



SCOTTISH HOSPITALS INQUIRY

**Hearings Commencing
13 May 2025**

Day 11
Friday, 30 May 2025
Mr Robert O'Donovan
Ms Helen Bryne

CONTENTS

	Page
Opening Remarks	1
<u>O'DONOVAN, Mr Robert</u> (Sworn)	
Questioned by Mr CONNAL	1
<u>BYRNE, Ms Helen</u> (Affirmed)	
Questioned by Mr MACKINTOSH	52

9.03

THE CHAIR: Good morning to those here in Edinburgh in the hearing room, and good morning to Mr O'Donovan, who's joining us as our first witness of the day, online. Now, Mr O'Donovan, we have a clear picture of you. Can you hear me?

THE WITNESS: Yes I can, thank you.

THE CHAIR: Right, and we can hear you very clearly. As you appreciate you're about to be asked questions by Mr Connal, but, before then, I understand you're prepared to take the oath?

THE WITNESS: Yes, that's correct.

Mr ROBERT O'DONOVAN**Sworn**

THE CHAIR: Thank you very much, Mr O'Donovan. Now, Mr Connal?

Questioned by Mr CONNAL

Q Thank you, my Lord. Good morning, Mr O'Donovan.

A Good morning.

Q I'm going to ask you the first question I always ask witnesses.

You've produced a witness statement and, in fact, fairly recently updated – if I can call it that – your witness statement. So far as the updated version is concerned, are you content to adopt that witness statement as part of your evidence in this Inquiry?

A Yes, I am, thanks.

Q Thank you. Now, you were with Mercury Engineering on the project for what I'll simply call the new hospital----

A Yes.

Q -- to avoid getting into long-term, is that correct?

A That's correct.

Q You set out in your witness statement-- I'll use that as a guide to take us through this evidence----

A Okay.

Q -- if I may. So, if we could bring that up on the screen, it's at page 527, I think. There we are. Now, if I refer to page references, I'll probably refer to the page number, which is at the top of the page, because that helps our electronics. Can you follow that through okay?

A Yes.

Q Thank you. Can I just check, is there anyone else in the room with you at the moment as you speak to us?

A There's no one in this room, no.

Q Thank you. Now, on the first page of your witness statement, you set out a very brief professional background. Am I right in understanding that the way Mercury worked, the label that was put on somebody beneath project manager would be a package manager? That's the description that was used?

A Yeah, that was the description used. It depended on the scale of the projects. This was a very large project, and so we had multiple package managers – who, ordinarily, in their own right, could be project managers on smaller projects – looking after individual packages or multiple packages within.

Q Well, I think you appreciate, Mr O'Donovan, you're the only witness we have from Mercury from that time, so if I ask you questions that you don't know personally but have found out from other sources or whatever, if you could just indicate that to us so we understand where the information comes from, that would be very helpful.

A Okay.

Q Okay. Thank you. Now, your time at the hospital project was, I think, from 2010, is that correct?

A That's correct, from 2010. I arrived in Glasgow around June 2010, and I was there on the project, I would say, to the fourth quarter of 2015, around February 2015, so just after, practically, completion.

Q Right, thank you very much. Now, are Mercury specialists in ventilation and water systems? Is that one of the things they specialise in?

A Yeah, well, Mercury would be a very large mechanical and electrical contractor, and they would have done-- they've been around since 1970 and in the M&E sector, and yes, they would have worked on multiple hundreds of projects, I suppose, installing ventilation, water services, heating, all elements of mechanical and electrical services, and they would employ subcontractors in the area as well, to assist and to carry out that work for them.

Q Yes. If we go to 528, just to move us through this, you explain at the foot of that page that you were project managing the lab section of the project, with which this Inquiry is not primarily concerned, and then you tell us on 529 that you were the project manager. Was that the sort of senior Mercury man on site?

A Yeah, the senior project manager on site, I would report into the regional director, who was on site as well for some period, and underneath me then I would have package managers and project managers that we were looking after the various different services.

It was a very large project. We had a large number of people and subcontractors on site. I think, at the peak, we could have had over 700 people on site executing the mechanical and electrical works. So I would have had an electrical team and a mechanical team executing those works across the building.

Q Was that 700 Mercury people, or 700 between Mercury and subcontractors?

A Between Mercury and subcontractors. That would be all in, yeah. Circa, in that region.

Q Okay. Well, you've helpfully outlined that on page 529, so I won't go back through it. You then make a point in 4.7 of your witness statement, on the same page, about who designed the systems, and basically you say it wasn't Mercury?

A Yeah. When it came to the water and ventilation systems, we did not

carry out the design for those systems. Those systems were designed by ZBP at the time, which I think later was taken over by Wallace Whittle, I think in 2013 or '14 or something, in and around then.

Q Just so we can understand the process which you set out in 4.7, basically, you say that Mercury would be presented with the design, which would probably be in a format which included drawings, schematics and equipment data sheets.

A Yes.

Q At that point, did you give any thought to the design, or did you go and get what was needed to build?

A The next step for us there was to-- you know, we took the design and we had to make it fit within the server space. So our guys would have created a model, a bin model, and from that then we would produce working drawings in order to allow our subcontractors and trades to actually carry out the installation.

So I suppose we were verifying the design, that we could actually fit it into the space, make all the services fit down the corridors or above the ceiling voids in the ceiling space, and within the plant room, and coordinate the locations of

equipment that was specified. We wouldn't change the design; we were just making it fit within the space and making sure that we could get the services to where the design team intended them to go, but we didn't change the design.

Then we would-- The next step then would be to, by interpreting the design, we would (inaudible 09:12:03) design back to the design team and to Multiplex by providing technical submittals for all the equipment that they had specified so that they could see that we were buying the equipment and pipe working cables and whatever that matched their design. So they had that confidence to what we were installing, that we understood their design and they were installing to the design.

Q Well, I can understand that point so far as Multiplex. I'll just call them Multiplex because we know they have different names at different times. In 4.7, you say that:

“... once the equipment was sourced Mercury would submit the details to the design team through Multiplex who would review that information [and that's what you've just described to us] along with the

design team and NHS GGC, the Client.”

So were you involved in discussions with the client about the material you had produced?

A Not directly, but we understood that any submittals that we submitted to the Multiplex on the intranet system, it went back to the design team, but we also believe, I do believe, that the client would have had sight of that documentation as well, should they so wish to comment on it.

Q Was that largely a question of lists of equipment that----

A Yeah, everything that we-- Pretty much everything-- I, you know, I use the term generally speaking. Everything that we procured for the project – you know, whether it's pipework or ventilation fans, pumps, valves, air handling units – we would prepare our team and prepare a technical submittal, present that technical submittal back to Multiplex.

And then that would be distributed to the various design teams and the client, I believe, for review and approval to ensure that they were satisfied that we were providing-- and that we had correctly interpreted the requirement, and

they would sign that off, give us a status – A, B or C – on that basis. If it was a C status, we'd have to revise and resubmit, maybe present something differently.

Q Who would give you A, B or C?

A Well, it would come back through the same process. It would come back from Multiplex, but the design team would have stamped it A, B or C, and then Multiplex would do the same. They would generally match what the design team had provided. So I suppose the design team had the technical knowledge to approve it.

Q You said you didn't change what you were asked to do, although you produced the list later so that somebody could check it. If we go onto 530, what you deal with there is, I suppose, where you had a question about something you were being asked to do. Now, was that because it didn't fit into the space, or was it other types of things?

A Yeah, primarily if it didn't fit into the space or where the design was missing-- maybe the size of a piece of a pipework or a ductwork hadn't been carried through onto a particular drawing, our team may go back and ask for further details or for further clarifications.

Or, if enough information-- when we were procuring a piece of equipment, if the supplier or supply chain were not happy with the level of design provided or the detail, then we go back and clarify with the design team to ensure that that piece of equipment was correct.

Q Further down on page 530, you've outlined, in effect, the evidence you've just given us, and, in about the middle of that second paragraph, you talk about:

"The fast-track construction programme dictated that the Mercury Procurement process proceeded as soon as designs were received. "

Now, just explain that to us. What's this fast-track construction programme?

A Well, we had agreed a programme, right? So-- of work. So, as in most projects, once the IFC, or the issue for construction design, has been issued, it's incumbent on us then to push on with the procurement process to ensure that we can meet the programme requirements. So we would then, obviously, take the design presented, ask any queries or raise any RFIs if we didn't understand that design.

But, generally, then we would move onto procurement of the equipment and, going back to what I described earlier, to get that equipment signed off, the approval of that equipment, so that we could put that equipment into order and place the orders. Some of the lead times on strictly large equipment can be 10, 12, 14 weeks, maybe longer, so it's important to get these products ordered.

Also, the way we carry out our work or deliver these projects, we use a lot of-- process of offsite manufacturing. So we're manufacturing modules, corridor modules, plant room modules, (inaudible 09:17:53) offsite in a factory-type environment. So we would need to have that design done, the materials procured and in those locations so the manufacturing of those modules and skids could start and take place. So, when they were needed, they could be delivered to the site as required.

Q I think my question was simply this, Mr O'Donovan: in that sentence, you say:

"The fast-track construction programme dictated that the Mercury Procurement process proceeded as soon as designs were

received."

Was there something particular about this project which had a sort of fast-track label on it?

A No, not particularly. If I've misled you on that-- I'm not intimating that it was particularly fast-track. It was an agreed construction program. I think we had 36 months to deliver-- once we got on site, to deliver the programme.

I think there was time in the program, but the nature of all these projects is that you can't sit on your hands; you need to be moving immediately with the information you've got. That's the expectation, that we need to be moving and getting the project up and running, and meeting our delivery requirements.

Q You say further down that paragraph that it wasn't your job to look at design elements such as air change rates or output or capacity. That was something that was done before the material came to you, is that correct?

A That's correct. We took the design as presented, and we believed the design had been, at that point, signed off, agreed by all parties above us: Multiplex, the design team and the client.

Everybody at that point understood

what was being provided, what we were going to provide, and we took that design, interpreted it, created a model, as I described, and procured equipment to meet the design presented to us. Ultimately, we'd have commissioned those systems to match that design provided.

Q So, at this stage, are you-- Is it any part of your role to look at, for instance, national guidance on different types of ventilation for different user groups or anything of that kind?

A No, at that point, we believed that was done and that was agreed between the design team and the client and the client's representatives.

Q So, if we can move onto page 531, under the heading of "Ventilation," there is, as you've probably gathered by now, an issue in this Inquiry about the use of 2.5 air changes in patient bedrooms rather than 6. You were asked about that. Do you remember discussing it at the time, or is this something you've only learned later?

A I don't remember particularly discussing this at the time. I've looked at some of the correspondence that you provided in the last couple of days. It would seem clear from reading that

correspondence around the air changes that it was discussed between the design team and the client in length, and it would appear to me that everyone understood the approach being taken.

And, when I looked at the clarification log, again, that would indicate that that was the case, and that the design was agreed at that time. That's just my interpretation of it now, looking at it, I suppose, in the last number of days, but, at the time, I think my understanding at the time was that the strategy was agreed and that we would take the design as presented and proceed and install.

Q So you weren't involved in any of these discussions at the time?

A No.

Q Now, if we go onto 532, you were asked about whether you recall any significant changes in ventilation, and you remember, I think, in 5.5, the proposed introduction of a bone marrow transplant service into Ward-- what was then called Ward 4B. Is that correct?

A Yes, I do recall, during the project on Level 4, that we had a significant-- you know, some significant change to services in that area. And I believe, at that point, from memory, we had actually services installed and we

had to remove services and re-coordinate, really, to a new design presented and install it to the new design that was provided at the time.

Q So, again, just so we're clear as to your role, is this another instance where you simply receive instructions as to what you have to do, rather than get involved in the discussions?

A Yeah, we didn't-- we wouldn't get involved, overly involved in the discussions other than we would've been asked, you know-- I think, if memory serves me right, we'd have been probably instructed to stop with the work because the work had commenced to the previous iteration of the design.

And then, once the new design was approved and issued to us for construction, we would have re-coordinated those services and replaced-- removed, replaced the ductwork or service that needed changing in the area.

Again, I looked at some of the documentation that you provided over the last couple of days, and it seemed pretty clear that the instruction that was given out at the time that-- everyone understood, again, the design that was being provided and that we were to

instruct-- that we were to proceed and install to that design.

Q Let me see if you could help me with this question. Ward 4B had been designed in a particular way in its original form because it had haemato-oncology patients in it who had---

A Yeah.

Q -- particular requirements. Now, as you say in 5.5, haemato-oncology patients were to be moved to Ward 4C, which we think was a general ward. Do you remember getting any instructions about amending the environment in 4C?

A I don't particularly recall if we did or not, but I would say that any updated drawings that were provided to us, any design, we would have taken those instructions, made the changes necessary-- changes, and then installed to the latest design. And then the building would be signed off to that latest design, whatever that might be.

Q On 533, you're asked about Level 2, the Schiehallion unit. Everybody seems to remember the unusual name, which was the Schiehallion unit. Now, you don't know anything that happened after February 2015, but you do seem to remember some—being instructed to

make some changes on 2A, do you?

Do you remember when that was?

A I'm thinking it's probably 2013 or 2014. I think probably 2013, but there was some change to the ventilation design. And I set out there I think there was some Terminal HEPA filter units added, some cross-talk attenuators, and there were some revisions to air flow rates, which potentially change some ductwork.

Again, on a major construction project, it's not overly unusual that you would get change throughout the project, but, again, we would have received IFC, an updated revision of a drawing. We'd have taken that drawing, made the necessary changes to our coordination and revised the install and, you know, added in the additional equipment.

Q Yes, the Inquiry has heard lots about HEPA filters, so we've some general idea what a HEPA filter is. Can you just tell us about the next item that you mentioned, which has come out as cross-talk attenuators? Now, what's that?

A Just a sound attenuator between-- It's managing the sound of the-- through the ductwork crossing through a wall. As the ductwork passes

from one room into another room, there's an attenuator which manages the sound of that-- you know, of the air rushing through the duct. It reduces the sound, the noise. It's noise reducing.

Q So it's, in effect, a form of soundproofing, reduction of noise?

A Yeah, it's reducing the noise of the air where it's going through the ductwork crossing to the room so it's not-- for anybody personally in the room that they don't hear the noise of the duct-- of the air passing through the room duct.

Q Now, if I can just move briefly to another topic, you say at the foot of that page that you weren't involved in the commissioning of the system, and you had a subcontractor -- a name we've seen elsewhere, H&V -- who did the commissioning. But it was your, or it was Mercury's, responsibility to do the commissioning, is that right?

A Correct.

Q Yes. Would I be right in understanding that the commissioning would be done to the drawings that you had received? That's what you were checking against? Is that the way it works?

A Yes, you'd commission the system to the design and the design

values received on drawings or on the equipment data sheets. You can only commission to the design you receive because the equipment is only sized to deliver that design, that output. So you have to commission to that system, that design information.

Q At the foot of the page, you mention validation. Now, I take it, therefore, you say there's a difference between commissioning and validation. Is that something you're familiar with?

A From my memory, the validation was going to be done by an independent party, and that party was going to be employed by the-- that's my memory, by the client. And it was happening, I believe, either immediately post-PC or near that, but wouldn't it be part of our programme of work.

So we'd have commissioned the systems, all the systems, as per the design, presented that design, and that commissioning would have been witnessed, but a separate validation was going to be carried out by the client, an independent party working for the client.

Q That's what you were anticipating, certainly.

A Yeah.

Q Thank you. Well, let's move

on to another topic, then, on the next page of your witness statement. The issue of Horne taps has been much discussed at this Inquiry, so I'm just keen to get any assistance I can from you in understanding what happened.

Now, I think, in the first paragraph on that page, you say that you do remember going to a meeting, but you don't really remember what was being discussed. Have you had any more chance to think about what was happening there?

A Yeah, there was a meeting. I suppose the first thing, to set the scene, the Horne taps, as any other piece of equipment – and bear in mind there was lots of equipment installed in the building – would have been technically submitted and approved and samples given over to all parties to review and agree.

So, I suppose, in the first instance, once approved, we would have proceeded to procure and then subsequently install them. But, at a period through the project and the meetings referred to, I think it was in maybe 2013, the client, I believe, had sought some advice. I looked at-- I kind of-- getting some-- checking some of the documents that you sent through in the

last couple of days, and the client had some concerns about the Horne taps. He was taking advice on that.

I think we attended-- I do remember attending a meeting where he was outlining some of his concerns, and I do remember that they----

Q Can I just ask you to pause there, just for a second? What would Mercury's role be at the meetings you've just outlined? Why were you there, or somebody from Mercury?

A Well, at that point, we would have-- many of these taps would have been installed already on site, and I suppose, essentially, they might want to speak to the supplier, the manufacturer, which I believe they did afterwards. And that manufacturer would have been procuring the taps from Horne, and I do believe they may have spoken to the manufacturer about those taps to seek their position on it.

Q I mean, as you quite rightly say, there were no doubt thousands of different pieces of equipment being installed by you and other subcontractors in working to Multiplex. Can you remember why Horne taps had provoked some form of meeting that people were sitting around at talking? Why were they

there? What was the issue?

A There was a discussion around the flow straighteners that were installed on the taps, and I believe the client had some information or maybe some concerns around the flow straighteners, and I was probably seeing some clarity on them.

And I'm not sure; was the client deciding whether to change the taps at that point, given instruction to change taps, or proceed with the taps? The outcome was to proceed and carry on as we were-- how much we did. And there was no-- I believe we made no change to the taps, and the taps were installed, from memory-- flow straighteners.

Q So your involvement was as a procurer and installer of the taps, but you weren't involved in their maintenance, is that right?

A No, absolutely not.

Q Okay. Well, let's move on to another topic, which is the filling of the water system. Now, again, this has been the subject of quite a lot of discussion with different witnesses at the Inquiry.

You say, in your statement, that it was filled when it was because of the length of time it would take to commission each section of the system. Can you

help us at all as to when, even approximately, the water system was filled?

A My understanding-- the final filling of the system I believe took place in 2014. I do recall that our teams, along with the Multiplex onsite teams, spent a lot of time working out a plan to fill the system and commission the system and make we had enough time in the programme to go through each step: filling; pressure testing; leachate flushing; flushing and sterilisation; then actually commissioned hot water systems, from a temperature point of view; take the necessary water samples and get those results approved, and then hand over to the client.

So there was quite a bit of time planning out that works. It's obviously-- As you're aware, it's a super hospital. It's a very, very large building with tens of thousands of metres of pipes and hundreds of wards. So the system was filled up in stages, in sections, and then commissioned afterwards, so I don't believe-- I think the suggestion that it was maybe-- that it was filled too early, but I don't believe that to be the case.

Q Can we just pause on that for a moment? You explained there that you

had discussions, and I'm using "you" as meaning Mercury----

A Yeah.

Q -- but you're obviously the project manager, so you're trying to help us with this. You had discussions with Multiplex about how to do it, how to fit it into the programme, how to make enough time and so on. Can you remember whether the GGC project team were involved in these discussions?

A I don't recall if they were involved in these discussions. They may have been. I'm not sure if they were, to be honest.

Q Can I just then understand the different steps that you've explained that were to be taken? I think the first one was hydraulic pressure testing, is that right?

A Yeah. Actually, prior to that, we would have done air testing in the areas. Some air testing may have been done as well just to prove that the system was sound before we done hydraulic testing, then hydraulic testing would have happened after that.

Q Right, so two different types of tests: air testing, is that right, and then hydraulic testing?

A Yeah, the air testing just

proved the integrity of the system to make sure that we had no-- when we put water in the system we wouldn't have any catastrophic type leaks in the building.

Q Then after air testing, hydraulic testing, so with water in it?

A With water in it, yeah.

Q To those of us who are laypeople who are not familiar with these construction details, Mr O'Donovan, what does hydraulic testing of a water system mean?

A It means filling the system up with water, venting the air out of the system and then bringing the system up to an agreed pressure test rating. You know, maybe it's 1½-- generally it can be 1½ times the operating pressure, so if the operating pressure, for instance, was 4 bar, you may test the system to 6 bar, for instance, as an example.

Q Yes.

A And that will be left on pressure test for maybe, like, one hour, and then it will be witnessed by Multiplex and possibly a person or member of the Capita team and then that record kept, and you move on to test another section.

Q The purpose of hydraulic testing is what? Is it, again, to test for leaks?

25

A Yeah, you're proving the system is-- the integrity of the system and the soundness the system before you move on to the next step of flushing the system and cleaning and sterilising the system.

Q Okay. Well, let's just take each of these steps, then, in turn. After hydraulic testing comes flushing. Now, is that just what it sounds like: pushing the water through pushing it out the other end?

A Yeah. You're circulating water through the system and removing any-- if there was any foreign matter or any dust or debris that might have been in the system, making sure that that was out of the system, making sure it was clean, and then you drain it down and fill it again and make sure you're clean. So you make sure you have a clean system.

THE CHAIR: Sorry, my fault, Mr O'Donovan. Can you just take me through flushing again? You've explained that the system is being tested section by section.

A Yes.

THE CHAIR: Now, I'm assuming that once you have tested one section, you move on to the adjacent section?

A Yes.

26

THE CHAIR: At this stage, the section which you have previously tested remains full of water, is that correct?

A Yes.

THE CHAIR: Yes. Now, to my question, could you just take me through the process of flushing? I'm assuming, at the point that you are flushing, you have a completely filled system?

A Yes, you'd have a completely filled system at that point. You can't flush just sections. You need a large-- you know, you need a full system finished to complete the flushing and connect it up.

THE CHAIR: Right, just take me through what flushing involves.

A As I said, basically, it's pushing water around the system, entering it at one point. We'd have used the specialist H&V, flushing it around using a pump, and then emptying that system back out again to another point at the far end, making sure that the total system is clean.

THE CHAIR: Right. So, using pumps, there's a movement of water through the whole system?

A Through the system, yes.

THE CHAIR: Right. Thank you.

MR CONNALL: Just to give us some kind of scale to put against that, I think

you told us that this was done in sections because of the size of the system overall.

A Yeah.

Q In terms of flushing one of the sections that you were dealing with, are we talking about something that was done in a couple of hours or over a longer period? What are we talking about here?

A Yeah, it would probably be over-- it would be more than a day. It would probably be multi-day, day and a half, something like that.

Q I just want to make sure we understand each stage that you're telling us about. Now, I think the next one you said was sterilisation. So you've air tested, you've pressure tested, you've flushed. Are you then filling it up again after you've done the flushing?

A Yeah, it's going to be-- remain full. You're going to leave it full of water and then you enter using-- or contractor H&V would sterilise the system using a sterilisation chemical and put that into the system, sterilise it around, make sure that it's got around all the system to every outlet.

They would open each outlet, an outlet being a faucet or a WC, making sure that the chemical has gone around all the system and that the system is

sterilised and clean. They would take samples of the water as that was done.

THE CHAIR: What chemical are you using?

A I can't recall off the top of my head what chemical, but that would have been provided by H&V, the water specialist, and it would have been approved before we would have started.

There was a meta-statement provided by H&V, and that meta-statement would have been circulated with Multiplex and the wider team and we'd have got approval before we commenced the process.

MR CONNAL: Okay, so, in your witness statement on 534, you talk about these steps taking place for the hot and cold system. So, at that point, are you generating hot water as well as cold water? How is this working?

A No, I think you're not generating hot water at that point. I suppose both systems, hot and cold water systems, have to be done, but they're all part of the domestic water system. But the flushing and sterilisation would have happened, as I understand it, before we generate hot water.

Q Right, so you've done these things: air testing, hydraulic testing,

flushing, and sterilisation. Did you mention sampling?

A Yes. Before we handed over, H&V then would have taken hundreds of water samples across the building and they would have been sent for lab analysis to ensure that they were suitable potable water analysis.

And then the results of those analysis, should they pass – and, ultimately, we have to have a full clean bill of health – we would document those results and would have been uploaded onto our Zutech as part of our handover of our system, and that would demonstrate that you got a clean system at the actual completion.

Q Okay. After you've done these steps----

THE CHAIR: Could I ask – this may not be something you know about, Mr O'Donovan – what is being sampled for? I mean, what----

A Yeah, they would take a-- they may be-- there's probably a number of tests they're taking. I actually can't recall off the top of my head, but they are sampling for potentially legionella, possibly, and any other bacteria that might be in the water, in the water content.

THE CHAIR: Is that “by total viable count”?

A Yeah. Yeah, TVC is total viable count.

THE CHAIR: Right, thank you.

MR CONNAL: Now, I’m just trying to make sure we follow the sequence correctly. You’ve described the various steps. What I’d like to take from one of your earlier answers, that this was all being done-- It wasn’t one single process, it was being done in sections because of the size of the system, is that right?

A Yeah, the pressure testing was done in smaller sections and then, as you group them together, you’ve got full systems and then you could do flushing in full systems. I can’t recall how many systems were in the building, but they made a number of water systems within the building, but you would need full systems in order to carry out the flushing.

Q So there were probably a number of what you’ve described as water systems within the building rather than, as a layman might think, just a single water system for the hospital, is that right?

A Yes.

Q The last thing that you

mentioned – not so much in your witness statement but in what you told us this morning – is then commissioning. Now, does that involve something else being done?

A Yeah, that’s just commissioning the-- and balancing the water system, and on the hot water system, it would mean the guys going around making sure that the temperature checks-- they’re doing temperature checks on the water, the water going out-- hot water going out and the hot water return coming back to the calorifiers to make sure they were in the guidelines.

Q That’s not something that could be done during the earlier processes because you weren’t applying heat to the system, is that right?

A No, this is happening at the end. This is happening-- obviously, at this point, your system is full, it’s operating, it’s functioning, your pumps are running, you’re distributing around the system as if-- you know, at the point where the system is finished and you’re proving that the system is-- that the temperatures in the system are correct and proper before we actually hand it over to the client.

THE CHAIR: Can I just clarify that, when you talk about handover, you're talking about handover to GGC? It's not as if you're handing over to Brookfield as Brookfield?

A Yeah, when I talk about handover, I suppose I'm talking to the PC there, so it's handover to GGC, so I'm talking it about to-- where Multiplex handed over to GGC, and us being part of the delivery team. Yes, it's handing over to them and-- yeah.

THE CHAIR: So, that would be January 2015?

A January 2015, yeah, that would have been the date. That would have been our-- and there would be, obviously, a lead period up into that, so.

THE CHAIR: Thank you.

MR CONNAL: You were asked about the timing of all of this earlier. Can we just go to 535? Because I think in one of the pieces that you expanded on when you did your revised witness statement, we now see in the second paragraph there, you say:

"The testing documentation shows that hydraulic pressure tests took place on dates from 15 June 2013 to 14 August 2014."

So would I be right in thinking from that that, at least so far as you found out, the point at which water was first in the system to allow for the hydraulic tests would be in June of 2013?

A Yes, that was the first----

Q So the air pressure tests would have been before that, presumably?

A Yes.

Q Then the various other steps you've taken on different parts at different dates after June, or after all of the hydraulic pressure testing had been done in August 2014-- when would the other steps for flushing and sterilisation take place?

A Yeah, it would probably be after August '14, right. I don't exactly have the dates, but I know that the final sampling of water that we had done, the final sampling, would have been December/January – December '14, January 2015 – when we'd have done the final sampling to ensure that the system was clean and ready for handover. So it'd been as late as that.

Q Yes. Well, just so I'm not misunderstanding your evidence, Mr O'Donovan, if hydraulic pressure testing was taking place presumably in different parts of the system between June 2013

and August 2014, does flushing and sterilisation start after each individual hydraulic pressure test finished, or do you do all the hydraulic pressure testing on all of the bits first and then start your flushing?

A You need a complete system. You need a complete system, so the first of the system would need to be complete before you'd be flushing and sterilisation, so the system-- that would be happening later in the process.

Q Right, so perhaps after August 2014?

A Yes, there would have been-- definitely would have been flushing and sterilisation happening after that.

Q Just a couple of points on that. Further down that page, you've got an acronym that, I'm afraid – and it's no doubt my fault – I'm not immediately familiar with, BSRIA standards. What's BSRIA?

A The BSRIA standards, and it's the standards that, like, the H&V commissioning would work to. They're the guidance and standards that the commissioning guys would work to----

Q What do the initials stand for?

A It's British Standards-- I'm not sure, off the top of my head. I don't--

Right off the top of my head, I wouldn't know exactly, but they are the H&V commissioning and any water specialist standards you would be working to.

Q I just need to ask you this: one of the areas of discussion that we've heard about, particularly with the Estates teams who ultimately took over this building, was that the scale and complexity of the water system – you know, all the outlets that it had, the sheer size, etc., etc., etc. – made this quite a challenging system to keep on top of in terms of----

A Yeah.

Q -- making sure it was safe. Would you agree with that, first of all?

A Yeah, it's a very large building. It's a very large building. It needs some planning around managing that. Certainly, as part of it, and we didn't mention before-- but is that we would have to continually turn over the water to ensure that-- With continuous turnover of water, we would have had a team in place right up to PC, going around opening outlets, turning on taps, flushing toilets and making sure we were getting proper turnover water around the system and that there was no stagnation happening.

And that was very important so that we could maintain and demonstrate that the water was clean when we-- at the point of handover in January 2015, which I believe it was, and I think the documentation and the testing that we'd done in December and January in '15 would have demonstrated that. That process we would have handed over to and would have expected that the GGC would have picked that up once we stopped.

THE CHAIR: When you say "picked that up", do you mean continuing---

A Continuing, yeah.

THE CHAIR: -- the process of turning on taps, flushing toilets and so on?

A Yes, continuing that turnover-- water turnover process that would be very important.

MR CONNAL: It sounds as if you might need quite a large staff to keep that going to the standard that you would need in a system of that complexity. Is that a fair comment?

A Yeah, you would-- you would need a team of people because to go around doesn't-- to continuously just go around the building, because it's such a large building. So, as I said, we had a

number of people employed just doing that. That was their job, just every day going around turning on taps up to that point, up to PC, and flushing toilets.

We kept a record of it. We left the records there. It was like a cheat sheet in each-- in each room that they would just sign off and take every day, that they did. It was kind of like-- an example would be like a cleaner sheet would have in a toilet when they visited that room, cleaned it. We'd have had that-- something like that in place. We'd have left that in place so that the Estates could continue that process beyond January '15.

Q Have you any-- Sorry.

A Sorry. Just to finish on that, because the building is not fully occupied with staff and patients, these taps, these outlets are not being used, so you've got to-- there is-- you're mimicking that. You're mimicking the fact that you have a full billing of staff and patients that are going around and using on a normal basis, so you're getting proper turnover, throughput of water, through the system.

Q Can you give me even a rough idea of how many people you had to employ just to go around the building opening the outlets?

A It wasn't a large team, but if

that's your only job, you can-- you know, it could be half a dozen guys, maybe, just going around doing that. Like, you'd open a-- a person would open a lot of taps and flush a lot of toilets in a day.

Q Mr O'Donovan, we know there were filters fitted on the inlet systems for the water so that everything that came in was filtered.

A Yeah.

Q Are you aware of these filters being bypassed at all?

A No. There was a water filtration system fitted in the basement, from memory. I don't believe they were bypassed. I don't believe they were bypassed because I know we changed the filters-- I have a memory of us changing the filters in the-- in early 2015 before we handed over.

Q Just another couple of points of detail. We've heard some evidence that when water tanks were inspected in 2015, there was debris in them. Do you know anything about that?

A I don't.

Q Another topic that we've been discussing is the exciting topic of open pipe ends, the issue being that if pipe ends are left open on site and not capped, whether in individual pipes or in

modular units, then there's a risk of ingress of dirt or whatever into these pipes. Do you remember this being an issue during your time as project manager?

A Yes, I do remember we got some reports from, I believe, Capita at the time. We would have been-- you know, I would say we were fairly diligent about going around capping pipes. I openly welcomed the reports, and if people had spotted that there was open ends, we would address that.

The modular process really assisted in managing that, I would say, in that we fabricated hundreds and possibly thousands of modules and service modules offsite, which facilitated keeping those ends, cap ends, closed.

However, obviously, in order to join these modules, caps have to be removed. There was hundreds of work fronts ongoing, so it's always work in progress and that you're going around making sure guys put caps back on. Caps get inadvertently knocked off, but I don't believe there was anything-- any significant risk for that, or anything untoward. It's not unusual.

I believe we addressed all the reports that were provided. As I said, we

welcomed anyone that would've pointed that out, and we had an open view on that. We wanted to make sure that we could keep the ends closed where possible, but, as you say, it's a very large site. There's tens of thousands of metres of pipe going on. There's multiple work fronts, hundreds of work fronts going on, so it's always a challenge.

But I do believe that, you know, we flushed, thoroughly flushed, the system. We cleaned the system, sterilised the system. We took water samples, pot of water samples, at the end before we handed over throughout the system, and the system was clean and finished, sterilised before we handed over.

Q In that period before handover, do you know who was, in effect, legally responsible for that water system? Because it's obviously a big, complex system. Was that Mercury that were legally responsible for it, or was it Multiplex? Or can you not help us on that?

A Sorry, before handover?

Q Yes.

A I would assume the responsibility is with the contractor, obviously.

Q Are you familiar with

something called an L8 pre-occupation water assessment?

A Yes, an L8, yes.

Q When would you anticipate that being carried out on a project like this?

A I think it would need to be carried out just before that you're putting occupants into the building to-- As close as possible to that time. Obviously, there's a period of time needed to carry that out, but certainly I think that would need to be done just prior to occupation, in my opinion.

Q I mean, a period of time to do it, obviously sensible. A period of time to meet any recommendations or issues highlighted in such a report, would that also be needed?

A Potentially. It depends what was raised in the report, but, I suppose, if the system was-- it was inspected, commissioned and inspected throughout the build process and through the commissioning process, you wouldn't-- you know, you wouldn't expect to find a large number of issues.

Q My Lord, these are all the questions I currently have. I know we have time frames to work with, but perhaps just a five-minute pause would

be sensible.

THE CHAIR: Mr O'Donovan, Mr Connal has finished the questions he plans to ask you at this stage, but we need to check with the other legal representatives whether they have any questions to put forward. So can I ask you to remain in contact with us and we would get back to you within 10 minutes?

A That's absolutely fine. Yes, that's great.

THE CHAIR: Thank you.

A Thank you.

(Short break)

THE CHAIR: Mr Connell?

MR CONNALL: I have a single clarification point, if I may.

THE CHAIR: Right. Mr O'Donovan?

A Yes, my Lord?

THE CHAIR: Mr Connal has, I think, one question.

MR CONNALL: It's just about this idea of doing things in sections, so doing various steps. After you've done one section but before you do the flushing, which you need to wait for an entire part of the system to come together, are the

areas you've dealt with-- are they drained down or are they kept full of water?

A I believe they're kept full, but I'm not 100 per cent sure of the exact process. We would have had to test the systems, I suppose, first with air, by section in order to prove that the systems-- the integrity of the systems was fine, so that allowed us to insulate and finish the pipework as ceilings was going up, the building was being closed in in that area, so you have to prove the integrity of the system. Initially, we were doing it with air, as I say, and then separately with-- later on with water.

Q Yes. Well, I think the question is simply----

A I can't recall whether we dropped out the water.

Q Okay.

A We would have dropped it at some point and then refilled it. I'd imagine that would have been the case. Certainly before we started flushing, all water would have been dropped out and then refilled again with fresh water and then the flushing process start. And, eventually, you get to the sterilisation process, which gives you the assurance that the system is clean and sterile and fit for purpose, and then we demonstrate that,

as I said, at the end by taking water samples, which we done in the last quarter of the project.

THE CHAIR: Right, if I've followed that, once the system is filled with water, it will remain-- all of the system will remain filled with water, albeit that, as a result of flushing, water will move through the system. Have I got that correctly?

A You've got that correctly, and, at that point, once you're full and you've flushed and your sterilisation process has taken place, that's where your turnover process, which I described there-- you have to keep going around turning over taps and making sure you get a-- proper turnover has taken place on a finished system. And that's where that would have kicked in as well, and that's what we'd have done: made sure that we had proper turnover of water through the building.

MR CONNAL: My Lord, as it happens, two other questions have just materialised, as if by magic, in front of my eyes from a source who had previously declared they had no questions.

Apologies for this, Mr O'Donovan. It's the nature of the beast; sometimes the questions become slightly random in order. You mentioned changing water

filters; you remember changing water filters. Do you remember when that was done?

A It was certainly done in early 2015. Certainly in 2015, early 2015, we changed out a water filter in the-- I remember-- I wouldn't be involved directly in taking the filter out, but I remember we having a team down there, being in the basement, when our guys swapped out some filters. We have had spare filters with the skids, and there were spare filters left with the skids there.

Q Was it one water filter or more than one water filter that was changed?

A It was one or two, I think, from memory, but this was-- as I say, it was early 2015, but I did witness that personally on a walkaround, the guys swapping out some water filters.

Q The other question I have to ask you goes back into ventilation, I'm afraid. You explained that you had discovered that there were some changes to the Ward 2A ventilation that had been instructed, and you give an indication of what these were. Do you remember who instructed you to do that?

A Well, it would have come through a revision change of drawing-- drawing revision change, so we'd have

got a revised drawing-- I think it was 2013, actually. So you have a revised drawing and, on the revised drawing, it will describe, on the right-hand side, on the legend under there, it will describe what that change was. I looked at it recently, obviously, as it came up as a question.

Q Can I just ask you this question, then? You've given us a very detailed sequential description of what was done to check a water system before it's then commissioned and handed over. Is there anything similar done to the ventilation systems that you installed, any kind of checking that's done?

A Yeah, the-- Well, there's test and balance-- the balancing of the system would be done before handover. So each grill in each room has a defined value of air that should be coming out through that grill, and all those grills are made up of part of the system.

So H&V, their test and balance crew would go around, set the volume control dampers that would control the volume of air going to each grill, and they would set that up and prove that the air being delivered to each room is as per the design intent, and that will be recorded and witnessed, in most cases.

Q When you say "to the design intent," is that the material that you received from ZBP?

A Yes, the design values we received from ZBP.

Q Is that what you're checking against? What you've got----

A You have to check-- Yeah, you'll check against the original design intent and design values because that's what the system is designed to do, and you're proving that-- you're then proving the design works, you know, proving that the design has met the intent.

Q So, just so we're absolutely clear, at that stage, if you were in a room in a ward that might turn out to be occupied by immunocompromised patients, you're checking against the drawings that you've got from ZBP? You're not going back and saying, "Is this a ward that needs special ventilation? What should the rates be?" You're not doing that exercise?

A No. No, no, no. You can only check against the design values of the equipment that has been sized to match that, so you can only check against the design values you've given in the design tables.

Q Thank you, Mr O'Donovan. I

have nothing further, my Lord.

THE CHAIR: Thank you very much, Mr O'Donovan, for providing your evidence this morning but also in the preparation work in reading and responding to our questionnaire. I'm grateful for that. Thank you very much, but your evidence is now closed. Thank you.

A Thank you, my Lord.

(The witness withdrew)

THE CHAIR: Now, the plan is to take a break, I think, partly for technical reasons but also for the timing that the next witness has been asked to attend for. Mr Mackintosh will take this witness, and I'll just give my understanding of the arrangements, and I'll be corrected if I'm wrong.

We aim to resume with our next witness at eleven o'clock; I think that's the start time. We would then sit on until lunch, take an abbreviated lunchtime – perhaps 40 minutes – so aim to sit again about twenty to two and go through the afternoon, but that means we will now take a break until sitting again at eleven o'clock now, yes?

MR CONNAL: Yes, I had made inquiries to see whether it might be possible to bring forward the start of Ms Byrne's evidence to, say, 10.45, but I haven't been able to obtain.

UNKNOWN SPEAKER: That's been changed, so, actually, it's 10.45.

MR CONNAL: Ah, well, from the technical side, we're now geared up to start at 10.45. Mr Mackintosh is happy to do that. I understand the witness will be present from-- or, sorry, connected from 10.45, so that would now be the target start time.

THE CHAIR: Right. If I could ask people to be back, in that case, for 10.45 with a view to resuming. Thank you.

(Short break)

THE CHAIR: Good morning, Ms Byrne. Can you hear me clearly?

THE WITNESS: Yes, I can. Thank you.

THE CHAIR: Right. Now, I'm not hearing you quite so clearly. Now, that may be our side of the connection. Right.

THE WITNESS: Let me see if I can adjust----

THE CHAIR: I can barely hear you

at the moment.

THE WITNESS: Is that better?

THE CHAIR: That is much better.

THE WITNESS: Okay. Thank you.

THE CHAIR: Thank you very much.

Now, Ms Byrne, as you understand, you're about to be asked questions by Mr Mackintosh----

THE WITNESS: Yeah.

THE CHAIR: -- but, before you do that, I understand you're prepared to affirm.

THE WITNESS: Yes.

Ms HELEN BYRNE

Affirmed

THE CHAIR: Thank you. Now, we are scheduling your evidence for the rest of the morning, taking a break at one o'clock for about 40 minutes, and then resuming at about twenty to two with a view to finishing, I think, before four o'clock. Now, whereas that is the plan, if at any stage you want to take a break, just give me an indication and we'll take a break.

THE WITNESS: Thank you.

THE CHAIR: Now, Mr Mackintosh.

Questioned by Mr MACKINTOSH

51

Q Thank you, my Lord. Ms Byrne, I wonder if you can give us your full name.

A Helen Byrne.

Q Is there anyone in the room with you at the moment today?

A No.

Q No. Did you produce a statement in response to a questionnaire from the Inquiry team?

A I did.

Q Are you willing to adopt that as part of your evidence?

A I am, but I do need to point out I used the wrong title of a board paper on page 11, which should read:

"Update on the new south Glasgow hospitals and laboratory development on the Southern General Hospital site."

So my apologies----

Q Let me just find the right page. So it's page 212 of the statement bundle, the middle paragraph. So you've said here, "I have reviewed the February 2009 board paper..." What should the title be?

A The title should be:

"Update on the new South Glasgow hospitals and laboratory development on the Southern General Hospital site."

Q So is the bundle reference

52

correct?

A I can check that. Sorry.

Q No, no, don't apologise. Yes, I think it is.

A Okay.

Q This is the other paper, so what I think I need to do is, in the lunch break, I will ask one of my colleagues to track down the paper you are referring to in our system and we'll pick that reference up at the lunch break.

A Okay.

Q Okay. Now, what I wanted to do before we get to that is to just understand the context of your involvement in the new South Glasgow hospitals project, both in time and scope, and so, firstly, when did you arrive in the project?

A I arrived in Glasgow in January 2006.

Q When did you leave?

A I left in February 2010.

Q Had we met you on that first day in January 2006 and asked you, "Ms Byrne, what's your professional background and skills?" how would you have described yourself?

A I would have said that I've applied for the job of Director of Acute Services Strategy Implementation

Planning, and I would have described that I'd been a board director for the last four years on two boards in England, that I had substantial acute hospital service reconfiguration over the last few years, that I'd worked in the poorest primary care trust in England and, therefore, had a lot of health improvement and health inequalities experience.

In my work, I'd worked a lot with communities and with transport companies in the-- certainly in relation to the acute hospitals reconfiguration, and I suppose-- so the job I applied for had a very broad remit, but specifically in relation to the new South Glasgow hospitals project, I'd secured funding for a mental health hospital in England.

So I had worked with the Estates colleagues to size that in order to ask for the money and I'd worked-- I'd led a number of capital projects when I was at City Hospital Sunderland. So that's, I think, how I would describe myself.

Q Well, that then follows on with a question: at the point you joined the project in 2006 – and appreciating that the new hospital wasn't the only part of your responsibility – what experience did you have of procuring the construction, as opposed to getting the funding of a

large new hospital?

A I didn't have any experience of construction of a brand-new hospital. I had some experience in smaller Capita projects in a hospital, but I didn't have experience of procurement or construction of a new hospital.

However, I did have relevant skills that were transferable. I'd worked on very complex projects in England and they required meticulous planning. I'd worked with and coordinated diverse teams of staff, so I think that was relevant to the new hospital's project.

Q Well, the only question that then follows on is: this hospital was ultimately procured under an NEC3 design and build procurement contract, and there may be a good reason why you didn't, but did you have any experience of that sort of procurement contract?

A No, I didn't, but I would have relied on the project director and the team and team of technical advisors who were the lead. I was in a different role, a leadership role.

Q I understand. Right, we'll come back to that. In terms of your job of Director of Acute Services Strategy, Implementation and Planning, to whom did you report?

55

A I reported to Tom Divers, the Chief Executive when I started in 2006, and when he left in 2009, I reported to Robert Calderwood, who was the new Chief Executive.

Q In terms of the New South Glasgow Hospitals project itself, who was the person who reported to you from within that project?

A Alan Seabourne.

Q Thank you. Now, in your statement, which is page 204 of the statement bundle, at the bottom of the page, you describe-- if we zoom right in so we can see it on your small device.

A Yes. Thank you.

Q

"During my four years at NHS GGC in delivering phase two of the acute services review, I was responsible for driving progress on key milestones and ensuring NHS GGC Board, Scottish government approval at appropriate points in the process."

Then, if we turn over the page, you've listed some of these.

A Yes.

Q Now what I want to do, if we take that off the screen-- You did, for

56

example, list getting Board agreement to move to the preferred procurement model----

A Yes.

Q -- and you did list Gateway Review 1 and Outline Business Case, and then obtained Board approval for preferred contract bidder to deliver the new hospital.

A Yes.

Q I just wondered whether these following items sit within the things that you considered to be key milestones you were responsible for delivering, or were there something else? So the first is the approval of the employer's requirements. Did you feel that was something that you were responsible for or somebody else?

A The approval of the employer's requirements went to, I think, the performance review group in May 2009, so the team, Alan and the technical advisors, worked on the employer's requirements. It was a vast area of work. I wouldn't have had the expertise to approve those employment requirements as such, but the detail went to the PRG-- the detail in high level went to the PRG, I think, in May 2009.

Q Would that involve you effectively taking it, even though you

hadn't prepared it?

A Yes. As was the case with many areas of my work, I would have been briefed by all my heads of department and Alan's case project director on aspects. I was not knowledgeable in every single area.

Q A similar question of what involvement you feel you had in promoting the decision to select the preferred bidder. Ultimately, it was Brookfield Europe Limited. Is that something that you feel you had a role in ensuring was done, to some degree?

A I think I had a role in ensuring the process to select the bidder was done. There was a-- Again, that was described in a number of papers, PRG and Board. We went through the (inaudible 10:59:24) process, invitation to participate in dialogue. The evaluation structure was set up. I was not part of that because I hadn't been part of developing the detail, but there would have been oversight at the Project Executive Board, no doubt. It would gone to the SR programme board to PRG that we were content with that evaluation structure.

Q The other one, and we'll come to this in some detail, I suspect, but

where do you feel your involvement was with the decision to sign the contract on 18 December 2009? Was that a decision you were involved in to any extent, and how?

A I don't know that I was involved in the detail in terms of how Alan described yesterday. There were a number of issues to be resolved. They were resolved very last minute and the contract was signed, but in terms of the process, there was a seminar by the two, the Project Executive Board on 22 October, I think. The Project Executive Board, which I chaired, considered the evaluation and the recommendation for the bidder on 26 October. That went to PRG on 3 November and it was ratified by the Board in December. I can't remember the date.

So I wasn't involved in the last-minute-- I wasn't even sure I was aware of last-minute issues, to be absolutely honest. I certainly have no recollection of that. There's nothing written down, so I can't really comment. I will say, in preparing my statement, I have relied totally-- well, almost totally on the papers that the Inquiry sent to me. It was more than 15 years ago. I left Scotland to go back to England. That was eight jobs

ago. So I've had to rely on the papers in my name and what was written down, and where it wasn't written down, I can't really comment.

Q Well, let's see how we get on, but I think it's probably important that we take a minute or two to understand the structure of the committees and groups, and I'm going to see if we can do this with the organogram from 2007 on the screen. So this is bundle 43, volume 3, document 1. I think it's page 5.

A I can hardly see that, but I am familiar with it.

Q We're just going to jump on a couple more pages.

A Okay.

Q There we are. Now, you're not going to be able to see this, so we're going to take that off the screen, I think, and we'll do it in a different way. Can you take that off the screen, please? Let's start from the top and work down. So, if we appreciate that the top is the Board itself, what was the Performance Review Group?

A Okay, I'm looking at the-- sorry, not the Board. The Performance Review Group was a committee of the Board with delegated responsibility to make decisions on the acute services

review, including the new hospitals project.

Q Were all the members of that group Board members?

A From recollection, yes. It was a subcommittee of the Board, and it was Board members who comprised that committee, and it was chaired by the chair of the Board.

Q How often did you attend, in very broad terms? Was it every meeting or most meetings or a few?

A I think I attended certainly most meetings, not only presenting on the new Southern General hospitals and the laboratory project, while my other areas of responsibility also: the capital plan, the acute services redesign. Let me see what else. Community engagement and transport was a regular feature at that meeting. (Inaudible 11:04:47), PRG, the communities were involved. So, yes, probably most meetings, I would say.

Q I suppose the way to ask this question is-- We've asked you about a lot of issues in your questionnaire. Would it be fair to say that the issues that this Inquiry is involved in never, in a sense, go higher than the PRG in the system? This is the decision-making body at the top of the review.

A That is probably the case, although Board approval was sought for a number of decisions that PRG would have approved. So, for example, the procurement model went to PRG in September 2008. There was some further work to do, so it went back to the Board in October 2008 for the Board to approve it.

Q Right.

A So PRG had delegated responsibility, but some decisions went to the Board.

Q Now, if we want to step down from that to the Acute Services Review Programme Board, so what's the relationship between that and the Performance Review Group?

A So, where the Acute Services Review felt that a decision needed to be made at Board level through PRG, decisions would have been passed up to that board, to the PRG, and also for areas to be updated to the PRG.

So the Acute Services Review Programme Board looked at all aspects of the acute services review, not just the new South Glasgow hospitals, so, you know, issues around service for the design, issues around the capital plan, issues around the maternity strategy,

which had been agreed in 2004 – a separate stream of work – but issues-- The acceleration of the Acute Services Review, that was another issue where updates went to PRG from the ASR Programme Board from time to time. This is all, again, from reading papers.

Q I understand that, but it's useful to get it explained by the person who was there rather than trying to work it out ourselves. Who, in broad terms, were the members? Was it, again, board members, or this time it was actually directors, service leads, project managers?

A Yes, directors. It was chaired by the chief execs, so Tom Divers and then Robert Calderwood, and then it had on quite a number of the directors, so the medical director, the director of nursing, the chief operating officer, members of the chief operating officer's team, the acute operational directors, Alan Seabourne, (inaudible 11:08:01,) and I can't remember who else was a member as opposed to invited.

Q If we go down one more step, is that when we reach the executive boards of various different names? We'll come back to the names in a moment, but is that the next level down?

A It is.

Q Right. Now, do the names change in this story between, is it-- What's the name of the Executive Board when you first arrived?

A I think it was called the project executive group.

Q Did it eventually become the New South Glasgow Hospitals Executive Board?

A Yes. I think after the first gateway, we were asked to revise the governance arrangements and, at that stage, it was suggested that we have a project executive board, from memory, and also a finance and procurement group, which was led by Robert Calderwood. So there were two groups that fed into the ASR programme board.

Q Was there a point when these two groups merged?

A Yes, that was after the gateway 2 recommendation that we revised the governance again, so the-- It was a moving feast, it has to be said, but that was in January 2009. Work was undertaken to revise the governance arrangements during February. I think it went to the ASR programme board in March or April, and it was ratified by the performance review group in May.

Q Did you chair the new one, the New South Glasgow Hospitals and Laboratory Project Executive Board?

A The new one from May 2009, yes.

Q Yes, and do you mind if we call it the Executive Board from now on?

A I don't.

Q Right. What I would like to do is look at its remit. Now, this is a document from a meeting of the performance review group on 19 May 2009, which approves, as far as I read the papers, a paper – number 09/21 – which sets out the remit and terms of reference of this new Executive Board. The document is bundle 34, document 21, page 145, and we'll put that on the screen just to orientate ourselves.

A Yeah.

Q You might have access to it on your other device to make life easier for yourself.

A Unfortunately, I'm using WebEx on this, so-- It is stored somewhere on my laptop.

Q Right, okay. No, fine. If we go to page 145, yes. So this is paper 09/21.

A Yes.

Q From your memory, is this your paper, effectively?

A Well, it's certainly got my name on it. I mean, for all of my papers, they would have had a major input from the lead, because I wouldn't have known this level of detail and then I would be briefed by each of my heads on the content and obviously I would have one-to-ones-- You know, it wouldn't be entirely through a paper. So it's got my name on it. It's my paper, but I imagine that Alan and the technical advisors would have had an input into drafting it.

Q Understand. So what I want to do is just to jump forward to the appendix, at page 152, which describes itself as the "Terms of Reference and Membership". Now, before we discuss it, I'll let you just look at it briefly. Just read the introduction, perhaps, before I ask you a couple of questions about how it sits in the system, and I'll take it off the screen while we do that.

A I happen to have it in paper in front of me----

Q Well, that's great. So we'll leave it on the screen for the moment. We've heard evidence from a number of witnesses about schemes of delegation within NHS Greater Glasgow. To what extent is this a document of that sort, a scheme of delegation setting out authority

for this Executive Board? How should we interpret it in that sense?

A Well, it says in the first paragraph, it has “delegated authority.” I mean, I have had the opportunity to look at this in more detail last night following a discussion yesterday, and I can see why some of the roles and the remit is confusing because, essentially, the project Executive Board was a strategic body or entity, not a management entity, which some of these roles would suggest it was.

Q Yes. Well, that’s what I wanted to explore. So if we look at the role and remit----

A Yes.

Q -- and then work our way down those items, to take, for example, the third one:

“The NSGHLPEB will monitor all aspects of performance of the implementation of ASR2.”

Is that strategic or a sort of management role?

A Probably more a management role. Well, it’s performance of the implementation, so that, I see-- The implementation is a strategic role and I suppose the performance is making sure it’s happening according to time scales.

Q Right.

A So I would say it’s more in the strategic element than I would some of the others.

Q The next one:

“The NSGHLPEB will have delegated authority to conduct and conclude negotiations at project critical moments.”

Before I ask you a question, I want to just set up a few things that are the context for me asking it. So we know that Mr Calderwood was the signature; he signed on 18 December. The question then becomes, what does that paragraph mean? Who is it who is conducting the negotiations with Brookfield Europe in the period between them being chosen as preferred bidder and Mr Calderwood signing on the 18th?

A That would have been Alan Seabourne. I certainly-- I don’t have any recollection of negotiations with Brookfield Europe in that period, and----

Q So that’s why I’m wondering, because a literal reading of that – it’s on a bullet point – fourth point is that it’s the executive board that will conduct and conclude negotiations, but you’re saying that it didn’t do that.

A This is one of these roles that,

68

when I looked at it again, I thought it would not have been the role of a strategic entity to conclude-- to conduct and conclude negotiations. Someone would have been delegated with that responsibility, and, in this case, it would have been Alan.

However, I imagine, based on my experience subsequently in England in capital projects, that if we got to a point where we hadn't been able to move on in the contract negotiation, that would have been escalated. But I don't think, in this case, that happened, and I do think this is confusing, this role, when I read it again.

Q You say that you see this as a strategic body. If we can go back to the introduction.

A Yes.

Q The first line is entirely its name:

"The New South Glasgow Hospitals and Laboratory Project Executive Board (NSGHLPEB) will have delegated authority to make executive decisions on critical points in the project programme."

The next sentence:

"The role of the Board will be to oversee the overall progress of

the project to ensure project objectives are achieved."

Now, which bits of that introduction are executive and managerial, and which bits are strategic?

A I would say-- I would say they're strategic.

Q So, even making executive decisions on critical points, you see that as strategic?

A In the same way that the Board makes executive decisions or the PRG would make an executive decision, then it was to make-- it was to make executive decisions on critical points in the project programme. So it was to make a decision--

Let's take an example. Following the valuation process and the seminar which was chaired with the Project Executive Board in October, at which the chair was present-- the chair of the Board and one of the non-execs was present, that went to the Project Executive Board-- or, sorry, the Executive Board on the 26th, and the decision was made there that Brookfield should be recommended as the preferred bidder to PRG to make the decision. But the decision was that the Executive Board recommend Brookfield be appointed.

Q Well, this is the thing that is confusing me – and perhaps you can help me – is that the decision to appoint Brookfield as preferred bidder was a recommendation from the Executive Board to the PRG and yet the decision ultimately to tell Mr Calderwood, “It’s okay to sign the contract” does not appear to have been a decision of either the performance review group or this Executive Board. How did that happen?

A There was a further Project Executive Board in December and I don’t recall at that Board any major decisions being recorded in the minutes that would prevent Mr Calderwood signing the contract. I think the problem is that some of these issues were not written down and perhaps not visible as a result that would prevent Mr Calderwood signing the contract.

I have reviewed all of the minutes of the various groups I was involved in until I left in February, and I have not seen issues of concern written down and recorded in the minutes that-- and I obviously don’t have access to any other papers except those I’ve been sent, that would prevent signature of the contract.

Q Well----

A That’s-----

Q -- let’s think about why that might be. Can we go to the fifth paragraph of, “Role and remit”, which says:

“The NSGHLPEB will oversee the management of change control procedures in that any change which impacts upon the project must be authorised by this Board before it can be implemented.”

Now, let’s take that off the screen. What were the change control measures that were set up whilst you were the chair of the Executive Board and the director?

A In all honesty, I cannot recall. I mean, a number of issues came to the project executive group on a regular basis around land acquisition, car parking, other issues that we debated on an ongoing basis as to how we could resolve the issue. In terms of the change controls, those-- around the detail, those would have come from Mr Seabourne, and I can’t recall how they came in. I can’t recall.

Q But I’m wondering-- and it’s not just you I need to ask the question of, I need to ask the question of other members of this Executive Board, of what the Executive Board did to ensure there

were change control procedures in place during those final weeks of the contract negotiation?

A I cannot remember the detail of that.

Q Because, in a moment, I'm going to take you to the actual minutes of the October and November meetings, and so we'll pick that up again, but Mr Seabourne raised a particular point in his evidence yesterday. He explained that this paragraph should be read in a particular way, and I wonder what you thought about it.

Well, firstly, before I go into what he said, would, for example, a change in the sense that an aspect of the employer's requirement was not to be delivered, would that be a change which impacts on the project that must be authorised by the Executive Board?

A I think what was clear was that there was not clarity on derogation and alternative solutions, so it wasn't clear, and I think, and in hindsight, knowing what I know now, I would have a different approach. But I think then, if an alternative solution was proposed and the project team and technical advisors thought that was a good alternative solution, it would not have come to this

group.

Q Let's look at a few examples of things we know changed. So you have explained in your statement that you don't know about the withdrawal of the maximum temperature variation in June, and you're very clear about that and so I don't need to take you to it.

But we have a paper from June, so after this term of reference comes in, which instructs the bidders to no longer produce a maximum temperature variant of 28 degrees, and we have evidence that there was discussion about trying to achieve 26 degrees and whether it was a good idea, and various questions around that.

From us, as readers 15 years later, should we not-- or, no, 20 years later, should we not be looking at this term of reference and wondering, surely, changing the maximum temperature of the building requires to be part of a change control procedure that involves the executive board in some way?

A Yes, I would agree. However, there obviously wasn't that much clarity back in 2009 that those sorts of changes should have come to the Board. And, as I said, in retrospect, having had nine years of experience in NHS England and

worked a lot with derogations, I would have-- it should have been something that came to the Board.

Q Now, again, I'm asking you these questions, but let's look at who the voting members are, which is on the next page, page 153. I wonder if we can put that back on the screen. So that's bundle 34, page 153. Next page. Zoom into the bottom half of the page, please.

So we have voting members, and you're there in bold as Chair. Mr Calderwood, Mr Seaborne, Mr McIntyre, Mr Cowan, Mr Griffin, Mr Gallagher, Peter Gallagher, Ms Grant, who eventually became Chief Executive, Ms Crockett, Mr Cromby, Mr Stewart from Partnerships UK, and Mr Baxter from the Scottish Government.

Now, firstly, was there any discussion of the decision to give voting rights to the Scottish Government representative and the representative of Partnerships UK?

A I can't recall the detail. I suspect there was some recommendation in the Gateway Review about ongoing communication and involvement of the Scottish Government, which was by-- Mike would been there. Partnerships UK, I cannot recall.

Q Because it occurs to me the question to ask is this: if you don't have change control procedures in place and a definition of what is a change, then, in terms of what is being purchased for this government money, this group has almost no influence. Is that unfair?

A I suppose there was not the clarity that there needed to be about the change control procedures.

Q Well, yes. So, if you think about the employer's requirements -- which you explain were approved in May, and we've seen board papers discussed at the PRG in April -- would it not be reasonable for a member of the PRG to think that it's the executive board that will decide if we're not going to follow an aspect of the employer's requirements?

A Yes.

Q You're saying that there was no system to ensure that happened unless Mr Seabourne reported it himself?

A So Mr Seabourne and the team, with the input of the technical advisors, met on a weekly basis, and they were involved in the details. They were the people who led the details. So the proposed changes that would have need to have been escalated would have come from them.

Had I been concerned from a discussion I've had with Alan, I would have asked for it to be written up and submitted to the project executive board. If I wasn't aware, I wouldn't have asked, and so I do agree-- Well, in hindsight, I agree that there was not the clarity that there needed to be about issues that needed to be escalated, such as derogations.

Q Okay, I'm going to move onto a different topic – if you take this off the screen now, please – which is going back in time to October 2008 and the move to the preferred procurement model. Now, you've put that in your statement, on what is page 208 of the hearing bundle, in answer to question 4. It's a long and comprehensive answer, and I don't propose to go over it in detail.

What I'd just like to understand is there seems to be a little lack of clarity in the minutes. Who ultimately, in the board structure, decided to change the procurement model? I appreciate the Scottish Government did have a vote in this, but, within the Board, who decided to change it?

A As I understand it – and I couldn't find clarity on this in the papers that were sent; I may have missed it – it

was the Board who decided.

Q The actual top Board?

A I think this is-- I can't remember if this is a PRG paper or a board paper.

Q Is this the issue you raised earlier on, where it was discussed at a PRG and then at a subsequent meeting at a board a few weeks later?

A Yes, so if this is October '08, I think this is a board paper. So yes.

Q Right. We'll go and have a hunt for that.

A If you're asking me specifically about PFI-- Sorry, what's the specific question----

Q So I wanted just to clear that up, that I had two questions for you about the change. They're quite small, but they seem to have had some-- they're of interest to us. So the first thing is, from your point of view, when you change from PFI to a more conventional funding route, what additional safeguards do you need to put in place in terms of quality assurance and defects periods compared to a PFI, from your understanding of how it works?

A Well, I suppose it's to ensure that the lifecycle costs are taken into account post the construction of the

hospital, if that's what you're asking me.

Q Well, yes, because we've had evidence in the Glasgow 3 hearing last year from a number of managers in Estates who were on site after handover – and, from my notes, it's Mr Bratney and Mr Powrie at least, and possibly more – that, after handover, the Estates team at the Queen Elizabeth was too small and under-resourced to do its job in this large new hospital.

I wondered if you can help us about – and I'll take you to a paper to do that – the extent to which the anticipated savings that had come up in the budgets would be-- how they'd be created. Are they, "Let's pick a number," or did someone actually work out the number of staff needed for the new hospital?

A I think I said in my statement I was unable to answer that question; I couldn't find the detail in the papers. People like Alex McIntyre, the director of Estates, and Alan McCubbin, the head of finance for capital, alongside the acute director of finance and Douglas Griffin, would have been involved in the financial discussions. I couldn't see the evidence or the record in the papers, so I can't comment on that in detail, but I----

Q The work would have been

79

done by them as opposed to your team?

A Yes, on the affordability, on the affordability issues and the lifecycle costs, and I vaguely recollect from the ERs that there was a comment required from bidders on lifecycle costs, but it would have been the finance colleagues with Estates colleagues that would have focused on that aspect. I don't think that would have been within my team in detail----

Q I need to move onto the next issue, which is the appointment of Currie & Brown and their technical team, and how that starts. Now, you cover that in your response to question 8, which is page 217. We can jump up to that, and we'll put it on the screen briefly and then take it off. You talk about a paper you submitted to the New South Glasgow's hospital to the PRG. It's mentioned in 8A, top of page 217. I want to take your statement off the----

A Can I just say that I realised from a paper you sent me the other day that that meeting was in September rather than August, so apologies. I should have----

Q We worked that out, so we've recorded that in your evidence. What I wanted to do is to try and understand

80

who actually made the appointment. So if we can take that off the screen. We have your paper, which is bundle 34, document 16, at page 120. So this is your paper, and I do appreciate that Mr Seabourne may have had a hand in some of this.

A Yes, sorry, could you expand that for me?

Q Just the top half, please.

A Yes. Again, Mr Seabourne would have had an input into drafting this.

Q Now, the first paragraph is headed "A recommendation," but it's a recommendation to note the appointment of a new technical advisor team. It reports that they were formally appointed on 2 September 2008.

Now, I've been able to work out – and I'm not going to take you to it – that the interviews took place on 18 August. At least they were planned to take place then. Just for everyone else's assistance, the reference is bundle 22, volume 3, item 3.1, second page, page 24, but I'm not going to take you to it. The letter of appointment is over Mr Seabourne's signature on 2 September 2008. That's bundle 17, document 38, page 1902, which I think we might go to. So bundle 17, document 38, page 1902.

Now, that's Mr Seabourne's appointment letter, and it's copied to you. I think it does matter, given what eventually happens to the technical team, to understand who actually made the appointment. Was it you or Mr Seabourne?

A I believe, again from papers I read, that I chaired the interview panel, so a decision would have been made at the interview panel and the technical advisors would work in Mr Seabourne's team, so he wrote the letter confirming the appointment.

Q Right, so it's an interview panel appointment in a traditional public sector way. There's a group of you who sit down and carry out a structured interview.

A Following a procedure.

Q Yes.

A I mean, (inaudible 11:36:14), there was a pre-qualification, there was a shortlist, a shortlist of teams were invited to interview to do a presentation, and, following that, a decision was made. Yes.

Q Okay. Now, I put in the second document list for you the letters that deal with the downgrading of Currie & Brown's role, and I'm just going to put

one of them up on the screen and ask whether you had a chance to look at it, which is bundle 17, document 74, page 2870.

So this is a letter, 18 January, from 2010, from Mr Moir to Mr Ross at Currie & Brown. If we jump to the next page, it's quite a complex letter, and indeed the response from Currie & Brown, which is the same bundle, page 1903, is perhaps slightly simpler to read. It confirms changes to the appointment scopes and sets out what they are.

Now, what I wanted to know is, these letters are going in the weeks before your departure. Did you have any involvement in the decision to downgrade the role of Currie & Brown as technical advisors?

A I have no recollection of being involved, and I think that might have been because I was in my handover notice period, so I would've not-- I would not have been involved in new decisions. That's my rationale. I cannot, though, recall. Before you shared these letters, I don't recall seeing them. I did glance at them, but I don't recall the decision, and this letter here from Currie & Brown came in after I had left.

Q Right, thank you. If we take

that off the screen. You may not be able to answer or help with this, but I think it would assist to understand your perspective.

There is quite a lot of evidence that would entitle the Inquiry to be concerned about the decision to remove the technical team that were behind Currie & Brown. What do you think the proper governance route would have been at the time to make the decision to downgrade Currie & Brown's role? Did it sit with Mr Seabourne and the project team? Did it sit with you as the director, albeit you were on your way out, or did it sit with the executive board or somewhere else?

A I haven't seen a record in the meetings that a decision was made. Perhaps I've missed it, but I don't think Alan would have made that decision in isolation, so I'm not sure if it was a discussion that was had with the chief executive. I can't answer the question as to where the decision sat. From what I have read, I can't see where the decision was made.

Q Because, if I put to you that we haven't asked Mr Calderwood what happened, so we can ask him in the future-- But if it's not in the minutes of the meetings that are running through

January, February, March, are the only other places we need to look is either at Mr Seabourne or at a decision made by Mr Calderwood taking over your role? Is that the only two places to look, or are there other places we should look?

A I can't think of anywhere else to look, in all honesty. I mean, I'm a little-- In terms of the reporting line after I left, Alan suggested he was reporting both to Jane Grant and Robert Calderwood, so perhaps it was a discussion that involved Jane Grant as well. "I do not know" is the answer to the question.

Q Thank you. Now, the final question on this topic is, does the fact that you reported the appointment of the technical team and the way it was going to work for this procurement to the performance review group create an obligation on whoever changes that role to report the change to the performance review group as well?

A Yes, I would imagine so.

Q Now, a quick question about the Gateway Review 2. In it, you're described as senior responsible owner. I'm not going to take you to the document; I think you probably know you were described as such. What I wanted

to know is what you thought that meant.

A So what I think that meant was that I was responsible for taking the recommendations of the Gateway Review and making sure that we had the mechanisms in place to implement the recommendations and to ensure we were prepared for the next gateway, which happened after I left. So it was basically a leadership to make sure we had the right people and the right processes in place to implement the recommendations.

Q In public procurement, I mean, are you familiar with the reason that Gateway Reviews were instituted?

A To provide an independent assessment at various stages in the project to make sure that we were at a place that was robust and would stand up to scrutiny, and-- I don't think I'm explaining that very well, but it was to test where we'd gotten to and that we were fit to move to the next stage, would be my simplistic explanation.

Q Because it's a criticism that I'm going to put to you that the way you operated the system and the way the system was set up for you didn't cause you to be highly aware of the details around these negotiations and the

employer's requirements and the processes-- and the outputs rather, not the processes. Firstly, is that a fair criticism, and, secondly, is that not something that should be done by the senior responsible owner?

A What I would say is that the job I applied for as director of acute services, strategy implementation and planning-- that was not the expectation, that I would be involved in the detail. The project director would be involved in the detail and he would escalate up to me as the senior responsible owner. I was never a person who had the detail and, as you can see from my organisation structure, I had a significant remit in terms of responsibility, so----

Q Well, if we go back to the organogram----

A If the criticism is I didn't have the detail, I didn't have the detail, but it wasn't the expectation.

Q So, if we go back to the organogram on page-- bundle 43, volume 3, document 1. So I think that might have been page 7, but I can't exactly remember the page -- 43, volume 3, document 1. The reason I'm going to this, Ms Byrne, is simply to count the number of reporters you have things

reporting to you.

A Yeah.

Q So are we to understand that each of these circles -- they're not really circles but boxes -- each contains a different part of the acute services strategy that's being reported to you?

A Yes, in a sense, except what I tried very hard to do in relation to the new South Hospitals project was to ensure that the interface, where it existed, worked. So, for example, in terms of the head of capital planning, that was capital planning across the board, including Clyde.

But where there was an interface -- for example, in the maternity building on the Southern General site -- I made sure there was the appropriate interface there. With health improvement and inequalities, this was taken into account-- the wider aspects of the acute hospitals, and that it wouldn't disadvantage communities, but also the environmental and arts aspects of the new Southern General project.

And the next one is really important: acute services, planning and redesign. That was about how these hospitals as a collective would work together at the ambulatory care hospitals and the new

Southern General in terms of patients going appropriately to one hospital and not to the Southern General, which was a very specialist-- but also in terms of the bed numbers, in terms of how services were used: day case, 23-hour stays. So that was really important, and there was a lot of contact between Sharon Adamson and Alan as we planned that.

So, in terms of-- I mean Alan McCubbin worked really-- he took over from Fiona Wade as head of finance and capital planning. He worked very centrally with the project team and the community engagement. So they all had a broader remit, but, where there was an interface issue, I worked hard to make sure that interface worked.

Q Thank you. I want to look at a high-level question about the outline business case. We can take it off the screen. So, on page 212 of the Statement Bundle, question 6 – in fact, the question is on page 211 – you discuss the Gateway Review process, and the-- you then explain how the outline business case is approved by the Board. That's on page 211, the middle paragraph, in February 2008.

If we jump onto page 213, we ask you about some of your duties and

89

responsibilities, SRO. You see how in the bottom half of the page at A, third line down, you have a sentence here.

A (Inaudible 11:47:41)-- Yeah, sorry, go on. Yeah----

Q Bottom half of the page, if we zoom in, please:

"I was responsible for ensuring the project met its objectives and [the] key deadlines and timescales were met..."

Now, I think it's worth saying that the Inquiry team understands that this hospital project (A) was only part of your responsibility and (B) was a very, very complicated project. We are probably only taking an interest in one or two or three particular aspects of the water and ventilation systems of a huge building, and so we understand that some of the things we ask about were joined at the time by many, many, many, many other decisions.

But what I want to understand is what do you think the objectives were? Are they what's in the employer's requirements, or are they something at a more higher level, conceptually, than the employer's requirements?

A I'm not sure if I understand your question----

90

Q Okay, I'll rephrase it. Take that off the screen. This process is to ultimately contract----

A (Inaudible 11:48:59)----

Q This process is ultimately to contract between GGC and Brookfield Europe, which eventually becomes Multiplex, to build a hospital with hundreds of rooms, providing many, many new services. What I want to understand is what are the objectives you're talking about in terms of your responsibility? Are they to ensure that the Health Board gets what's in its employer's requirements, or are they to ensure that it gets something that is defined at a more high level-- higher level than that?

A I would have wanted to assure the Board that they-- not in detail around the employment-- employer's requirements, but that they were getting a hospital that was fit for purpose so met the employer's requirements.

Q Okay. Well, let's----

A At both levels, actually.

Q Can you say that last bit again?

A I expect it's at both levels, the conceptual and that they were getting what was set out. The employer's

requirements had over a thousand elements to it, so, I would have-- my expectation was that risk elements would be escalated to me in order to escalate them to the Board and the PRG.

You know, I had a very senior project director. We had a very senior team made up of very senior advisors, and I was reliant on them to keep me informed, up to speed, aware of risk, what I needed to escalate, and that's what I tried to do. I tried to make sure that the papers I took to Board and PRG -- or PRG and Board, in that order -- gave them the comfort that they were getting a new hospital that was fit for the future.

Q Thank you. I wanted to press you on the thing that Mr Seabourne said about the terms of reference, which I said I would come back to. So bundle----

A Yes.

Q -- 34, page 152. We've seen this before. It's the term of reference document. I think you have a hardcopy. It's the fifth bullet point, as it were, "Role and remit".

A Yeah.

Q

"The executive board will oversee the management and

change control procedures. Any change which impacts on the project must be authorised by this board before it can be implemented.”

Now, Mr Seabourne gave evidence, if I recollect correctly, yesterday, that by “changes” here – “Any change [that] impacts on the project” – he meant changes of programme, changes of cost and changes of service to be involved. He saw it at a very high level.

A Yes.

Q Did you see it at that level or in some different way?

A I suppose I was reliant on Alan and the team, and this board was not only made up of me; I was the chair of the Board----

Q I understand that. I will ask other people.

A There were very, very senior people representing very many areas of responsibility sitting around the table. But I was reliant on Alan and the team escalating issues around change, looking at this specific room, that needed to be escalated to this board and beyond this board to wherever it needed to go.

Some issues would have been resolved at Alan’s level, but issues that needed higher – for want of a better word

– resolution would have come to Project Executive Board, and a decision would have been made there about what needed to be informed to the project, to the PRG and Board and what needed a decision.

Q Thank you. I wondered if we can look, please, at bundle 46, volume 3, document 1, page 5. So this is a 234-page document. Volume 2, the employer’s requirements, as issued to the bidders. Did you ever read this?

A Not at-- only at high level.

Q What do you mean by that?

A I would have read, at high level, what we were looking for from the bidders to respond. Many areas of detail, I wouldn’t have had the necessary expertise and skills, so I was reliant on our team, our expert team, who put this together and to be able to evaluate the responses that came in, nor did I have the knowledge, nor did I have the experience to understand some of this.

Q Because part of Mr Seabourne’s evidence, I mean, in a sense, to summarise it, was that the issue we were taking him to – that is what we’ve called the agreed ventilation derogation, albeit it wasn’t called that at the time; we can take the document off

the screen – was not something he thought needed to be reported up. He didn't even think of as a derogation. It was almost as if it was one of the things you just had to sort out and come up with a technically acceptable solution to get the deal done.

A Yes.

Q Was there any discussion between you and him in the period----

A Sorry, I'm just charging up my laptop.

Q Fair enough. Well, that's very important. In the period around evaluation and afterwards about when he's going to bring things to you?

A He said yesterday he briefed me all the time and, yes, I'm sure he briefed me a lot because I needed to be briefed to talk to the papers I took to board. But in terms of the specifics, no. I have absolutely no recollection of the discussion around the derogation.

Q It's not so much that – and I do appreciate that's your evidence – it's more, did you discuss with him what you needed to know? So, "Alan, if you're going to do X, Y or Z, you need to tell me." Did you ever have that sort of conversation, such as you might do if you delegate a task to a colleague while

you're going a holiday? You might say, "Don't do that. Will pick it up when I get back," or "You have authority to do that." You might tell a subordinate, "Do this, but if you're going to do that bit, talk to me first." Did you have that sort of conversation with him?

A I imagine I did. He said yesterday that I was very much into the detail, and I am very much a structure and process person, so I'm a kind of a person who follows rules. So I would certainly have spoken to him about escalating risk areas, but, as I say, I have no recollection of the discussion about that particular issue, nor any other particular issue in the build-up towards the contract.

Q But was there a change control process in place to report to you of changes that needed approval?

A I would say no, not formally, not specifically enough, and looking back at these terms reference, it is a weakness.

Q Now, the topic I want to move on to now is to return to this issue of temperature as a factor in procurement. I do appreciate what you said in your statement about not knowing about this issue, but there's been a lot more

evidence since you wrote your statement, and so I'll put some more things to you in case this prompts a memory.

So we've had Mr Seabourne's evidence and I've had the advantage, as the core participants have, of reading a draft of Mr Calderwood's statement, and so it does seem to be a situation that the question of excessive, in some eyes, summer temperatures internally in the new treatment centres at Stobhill and Victoria was an issue of concern within the Board, within the facilities management.

There had been feedback from patients, and this is what might well have prompted a desire to hit 26 degrees for no more than 50 hours a year rather than 28. In your work as the director, is this something you'd ever heard discussed about these other hospitals, these treatment centres?

A I have absolutely no recollection of that, but I was not involved in the discussions around the ambulatory care hospitals. When I arrived, I think Jane Grant did update the ASR Board, mainly around the acceleration, but I wasn't involved in the construction, the procurement and I don't recall being part of discussions about the issues. I have

perhaps seen that in documents you sent me that it was an issue, but I don't recall that I was any part of that. It wasn't part of my remit and I didn't tend to stray into territory that wasn't.

Q Well, I suppose, at this point, it's worth actually picking up and putting to you what Mr Seabourne and Mr Hall have said about what we've called the agreed ventilation derogation. You've already touched on it. Now, Mr Seabourne says that he briefed you about the decision to have reduced airflow to single rooms, albeit not in a formal paper. What's your response to that?

A I have no recollection of that discussion. It was not written down; that is certainly true. It's not written down formally or-- I wouldn't see it informally this time-- after this lapse of time. So I have no recollection about that discussion.

Q He also said that what's called the M&E Clarification Log, in which this is recorded, was contained in the main contract documents available to senior board officials. Did you have access to the contract documents yourself?

A I don't believe that I did. I don't think senior board colleagues would

have read the of the contracts including an appendix called an M&E Clarification Log, because the vast majority of us, I imagine, would not have understood that level of detail nor to look for something in that log. I don't recall ever seeing that log.

So, you know, I don't think that-- I think if there are issues in the log that were of concern, they should have been flagged. I would have asked for a paper where the appropriate people would have looked at what the issue was, not in an M&E Clarification Log.

Q So Mr Hall of Curries & Brown again says he doesn't know whether there's ever a formal document, but he thinks – from what he describes as anecdotal knowledge – that Mr Seabourne and Mr Moir had advised possibly you and Peter Gallagher. Again, what would you say to that, of this change?

A I mean, Mr Hall said clearly that it was anecdotal. Alan had regular contact with me, as he said yesterday. He briefed me on many things. I do not believe-- I do not recollect-- I do not recollect this conversation.

Q Well, earlier on, you explained to us that there wasn't things reported in

the minutes around the signing of the contract. It's quite limited minutes. I think it's only fair that we take you through those minutes between now and the lunch break.

A Okay.

Q We'll stop after we've done this minute sequence, and I would be quite keen of you taking a moment off the call while you're having your lunch just to think, "Have we seen all the minutes?" Because I don't want to miss one out since there are so few words here. If we miss a minute, it becomes a problem, but the first one I want to go to is an executive board minute from 7 December 2009.

Now, we know at this point that what we call the agreed ventilation derogation was not agreed. There was a log on 9 December which still had it not agreed at this point and flagged as not compliant with guidance. So, if we go to volume 42, volume 2, document 20, page 91, we have a paper for the Executive Board. Do you want to see the minute that goes with this, or are you happy just to stick with the paper? Let's look at the minute. The minute is document 18, page 86.

So we have you in the chair. We have Mr Calderwood, we have Mr

Seabourne, we have Mr Baxter. We don't have Mr Stewart, but we do have a lot of board officials. Now, if we move on to 4, which is over the page on page 87, we have an update on progress, and the minute doesn't say when paper enclosure 3 was referred to, but we do also have at the bottom of that page, "Five key actions underway to conclude the contract with Brookfield." Now, if we zoom in to the bottom of the page so you can see it clearly, we have "AS" – I take that as Alan Seabourne?

A Yes, I imagine----

Q

"...reported that the Project Team were now in the process of carrying out due diligence with Brookfield, reviewing the Board's employer's requirements against Brookfield's tender offer to conclude the formal contract document."

Now, you may not be able to answer this question after all this passage of time: had there been a point where the Brookfield tender offer was not compliant with the Board's employer's requirements, would you expect this executive board to have been told?

A I would.

101

Q Why?

A Because if there was an issue where there was a significant departure, I would have expected that issue to be escalated and it to be discussed here. It doesn't mean-- a significant departure doesn't mean there isn't a solution, but I would have expected that. I suspect, knowing myself and how I've worked in my career, that I would have made that clear.

Q If we go back to the enclosure, which is on page 91, document 20, the enclosure has no author. Can you assist us as to who the author might well have been, or do you just not know?

A I imagine it was Alan. "Key actions under way to conclude contract with Brookfield Europe", I imagine that was Alan and the team.

Q Now, if we look at the first paragraph:

"Following the selection of Brookfield Europe LP as the preferred bidder, the Board Project Team and their technical advisor team are currently reviewing the submitted bid and the evaluations to identify and resolve any potential conflicts and/or gaps between the

102

employers' requirements and the contractors' proposals. "

Does that fit into the governance model we previously discussed, in terms of reference?

A I'm not sure I understand your question, sorry.

Q Who's doing the resolving of the potential conflicts in this report and the minute?

A Alan and the team would have been leading that work.

Q Is that consistent with the term of reference document that we've been looking at, that you've got a hard copy of there?

A Yes. As I said, I think it's confusing because I don't think it would have been the Board conducting and concluding negotiations. It would have been a member of the Board delegated to do that and feeding back to the Board.

The Board, as you can see, it has a large membership. The Board would not have gone to conclude, and I do agree that those terms of reference are confusing, and it was when I looked at them in detail last night. I thought, "I can see why they're confusing," but in terms of the conclusion of the contract, and I think of conclusion of the issues, I think

that it was Alan who was leading this process.

Q Because what I'm----

A (Inaudible 12:07:58) team.

Q -- concerned to put to you is that if we go back to the minute on page 87----

A Yeah.

Q -- and go to the end of the item, so the item at the bottom of the page, and just check what's on the next item. We'll go back to the previous page, the bottom of the page. Does this minute explain that Mr Seabourne has been given the authority to resolve these issues, or is it also unclear?

A Well, to me, it's clear.

Q So you think this is your Executive Board, of which you're chair, giving the responsibility to Mr Seabourne to resolve the issues?

A Unless I'm missing something, I believe so.

Q Okay.

A Alan, you know, he was the project director. He came to Board to update us all, in the same way I went to PRG and to the GGC board to update them. So, Alan, we would have looked to Alan to do this. At least, that's my understanding.

Q So we also have a presentation made by Mr Seabourne to the 3 November 2009 programme review group, which is at bundle 17, document 66, page 2715. Now, there are two presentations by Mr Seabourne, and if we go to page 2725. Now, that section refers to departmental adjacencies. Do you remember this presentation or any of the presentations that Mr Seabourne made?

A I remember there were presentations. I don't remember the content of them. This was 15½ years ago.

Q Thank you.

A (Inaudible 12:10:27).

Q Can we work out, from the basis of what you think then happened, whether you and the whole of the PRG and the Executive Board were told that the contract, the tender offered by Brookfield, was not compliant with one of the employer's requirements on ventilation?

A I don't think we were told that, no.

Q Take that off the screen, please. Let's go to the performance review group on the 3 November and their minutes. That's bundle 17,

105

document 64, page 2651. So, as you've explained, this is a committee of the Board----

A Yes.

Q -- and you are recorded as being in attendance----

A Yes.

Q -- along with Mr Seabourne.

A Yes.

Q Now, Mr Calderwood is a member of the Board, so he's in the meeting. If we look at item 66, which is page 2652. So this is the approval of the tender. This is the last time any Board unit group meets before Mr Calderwood signs the contract.

So it first records -- if you zoom to the bottom of the page, please -- Mr Daniels has declared interest. Then there was a paper by you seeking a member's approval of a preferred bidder, and you update them on what's happened before, and they explain-- there's a little bit of history in the bottom paragraph. Let's look at your paper, which is page 2660. Did you have a chance of reading this paper as part of your preparation for the hearing today?

A Yeah, yeah.

Q Does this paper explain to the PRG that (A) Mr Seabourne is conducting

106

the final negotiations and (B) that, at this point, there are aspects of the Brookfield Europe bid that are not compliant with employer's requirements?

A I don't think it does either.

Q No, and is this paper coming out of the process that involves that presentation back in October that you talked about earlier on?

A Yes, so----

Q Yes.

A -- the presentation, the recommendation, and the update to PRG, yes.

Q Because I'm concerned about something that I need to put to you about the process that generated this report. I'll explain it. I'll take it off the screen, and I'll explain what concerns me and then I'll go to the document so you have a chance to think about it.

You have a presentation on 22 October 2009. The link's gone. Oh, you're back. Excellent. We have a presentation to the Executive Board on 22 October 2009. We can look at the slides to the presentation. Some of the people in that presentation will know about the ventilation issue that exists in the logs, and some of the people won't. It seems you're one of the people who

doesn't know, and it seems that Mr Seabourne is one of the people who does, but there's more than just the two of you in this conversation.

Then, on 26 October, you have a meeting of the Board, and you're recorded in the minutes leading a discussion about what will be reported to the PRG. How can you decide what will be reported to the PRG if you don't know that the bid is, at that point, non-compliant with one of the employer's requirements, in this case compliance with the guidance?

A I mean, I will have relied on Alan to draft this paper. I, of course, will have had an oversight and review of the paper, but if the issues hadn't been flagged as areas of risk, then they weren't included, so----

Q Well, let's look at the presentation, which is bundle 43, volume 3, document 14, and I want to go to page 981. So this is one of the slides of the three bidders. Now, the reason I put this up, Ms Byrne, is because these first two bullet points, which relate to Brookfield Europe's bid, are the only place that I and my colleagues can find any hint of non-compliance with the employer's requirements, and I'm not even sure it's

that:

“An Iconic design satisfying the Employer’s Requirements in the vast majority of areas achieving maximum efficiency in programme and construction (Removed Transfer floor)”

Now, was there any discussion that you can recollect about in what ways, if it’s the case, that employer’s requirements were not satisfied in some areas?

A I don’t recall that discussion, if there was that discussion. I mean, this was quite a detailed presentation, which – thank you for sharing – I went through in the last couple of days and it was pretty thorough, but I don’t recall it stating about-- no complaints with the employer’s requirements.

Q I think we’ll look at the minute, for completeness, of the 26 October 2009 meeting, which is bundle 42, volume 2, document 15, and the minute starts at page 78.

So, again, we have you in the chair, and Mr Calderwood, Mr McCubbin, Mr Seabourne, Mr McIntyre, Mr Cowan, Mr Crombie, Michael McVeigh from Ernst & Young, Mr Ross from Currie & Brown, the

Board’s solicitor, Ms Grant as Chief Operating Officer, Mr Gallagher, Mr Griffin, Mr Farrelly, Mr Beattie, and Mr Moir. Unfortunately, we don’t have Mr Baxter or Mr Stewart, but we do have an email exchange between Mr Stuart and Mr Seabourne.

But the question that I find interesting arises from item 4, which is on the next page. You’re recorded as discussing what will be reported to the PRG. I’m just wondering, would it not have been sensible at this point to ask a straight question of the team carrying out the evaluation, “Is the bid compliant with employer’s requirements?” and to then proceed on the basis either way?

If it is, great. If it’s not, then presumably one would ask what those are, because it doesn’t look as if that’s happened based on the fact of what then happens afterwards, your knowledge and what’s reported to the PRG. Would you accept that it would have been a good idea to ask a straight question of Mr Seabourne at that point?

A In retrospect, it would have been a good idea. The presentation that was given previously was thorough. No issues were flagged around non-compliance with the ERs, but, in

retrospect, yes, it would have been a good idea.

Q Actually, I think we might succeed, my Lord, in finishing before lunch. So what I'm going to do is I'm going to move on to your departure and then I might take a short break because I do need – and I'm saying this for the benefit of my colleagues watching in the back – to resolve this reference error that you've mentioned the wrong thing and we've referred to the wrong thing in your statement, so I'll need to resolve that before we finish your evidence.

But I want to move on to your departure in February 2010. Now, you've covered some of this already, but I think we should explore it in a little bit more detail. We've noticed that you chaired an Executive Board meeting on 16 February 2010----

A Yes.

Q -- which is at bundle 42, volume two, document 21, page 92. Then, item 4, page 93, we have a report about the laboratory, which doesn't concern us. Then, lower down the page, we have the report on the new hospital design Stage 2. So Mr Seabourne is straight into the new work in Stage 2, isn't he?

A Yes.

Q Is there any particular reason why we don't see a report from Mr Seabourne saying, "We finished the negotiations, Mr Calderwood signed the contract, all fine. You can find it here. Here is my report"? That's not there. There's no, "I got Mr Calderwood to sign a contract to build a hospital" report in this minute. Is that just a matter of practice, or is it unusual?

A I probably think it's unusual, but I-- things were moving at such a pace, I imagine. I can't remember the detail, that it was known the contracts had been signed and now we were into the detailed work. I mean, these were my last few days in Greater Glasgow and Clyde, and I obviously hadn't asked for that to be clearly put into a document, nor recorded at this meeting.

Q Well, let's go to the paper that Mr Seabourne submitted. So it's the same bundle, 42, volume 2. It's now document 22, page 96. As you say, if we just zoom out – or zoom down, as it were, move down – that's about laboratories. Over the page, the new hospital. It is a forward-facing report. If we go back to the minute, so that's on page 95, I'm not going to show you the risk register for the

project we have from May 2010 because it's after you left.

But, given what you've – and we can take this off the screen – now learnt from all the papers we've sent to you about (A) what was called the agreed ventilation derogation and, perhaps more importantly, the way it seems to have found its way into the ventilation for Ward 2A in the Children's Hospital and Ward 4B in the Adult Hospital, would it not have been a good idea to include some sort of reference to that decision in the risk register?

A I believe it would. However, my view is it was not perceived to be a risk because I would have asked for risks to be escalated to me and I would have ensured those risks were considered at an appropriate governance meeting.

Q I think it's----

A The risks were held by the project team, and they managed risks at that level. But significant risks, I would have expected, and, looking back and reading all of these documents after 15 years not being part of the NHS Scotland system, and having worked-- you know, built on my experience in NHS England, I think the visibility of risk was not sufficient back then.

113

Q I think it's fair to say that Mr Seabourne wouldn't accept that this was a risk.

A So I think it wasn't escalated as such to me and, if you consider the breadth of this project and the level of detail, I was reliant on Alan and the technical advisors to flag to me what the risks were. And this, as you just said, was not seen as a risk by the project director, so therefore I suspect I never knew about it.

Q I wonder if we can go to a meeting of the ASR Programme board on 19 February. So, again, it's just before your leaving, and this is----

A (Inaudible 12:24:32), it's a Friday.

Q Sorry?

A I think it was probably my last day; it was a Friday.

Q Right, so you think you left on the 19th?

A Yes.

Q Well, that's good, because that was going to be one of my questions.

A I think I had a week off. I remember having a week in London to try and settle myself before I started in my new job.

Q Right. If we go to this minute –

114

which is bundle 30, document 11, page 69 – what I want to do is look at a question at item 8, which is on page 71, and the question comes at the end of this section. So there's a discussion of the new governance arrangements. Item 8, the bottom of the page. Were you involved in creating the new governance arrangements after your departure, or was that left to other people?

A My name is on the paper with the proposed government structure, if that's what you're asking me, so I would have worked with Alan. He probably did the vast majority of the writing, but I would have overseen it. So, yes, but I obviously wasn't around to put them in place.

Q If we go over the page, page 71. The first paragraph discusses when the changes will happen. The second paragraph raises issues around communication. It's the third paragraph I want to ask you about. Now, SG appears from the sederunt at the beginning of the minute to be a Mr Gallagher from the Scottish Government. Do you know what his involvement in the Scottish Government was?

A I can't recall.

Q Let's not worry about that.

Let's worry about the question he asked and whether you think the answer is accurate.

A We were dealing with Mike Baxter, but I don't know, can't remember.

Q Well, would Mike Baxter have been a normal attendee at the ASR Programme Board?

A Probably not. He probably would have been an invite.

Q Right. Well, let's zoom into the top half of this page, page 71, and look at the question that begins:

"SG asked if accountability structure within the project was solid and RC [that's Mr Calderwood] reported that lessons were learned from previous projects, both successful and unsuccessful projects, and they were treating this project as a PFPI in regard to the costings and changes in design that would have impact on costs, and there was a structure in place that only allows major changes in cost to process through health board level with accountability at each stage below this. It was also noted that Brookfield's original quote allowed for some fluctuation without impacts

on costs.”

Do you have any view now on whether – and it may not, of course, be the complete story – that minuted response is accurate?

A Is there a particular issue you’re asking me about?

Q It’s the reference to the accountability structure. Do you think the accountability structure in this project was solid?

A I would say, in light of what I’ve already said, in hindsight, there wasn’t enough visibility of risk, significant risk, and, also in hindsight, of derogations from guidance.

What I mean by that, having had quite a bit of experience of derogations in my career in England, is that not all derogations are bad. A lot of them offer alternative solutions that are as good or better, but they’re written down. The issue is written down and the solution is written down, and it’s there to be seen and discussed.

So I don’t think there was enough focus on risk and enough focus on derogation. So was it solid? It was mainly solid with some weaknesses.

Q Thank you. My final area, just to pick up with you before we break

briefly, is an email that was sent to you, which you almost certainly didn’t receive because it postdates your departure, but it enables me to ask some questions. So it’s bundle 43, volume 2, document 30, at page 341. So there’s an email from a programme and project support manager in the Scottish Government to you on 8 June 2010. Now, you wouldn’t have got this email, would you?

A No.

Q No. Well, what I----

A I----

Q Carry on, please.

A I’ve seen this email from Tracy-- Apologies, I can’t pronounce her surname, so we’re not going to try to. I did-- You sent me this?

Q Yes.

A I’ve seen this, yes.

Q So the question I’m asking is, from your perspective, had you actually received it? This is hypothetical, I appreciate that, because, if you’d still been in post on 8 June 2010, how would you have answered the second bullet point? That is:

“... that there have been no significant changes in the Project scope or overall risk level since the

last Review...”

I’m not going to ask you to imagine what you would have thought at the time, that’s completely unfair, but knowing what you know now, how would you have answered that question in June 2010?

A I probably would have read this in the context of the Gateway Review and what Gateway Review 3 was looking at. So I probably-- In terms of the Gateway Review scope, that’s how I would have seen it. I would have said there was no significant changes. That’s how I think I would have read that sentence.

Q Knowing what you now know about what we’ve----

A If you’re asking me specifically about the departure from the ERs, then it’s a different answer. There were changes.

Q Would you consider them as significant in this context?

A Given what’s been said in this Inquiry, then, yes, back in 2010, in June, when it wasn’t considered to be a risk and it doesn’t seem to have featured in that period of detailed design nor in the full business case. It’s hard to answer that question.

Q Well, I suppose the other

119

question to ask, which might be easier to answer, is, at the stage of full business case, the decision to have the air supply to single rooms at 40 litres per second as opposed to 6 air changes an hour had been made, but we’ve yet to see evidence – or we’re not entirely sure – whether it had been iterated out into enough rooms that that had included single rooms in 2A and the rooms in 4B.

So we don’t yet know whether what you might describe as the “problematic knock-on effects” had happened. Would you have expected the full business case to tell the Scottish government that the hospital, this huge hospital, would not apply the air change rate set out in Scottish government guidance, which is also the same as UK government guidance? Would you expect that to be in the full business case?

A Given what I understand the full business case would have covered, and I wasn’t there----

Q I know that.

A -- so I just want to make that very clear, but, given what I expect should have been contained in it, then I think yes, but, from what I understand from what Alan said yesterday, it wasn’t discussed during that detailed design

120

period and concerns were not raised about it, so perhaps that was the decision-- perhaps that was the reason, rather, it wasn't included.

Q What do you think of Mr Seabourne's explanation that the purpose of a full business case is to persuade the Scottish government to invest the money and – I think I'm phrasing him correctly – this might not have helped? He maybe implied that rather than said it directly, but what do you think of that as a perspective of the issue?

A I mean, I suppose, at very high level, it's true that it was a business case, which, you know, is a case put together to justify the money that should be spent. So, you know, it would-- I imagine it was a detailed but pretty high-level document.

Q Do you sort of agree with the approach he took to whether it should have been the full business case in his evidence? You watched the evidence yesterday.

A I did. I mean, I was genuinely surprised. So the issue wasn't written down in my time. However, as was stated by a number of people, the project was going into stage 2, which was the detail design, and it was during that detail design period that the issue had the

opportunity to be considered/addressed, with many users involved, etc, etc.

So I was surprised to hear it hadn't been an issue and, you know, in retrospect, it's easy for me to say that I would have expected it therefore to be in the full business case, but, you know-- And, I mean, it's interesting, Alan referred to his "superior" a few times during that, implying it was me. It wasn't me. I was gone, so, you know, he would have been briefing up, I imagine. So I don't know how to answer the question, really.

Q Okay. Before we stop for a moment, what we traditionally do at the end of people's evidence is to take a moment to see if there are any further questions that arise from the core participants' legal teams who are in the room with us.

But, before I do that, I want to just go back to the correction you want to make. So, this was on page 212, and I just want you to, effectively at dictation speed, tell me the title of the report you meant to refer to in the second paragraph of page 212 so we can try and find it.

A This is page 11 of my statement, yes?

Q Yes, it is.

A Right, so it should read:

“Update on the new South Glasgow hospitals and laboratory development on the Southern General hospital site.”

Q It’s a February 2009 paper?

A Yes.

Q Okay. I’m just going to check my computer in case a keen colleague has sent me a reference.

A Yes.

Q Well, that’s very helpful. What we’ll do is we’ll try and find that and, my Lord, this might be an appropriate point to break, if that would be appropriate, for---

THE CHAIR: Right----

A I mean, this paper here is actually October 2008, the one I referred to-- it’s the title I referred to, but the paper I’m referring to is the board paper in February ’09, following the Gateway Review.

MR MACKINTOSH: We’ll find the reference, thank you.

A Okay.

THE CHAIR: Right, could I just understand what you’re proposing, Mr Mackintosh? Are you wanting a brief break then we resume and then we take lunch or----

MR MACKINTOSH: No, what I’m proposing to do----

THE CHAIR: -- are you proposing an earlier lunch?

MR MACKINTOSH: No, I have managed to get a lot faster than I planned with this witness. I am virtually at the end of her evidence.

THE CHAIR: Ah, right.

MR MACKINTOSH: Which will no doubt come as a delight to some people who have other things in the afternoon, and so what I was proposing to do is to take 10 minutes now, possibly a little bit longer, to firstly allow anyone who has any questions to approach me to see if we could ask them, and, secondly, for the team at the back to find this document so we can correct the statement. Something might arise in that, I don’t know. I’ll look.

But my intention would be to try and finish before one o’clock. Ms Byrne was originally supposed to be a half-day witness, but we’ve changed this timetable, unfortunately, a few times.

THE CHAIR: I had maybe not fully understood that----

MR MACKINTOSH: She’s been very gracious about being moved around something rotten----

THE CHAIR: Yes.

MR MACKINTOSH: -- over the last few weeks.

THE CHAIR: Well, right, now that I understand the position is that we'll take maybe 10 minutes and the view-- the object will be to finish before lunch----

MR MACKINTOSH: Indeed.

THE CHAIR: -- whenever lunch----

MR MACKINTOSH: Absolutely.

That's my plan, my Lord.

THE CHAIR: Yes. Well, Ms Byrne, can you stay with stay in contact with us? We're going to take a break of possibly 10 minutes or thereby with a view to finding out what more questions may be in the room and identify the document. So can I ask you to, as it were, stay in much for possibly about 10 minutes?

A Thank you, my Lord.

THE CHAIR: Thank you.

(Short break)

MR MACKINTOSH: My Lord.

THE CHAIR: Mr Mackintosh.

MR MACKINTOSH: I think we've found the document, and I have two questions.

THE CHAIR: Right. Can you still hear us clearly, Ms Byrne?

A Yes, I can. Thank you.

THE CHAIR: Thank you.

MR MACKINTOSH: So I think the

document you meant to mention on page 11 of your statement is a February 2009 board paper, which is in bundle 37, document 37, page 499. Can I just see if we can confirm that? Is this the one you meant to refer to?

A Yes.

Q Well, it does enable me to ask a question.

A Sure.

Q If we go on to the third page – that's page 501, item 4.1, "Clinical output specifications" – there's been some evidence I would like to put to you and see if you can assist us with.

So we've obviously read – and I'm not going to take you to them – a range of clinical output specifications that are relevant to issues in the Inquiry. We've had some evidence that they vary in detail and, to some extent, scope. So I think "quality" might be the right word. The quality, the complexity of the information about ward systems, requirements around ventilation vary quite dramatically between them.

I wondered if you had any thoughts about the process for constructing clinical output specifications and whether it could be improved to ensure that the views of clinicians are properly captured early

enough in the process.

A I mean, at this stage, it would have been really quite early because it was before we went to the market. So it was, like, the exemplar, the high level. I mean, just listening to the discussion yesterday when it was in the more detailed design, there was something about asking those very specific, more technical questions, I think, that perhaps were not-- and maybe at this stage, too, this early stage, where, you know, the critical aspects of a room or an area-- there's specific questions about those critical aspects that seemed to have been missing.

And it's just thinking through how best to obtain the views of clinicians in that-- in those critical aspects, and I suppose it's about having the right clinicians in the room as well because, you know, it may be that the-- Let's take a theatre. The surgeon has one view, the theatre nurse has another view, the technician has another view, but nobody's asking about ventilation because none of them have the right knowledge base.

Q So, effectively, you're thinking there needs to be more thought about who you ask and what questions you ask

them?

A I would say so.

Q Right. I have two more questions. So, the other one, there's been some evidence which-- Mr Seabourne was the sort of the loudest on this, but other people have spoken about it.

He suggested that he had been instructed by people more senior than him in the organisation in the Scottish government -- he didn't name them -- that, because this was a design and build contract, he should leave the design and the detail of the design to the contractor and not, in a sense, check or second guess the design. Do you remember any conversations around that area when you were in post?

A I don't remember anything to that end.

Q Do you have any memory of being there or telling Mr Seabourne that, because this is design and build, you should leave design to the contractors?

A I most definitely would not have said that because I wouldn't have had that experience or knowledge to have had that conversation.

Q Okay, thank you. The other thing is I've been asked-- a question was

proposed to be asked, which is this – it is quite a leading question, but I'm trying to see what you say – would you agree that there was not effective government in place to ensure the employer's requirements reflect in the contract and that, with hindsight, this impacted on delivery of a hospital that was compliant with guidance?

A As I said earlier, I do believe there wasn't enough focus on risk and on derogation. The questions weren't asked, and had there been more of a focus on risk and the risk mitigations and the actions taken to mitigate risk and, likewise, the derogation, there would have been the opportunity for more people to have been involved and to have agreed it was the right way forward or not or to propose different actions. So I do think the governance, in that respect, could have been tighter.

Q Thank you. My Lord, I've got no more questions and, I think, looking around the room, there's no further questions for Ms Byrne.

THE CHAIR: Ms Byrne, that is the end of your evidence and therefore we can say goodbye to you. But before we do that, can I express my thanks on behalf of the Inquiry not only for your

giving evidence this morning but in respect of the preparation for that: reading documents, reminding yourself of events and answering our questionnaire. So can I say thank you very much, but you're now free to log off or disconnect, whatever is the appropriate expression.

THE WITNESS: Thank you, Lord Brodie. Thank you, Mr Mackintosh.

THE CHAIR: Well, that ends the present session of the hearings.

MR MACKINTOSH: Sir, I have two bits of housekeeping announcements. I wonder if I might---

THE CHAIR: Please carry on.

MR MACKINTOSH: I asked Ms Barmanroy some supplementary questions. There's two documents I hadn't put to her. She's provided a supplementary statement. It'll take a few days for her to sign it off, but it's intended to be added to the hearing bundle that she's in, which is volume 1. So there'll be a fresh version of that volume in due course, and her supplementary statement will appear on the website and so those who are interested in that might want to note that.

Obviously, the next time we meet is 19 August, my Lord, and preparation continues for that hearing, which will

focus on the report by Professor Hawkey, Dr Agrawal and Dr Drumwright. The Inquiry team have instructed a number of other reports in and around that area from people including the Inquiry's experts and the case notes review expert panel. We have some of those back already.

I intend to provide them to core participants within the next week or so – it might be a little bit longer – and also to the authors of the various reports. I thought it was worth just putting that into the public domain, but 19 August is, again, the next opportunity this Inquiry will meet for a hearing.

THE CHAIR: Thank you, Mr Mackintosh. All being well, perhaps we'll see each other on 19 August, but until then, thank you for your attendance and enjoy the coming weekend.

(Session ends)

13.09