Scottish Hospitals Inquiry
Witness Statement of Susan Goldsmith
27 February 2023

Introduction

1. My name is Susan Anne Goldsmith. I was previously employed by NHS Lothian as Director of Finance, but I am now retired.

2. I provided a written statement to the Scottish Hospitals Inquiry ("the Inquiry") for the purposes of the May 2022 Hearing relating to the Royal Hospital for Children and Young People ("RHCYP") and Department of Clinical Neurosciences ("DCN") in Edinburgh. That statement outlines my roles with NHS Lothian, qualifications, and employment history.

3. The Inquiry has asked me to provide another written statement, this time relating to the procurement stages which took place in the period 2012 to 2015 of the RHCYP/DCN Project (the "Project"). This statement seeks to provide that information to the best of my recollection. It has been provided in response to specific questions I was asked at interviews by the Scottish Hospitals Inquiry on 22 November and 12 December 2022.

Role as Senior Responsible Officer

4. From July 2012 to February 2015 I was Senior Responsible Officer ("SRO") for the Project. I set out my role as SRO at paragraph 3 of my first witness statement and in oral evidence at the SHI Hearing on 17 May 2022. Brian Currie was the Project Director. As a direct report to me I would have routine monthly one-to-ones with Brian. I also established a weekly meeting with Brian Currie, Iain Graham as Director of Capital Planning and Projects, and other key individuals. The purpose of these meetings was to review progress, to consider risks, and to provide us all with a detailed oversight of some of the key issues the Project was facing. We used the meeting to consider if anything required to be escalated, either to the Executive team and/or the Finance and Resources

Committee. We also considered the content of routine updates to be provided to the Committee.

5. I chaired the Project Steering Board with Brian Currie and the Project team providing detailed support. The Project Steering Board included attendees from SFT and Scottish Government. Brian and I would agree the agenda and ensure that the appropriate papers/presentations were prepared for circulation to members. Updates would subsequently be prepared for the Finance and Resources Committee, including some which required a decision by the Committee.

Environmental Matrix

6. I can't recall if Brian raised the issue of the decision to use the Environmental Matrix (the "EM") at one of our one-to-one meetings. The EM would not be something that the Board was sighted on. The key issue for the Board at this time was the decision, through the Finance and Resources Committee, to utilise the reference design. It is important to note that at the point the Board entered into a contract with the preferred bidder, the preferred bidder took on responsibility for developing the design. This contractual responsibility would occur at the time of Financial Close, at which point the Board and the Preferred bidder (IHSL) entered into a contract (the Project Agreement). Through the signing of the Project Agreement, the Board passed responsibility for designing, constructing and maintaining the facility to Project Co (IHSL).

7. The decision to use the EM as a briefing tool would be taken by the Project team supported by advisors. This was a management decision and as such would not be something that the NHS Lothian Board (the "Board") would be asked to approve. As a Board of governance the Board has a responsibility to satisfy itself that the Project Board has oversight of appropriate systems of control, including identification and the management of risks in relation to the Project. The Board also has to be assured that the Project is being delivered in line with the agreed Board Strategy. The Board would rely on the scrutiny of the Finance and Resources Committee, which was the committee responsible for

overseeing the delivery of capital projects, including review of the risks (and their management) and the systems of control in relation to the Project.

8. The EM was one of multiple documents provided to bidders as part of the procurement process. As a Board of governance, Board members are not expected to have the relevant expertise/knowledge in relation to the delivery of complex capital projects. They rely on the expertise/knowledge of the Project team and supporting advisors. And as referred to above the scrutiny by the Finance and Resources Committee provided assurance to the Board on the delivery of the Project.

9. The Board could not possibly satisfy themselves that the EM was deemed to be of equal quality to room data sheets ("RDS") from the activity database ("ADB") because of the point I have made above. It would be management who would make a decision on that, with input from technical advisors.

10. I am aware that there was not a requirement for NHS Lothian to provide an EM as part of the procurement process. It was only because we were developing the design solution for the Children's hospital when it was to be funded from public sector capital in 2010 that an EM was available. When we produced all the documentation for bidders, the EM was provided for information. It was disclosed data. I do not have the technical knowledge to comment on whether the use of an EM could have led to misunderstanding.

11. My understanding is that the Project team (on behalf of the Board) was aiming to make the best use of the significant time and investment in design that had already been undertaken before the capital funding was withdrawn. The Board had invested £2 million of public money in developing a design supported by an EM for the capital project. All the deliberations were about how we ensured that the work either completed or in progress to date was not lost, in particular the clinical time required to input to the design, and to ensure £2 million of public money, taxpayers' money, was not wasted.

12. We understood that the 2 procurement routes (NPD v Capital) were different and that the Board's contractual responsibility was different for both. The Board's view was that we could not waste that public money. Therefore, we tried to utilise what we could from the crossover between the capital-funded project and the NPD. It would be difficult for me to say, "The inclusion of the EM was misleading," or, "It was the wrong thing to do," because the intention was the right intention.

13. There was an error in the EM but this was not known by NHSL until after the build. Once this was identified the Board undertook a detailed audit, the Grant Thornton audit, and accepted that there was an error in EM. The conclusion of the Grant Thornton was that every party involved in the development of this Project missed the error in the EM.

The Reference Design

14. The reference design was developed from the original design development in progress for the capital funded project. After the change in funding to NPD, the design had to be developed further to include the DCN element of the Project (which had also commenced as a separate capital funded project). The reference design team were managed by our Technical Advisors, Motts, who sub-contracted the project management of the reference design to Davis Langdon. The reference design team included the same design team that had been progressing the design under the capital phase, including the same mechanical and electrical ("M&E") engineers (Hulley & Kirkwood) and architects (Nightingale Associates and BMJ). This continuity in the design team was considered to be of huge benefit in terms of salvaging design work to date and making significant time and cost savings.

15. Oversight of the reference design was undertaken by Brian Currie as Project Director and the day to day running by the Project team, including Capital Project Managers, a Clinical Director and Motts as our Technical Advisors. The reference design development required the input of multiple user groups, largely clinical but also facilities staff, over a long period of time with the

reference design team. The purpose of engaging with these multiple user groups was for the designers to understand the clinical and operational requirements of running, in this case, a children's hospital and then this combined with a DCN department. From that user engagement, the reference design team translated the clinical and operational needs into a reference design. This was a very significant piece of work and I recall it taking circa a year or so to complete.

16. The decision to use a reference design instead of an exemplar design was discussed at the Project Steering Board on 11 May 2012. Brian Currie prepared a paper dated 9 May 2012 recommending the use of a Reference Design which was approved. The Paper was based on Mott MacDonald's advice in the report: RHSC + DCN – Approach to Reference Design".

ITPD

17. As SRO I had responsibility to oversee the ITPD process, but I was not involved in the detail of it. The purpose of providing the reference design (as well as the reasons set out above) was to give bidders an indication of operational functionality. This means setting out how the hospital needed to function including the relationship between wards and departments as advised by clinical and other user input as referenced above. The tenderers also had a responsibility to comply with national guidance, including SHTMs.

18. I have been asked if the fact that the draft EM was not mentioned in the draft contract in volume 2 of the ITPD as reviewable design data had any practical implications for the Project or the design. It should not have had any practical implications because the design had to be developed and the Project Agreement was yet to be finalised.

19. I have been asked whether NHS Lothian needed to provide bidders with an EM. Prospective tenderers did not need M&E engineering information because it was up to tenderers to develop the design of M&E building services. If we had started on an NPD project initially, then all of that would have been developed

by IHSL from the word go. However, it was because we had invested £2 million on the development of a design during the capital phase, which was supported by an EM, that we reached the decision to make it available. I cannot answer how useful the draft EM was expected to be to engineers. Only in the sense that we had done a lot of work, so why would we not make it available to the engineers? The provision of the draft EM did not mean that prospective tenderers or preferred bidders would not then need to refer to SHTMs or use the ADB. SHTMs should have been their starting point.

20. In retrospect, due to what I know now, I wish we had not included the EM because we didn't have to include it. However, I believe we provided it for the right reason. But it ought not to have contributed in any way because the Project Agreement with IHSL included a requirement to comply with SHTM 03-01 or to at least flag any inconsistency in standards. It was IHSL's responsibility to deliver on that. When the Inquiry look further on in the Project, it will be seen that NHSL wrote to IHSL in January 2019 for reassurance that that guidance had been complied with. IHSL confirmed it had been. IHSL entered into a contract accepting that they had responsibility to deliver against SHTM 03-01 and gave us reassurance that that was the case. It later transpired they had not complied with SHTM 03-01 in critical care.

Competitive Dialogue

21. I was not involved in the detail of the competitive dialogue workshops, assessment of tenders or scoring of bids. As SRO, I had to be a step removed from the process. I was part of the Board making the decision as to which bidder should be appointed so I had to be truly independent. Therefore, I did not assess submissions, evaluate or score the bids. My prime responsibility was to make sure that there was a process in place so that anything that needed to be escalated was escalated to the appropriate Executive Director or to the Finance and Resource Committee or to the Board if necessary.

22. As Project Director, Brian Currie was responsible for the procurement process with support from Mott MacDonald. The competitive dialogue phase, and the

subsequent evaluation of tenders, was managed through three workstreams: Design and Construction, Facilities Management and Strategic Management. The different workstreams were populated by key individuals from the Project team and were supported by the appropriate advisors (Motts for technical, Macroberts LLP for legal and Ernst & Young for commercial). This process was agreed by the Project Steering Board. SFT completed a pre ITPD Key Stage Review which included a review of our evaluation process. That would have been signed off by the Project Steering Board.

Project Steering Board Meeting - 29 November 2013

23. I have been asked to look at the minutes of the Project Steering Board meeting 29 November 2013 (A32676816 – Project Steering Board Action Notes 29 November 2013) . I have been asked what points were outstanding from this meeting and why the Project Steering Board was content to proceed with close of competitive dialogue.

24. As noted in the minutes, there were key outstanding issues discussed. The first point is about the payment mechanism. The contract warning was in a contract termination threshold. That is in relation to the payment mechanism that would be a part of the Project Agreement. The point being made is that none of the bidders were that comfortable with what was proposed in the payment mechanism. They all advised that the funder would be unlikely to accept that element because of the risk of termination. The threshold for termination was possibly too low from a funder perspective. However, all the bidders had accepted that that was SFT's position on the payment mechanism. At this point we were noting that there might be a risk, when we got to funders' agreements, that the payment mechanism would not be acceptable and changes may be required. There wasn't anything else we could do because it was an SFT requirement.

25. The second point was about the third-party contamination but Iain Graham or Brian Currie would be better placed to discuss this. I don't know whether that relates to the petrol station or the hospital. I cannot recall. By way of

background, we had acquired the petrol station to give us better access and more land in support of the Project.

26. The third point was about tax requirements and again related to the position with the funding of the Project and was discussed within SFT. Our financial advisor was aware of the issue but the ownership of any aspects of the PA/payment mechanism primarily rested with SFT and Government. We had responsibility for the accounting implications within our Annual Accounts but not the tax implications.

27. The fourth point related to the petrol station again. It there was any decontamination issues outstanding, that would be our risk. When we issued the ITPD, that land would not have been in the original documentation. However, once we had acquired it, we changed what was going to made available to be used for the Project.

28. The Project Steering Board was content to proceed to recommend close of dialogue at this stage because these issues were all understood and had been agreed or had solutions. Peter Reekie of SFT commented that while the points discussed were outstanding, he saw no reason for them not to be completed in the next week to achieve close.

Pre Close of Dialogue Key Stage Review – December 2013

29. I have been asked to look at the Pre- Close of Dialogue key stage review December 2013 (A33337058 – Pre-Close of Dialogue Key Stage Review – 13 December 2013) . I cannot answer specifically what information was supplied by NHS Lothian to SFT for the purposes of the key stage review. What I can say is that the Board would not have concluded the dialogue without SFT agreeing that we had met all the criteria to do so.

30. SFT were fully engaged in the decision-making process. Donna Stevenson of SFT attended multiple meetings with the Project Team and Peter Reekie of SFT was on the Project Steering Board. SFT owned the NPD process and

oversaw every single stage of it. The Board were the procuring authority but we could not have secured the funding for the Project if SFT had not signed off at each stage. The Board certainly could not have reached a decision to close competitive dialogue without SFT being satisfied that we were ready.

31. I have been asked what is meant by the word "challenging" in this document (page 56). The Board's original programme was that there would be nine months from the appointment of preferred bidder to financial close. SFT wanted to shorten that to six months. I understand that there was a concern about uncertainty in the market for funders in relation to the Independence referendum. SFT were also managing a pipeline of Projects and the associated timing of the likely funding requirement for those Projects.

32. Brian Currie and Iain Graham were very concerned about shortening the period to six months because of the work involved in reaching financial close, and their initial assessment was that this work could not be satisfactorily concluded in 6 months. They highlighted these concerns to me as SRO and to SFT. However, my recollection is that this 6 month period became an SFT requirement.

Evaluation Criteria

33. The procurement evaluation was based on a weighting of price 60 percent, and quality 40 percent of the overall evaluation score. I did have concerns about this split. Normally, under a capital build, the Board would have considered giving a higher weighting to quality in support of the Board's responsibility to deliver patient care safely. The Project team, with my support as SRO, made representations to SFT in relation to their concerns. However, the Board also has a responsibility to deliver government policy and at that time government policy was the utilisation of NPD programme to deliver some key capital projects. Oversight of the delivery of this policy rested with SFT. SFT worked with colleagues in the Health finance in relation to the use of or access to NPD funding. This included SFT's requirement for the 60/40 price/quality evaluation. As a Project team we tried to mitigate this by utilising a pass/fail for certain criteria. We worked with our financial advisor to make sure that where there

were certain aspects of the evaluation that did not meet an appropriate benchmark, we would evaluate it as a fail. I can't remember the detail, but I do recall that there was a lot of discussion about how we mitigated what we considered was an imbalance in the weighting.

Assessment of Tenders

34. I have been asked what procedures were put in place by the Board to ensure that there was suitable expertise at the assessment stage, given that Hulley and Kirkwood had been released from the Project. Mott MacDonald, the Board's technical advisors, had been involved from the outset of the Project, even when it was capital funded. Motts were content with the reference design that was included as part of the ITPD package they pulled together for the Board. Motts then assisted during the competitive dialogue and assessment process and were the Board's Technical Advisors for the duration of the Project. The Board were reassured that Motts had the relevant expertise in the absence of Hulley & Kirkwood.

35. There was a formal process to appoint specialist advisors. Iain Graham led this process. This took account of the skills of the key individuals being proposed by all advisors. Iain would have also secured professional input to this appointment process from other members of the wider Project team. I am satisfied that there was a process in place to ensure that each of the advisors we ultimately appointed were the right advisors for the Board.

36. As noted, I was not involved in the assessment of tenders or evaluation of them. I understand that one of the tenderers did amend the EM in their final tender but I was not aware of that at the time. The Board would not have been told about the detail of the submissions, including any amendments to the EM by bidder C, Mosaic.

37. The Board received a Paper that Finance & Resources received setting out the high- level scoring and evaluation. They received the scores, but they did not see the detail of how those scores were arrived at. So they would have seen

how Mosaic scored comparatively to the other bidders, but not the underlying submissions. The three bidders were very close. There was little between them and it was IHSL who scored the highest overall.

Appointment of Preferred Bidder

38. I have been asked to refer to the Preferred Bidder Letter from 5 March 2014 (A36382455 – Preferred bidder letter from NHSL to IHSL – 5 March 2014) . This was on the same day as a Finance & Resources committee meeting which I attended (A33887882 – Minutes of the Lothian NHS Board, Finance and Performance Review Committee Meeting dated 13 February 2008).

39. The formal appointment was considered by Committee members following consideration of reports from all advisors providing assurance that the Board's requirements had been met. In particular, I note paragraph 61.10 in which Motts confirmed "from a technical perspective that the technical evaluation had been carried out in a manner consistent with the evaluation methodology. From their involvement in this process, the considered scores awarded for the technical evaluation criteria seemed to be correct and it appeared appropriate for the Board to conclude the evaluation process and appoint the bidder". It is stated at paragraph 61.20 by Motts that they were *"happy with the evaluation and satisfied that the preferred bidders was in full accordance with the requirements"*. Similar assurances were obtained from our commercial and legal advisors.

Project Steering Board – 22 August 2014 - Room Data Sheets

40. I have been asked when the decision was taken to depart from the requirements within ITPD requiring a bidder to provide a full set of room data sheets. I have been shown a minute of a special Project Steering Board dated 22 August 2014 in which it is recorded that NHS Lothian are comfortable that 100% of RDS will not be required for financial close, although the prioritisation of what was required was still to be agreed. The Board did not simply abandon having the room data sheets. Room data sheets were provided at Financial

Close for the key and generic rooms, which represented 52% of the hospital. The remainder were produced during the construction period and subject to the Reviewable Design Data (RDD) process, providing for a contractual mechanism in place in relation to the RDS. At preferred bidder stage it was difficult for the requirement for 100% RDS to be enforced. We re-profiled the requirements into a different period where there was an enforceable contractual right.

41. By way of background, our contract was with IHSL, but there was a considerable level of engagement with their supply chain, namely the building contractor, Multiplex. Multiplex would ultimately enter in to a building contract with IHSL to design and build the hospital. It was clear to the Project team that Multiplex were not making the design progress that we would have expected them to make. Although our dialogue should have been with IHSL and IHSL should have been having a discussion with Multiplex, IHSL stepped back and we had to engage directly with Multiplex, who were on the ground developing the design. Multiplex got to a point where they said that they had essentially spent as much money as they were going to and were not going to progress the design any further until they had a formal contract, with IHSL, which could only be in place at Financial Close.

42. I was aware of these issues because Brian Currie escalated his concerns about them to me. I escalated his concerns to George Walker, Non-Executive Director for NHS Lothian, and this resulted in the meeting of a "Special Steering Board" on 22 August 2014 and subsequent meetings of the "Commercial Sub-Group of the Steering Board" on 26 September, 31 October and 22 November 2014. These meetings were specifically set up to address issues leading to delays in reaching FC. The meetings included representation from the NHS Lothian Board, SFT, Scottish Government, Multiplex and Macquarie Capital, who were equity of IHSL.

43. We were seeing increasing evidence of a concern in the Multiplex senior team of the level of investment they had expended to date in getting to this stage without having a contract in place with IHSL. The meeting in August was not

the first time this issue in relation to RDS arose. I cannot remember exactly how a compromise was reached but given the passage of time we recognised that some kind of compromise would be required. We concluded that in order to reach Financial Close we would have to agree a pragmatic way forward with Multiplex and IHSL.

44. The context and the point I made in the last set of hearings was that this hospital was due to be originally completed in 2012/2013. Here we were in 2014 without a contract for the hospital to be built. The clinical services were operating out of the old Sick Kids hospital which was no longer fit for purpose. The same was true for DCN. Therefore, at some point over that summer we concluded that, in order to get to Financial Close, the Board would have to compromise. We only reached that conclusion with active engagement with SFT, Scottish Government and discussion at Finance & Resources Committee. It was an iterative process over that summer and beyond when we realised that progress was slower than we would have liked.

45. These were not easy meetings. They were difficult and tense, despite the initial relationship with both IHSL and Multiplex being very positive. The pressure to accept a compromise was really driven by the commercial position of Multiplex. They used the commercial leverage they had, knowing that the hospital required to be delivered and that we had limited options without compromising the programme even further.

46. I don't recall if approaching another bidder was ever considered. I don't think so. All the discussion was in the context of making the Project work. We were already concerned about the facilities at the children's services and DCN. The Board's prime responsibility is the delivery of safe patient care and delivery of the Project to meet that obligation was agreed as part of the Board's strategy some years previously.

Project Management Group Meeting – 27 August 2014

47. I have been asked to refer to the Project Management Group Meeting on 27 August 2014 (A34225367 – Project Management Group Meeting Minute – 27 August 2014) . I did not attend PMG meetings. It is stated, "Lianne Edwards advised that, during a review of the EM, a number of discrepancies had been uncovered, impacting on room data sheet production and requested input from NHS Lothian, IHSL to raise request for information." I have been asked if the Board were made aware of these issues. They would not be, as I have previously stated this would be one of a number of issues and part of the management of the Project. The EM did not feature at all in any discussions. It was a document to support the design development.

Email Chain Brian Currie to Susan Goldsmith - 23 September 2014

48. I have been asked to refer to an email chain 'Brian Currie to Susan Goldsmith and Iain Graham to B Currie and S Goldsmith re Progress to FC - Areas of Concern, 23 September 2014' (A35616638 - Email chain Brian Currie to Susan Goldsmith and Iain Graham to B Currie and S Goldsmith re Progress to FC - Areas of Concern, 23 September 2014) . I have been asked about the heading "Derogations, Operational Functionality and Room Data Sheets." These issues may have been discussed in private at the Finance and Resources Committee but I cannot recall. We did not have a formal paper updating on progress of the Project at every single meeting of the Finance and Resources Committee but we would brief Committee members. I would also brief George Walker as chair of Finance and Resources Committee if there were issues.

49. I was already aware that there were issues with the progress that Multiplex were making with the design, as were SFT and Scottish Government. Brian Currie first made me aware of it by way of email in August 2014, at which point I escalated it to George Walker, non-Executive Director, resulting in the special project steering board meetings in August, September, October and November 2014. Multiplex adopted a very commercial position that they were not prepared to spend any more money on design development. We put them under

significant pressure with those special Project Steering Board / commercial sub-group meetings. George Walker attended at least one of the meetings because of his commercial experience.

50. Issues would be discussed at Board level; they would also be discussed at the Finance and Resources Committee. This is not necessarily always evident through the minutes because these were clearly very commercial discussions and issues that would not have helped the Board's negotiating position if they were in the public domain at that time. Therefore, the minutes might capture that there was a discussion about the progress being made on the Project, but not provide the detail. But they would certainly be actively discussed with Finance & Resources Committee members.

51. I was the Executive Director lead for the Finance & Resources committee. I would, with George Walker as chair of Finance and Resources Committee, agree what needed to be escalated to the Board but, because of the commercial sensitivities around the Project, that would often mean that it was a presentation to the Board in private or a formal private meeting.

52. I would have decided with George Walker what needed to be discussed at the Board, but would also have discussions/phone calls with Mike Baxter and/or Peter Reekie about key issues/challenges. We were all working together to ensure the Project was delivered and successful. I would brief Mike Baxter or John Matheson who was Director of Finance at SG Health Department or Peter would brief them. Peter and Mike would be aware of issues because they sat on the Project Steering Board, and they would either brief finance in the Scottish Government or the Health Department. Therefore, just because items were not discussed at an NHS Board, does not mean they are not briefed. The Board were kept informed throughout about issues surrounding the preferred bidder.

53. We had multiple discussions about all the issues with Consort and the delivery of SA6 and SA7 with the Board. Without those legal and commercial agreements being completed there was no Project. In terms of the Board level

discussion on the issues with the preferred bidder, this was certainly discussed at the Finance and Resources Committee. This is the reason it was agreed that George Walker, as Chair of the Committee, would support discussions with Multiplex and IHSL The chairs of the committees would meet with the Board chair informally on a regular basis. George would no doubt, at that point, brief the Board chair about the issues that the Finance & Resources committee were discussing in relation to this Project, other issues as well of course.

54. I have been asked whether the Board took any confidence from Multiplex because of the QEUH hospital in Glasgow. IHSL were appointed because they scored the highest. However, there would have been a confidence that Multiplex could deliver the RHCYP + DCN as they had delivered, at the time, the Glasgow hospital. I wouldn't want to overplay that, but it certainly gave a confidence that the same team – they were literally finishing in Glasgow – would transfer to the Edinburgh Project and be led by the same individual from Multiplex. With the benefit of hindsight, if we had known about the difficulties Glasgow encountered with their building, then the conversation might have been completely different. However, at that time that project had delivered a huge hospital on time to budget and was deemed a success and everyone was very happy with that. So yes, I think the Board did take some comfort and confidence from Multiplex's experience and success.

Project Steering Board Commercial Subgroup – 31 October 2014

55. I have been asked to look at the minutes of the Steering Board Commercial Subgroup dated 21 October 2014 (A33044797 – Steering Board Sub-group – 31 October 2014) . I sent my apologies for this meeting so I was not in attendance. However, at this point, there was ongoing concern and tension about our collective ability to achieve financial close by Christmas. I would have had multiple discussions outside of these meetings and with Peter Reekie in particular.

56. The fact that SFT and Scottish Government attended the meetings was an indication that this was being escalated to the senior players. There was quite a

bit of frustration on the Board's side that we were being drawn into issues with Multiplex directly that really should have been the responsibility of IHSL and Multiplex to deliver. However, in the interests of delivering this Project we had to engage with Multiplex directly to solve the problems that had arisen. As referenced earlier in my statement, the prolonged timescale for the delivery of this Project was a major concern for the Board. All parties wished to achieve financial close.

57. I have been asked to comment on a detail of the minute in which Mr Ballantyne, of Multiplex, states (A33044797 – Steering Board Sub-group – 31 October 2014) that "there was a difference in opinion over the level of detail expected in Project Co's Proposals (PCPs), but the open-ended requirement that "the Board had to be satisfied" was difficult to achieve." As I understood it, there were two aspects to this problem. Principally, that Multiplex had been very slow on the overall design development. The reason for that was, as referred to above, they had taken a commercial decision that they were not going to invest any more money in design development until they had a formal contract so as to avoid abortive costs. They would have had a budget for the design development, but my understanding of it was that they had come to a point where they commercially said, "We're not going to spend any more money on this. We've done enough to demonstrate that we can build this hospital". Multiplex considered they'd done enough to satisfy our operational functionality requirements and did not need to do any more.

58. The engagement of senior players from all the parties, including SFT and Scottish Government gives an indication of the commitment there was to deliver this Project. We accepted that each party was carrying risk. It was just whether that risk was evenly distributed. I certainly felt that everyone was doing their very best to keep the Project moving on. We managed this risk for the Board by utilising the RDD process.

Risk Register - 18 November 2014

59. I have been asked to refer to the Risk Register dated 18 November 2014 (A33337268 – NHSL RHSC and DCN Risk Register – 18 November 2014) which highlights a risk of the programme being delayed in reaching financial close. The controls to minimise the risk refer to the "close management of progress, including at the most senior level by IHSL by Steering Board Commercial sub-group – next meeting on 21/11/2014." This supports what I've said about escalation of the issues we were encountering via the special steering sub-group, which was attended by senior players in SFT and SG.

60. At this point in November 2014, relations, at a principal level between NHS Lothian and IHSL were professional and respectful. At a Project team level there was more tension because everyone was working really hard to try and deliver the Project within a tight timescale. There was a frustration within the Project team that Multiplex were not providing the information that the Board required to reach financial close. It is fair to say that it wasn't the easiest of times, but everyone was engaged and trying to move the Project forward.

61. Getting to financial close was a significant milestone. The Board and Finance and Resources Committee were aware of the issues, but also recognised that this was a really complex Project. I would be signing a contract on behalf of the Board for a capital build of £154 million and an ongoing revenue cost over 25 years. Despite the concern of the Board to reach financial close, there was also recognition that achieving financial close was challenging. From my perspective, although a target completion date is set, completion would only take place once there was confidence that all parties were satisfied with the contract, including that risks had been adequately mitigated. This included the agreement of SFT.

62. There was a significant amount of reviewable design data, more than originally anticipated, which is also flagged in this risk register. These risks were deemed acceptable but the Board recognised that it meant there would be an increased

amount of work for our team, more than was originally anticipated, via the RDD process. Comfort was taken in the fact issues had been picked up and were able to be solved as part of the contract.

January 2015

63. I have been asked to look at the TUV SUD/Wallace Whittle Air Movement Report (A34225453 – Wallace Whittle – Air Movement Report for Single Bedrooms (draft) – 12 January 2015) I was not aware of this report until around 2016 when the issue in relation to air pressure was discussed at the Finance and Resource Committee.

64. I have been asked to look at an email chain in relation to air pressure between Ian Stewart and Janette Richards on 14 January 2015 (A35614504 – Email from David Stillie to Janette Richards – 13 to 14 January 2015) . I was not and would not expect to be aware of this particular issue unless it was escalated to project steering board.

65. I have been asked to look at the document entitled RFI Summary (A34813021 - IHSL RHSC+ DCN RFI Summary - 20/01/2015) . It is a Multiplex document. I was not aware of this RFI at the time and would not expect to be.

Pre Financial Close Key Stage Review 11 February 2015

66. I have been shown the Pre Financial Close KSR (A33336933 - Pre-Financial Close Key Stage Review - 11 February 2015) . Question 3 (page 82) seeks confirmation re the status of the technical documentation and asks whether the Procuring Authority, and its advisors, are satisfied that the further development / document production is achievable. This question is answered by SFT noting that the Board is content with the documentation subject to further development through RDD following Financial Close and that the construction proposals are of sufficient detail to provide sufficient certainty to the Board as to what is to be provided. So here you see the resolution – the level of detail is deemed sufficient to go to financial close and there is a contractual mechanism in place

to deal with further design development. This was of course after the issues had been escalated and discussed at these special Project Steering Board meetings where SFT were present so they were fully aware of the issues when they prepared this KSR.

67. This whole section 3 of the KSR is title "Project Requirements". Question 2 asks whether the Board is satisfied that the preferred bidders' solution satisfies its operational and functional requirements. The is a key aspect in that it is testing whether the hospital could be built so that it would function effectively as a children's hospital and a department of clinical neurosciences. The important aspect of that is things like the layout of the building and the relationship between different services. That is why the comments on that question refer to the fact that the detail of the design had been discussed with user groups to ensure clinical support and the Board confirms that it had received appropriate internal sign off. Obviously, this is SFT's document, but my understanding is that that was really the prime element of this part of the assessment, that the relationship between the departments and the facilities was effective for the Board because this was the element of design, operational functionality, that the Board retained risk for.

68. We were all funded by taxpayers – SFT, Scottish Government, the Board – and of course we've all got different roles and responsibilities but, from my perspective, we were all part of the same time. It is difficult because the KSR could be read as though the Board was entirely separate from SFT and the Scottish Government but, in practise, we worked together with them to deliver this Project.

Financial Close

69. One of the other aspects of financial close, other than finalising and signing project documents, is the terms secured for the financing of the Project. SFT owned that element of the Project. Andrew Bruce of SFT provided the relevant financial advice on whether the market conditions/price of finance represented best value/was affordable for the Project. We would have not been able to

reach financial close until SFT were satisfied that the cost of finance was affordable for the Project (and the overall NPD pipeline). Our financial advisor was responsible for providing the Board with independent professional advice on the financial terms available and was able to verify SFTs conclusion that the cost of funding was affordable and represented best value.

70. Ultimately, even if everything had been ready but there was a change in market conditions that impacted the cost of finance and hence affordability then I believe financial close would have been deferred. SFT owned the process so we could not have signed until they had secured the appropriate financing. By the time we collectively agreed that the contractual documentation was ready to go and we were all satisfied that our risks had been mitigated, it was then over to SFT who determined when we would sign from a financing perspective.

71. I believe that the facts stated in this witness statement are true. I understand that this statement may form part of the evidence before the Inquiry and be published on the Inquiry's website.