2022, when the Department and the NPHDB were before the Joint Committee on Health, and that no problems were outlined to the Deputy in the reply to his questions;
2. what reports, reviews or examinations have been undertaken on the issue concerning the theatres in the hospital, and can copies of same be provided to the Committee;
3. whether a completion programme has been provided that is not compliant and if so, in what way is it not compliant; and
4. what date was it decided to apply the 15% withholding sanction, what date was the contractor notified and what date was the sanction applied.

I am aware the National Paediatric Hospital Development Board (NPHDB) and Children's Health Ireland (CHI) have received similar requests from the Committee and have addressed the matters raised separately.

Department officials are in regular contact with the NPHDB, CHI, and the HSE on all aspects of the New Children's Hospital (NCH) project and receive regular updates, as well as through the revised governance systems introduced as a result of the recommendations of the 2019 PwC report. The matter of the review into the theatre grilles was not escalated to the Department

most likely because the review was ongoing, its implications had yet to be determined, the matter is not on the critical path for completion, and it was/is being addressed in a timely and appropriate manner, at the appropriate level.

The Department first became aware of the issue on 20th June 2023. Following the issue being brought to the attention of the Minister for Health on 23rd June 2023, the Minister met with the Chairpersons and Chief Officers of the NPHDB and CHI on 29th June to discuss the theatres and other matters.

Regarding points 1 and 2 which relate to the reports, reviews, and examinations undertaken in respect of the operating theatres, the NPHDB and CHI are best placed to respond to the Committee with the appropriate information, as the matter remains under their consideration. Both of their responses to the Committee detail the history of the issue. For ease of reference copies of these responses are attached as Appendices 1 and 2. Below an overview of the history of the issue, as advised by NPHDB and CHI, is also provided:

- The NPHDB commenced a due diligence process in association with STS, (advisor to CHI) and their Design Team in 2017, to review the design, coordination, and construction of the specialist ventilation systems within the hospital, including the operating theatres.
- As part of this due diligence process the potential issue with the proposed position of the ceiling grilles was flagged by STS in May 2022 and again in November 2022.
- The Design Team was actioned to respond to the STS report with its opinion on the issues raised as is responsible for the design of the theatre ventilation systems. This entailed specialist computer modelling to check against guidance stated in the Health Technical Memorandum published by the UK NHS and then later physical testing on site in 2023.
- On 29th May 2023, BAM with its specialist subcontractors were instructed to engage with the Design Team in a desktop review, to consider an option to move the four ventilation grilles within each of the eleven theatres and to fully understand the outcome of this change.
- The report compiled by STS is not the only option to address the issue. Other options are under consideration by NPHDB and CHI, namely those proposed by the Design Team, who are responsible for the design of the theatre ventilation systems.
- As noted in the NPHDB's correspondence, an option to replace the type of grille in its current position has been computer modelled by the Design Team and will be physically tested shortly.
- Engagement remains ongoing between CHI and the NPHDB regarding the issue and options remain under consideration.

Importantly, the ongoing reviews are not an impediment to the work being progressed and the main contractor, BAM, has been instructed to continue works in accordance with the current design. If it is determined that a change is required, an instruction will be given to the contractor

to ensure that the operating theatres are compliant. This issue is not on the critical path for completion, and it will not delay the opening of the hospital.

Regarding the request for a copy of the contractor's review of the impact of moving ventilation grilles, I am aware these reports have been provided by CHI, but again are attached for ease of reference as Appendices 3-5.

Regarding point 3 and 4, the NPHDB has advised that BAM submitted an updated programme of works on 18th July 2023, and a related progress update followed on 23rd August 2023. The programme is currently subject to review and scrutiny by the Employer's Representative (ER), to determine its compliance and validity. (The ER is the independent party charged with enforcing the contract in line with the provisions of the public works contract.) The programme outlines how BAM proposes to complete over 40,0000 separate activities at the hospital. Given this level of detail, the NPHDB advises that the ER review could take up to three months to complete.

As noted by the NPHDB, due to failure by BAM to issue an updated programme of works and four monthly programme reports, in June 2023 the NPHDB issued an Employer claim to withhold 15% of the payments due to BAM, as it is entitled to do under the contract. As BAM subsequently submitted a new programme and a monthly progress report, the NPHDB is contractually obligated not to withhold payments due, until the programme's compliance with the contract has been determined by the ER.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robert Watt', written over a horizontal line.

Robert Watt
Secretary General