



SCOTTISH HOSPITALS INQUIRY

**Hearings Commencing
16 September 2025**

Day 3
18 September 2025
James Cassells Stewart
Peter Gallagher

C O N T E N T S

Opening Remarks 1

Cassells Stewart, Mr James (Sworn)

Questioned by Mr Mackintosh 1-60

Gallagher, Mr Peter (Sworn)

Questioned by Mr Connal 61-140

(10:03)

THE CHAIR: Good morning, Mr Stewart. Can you hear me?

MR STEWART: I can hear you very well. Can you hear me?

THE CHAIR: I can hear you very clearly. Now, as you understand, you're about to be asked questions by Mr Mackintosh but before that, will you take the oath?

MR STEWART: I'm happy to take the oath.

Mr James Cassells Stewart

Sworn

THE CHAIR: Thank you, Mr Stewart. Now, we would plan to take a coffee break about half past eleven but if you want to take a break at any time during your evidence, just give an indication and we'll take a break. Now, Mr Mackintosh.

Questioned by Mr Mackintosh

Q Thank you, my Lord. Mr Stewart, why don't you give us your full name?

A James Stewart, or do you want my other names as well?

Q Normally, we conventionally ask for a full name.

A James Alexander Gustav Harold Stewart.

Q Thank you. You produced a statement for the Inquiry. Are you content to adopt that as part of your evidence?

A Yes.

Q Could I ask what your current role is, or occupation?

A I am retired from a full-time job. I have a number of part-time roles which I can detail if you wish.

Q I think we have some of them in the background, but I understand you recently completed a report for the government on the High-Speed 2 project?

A I did, yes. So, it was submitted in January, published in June. It was actually, to be specific, it was on major infrastructure projects based on HS2 but incorporating wider lessons for UK infrastructure projects.

Q Thank you. To what extent did it address issues of corporate governance in infrastructure projects in the UK?

A A lot.

Q Presumably, it would cover the management of risks and control of a project and how one got what one wanted from a project?

A Yes. I mean, there was a specific remit. It concentrated on

governance, assurance, cost estimates, the way costs were controlled, capability, so it was quite a wide-ranging report. I mean, could I ask a question, please, in regards to the proceedings today because you may well ask me questions which are to do with my role on the project, but you also may ask me questions which I would classify as being an expert witness because of my wider knowledge. You know, you've just been asking me about that report and obviously, I went deep into governance, so I think it would be helpful for me to be clear when you're asking me a sort of expert witness question and when you're asking a question with regards to my role on the project.

Q I certainly can do that. It's probably worth explaining why we're calling you as witness. So, this Inquiry is investigating the procurement of the New South Glasgow Hospital project which cost something north of £700 million and has 1300 rooms in a consequence of concerns that emerged some years after it opened around the effectiveness of the ventilation and water systems of the building and whether they had an effect on patient safety, to take it very short. There seems to be an echo in this room, and I wonder if the IT team can think about that. The reason we called you is because we are speaking to anybody we

can get hold of who was involved in the original decision-making processes in 2009 prior to contract close, and you were a member of the New South Glasgow Hospitals and Laboratories Executive Board.

Of course, I am conscious that you have an expertise in procurement governance, and you did then as well, so yes, I will ask you questions that relate to your skills and experience. We've not been taking a formal view on expertise other than the Inquiry's instructed experts and so we have repeatedly asked questions of persons of skill who were involved in the project and have taken opinion evidence from them. Generally, it's opinion evidence about infections and epidemiology, that doesn't apply to you.

So, just as we would ask a consultant infection control doctor a question about causal link based on data that has emerged since the events, I might ask you questions about governance. I'm conscious that you might not remember because it is an awfully long time ago and to that extent, we'll try and help you.

Before we do that, just to understand, if you think back to 2008-9 and the environment that procurement was in, what were the sort of issues that were causing government to be concerned about the procurement of

expensive public infrastructure and investment projects?

A Well, if you take 2008-2009, most – most, not all – but a lot of the public procurement had taken place under PPPs. Now, reading the papers – I can't remember this, but reading the papers – the papers make it clear that at some point, and you'll-- you'll know when that was, a decision was made to move from a PPP structure to a conventional procurement of design and----

Q Yes, about 2008, early 2008.

A Yes, so I think it was before my involvement. So, the reality is that there was probably much more experience in a PPP environment at that time than a design and build environment because most of the procurements had gone through a PPP because that was the preferred option for pursuing these projects at the time. But yes, I mean, I would say that-- I mean, I wouldn't make any comment that we were in a particular peak in terms of skills of procurement or a particular dip. I think, as I said, the majority of the skills were around PPP but there were still lots of people who understood had to do design and build.

Q In terms of Partnerships UK as an organisation, I appreciate that you explained in your statement that you don't remember the particular circumstances of your instructions for this hospital, but can

you help us understand what Partnerships UK was designed to address when it was set up?

A I can, yes. So, Partnerships UK was established in the year 2000, off the back of a body that was a predecessor called the Treasury Task Force. So, the Treasury Task Force was set up under the chair of Adrian Montague, had about 12, 13 people in it, all on secondment. It was set up to help government pursue the PFI/PPP programme. It was seen as a good thing and P-UK was then set up as an enlarged and more resilient and long-lasting entity. So, its primary purpose was to support the government in the pursuit of the PPP- - I'm saying PPP, I'll use the words PFI and PPP interchangeably.

Q Understand.

A At the time it was set up, it was the PFI. It had an unusual structure in that it was 51 per cent owned by the private sector, it was 49 per cent owned by the public sector, and the public sector shareholding was shared between the UK Treasury, Her Majesty's Treasury, and Scottish ministers. And actually, at the beginning, all the devolved territories were given the opportunity to become shareholders and only the Scottish ministers took that up. I think I'm going to say 5 per cent shareholding of the Scottish ministers, something like that.

So, we had a-- So, P-UK had a direct relationship with Scottish Ministers, which is probably relevant to our appointment at some stage, and we had a cadre of professionals who did a whole range of things. It's fair to say that the remit did expand beyond PFI/PPP, so I will give you-- and we became part of the commercial corporate finance type expertise within government.

So, let me give you an example of something that would not have been under PFI. When Railtrack went into administration, I and a few others were called in to help prior to that administration, and support ministers and the senior special advisors, and then actually we had a role to set up Network Rail. So, it became a centre of commercial expertise within government to support the public sector, primarily focused on the pursuit of PFI/PPP programmes.

Q Thank you. What I wanted to do was to -- I mean, I'm conscious of your answer is that you don't remember much of this -- but I'm going to show you the document and we'll talk about what we might be able to extract from it. If we can go to bundle 43, volume 3, document 5, at page 1717. It's fair to say, Mr Stewart, we have not recovered an awful lot of Partnerships UK-- Sorry, page 433. We've not recovered an awful lot of

Partnerships UK material from Greater Glasgow & Clyde Health Board. When was Partnership UK closed down?

A 2010. So 2010, Partnerships UK was split three ways. We had some investments which were sold off, we had a local authority, local health body business which went to an entity called Local Partnerships and the rest of it went into the treasury and became part of Infrastructure UK. So, so you're right. I mean, I certainly have no access to any P-UK-- I don't have access to my notebooks or any P-UK correspondence relating to this project.

Q Indeed, and all we've managed to find is a series of letters and by way of example, one moment when your colleague, Ms Phillips, provides advice on a particular issue that's not particularly relevant to what we're looking at and the minutes of the meetings you attend, and a couple of other documents. So, this is an internal memo -- which I'm sure you never saw -- from Mr Calderwood to his colleagues on 24 July 2008, and it attaches your letter which Mr Calderwood clearly thinks, from the second paragraph, sets out how you think P-UK could add best value to the project.

Now, the reason I wanted to show you this is just-- You've had an opportunity to read the letter which is on the next page? Can I take it you've read

the letter, it's quite a long letter, setting out what was offered----

A I have read the letter, yes.

Q Firstly, does it look like the sort of letter that Partnerships UK might write to a potential client back then? We're not talking about something rather unusual?

A No, I mean, it looks like the proposal that we would have made at the outset. Now, what you cannot determine, because you don't have the exchange of letters that follow – or I certainly haven't seen the exchange of letters that's referred to somewhere – is what particular services they chose to take up.

Q I appreciate that.

A So, this is a full menu of options. Now undoubtedly, they definitely took up the option to put me on as a non-exec on the Board but one of the bits I really don't remember, and I haven't read anything that gives any more information, is what-- to what extent people in my team at P-UK were doing other things on the project.

Q Well, that's an interesting question. I think possibly I can jump ahead and help you answer that, because we found your invoices. They're a very long time ago, so I hope you won't be embarrassed if I show you a few of them.

A No, I've seen one invoice. I only saw an invoice that was for-- I've got

it in front of me actually, because actually, I only saw it yesterday and I wish I'd seen it about two months ago because it's the clearest explanation of what I actually did.

Q Well, indeed, and we only found it about a month ago, so let's go and look at it at bundle 52, volume 4, document 1. Now, it starts off with an invoice dated 26 November 2009. Now, that matters to us because it is about two weeks before contract close and that affects our understanding of what's going on at the time. It records work only by you and by Ms Phillips and it doesn't include an awful lot of hours or do you think that's a-- Well, look at the period and then you can give me a feel with how much work you thought you were doing.

If we go on to the next page, we have timesheet details and these cover a range of periods. So, there's an entry from March for both you and Ms Phillips, and it runs through to the end of October. Then on the next page, we have your expense details, which will serve to be helpful to answer one of your questions about whether you actually flew up for a meeting.

Now, we also have a further----

A I hadn't seen-- I'm just looking at the expense page, because I hadn't flipped the page to look at it. Okay, yes.

Q So, there is another one which

I'm just going to put on the screen and we'll just take you through that, which is the same volume but it's document 2.1, so it's page 11. This has the same date and it's a much smaller invoice for time, but it has more timesheet information on the next page, page 12. Again, it starts in March. Then page 13 contains expense details, which are also quite handy because they cover a period. It's fair to say, I think, that this whole period that's covered by this expense detail page, page 13, is the period we're interested in.

A Okay.

Q I wondered if you might agree with something I might put to you, that it looks from these invoices that your role is quite close to being limited to attending the boards, because you're large, set pieces of work, according to these invoices anyway. Does that feel right, or am I pushing it?

A No, I don't think you're pushing it at all. My-- my-- This invoice was very helpful to me because it looks like it does cover the full period I was involved. Let's just go with what it doesn't cover. It-- it-- I would be surprised if Claire Phillips only spent an hour on this project.

Q Well, I would be too, because I'm about to show you a report she wrote.

A Okay, so that-- that-- so that's my-- my hesitation on this invoice is it-- it covers me----

Q Yes.

A -- and I think I-- I can't say this was great certainty, but-- but it looks like it-- it looks like it does cover the role I played on the project, right? That-- that-- because it would be strange if there was an invoice for-- for this period that didn't have-- if I spent other time on it, they didn't cover that other time. So-- and even though this is 16 years ago, normally, my memory would be better of a project, but my rationalisation is, actually, this is consistent with me spending relatively little time on this project and therefore not going to-- So-- so, for the record, I would-- I can't say this with certainty; I think this is probably an accurate reflection of the time I spent, and it-- and to pick up your point, I think it's probably fair to say the majority of time I spent on this project was in the board meetings for which-- and the-- and, to be honest, the other meetings that you have minutes of and which are detailed on this invoice.

Q Indeed. I mean, I've checked, and they match your attendance at meetings.

A Yes.

Q Sometimes you travel on the night before and have a meeting.

A What-- what is strange, the thing that surprised me was that there was a-- if-- if you go to 22 October 2009--

--

Q Yes, you----

A -- there was a seminar.

Q Yes.

A The following day, there was a formal board meeting, so-- so what-- what I would imagine is they had a long, all-day meeting to go through the tender evaluations, and then they ratified the decisions formally at the board the next day. There's-- unless you've got it, I can see no record-- there's no attendance list of who actually was at the seminar, and what is strange about this invoice is it says-- it says that I was at a meeting with Alan Seabourne the day before, i.e. the 21st. So the implication of that is that I actually went to have a pretty long meeting on the 21st. I didn't attend the seminar on the 22nd, and I certainly didn't-- I don't know that for a fact, but the minutes recorded me as sending my apologies on the 23rd for the board meeting, and what's also strange is that I then didn't attend any other board meetings at all.

Q Yes, because if we----

A I sent my apologies for----

Q -- go to page 7 on this bundle-- I mean, this is slightly jumping out of my order, but it's useful to do. If you look at the last entry, it has you having a meeting with Mr Seaborne, but what's perhaps a little bit strange-- and on the next page,

page 8, you do fly up, because we have your car being parked at Gatwick. I mean, there's been a lot of inflation. Not that page. That's the wrong month. We don't have car being part of Gatwick, so we don't actually have travel for you for the journey that takes you to the meeting, if that makes sense.

A Well, no, but-- sorry, if I'm-- I'm sorry, I'm looking for this first time. What that is consistent with is that I-- is that I went up for a meeting the day before the seminar that preceded the board meeting, but this sort of shows that it doesn't look as though I attended the seminar, but I did-- but, as I say, an all-day meeting the day before. But it may be that I just had a-- a clash and I said to them, "I can't be there on the on the on the

nd and the 23rd, and therefore I'll come up on the 21st." That may be the case, but I have-- I don't know.

Q We can take off the screen. What I resolved to do, having reviewed all this, was to put to you this: that you did attend -- and we'll look at each meeting -- a sequence of meetings between April and August, and then you didn't attend anymore after that. So I'm working on the basis that the only things I can

reasonably ask you questions about is things that happened at the meetings that you are recorded as being present, albeit that you might not recollect and I might have to try and reconstruct what happened by asking you more nuanced questions. Let's do that.

A Sorry, just to be clear, from the-- I don't remember, but from my-- my reading of the documents and-- is consistent with what you just said.

Q I appreciate that, and we hear your caveat. Before we do that, I'd like to take the opportunity to ask you a question, which is a bit like a slightly expert-based question, because one of the issues we're exploring is the remit of this executive board and whether it actually did its job properly, and so to explain the context, we know from the logs maintained by the negotiation teams between the tenderers and the Health Board that there was an issue around the ventilation of the Brookfield Europe bid.

This was not resolved until a matter of days before contract close, so that's in December, and it was resolved in favour of accepting the proposal, albeit that it breached Scottish Government guidance when Scottish Government guidance had been within the employer's requirements, and I'm assuming that you would have not read the employer's requirements because you'd have

charged some time to do that, and there's no suggestion that you did that.

A I don't know, but I would doubt it.

Q Exactly. So, the thing we're investigating is, "What did the governance process do in order to approve this decision?" That is to go ahead with ventilation that's not compliant with guidance. We know the decision to do that was made in December after your last attendance and, from all the face of it, after your last involvement. So I can't ask you about what happened at the meeting that happened just before then, but I can ask you about governance of procurements. You've given a very interesting answer which I want to explore, but, before I do that, can you help me explain what assurance is in the context of a procurement project?

A I can.

Q So, what is assurance, and how does it work?

A I mean, this is quite a big subject. It is-- I'm not an expert in it, but I know quite a lot about it, and I definitely wrote a chapter on it in the-- in my HS2 review. So, one has to distinguish between assurance within the exec delivery entity, and they-- they have many different forms, and that would be-- Are you familiar with the third-- the three lines of defence?

Q Well it would be helpful if you could set that out, because one of the advantages of public inquiry is we need to run this out in public, if we can.

A So, a normal assurance process within a delivery entity would-- would be three lines of defence, which is the-- the executives performing the task as the first line of defence, some kind of internal challenge, and then some kind of third party challenge. Those are the three-- the three lines of defence in normal---- In a big project where there are particular-- this is typical of a public sector project as opposed to a private sector project, there will be approvals required by-- by-- well, possibly the board, but-- but I'm actually going wider than the board that this-- You know, in the context of the UK government, sorry, English government, it would be-- or the context of HS2, it would be a DFT approval, or a Treasury approval, or a Cabinet Office approval, and those parties could themselves apply some assurance.

Q So it might be a sort of fourth layer, as it were.

A So, in-- Let me explain, because I'm familiar with this. In HS2, HS2 Limited, the delivery company, would have its three lines of defence overseen by the Audit and Risk Committee, which is a subcommittee of

the Board. The department appointed what they call a project representative, a p-rep, which is actually my old firm, KPMG, who were providing assurance on behalf of the Department for Transport, and then the Department for Transport also commissioned external reviews by somebody called "the Independent Assurance Panel" who would come in and review a particular issue and write reports. And then, in addition to that, you would have the Infrastructure Projects Authority, who would conduct additional reviews, and in addition to that you have something called "MPRG", which would run reviews-- assurance type reviews on these projects.

So in a typical project, there are multiple levels of assurance, and one of the-- one of the things that I concluded from my HS2 review was that you need an integrated assurance plan, which-- which ensures that the assurance processes are joined up, complementary, not duplicative, and not-- and certainly not disagreeing with each other and confusing everyone. So, I am not familiar with what the external assurance on this project is-- and let me also make one very important distinction, that assurance is different to expert advice, so you have to distinguish between the advice you're getting from a technical advisor, for example, from assurance. Technical

advisor is part of the team, which the assurance is then applying its processes to.

Q Well, that's helpful, because it means I can put my questions in some context. So, if we go and look at the original, first meeting that you seem to have attended-- and I'll try and put it in context before I ask you a question. It's 8 April 2009. It's bundle 42, volume 2, document 8, page 44, and it appears-- We understand from its chair, who's given evidence, Ms Byrne, that it's a joint meeting combining the Joint Procurement and Finance Group and the New South Glasgow Executive Board, and you appear----

A I don't want to disagree with you. I don't think this is the first meeting I attended.

Q Right. Well, it's the first meeting we've got records for. That's interesting.

A I think I attended a Procurement and Finance Group in February 2009, which was,-- which was-- So, if this is-- my understanding from reading the papers, there was a Procurement and Finance Group. The first meeting I attended was in February 2009, which was the Procurement and Finance Group, and then they decided to merge the Procurement and Finance Group and another group to create that

joint--that joint board, I think.

Q Well, I'm going to ask one of my colleagues to just track that one down before the coffee break. This meeting, we understand, is one of two, and the second meeting is on 24 April, bundle 43, volume 7, document 6, page 15. In essence, our understanding from Ms Byrne and from Mr Seabourne is that these two meetings effectively approve the employer's requirements, approve the issue of the tender, and discuss and approves evaluation methodology. I'm assuming you don't remember whether that's the case but, having read the minutes, do you see that's roughly where we are in the process?

A Yes.

Q Yes. Now, at this stage, if we're thinking back to the idea of multiple layers of assurance, can you, from reading the papers I've sent you, so this one and the ones that follow, see if you can reconstruct what you would have known about the layers of assurance in this project at this time? So, was there----

A No.

Q No, you can't? All right.

A I can't remember. I can tell you-- I-- I can say what I would have expected, but I----

Q That would be helpful. That puts us in context.

A But I absolutely can't tell you,

other-- I mean, my understanding is the same as you, because I'm reading the minutes and-- and that is my-- my recollection is only what I can read in the minutes. I-- I have no-- I'm afraid to say, and I apologise for this, but I-- I hopefully did make it clear, but-- because I don't like being unhelpful, but I literally cannot remember these meetings. But let me tell you what would be normal at a board.

So, if you're sitting-- Well, let me-- because you asked this earlier, I'm-- I'm just going to give you---- The first thing to say is that project boards for projects are different, so there is no standard template for the way in which a project board operates, or even who sits on them, and I have sat on many, many project boards for many, many different projects, and there are different manifestations of them. I mean, I have just redesigned the way that the governance of HS2 operates, which proves my point. I've made recommendations on the redesign. But what-- when you sit on a project board, you are, as a non-exec-- as I did, you are heavily reliant on the information that you're given by the exec, and you are heavily reliant on their judgment as to what it is appropriate to escalate to a board, and, you know, the-- the general rule of thumb would be that they should-- they should escalate straight-- bring to attention matters that are material.

Now, linking into the assurance process, often – but not always – one of the recommendations that might come out of an assurance report is this risk should be brought to the detention of the board. So, again going back to my HS2 example which I've done a forensic on recently, at the critical point when the main contracts have been let for the civil works on HS2, there were some assurance reports prior to the decision being made to let those contracts, and those assurance reports made clear statements about a few items that should be brought to the attention of the board.

So the board is-- the board may not see the assurance reports, by the way. That might be dealt with in a subcommittee. I'm just talking about normal practice now, but the board is relying on assurance processes. It might get details of the assurance process, and it's relying on the executive, and to a certain extent the assurance processes, to bring to the attention those things that matter to the board. That's how it would normally work.

Q Thank you for that. There are, I think, three more meetings that you attend, and one of them sets up the remit of this executive board, and you've read that and you answered questions about it. Then there is a meeting on 3 August, which is the last one you attend,

according to the minutes we can find.

A Agreed.

Q Would you agree with me that there's nothing in those minutes, and of course the minutes might not be right, that record this board, the Executive Board, being told about assurance, being told about any suggestion the project would not deliver what the employers requirements had set out.

A I have not read anything that says that.

Q Yes, and one of the things that I suppose we have latched onto is the remit of the Executive Board which it received on 1 June, which is the penultimate meeting you attend, and that remit is on bundle 34, document 21, page 145. The actual remit, this is the report to the Performance Review Group, which is the board committee that sits above us. If we go to page 152, we have the actual remit. Now, you may not be able to do this but, if you could, it would be of assistance. Having looked at this document, which runs to two pages, the next page 153 and going back to 152, thinking back to practice at the time, because you can only really judge an organisation by what was conventional at the time, does this read like a sufficiently detailed remit in terms of reference for an executive board in a project of this scale?

A Well, I've read it, but I've not

reviewed it in light of that question, so I-- I think I would be giving you a-- unless you want me to spend five minutes reading it and then give you the answer.

Q Well, what I might do is, in a little bit of time, we will stop for a coffee break, and that seems like quite an important question that we'd like to have an answer, so when we get to that stage, I'll ask you to look at it then, but what I'll do at this point is to particularly draw out two of the matters in here. This is the fourth and fifth item after "roll and remit". So, the fourth is:

"The Executive Board will have delegated authority to conduct and conclude negotiations at project critical moments."

Now, when you were at two meetings, this one and the following one-- and you don't remember the meetings, but, looking at the minutes, is there any suggestion that this committee is is conducting and including negotiations, or someone else doing that?

A Well, I-- I find that wording surprising. So, this-- You have to help me here, but I'm assuming that this, because the boards have such long names and they change their names-- I think it changed its names two or three times while I sat on one of the-- one board or another.

Q It is one of the problems we

have.

A Yeah. So, forgive me for being confused about exactly which board and it's delegated-- But let's just assume for a moment that this board has delegated authority from the main board of the hospital that has ultimate response.

Q I think it has----

A Is that right?

Q -- delegated authority from a subcommittee. So, the Performance Review Group, which I just mentioned, to whom this----

A Right.

Q -- report is referred to, is a subcommittee of the main board. So, just to give you context, the main board has a subcommittee Performance Review Group, and it has created a series of executive boards, one of which is this.

A Okay. So----

Q Carry on.

A -- it is a slightly strange concept to have an executive board with non-executive members. That's the first point I would make.

Q Yes.

A Because by definition, I was non-exec. So, by definition, I was not-- the Board was not conducting the negotiations with the bidders.

Q No, in fact, there's a project----

A So----

Q -- team below the board.

A Precisely. So, this word "executive" is a funny-- is a funny word, quite honestly. Now, I mean, you know, there are bigger fish to fry than to challenge actual-- that sort of thing when you're on the on the Board-- on a board. But the fact is, this was a project board that oversaw the executive team that were responsible for conducting the project and the negotiations and everything else. That-- I'm confident in saying that. And I was a non-exec member of this board. That's what-- And I attended Board meetings where reports were given. I'm just going from what it says in the minutes now. But I did-- I had no involvement. I didn't meet a bidder or - had no involvement in the evaluation or any of that, what I would call the executive tasks of delivering this project.

Q I think, just to assist you, it would be fair to say that at the meetings you didn't attend in October, when this Board discusses the procurement results, as it were, of the evaluations that had been produced in the seminar that you're confused about why you're not there, as we discussed earlier on, the people in the Executive Board who are discussing that evaluation result, some of them were in the evaluation and know the names.

A Yeah.

Q And some of them clearly don't.

A Correct.

Q So, it has a strange mixture of people who are both-- who are knowledgeable and people who are non-executive.

A But you're getting into this debate of corporate governance where, you know-- There is always a debate in a corporate governance world as to what extent the senior executives sit on the board of the company. So, do executives sit alongside non-execs on a corporate board, and people take different views on this. In this instance, you're right, it appears that the executives responsible for delivering the project, actually involved in the evaluation and all that sort of stuff, were sitting on this Board alongside non-execs. But I think when that, I'm going generic now, not this, but when you have non-execs and execs on a board, those different roles are recognised in the way the board operates.

Everyone has a statutory legal duty as a company director, so that is consistent, but the fact that some people are non-exec and some people are exec, at times, will mean that their roles are slightly different in a discussion. So, for example, an executive member of a board may well actually be responsible for delivering a report on an activity, and clearly they are therefore playing a

different role to a non-exec who is listening to that report, challenging it and holding somebody to account and all the rest of it. So, I think that, looking at the minute, I think that is the case here where you both executives and non-executives on a board that was, I'm going to use the word "overseeing" the project.

Q Which brings us to the next item on that list. If we go back to page 152 and we look at the fifth row after "Role and remit," which is:

"The [Board] will oversee the management of change control procedures in that any change which impacts on the project must be authorised by this Board before it can implemented."

Now, I take it you don't remember having any discussions with Mr Seabourne about what change control processes there should be?

A No.

Q No. Can I take you to an aspect of your questionnaire where we put something to you? Now, if we go to your statement, page 200 of the statement bundle, Question 8. So, we start off by asking you questions about the hospital ventilation system, which you answer, at the bottom of this page, by observing that you're not an engineer. I do appreciate that. Over the page on page 201, we ask you about what we call

the green ventilation derogation in Question 9, and you can't remember whether you're aware of this or not. Question 10, we ask you, how was the decision made to accept this, and you say you can't remember whether you were aware of this or not.

You then explain your role in more detail at the bottom of the page on 201, and if we go to page 202, we ask you a more high-level question:

"Would you expect a decision to depart from guidance set out in Scottish [Government] Technical Memorandum on hospital ventilation be reported to the Project Board, drawn to the attention of the NHSGGC Board or Programme Board, and ultimately to the Scottish Government as part of the Full Business Case application? If not, why not?"

And you observe that you're not an expert, you haven't read the guidance, you don't know and understand the exact issues. But then in the fourth line you say:

"However, if a decision was made at the time, to depart from the guidance and this was a material issue and departure from best practice and minimum requirements then I would have expected the Board that I sat on to be notified and then the Board would have had a discussion on whether to refer/notify the matter to other governance bodies."

Can you perhaps explain, given that you're not an expert in the field of ventilation, why you've reached that conclusion?

A Well, I don't-- Putting it bluntly, I don't think-- I don't think you need to be an expert in ventilation to form that view. Let me explain what I mean by that. It's when you sit on a board of a project, there are issues that you have lots of experience in which you can challenge and comment on with confidence, and you can understand the detail and you can-- you probably are in a better position to ask questions than maybe some other members of the Board who have other skills, and that is why you have diversified boards because you-- A diversified board in terms of skills, experience, gender and everything else is designed such that around the board table there are different experiences and different expertise. So, when you sit on a board you to a certain extent do rely on your board colleagues.

So, when it comes to-- when it came to commercial issues or how to run a tender or all that sort of stuff, then and quite possibly other members of the Board will be looking at me. And you can see from those minutes that I do challenge on issues like that quite clearly. When it comes to matters that are out with your direct experience, and technical specifications is a good example of this,

not just-- but then what you need to satisfy, I'm talking generically now, not on this project, but what you need to satisfy yourself is that the appropriate level of expertise exists within the executive, i.e. you have the right resources and capability within the executive; they are receiving the appropriate external advice, hence why these projects have technical advisors and, as I understand it, this project did have technical advisors of various sorts who I'm sure you're talking to; and that there is an assurance process in place as a third-party check to peer review what's going on.

Right. So, as a board member, you would try and ensure that the building blocks for successful outcomes are there and the processes are there in the way the project's been run and the way the governance is operating. And can I remember whether we covered all that in the board meetings? No, but I'm just saying that would be a normal process. And then, in this instance, in the sort of detail of the specifications, you are relying on a combination of those three things which I've just talked about, the executives involved, the external technical advice and the assurance, to bring to your attention material issues, but you are relying on that--

You know, you're not going to spend, as a Board typically-- I don't know

whether it happened in this case or not, or if it did happen, where it happened, but you're not going to spend a lot of time going through a detailed technical specification on a project board, in my experience. So, you're relying on those parts. Now, I'm going to give you one important caveat to this. Well, sorry, it's not a caveat. It's an additional comment. You asked me earlier about how P-UK operate. The reason why we wrote the proposal letter in the way that we did is that it was consistent with our philosophy that if we have a member-- that the best way of supporting these projects is to have a member of the Project Board and people working with the Project team, and the reason for that is, and I was often the person sitting on the Project Board, is because I had another information channel on the project.

Q Because you could talk to your colleague who was working closely----

A Exactly. I wasn't relying solely on the executive. And there were definitely times when I was told things on other projects where I would then use that information to escalate the matter on the Project Board, or indeed, with the wider stakeholders. I would actually go to the perm sec of the department or somebody in the treasury and say, "I've been made aware of this issue, you need to deal with it." I do not know, and this is

why I asked you the question, I do not know to what extent I had team members working in this project. The evidence-- The evidence that I've seen shows that-- indicates, sorry, indicates that we didn't have a lot-- we were not-- I didn't have team members embedded in this project. And as a result, I wouldn't have had that that separate sort of channel of information coming to me.

Q So, I think you raise a few things I want to come back to----

A But-- But, let me just put an important "but" on this, having said all that, the chances of the specific issue, if I've understood the issue correctly, that you're dealing with which is a, I don't know how you'd characterise it, but a-- the ventilation specification being less than the minimum standard or whatever, or whatever the words are, right, that's not the sort of issue that would have come up via my team because it's a technical issue on the project.

Q No, indeed. If we just look at the only piece of work we can find that your team did, which is bundle 43, volume 6, document 23, page 439, which is a piece of advice to Mr Seabourne from your colleague, Ms Phillips, on 15 December 2008, 2008, which----

A I've read it.

Q You've read it?

A Yeah.

Q So----

A Yeah, I mean, it's generic. I mean not-- Sorry, it's not generic, it's-- That's the wrong word. I take that back. It's not generic. What it is, is it's the sort of advice you give as someone's about to embark on a process. You know, these are the things that you should be thinking of as you embark on a process. It's not advice on consequences or things that are actually happening in real time----

Q Yes, it's not a response to a particular issue. It's a, "You're starting. Here are some things that you asked me about"----

A Best practices, yeah.

Q Yes, right.

A Exactly.

Q If we go back to your-- Take that off the screen. If we go back to your previous answer. Now, I may be wrong but until we started preparing for your evidence, the concept of assurance was not something we were reading about in statements, reports, papers, minutes, or emails. It doesn't seem to be the case there was any assurance system in this project. It might have been, but we haven't yet found evidence of it. Thinking back to 2008/9, would that be unusual?

A I can't remember. I'm trying to-- I'm trying to track-- The fact is, right, today, a project spends an enormous amount of time thinking about assurance.

You know, that's a whole chapter in my HS2 Review. How important was assurance at that time----

Q I can find a treasury guide from 2012, which looks like someone wrote a new treasury guide, but it may be a new edition and I haven't found the older version.

A Well, you should look at-- The OGC was set up in, well, it was a very similar time to P-UK.

Q Yes.

A And Peter Gershon ran it, and they instigated Gateway Reviews.

Q So, there was a Gateway Review. So, Gateway Review 1----

A Which is a form of assurance-- --

Q Right.

A -- but it's not-- But it's-- Gateway Review is not first, second, third line defence. The question you should ask is to what extent did they have first, second and third lines of defence in the delivery----

Q Yes, well, that's the stuff we can't see. That's the material we can't see. So, we don't have any records of the decision-making process around this derogation, if that's the right word, other than the logs of the negotiations with the tenderer.

A I'm sorry, I just-- I cannot remember. You know, it's a very difficult

topic because assurance processes have developed over the last 25 years, and I just can't remember the state of play. We introduced Gateway Reviews, definitely, and they were deemed-- seen as very helpful, but they are independent assurance reviews, which sit on top of first, second and third line of defence processes that sit within individual companies. The MPRG was Major Projects Review Group, which wouldn't have covered this project, was introduced towards the end of my time at P-UK, sorry, IUK, so I'm talking probably sometime around, you can look it up sometime around the timing of this project.

Of course, we're dealing with a Scottish project here. So, the Scottish executive would have had different assurance-- external assurance processes potentially to a project in England. So, I can't remember what processes the Scottish government ran. But what we're talking about here is the first, second and third lines of defence that----

Q Yes.

A -- existed within the Glasgow Hospital.

Q Now, just to recap, I want to make sure I understood something you were saying, did you say in your earlier longer answer that the technical advisors

reports would go to the Project team who would then have to decide whether to escalate them to the Board, and that needs a first line assurance process?

A No, what I-- Let's be clear.

Q Yes, please.

A The-- In normal circumstances, I can't-- Yeah, I'm not going to give you the details of the project because I just don't know or remember. In normal circumstances, the Project team would have external technical advisors to provide professional advice of a technical engineering nature----

Q And at this point in time, it did have one? Have them?

A Who was it? Was it Currie & Brown? Have I read that somewhere?

Q It was Currie & Brown and a team of M&E healthcare planning and other consultants.

A Yeah. I just saw Atkins' name somewhere, and I just didn't know quite what they were doing. But anyway, they had technical advisors. So, when it came to drawing up the technical specification, and indeed engaging with the contractors, then it would be the responsibility of the team and the technical advisors to come to that conclusion. The issue on assurance is, I'm just basing this on my experience, assurance tends to look at processes rather than actual detail because the

people doing the assurance are not, generally-- don't have the technical expertise. So, I think in normal circumstances you'd rely on the technical advisors. To what extent the assurance would cover the specification, I just don't know, but----

Q But there should be a first, second and third line system in the process?

A Yes, but how you design that for a technical specification, I'm not a great expert on and would vary I suspect.

Q Right.

A But the point-- But from a Board perspective, in this instance you'd be relying on the exec, the technical advisors, competence, and possibly assurance, I don't know.

Q I think we can probably wrap up this section with one final question on the meeting minutes you've read of the ones you attended. Would you accept that there doesn't seem to be any evidence of a change control process being reported to those committees? As far as the minutes show anyway, because your memory doesn't extend back that far.

A Yes and I've read some other stuff which shows that the Chair and the other execs don't believe it was raised either but yes, from the minutes-- from the minutes, yes but as I said, from a

Board perspective you would be relying on the exec to raise material issues.

Q So, what I'm going to do, Mr Stewart, is I'm going to ask you to on two questions and then we might take our coffee break little earlier, and then hopefully we'll be able to wrap up relatively promptly. So, the first question is, please do look at the remit and see if you can help me about whether it feels to be a sufficiently comprehensive document for a Board level, above the Project team level committee or Board, for the time.

A Could you just remind me of the reference for that?

Q Yes, of course. So, it's on-- we'll put it back on the screen. So, it's----

A Yes, it's just that that's my iPad which is quite small, so----

Q I appreciate that; I'll give you the page references as well. So, it is bundle 34, document 21, and the paper starts page 145 but the remit here is at page 152, it's called Appendix 2.

A Thank you.

Q The other thing that I would ask you to think about is we've been asking all the externals in this project that we can track down so that's not just you, Mr Baxter from the Scottish Government attended these meetings, and then Mr Winter was a non-executive director who didn't attend these meetings but had

some form of challenge role. Now, we're asking them all the same question around this issue: to what extent is it a reasonable criticism that, in this case, your role as Partnerships UK, would appear not to have noticed that the Project team weren't reporting things to the Board? Is that a criticism of the idea of putting in externals like yourself onto these Project Boards?

A Do you want me to answer that now?

Q Yes, of course. If you want to, you can think about it over coffee, if you prefer.

A No, I don't need to think about it anymore. The reality is that when you sit on a Project Board, the Project Board places a heavy reliance on the executive and their advisors when it comes to technical issues, the specification of the project. That is the reality. The Project Board and-- The Project Board should scrutinise the processes and resources and everything else but as regards the detail of a technical specification, in my experience, that would not be discussed in detail at a Project Board. I will give you an example----

Q Please do.

A -- from my HS2 review, which sort of illustrates this point and you may find the example surprising. One of the issues that I came up with on HS2 was

gold plating of design. I came across a viaduct, and I was told by one of the contractors they were asked to build an iconic design. So, forget the detail of this, this is quite a high level, iconic design. So, I said to the contractor, where did that come from? And they said, we don't know, but we offered a cheaper design and the offer wasn't taken up. I then went into the governance process of HS2 Limited and the DfT to try and discover what-- not into the governance, sorry, into the project to try and decide where this came from. I couldn't really find any evidence of where it came from.

I then went into the governance structure and said, where is the challenge on, in this case, affordability grounds for that 'iconic design'? One of my key recommendations is that there should be a more robust challenge on affordability grounds for design, environmental – you've probably heard about the famous £100 million back tunnel – and planning issues. That was a new recommendation on that project.

So, I use that, it's not-- Well, I think it is an analogous example because it just shows that at a governance decision-making level, there is a heavy reliance on-- there's a heavy reliance on the machine to produce designs and everything else. What I was focusing on was the affordability of those designs,

not-- in your case, you're focusing on the safety of those but they are analogous issues, in my view. But the reason I'm using this example is that you would have thought there's more likely to be a locus on affordability than perhaps safety because affordability is more a matter for the Board.

So, my answer to your question is I don't think the Board can be criticised because the Board would not normally delve into the technical specification. It would rely on the executive to inform them of material variations to the specification which affected safety or, indeed, it would expect the executive to come to them if there was something that was proving to be very expensive and they needed some guidance and decision in terms of what option they should take. Those are the sort of decisions that I would expect to go to a Board.

Q So, the the way you address that is by having these first and second lines of assurance internally in the project so that the technical issues are brought out when they need to be?

A Yes, exactly that. So, you know, what is assurance there to do? It's the peer review the judgment of the people at the coalface of a team.

Q Thank you. Now----

A That's what assurance is for.

Q So, my Lord, what I'm

proposing to do is just suggest we might have the coffee break now. I will ask Mr Stewart to look at this document and reflect on it. I'll also take the opportunity of taking signings of the rest of the room to see if there are any further questions, perhaps combine the two processes together if we might take our coffee break a little early.

THE CHAIR: Very well. We'll do exactly that and maybe build in just a little bit more time than I would normally give to a coffee break. Mr Stewart, are you happy to come back, as it were, for half past 11?

A Well, it won't take me that long. It will take me 15 minutes max, so 10-15 minutes is fine by me to review that document.

THE CHAIR: Right. Well, we'll sit again at half past 11 after people have had their coffee and have spoken to Mr Mackintosh. Thank you.

A Could someone put on the screen that document?

MR MACKINTOSH: We'll arrange for that to happen.

(Short break)

MR MACKINTOSH: Can you hear me all right?

THE CHAIR: (After a pause) Right. Again, Mr Stewart, can you hear me?

A I can hear you. Can you hear me?

THE CHAIR: We can.

A Yeah, I-- I've changed to my AirPods, which will hopefully make your sound better, so someone tells me.

THE CHAIR: Thank you. Thank you. Mr Mackintosh?

MR MACKINTOSH: Thank you, my Lord. I have no questions from my colleagues in the room, but I have three questions myself. Firstly, the document that we showed you, page 152 of bundle 43, volume 7, as a remit terms of reference for what they call the Executive Board, how do you feel this fits in terms of the sort of thing that was being produced back in 2009 in terms of levels of detail?

A Well, can I-- can I just go-- I will answer that question, but I want to go back to what-- something we were talking about earlier, which is the executive nature of this Board. So, having read this document more carefully than I had before, and going back to what we were talking about earlier, that it-- it has specific NHS Board delegated authority to conduct and conclude negotiations, that is an unusual sentence to see in a-- in a Project Board remit.

So, a normal-- Much more normal would be for it to say, "To oversee," or, "monitor," or whatever, words like that,

that the negotiations of-- On the understanding that then a Project Board would delegate that to the executive, that would be more normal in a Project Board situation.

So, again, I have no recollection of this, but I'm just-- I'm giving you my view based upon what I've read in this document. A conclusion you could draw from this is that, actually, this was more of an Executive Board and that they chose, then, to put some non-execs on it. But I think, in that situation, if indeed that was the situation, the non-execs would have a different role to the execs, because it's clearly ridiculous-- well, not ridiculous. It's clearly-- It would be strange for me as a non-exec to have delegated authority to conduct and conclude negotiations, but it may have been appropriate for some of the executives on the Board to conduct and conclude negotiations.

So, where does that leave me? It leaves me slightly confused as to the exact purpose of the Board and the exact nature of the Board, if I can put it that way, because, as I said, you can have Executive Boards, which are primarily executives, that are responsible for delivering the project, and then more normally you would have a Project Board, which is one step removed from the coalface in terms of execution and is

monitoring and overseeing the delivery of the project.

Now, it may have been that this Board was a hybrid of those two, and, reading this remit, it appears that it was-- it was a hybrid. Your team will have a-- may have a different view, but that-- that is all supposition based upon what I've read in this remit, because-- because, as I said, going back to those words, "Will have specific delegated authority to conduct"-- It's the word "conduct" that I find different to what I would expect to see, because you wouldn't expect a Project Board-- you know, any-- Most of the Project Boards that I sat on-- well, pretty much all of them, you wouldn't be conducting negotiations.

Q Thank you. Is the next paragraph more conventional if this is a Non-executive Board, although it's called one?

A Which one are you referring to?

Q The one referring to, "Overseeing the management of change control procedure."

A Yes. Yes.

Q That's more conventional?

That is-- That is more conventional, "Will monitor"-- The words-- Well, "oversee" or "monitor", those are more conventional words for a Project Board terms of reference.

Thank you. Now----

A Or, "Will meet monthly to assess progress," you know, that-- those are all more conventional----

Q That feels more conventional or more conventional more right for the process?

A Yes. But this-- The trouble is, when you then-- then you go down into the bullet points, it gets pretty-- it gets-- it gets more executive in those bullet points below.

Q Yes. So, if we go over to the next page, "Technical"----

A Yeah, and it-- Well, perhaps---
-

Q -- that seems very strange.

A It does start-- Yeah, "Start negotiating commercial issues," I mean, well, no. I mean, that's not normally the role of a Project Board and, certainly, as a non-exec, that was a-- given that-- given the invoice that you showed me only sees my attendance at board meetings and pretty much nothing else, then, you know, I obviously did not play a role in negotiating commercial issues, because in the Board there was no one to negotiate with.

Q Yes, because if you look at the voting members section, and you may-- I'm not going to go through everyone's names and say, "Who do you remember," but am I right to take it that you probably

don't remember most of these people?

A I remember-- if you want the-- if you want the reason I remember Robert Calderwood, because he was reminded of Robbie-- Robbie Coltrane.

Q Right.

A So, but-- but I sort of vaguely-- I've-- I do remember Robert but, I mean-- but I do remember Robert, and I remember Helen, but not well, and-- and I recognise the name of Alan Seabourne, but that-- that's about it, to be honest.

Q Because what----

A And I obviously know-- I know Mike Baxter. I mean, this-- sorry, something else we didn't cover earlier which is-- which is relevant -- I know you haven't asked me this question -- you-- you didn't say, "How did you end up on this board?" and----

Q I thought you didn't remember but, if you do remember, please do tell me.

A No. No, well, I'm going to give you a generic-- because you asked me about P-UK's role. So, very often, when Partnerships UK-- not very often. Sometimes it's proactive, but sometimes-- in a number of cases, somebody like the Scottish Government in this case, would have asked P-UK to be involved. So-- so I-- I don't-- I can't remember, but it wouldn't surprise me if the Scottish Government had said to the project, "We

want-- we want-- we-- we suggest you-- you have Partnerships UK-- someone from Partnership-- or James as Partnerships UK on the board." Now, that doesn't mean that they were against it and they-- they ran, you know, obstructions against me. It just means that-- but it does mean that somebody else may have suggested it.

Q The thing that's worth putting to you here is that if you look at that list that with Helen Byrne, we've heard from some of these people, and we're due to hear from others, but none of them, with the exception of Mr Seabourne, are part of the Project team itself.

A Yeah.

Q So the only members the Project team we see listed here is Mr Moir in the non-voting members. So, from our understanding, the only Project team member on that voting members list is Alan Seabourne, and the only non voting member is Mr Moir. The others are all higher up or elsewhere within the GGC structure, apart from yourself----

A What-- what proportion of the SLT do they represent, the senior leadership team at the hospital?

Q A high proportion, I think it'd be fair to say.

A Yeah, yeah.

Q Many of them are actually board members of the Board. So, Mr

Calderwood will have been a executive board member of the Health Board at the top level.

A Yeah. So, the way I'm-- This is supposition again, but the way I would characterise this, looking at this, is this is the senior executive the hospital supplemented by three non-execs, Mike Baxter, me, and there's on-- is there one other, or is it just us two?

Q I think just the two of you.

A Just us two, yeah. So it's-- it is the senior executive of the hospital, with the addition of Mike Baxter, Scottish Government representative, and me as a nominated sort of helpful expert, hopefully. That's the way I would characterise this board. Now, that's not-- but-- but-- and you have to assume the Project team members have been given-- if this is-- most of the SLT would report into this executive board, so-- But I-- even in that instance, I find it strange that this word "conduct" is in-- is in the remit. Clearly, those executives are not going to conduct the negotiations. It's going to be done by the-- by the Project team, unless indeed the executives did appear in meetings with Brookfield and the other suppliers. I don't know.

Q Yes. It doesn't appear to be the evidence, but we may find out more when we speak to Mr Calderwood the week after next. I'd like to move on to a

second question, which is you've mentioned how a non-executive-- a Project team and its directors are rather reliant on the executive team to provide them with information.

A Yeah. Well, that-- that can be-- probably in the light of what we've just spoken about, let's be more precise our language-- my language. When we talk about the the "executive team", we're talking about the project executive team, not the----

Q So, the people on the project board, as you would call it, in this case this Executive Board, are reliant on the people in the Project team to provide them with information is the point you're making?

A I am.

Q Yes. So, what does a member of a a project board, an executive board like this, do to protect themselves and the project against not being told things by the Project team?

A Is that a generic question, or a specific question?

Q Yes, it's a generic question, because I've got a specific one that follows up, but just in terms of all your experience, so things like HS2 review, if you go back to your iconic viaduct, there were people sitting on the appropriate board that would have made those decisions who, just as you described, are

reliant on the Project team to provide them information, and in some sense they must have said, "Yes," whether they realised or not, to this iconic, expensive viaduct. So what should they have done, or what should these people have done, to protect themselves against not being told things by the people actually running in the project, in a generic sense?

A Okay, so it's a-- it's a good question, in a sense, but you're going-- you're going into-- it's a question that goes to the heart of corporate governance, and I would say that if you look at companies that have got into problems, one of the common characteristics is of the board not being made fully aware of issues as they develop. I will give you an example on another project which is in the public domain. This is a project rather than a company. Crossrail, the project board were made aware four months before the supposed completion date-- don't quote me on the four months, but a short period before the completion date, that the project was heavily over budget and two years too late. They had not been made aware of that information before that date.

Now-- so, to go to your question, what do you do? I've talked about one example in my instance of the P-UK. There was definitely-- I was a more

effective non-exec when I had team members working on the project. So that's-- so extrapolate that to one of the techniques that I personally use – I don't find-- I'm not sure you'll find this written in the books – is you have to try and create alternative channels of information, if I can put it that way. So you develop a relationship with key executives, and you start-- and you might have a one-to-one.

The other-- the other thing that obviously exists in a corporate world, and indeed-- yeah, and sometimes in a project world, is there are subcommittees of the board, and the subcommittees of the board allow you to delve deeper into-- into issues. That's the whole-- you know, you're taking out of the main board which doesn't have the time to do this. So, if you look at HS2 as a project, it will have a finance and risk committee. It will have an HR committee. It will have, crucially, an investment committee. So the investment committee is-- is approving major contracts, and the subcommittee will have different-- will have some representatives to the board, plus some additional people who will be delving into more detail.

Now, I don't-- I don't know, because the-- because the papers that I read, the-- the number of-- All these-- as we were saying earlier, all these different names for different boards and different

committees and everything else, I haven't looked in detail who was doing what, but the fact is, as a non-exec on that Executive Board, I did not sit on any other committees, whereas in lots of other instances there would be sub committees where, as a non-exec board member, you would sit on them.

Q Yes, because the point that you might not be aware or you might have forgotten – it doesn't really matter which – is that whilst this is a committee comprising largely the senior management team of the hospital, it's not by any means the Board, because this is a Scottish Health Board with some 60 board members, and there's a Performance Review Group, which we've seen this remit was reported to, which is a subcommittee of that board, and there's also the Acute Services Review Group, or "Board" – I can't now remember at this precise moment – which is chaired by the chief executive, Mr Calderwood. Then, below that, there is this Executive Board, which is chaired by Ms Byrne, who reports to Mr Calderwood and so above this committee, this Executive Board, there are at least three or four layers before you get to the actual Board, if you ever do.

So the question, I suppose, that arises from that discussion about, "What do non-execs do?" and you've given

some examples, is it does look-- I'll just try and sum this up. It does look as if, from what we can reconstruct, Partnerships UK's role to some extent was limited close to, or nearly entirely to, having you on the Board. I mean, there doesn't seem to be any evidence of other activity. We can't be definitive, and Mr Calderwood has given in his statement the belief that having you there was a great reassurance because Partnerships UK was being involved, but, actually, does it provide assurance to put on a non-executive member, however experienced in procurement, if they're simply going to be sitting on a board that doesn't get told things? Is that actually any assurance at all?

A Okay. One of the things that we always had to be very wary of in P-UK was there was a kitemark associated with P-UK involvement, so people liked having P-UK involved because they could say, "We've got P-UK involved," and the problem we always had was we had to try and ensure that the degree of involvement that we had was sufficient to lend our kitemark to the project, and we didn't always get that right. I'm not saying we got it right or wrong on this project, but we didn't always get that right, but it was something we were always wary of, and----

But the other thing that you had-- we

had to recognize in life was that there is a-- a spectrum between not being involved at all, and being fully involved and having maximum impact and maximum influence and maximum value add, and we often did have to make the judgment that, actually, having some involvement would provide, and I--this is a very crucial word, "some added value and assurance" over and above what we wouldn't-- what would have been the case if we hadn't been involved.

So, in respect of your question, I think it's too black and white. The-- i.e. unless we have a fully involved role with all the levers that we need necessary to do the best possible job, does that mean that we should only accept jobs in those circumstances, or do we accept the limitations, accept-- respond to requests for help, and do the best that we can, quite possibly in limited circumstances? I would say that the-- the-- based off what you said to me and the-- I think our combined reading of paper, that our involvement was light touch in this case.

Q Following on----

A Light touch-- Sorry, that's-- that's-- there's an important clarification to "light touch". Light touch in the spectrum of ways in which we got involved in this. So I'm not saying "light-- light touch" as an absolute fact, but in the way we used to engage with projects, this

was a lighter involvement than-- than was the case in many other instances.

Q So, from the point of view of the Inquiry-- and if it turns out to be the case that this particular important decision wasn't reported to this Executive Board, or any higher in the organisation, the Inquiry looks at the role of Mr Baxter and you and wonders, "Well, maybe in the future we need more external challenge." Well, two questions: how would you respond to the suggestion that, in this case, if you didn't spot that change controls weren't being reported, does that somehow undermine the validity of P-UK being involved?

A Well, I simply don't know whether that's the case or not, because I don't know whether I asked a question about change controls or not, but you can't say whether that happened or not.

Q No. All I can do is look at the fact that, in the following three months, no changes were reported to this Board. No one in the Board----

A But, you know, there's two-- there's two circumstances there. One is that change control was the remit of the Board but, actually, was never followed through as a-- as a responsibility. That's one. The second is that change control was clearly a matter for this Board. The executive understood that, but they considered that no material changes

were taking place that needed to be notified to the Board. Those are two perfectly possible scenarios, and we don't-- I don't know which of the two are true, and all I will say to you is, in my experience, and my-- Well, in this instance, my experience is very significant. I've sat on an enormous number of project boards and scrutinised an enormous number of projects. I'm struggling to think of an example where something in the technical specification, and I would argue quite deep down in the technical specification-- you know, the specification of ventilation systems, I'm struggling to think of an example of something like that that's been notified to a board that I've sat on.

Q Well, in this context, it's that it was part of the Employer's Requirements that the Board approved, and then they changed it, so it's not that it wasn't done from the beginning. It's that they took it out.

A Okay. Okay, so-- so all I'm saying is if the Board has approved the Employer's Requirements, then I think the Board would have a reasonable expectation that the Employer's Requirements are being adhered to in a material way, with some materiality judgment, and would-- would expect to be notified if that wasn't the case. As a board member, I think that's a reasonable

thing to do, rather than-- You know, let's take this to the nth degree. Somebody starts asking questions about the ventilation system in the board meeting with no information----

Q Yes, I understand that.

A That's what I mean. That's I'm talking about. In the same way as I'm on a railway project. You know, let's take a health and safety issue, which would be sliding doors on a platform. As a board member, I wouldn't expect to start asking questions about sliding doors because, you know, I could ask questions about heating systems, ventilation systems, sliding doors, the signalling system, you know, the safety of the road, etc., etc., etc. At a board level, you wouldn't-- you wouldn't get into that level of detail. Even at a subcommittee level-- I mean, I suppose if there was a Technical Design Sub-committee, then you might do.

Q But there wasn't in this context.

A Okay.

Q I'm just going to look at my colleagues in the room to see if there's anything that arises. I don't think anything does. My Lord, I don't think I have any further questions for Mr Stewart, unless you have anything, My Lord.

THE CHAIR: No, there's nothing that I would wish to add. Mr Stewart, we

don't have any further questions for you and, accordingly, that is an end of your evidence, but before you leave us, can I thank you for your giving evidence this morning and in preparing your statement, and the reading that will have gone behind that. So thank you for that, but you're now free to, as I say, leave us.

A Thank you, and I'm sorry I can't be more helpful, but 16 years is a long time.

THE CHAIR: Indeed.

A Thank you.

MR CONNAL: So, my Lord, the next witness is this afternoon, Mr Gallagher, and Mr Connal will be taking, but that will be at one o'clock.

THE CHAIR: All right. Well, we'll reconvene at two.

MR CONNAL: Ah, two o'clock. Sorry. Yes, good point. Two o'clock.

(Adjourned for a short time)

THE CHAIR: Good afternoon, Mr Connal. Now, we have Mr Gallagher?

MR CONNAL: We have, my Lord.

THE CHAIR: Good afternoon, Mr Gallagher.

MR GALLAGHER: Good afternoon.

THE CHAIR: Now, as you understand, you're about to be asked questions by Mr Connal, who's sitting

opposite but, first of all, I understand you're willing to take the oath?

MR GALLAGHER: Yes, yes.

Mr Peter Gallagher

Sworn

THE CHAIR: Thank you, Mr Gallagher. Now, I don't know how long your evidence will take. We have you scheduled for the afternoon. If at any stage you want to take a break, just give me an indication----

PETER GALLAGHER: Okay.

THE CHAIR: -- and we can do that. Now, Mr Connal?

Questioned by Mr Connal

Q Obligated, my Lord. Now, Mr Gallagher, you, when you retired in January 2015, held the post of director of finance of acute services with the Board.

A Yes.

Q Is that correct? I think in-- Just so we're all aware, you have hard copies of some of the documents that you have been referred to with you----

A Yeah.

Q -- in case you need to refer to any notes you've made on them. If you simply indicate when you're doing that, I'm sure there'll be no difficulty----

A Yeah.

Q -- from anyone about that.

We'll use your witness statement as a bit of a guide to help us walk through the matters that you can tell us about. So, if we could have the witness statement, please. I think it starts on page 29 of the witness statement bundle. You'll see that there are page numbers at the top, which are the electronic ones that we tend to use. If you're more comfortable with the hard copy----

A No, no. I don't have a laptop at home, so I'm old fashioned. So, I tend to work hard, but I'll have a go, yes.

Q Yes, no, no problem. If you have any difficulties getting to the right bit, just tell us and we'll assist. Now, I'm going to depart from my usual policy here, Mr Gallagher, and I'm going to tell you the punchline before we get to the end. You're obviously on the finance side and perhaps focused inevitably on money and you've dealt with that throughout your statement, and we'll come to that shortly.

The punchline, if I can call it that, is this, that I'm sure you'd agree it is possible to have a project which is on time and on budget, but which is a disappointment to the client who has received whatever the project happens to be. You understand that proposition?

A Yes, I understand, yes.

Q And that may be important

when we come to consider the issue of looking for information about things that have changed, which you touch on at various points. You understand that?

A Yes.

Q Thank you. Now, I see you've held various posts, including project director for the PFI Hospital at Hairmyres, I see mentioned in paragraph 4.

A Yes. Yes.

Q Were you actually, sorry, running a project to build a hospital?

A Well, I was the finance director, and we coupled it as-- Nothing to do with building.

Q Right.

A But they coupled the finance director as the project director too. Initially, they had the director of nursing running it. I think at the time Jeff Scaife came to visit the hospital and asked that I take over as project director as we pushed through towards financial cause.

Q I see. Then you joined what has now become NHSGGC and you've been through various changes. I see on-- if we go onto the next page of you with the statement -- so that's electronic page 30 -- that in paragraphs 7 and 8 you explained that NHS Glasgow ended up with two directors of finance, which sounds a slightly odd proposition, but one seemed to be senior to the other. Am I getting that correct?

A Yeah. So, before that restructuring, they had Yorkhill as a unit, and they had the South as a unit, they had the North as a unit, so each had its own director of finance. When that restructure came, basically all the acute hospitals came under myself, all the primary care with the GPs et al. and community hospitals and whatever came under Douglas Griffin, and that post was also the board's director of finance, and that's basically how that worked.

Q Right.

A So, Douglas would have sat on the Board, and I wouldn't have sat on the NHS Board.

Q You wouldn't have sat----

A I wouldn't have sat NHS Board.

Q -- on the NHS Board? What, and I've been asked just to check, do you have formal accounting qualifications?

A Yes. Yes, I'm a chartered certified accountant, the FCCA, from the June 1978 diet.

Q Right. The STCA?

A F, sorry, that's my bad diction.

Q So, F----

A FCCA.

Q Right.

A The Chartered Association of Certified Accountants, and I'm a fellow. So, it's FCCA, and I'm now a life member because I've retired.

Q Thank you. So, the way this worked is that you retired just about when the project to build the new hospital was, at least as to build finishing----

A Yeah.

Q -- just about the time it was being handed over?

A Yeah.

Q Thank you. You pointed out you were part-time for a short time in the run-up to that. You've given us a number of points about what your role was to do. There seemed to have been a title floating around at that time called director of acute planning which then disappeared.

A Okay.

Q Is that right?

A The director of acute planning - When the restructure was carried out under Tom Divers(?), they introduced a director of acute planning who was Helen Byrne and the chief operating officer for Acute who was Robert Calderwood. And Helen Byrne stayed in that role till February 2010 and, at that point, it all then came back under Mr Calderwood. So, Helen Byrne was there probably from 2006, maybe 2007, it was that organisational chart, through to 2010. And she ran-- sorry, she ran the Project team and the rebuilding elements.

Q Yes, see that. Yes. So, the Project team was under Ms Byrne who----

A Yeah.

Q -- we've heard for in this Inquiry. You describe at the top of page 31, your job being to make sure capital and revenue both broke even. Is that----

A Yes, within the----

Q -- what you saw your role as?

A Yes, within the Acute division, yes.

Q Right. You go on to explain on that page about the different directorates who reported to the chief operating officer, and to explain something we've found somewhere else that each of these directorates had a head of finance.

A Yeah, yeah.

Q And even though you were the man at the top, you couldn't tell them what to do because they had their own director.

A Yeah.

Q Is that right?

A Yeah.

Q That's the point that you make. The director of acute planning, you mentioned 2010, I see in paragraph 16 of your statement you say Director of Acute planning left in February 2010 and the chief operating officer took over the running of the project and the acute hospitals.

A Yeah, I think in terms of timing, I've put the chief operating officer, but I think the timing was by then Mr

Calderwood was the chief executive. So, the chief operating officer-- I think he was probably chief exec from 2009. And the COO, the chief operating officer, oversaw that day-to-day, but there was a strong link, you'll see through the minutes, of the chief executive also being in the chair of a lot of those meetings.

Q Thank you. We know from other evidence that a lot of what was going on here involved the creation of ambulatory care hospitals.

A Yes, yes.

Q That was the first thing that was done----

A Yes.

Q -- before the project that we're concerned with.

A Yeah.

Q Is that right?

A Yes. They probably launched those projects about 2006/'7, they probably got a builder, and I think they completed around about the June/July 2009.

Q Yes. Just so we can place you in the structure, I wonder if we could have bundle 30, page 38, please? This just gives a kind of----

A Yeah.

Q -- quick look at where different things work. Now, where do you fit in on that picture?

A So, this was the new structure

after Ms Byrne left----

Q Right.

A -- and the Performance Review Group was broadly non-executive members. The Acute Services Strategy Board sat below that and I was a member of the Executive Sub-group below that.

Q Right. So, I think in your witness statement you say that Mr Griffin, who was the board finance director, would be on the Acute Services Strategy Board, but you were not?

A Yeah, that's correct.

Q Now, can I ask you one question, because we are concerned as one of our topics about governance, in paragraph 29 of your witness statement, you say:

"The Performance Review Group is almost exclusively non-Executive directors of the NHS Board. This structure chart shows you a good governance arrangement..."

Can you help me why you want to say to the Inquiry that there's a "good governance arrangement" in place?

A I think if you look at the organograms that are in there in that front page, the backup has the various groups.

Q Okay. Well, perhaps we'll-- Do you want us to put that back up on the screen? Would that help?

A Yeah. Yeah.

Q Can we put the same

document back up? Is there another page of that you want to see?

A Well, the other pages basically tells you the remit and the members of the various groups.

Q Right.

A And that was all included with that paper. It's in the documents you sent. So, what I was trying to say, if you look at the far left-hand side as I'm looking at it, there's a project group for the new children's hospital and for the Adult/Children's. That feeds up to a Redesign Group, up to a Strategy Board, Executive Sub Group, up to the Services Strategy Board, and then sitting at the top of that is a Performance Review Group that is almost exclusively non-execs. So, what I meant by governance is actually it builds its way all up to the non-execs and then obviously to the Board.

Q Why do you say that's a good structure as opposed to a structure, as some people have suggested, with too many committees?

A The NHS does have a lot of committees, so I don't disagree with that. Largely, it means that in any of these groups where they're dealing with an issue, if it's a bigger issue, it should in theory find its way to a higher up group, a higher up group, a higher up group, and therefore good governance is followed.

Q I see, thank you. I think we

can take that off the screen. We may or may not need to----

A Okay.

Q -- go back to it. Now, moving on in your witness statement, because I'm not going to go through everything that you've said there, you're content to adopt your witness statement as part of your evidence?

A Yes, I am, yes.

Q Yes, thank you. I should have asked you that. Can we go to page-- yes, page 34, where you point out something we've probably got that NHS Glasgow is a big organisation. Then you say at the foot of that page, "All final decisions were taken by the NHSGGC Board." I think you've already made the point elsewhere in your witness statement that you understand the difficulty that there's lots of things that are called boards----

A Yeah.

Q -- and lots of people are called directors, but they're not all sitting on the very top body.

A And trying to remember that through that period after 10 years retirement-- But yes, there's lots of things called Board, but it's not the NHS Board.

Q Yes. The decision, for instance, to appoint the preferred contractor for this project was taken, you say, on page 35, by the Board, i.e. by the top board?

A Yes, that would be correct, yes.

Q You say no one else had the power to do that? It had to go to them.

A We had an evaluation day and, again, in your papers you have the Acute Services Performance Review Group, and that dealt-- there was about 30 people in that, that dealt with the day-to-day, and that largely would have been the people who would have been involved in the evaluation day when they came up with a recommendation to appoint X. But it would have then went to the Board who would have been the ones who actually made the appointment.

Q Yes. Now, we're just thinking of governance. So, if we look at paragraph 38 there, you've obviously been asked about, well, who's responsible for water and ventilation? And you said:

"...the responsibility would for that would have sat with the Director of Facilities and project director... The project director and his team would be the ones who would be interfacing with Multiplex."

Now, just thinking of governance----

A Mm-hmm.

Q -- does that mean that the whole functioning of the project is dependent on what the project director tells people?

A No, and the project director then reports back up, trying not to use names, but I'll just use names, to Helen Byrne who was the director of acute planning. In turn, if there's an issue in there, she would talk to the chief executive because she was on a level with the chief operating officer. So, it would find its way from the project director to his boss and onwards up to the Strategy Board, the Board or the chief executive.

Q So, if the project director doesn't tell Helen Byrne the issue just stops with the project director?

A In theory. I don't-- I mean, it depends what the issue was and who else was involved. It'd be unlikely that the project director was the only person dealing with an issue.

Q Okay. Well, if it's something to do with the project, who else would that someone else be? Because he's working with-- we know there are some advisors, we know he has a team of project directors, and so on, but he's sort of sitting at the top of that little pyramid, is he not?

A Yes, yes. And if the project team hadn't agreed something to escalate, and the project director was going to escalate that but didn't, then I take your point, what happened to it at that point.

Q Thank you. At that time, we're talking about Mr Seabourne, I think you mentioned him at the foot of page 35. He came, as you put it, understanding facilities.

A Yes.

Q Actually, can I just ask you one question on 39? You say:

"The main people who would understand ventilation issues, aside from our design advisors would have been the COO, the project director, and the Director of Facilities in the Acute Division."

Now, let's leave aside project director for the moment, that's Mr Seabourne. The chief operating officer would understand ventilation?

A The chief operating officer at that time, at the time of the ventilation, was Mr Calderwood. Mr Calderwood had a lot of technical knowledge and had been involved in lots of rebuilding within Glasgow Healthcare. The Director of Facilities had been involved in all the capital and the heavy involvement in the two ACADs. I think the point I'm trying to make there, they are probably the three technical people that we had in groups, where the rest were administrators, nurses, doctors, etc., etc. That's really all I'm-- The real technical advice is coming from advisors.

Q I'm going to come back to ask

you about advisors just in a moment. So, project director to Helen Byrne and then, if need be, up to the chief executive.

Can I just ask you, if we go on to the next page, page 36. This probably starts to pick up something we'll return to on more than one occasion, which is this business of change and trying to ensure that changes are considered and reported. The paragraph you've got in there is:

"If the original bid assumed one design which has then changed, there would eventually be a change control."

So, that's a formal order to the contractor that you're anticipating at that point----

A Yes.

Q -- and then there would be a question if there would be more money to pay, usually the answer, I suspect, would be yes, if you're changing something during the course of the contract----

A Yes.

Q -- and that's when you would be aware. Is that the only circumstances in which you would be aware of anything having changed?

A Where there was a change control, the Project team kept a spreadsheet and that would come and find its way-- certainly post-February 2010, it would find its way to the Executive Sub-group and up to the

Strategy Board and their terms of reference is they are the only ones who can actually approve change outwith SFIs; we were sort of limited. So, if there was a change of any major cost it would be on to a spreadsheet that would then be considered at the Executive Sub-group and find its way up.

Q So, what you're looking at there are circumstances in which, for whatever reason, an instruction has been given to the contractor to do something different from what they were doing, a change order – which is a form – is issued and then it goes onto a spreadsheet.

A Yes, and that would find its way up and if it was of any significant cost, I would certainly be aware of that.

Q Right. Is that the only kind of change that you were alert to, something that had a significant cost?

A I sat in many, many groups, so I would have been aware of other ones-- I can't think offhand what, but if it came up at any of the groups and I was a member, I would be aware of it.

Q Can I just ask you this? The reason I'm asking you these questions is not to – you'll understand – it's not to criticise the role you're fulfilling, it's to try and assist the Inquiry in understanding----

A Yes.

Q -- how change was dealt with.

One of the decisions we heard about that Mr Seabourne I think took – or Mr Seabourne or Mr Moir; it doesn't matter for present purposes – was that there had been a sort of shadow team of technical advisors at the time when all the requirements were put together, architects, mechanical engineers, space planners, and so on and so forth, working for Currie & Brown, sort of under that umbrella and the decision was taken to stand them down. One of the explanations we were given by Mr Seabourne was, well, nobody was going to pay for that, to have a shadow team available to check the work of Multiplex. Now, first of all, were you aware of that?

A No.

Q Secondly, just, you know, having been so involved----

THE CHAIR: My fault. When you say "aware of that"----

MR CONNALL: The standing down of the technical team.

THE CHAIR: Right. Now, that assumes that Mr Gallagher knew there was a group of sub-consultants and knew that they were being dispensed with. Mr Gallagher, what was your knowledge about the sub-consultants to Currie & Brown and the extent of Currie & Brown's obligations or the services they were providing?

A Currie & Brown were obviously

our main technical advisors and on the evaluation day, I think I've mentioned in here that I thought there were "other advisors" because when they came to do the scorings, there's mechanical engineering, there's concrete, there's various other things so I would have been aware there was somebody assisting Currie & Brown but I wouldn't have been aware if they'd been stood down, to my knowledge.

THE CHAIR: Right. Now, when you talk about "scoring", that's the evaluation procedure----

A The evaluation day, yes.

THE CHAIR: -- which I think was November 2009?

A I think it was December 2009.

THE CHAIR: December 2009. Now, what Mr Connal is talking about is a decision made in February 2010?

MR CONNAL: About that.

A I would not have been aware of that. That's where that other structure came in on 19 February 2010, so maybe when they looked at that new structure that was coming in but personally, I don't recall that.

Q The only reason I was asking you, as somebody who had to do with money, was that one of the reasons we were given for the decision was basically that nobody would pay to have these people on board, and I rather got the

impression from your statement, just looking at it generally, that the finances of the project weren't under any great strain. Is that fair?

A I would say that's very fair. The finances throughout the whole of this project were well within the available resources and we did not stand someone down purely because we did not have money.

Q So, if somebody had----

A That I'm aware of, sorry, that I'm aware of.

Q No, no, that you're aware, I understand that. I'm asking you questions that you've not necessarily been involved in the detail of just to get your assistance. So, from your knowledge of the project finances, if somebody had come to you and said, "We can't afford to have these people available to us as a sort of shadow Design team while things are going on; we need to stand them down", your reaction might have been to ask how much was involved and so on, but you wouldn't have been immediately thinking there was a financial problem forcing that decision?

A No, I would have thought it's not financial. I would have thought, on your structure, that that would have come from one of the groups, design group or whatever, and found its way up, as I said,

governance-wise to the Exec Sub-group or the Acute Strategy Board and someone may well have made that decision. I do not recall that decision being discussed.

Q Were you involved in any of the groups that were making decisions on the project?

A I was on the Acute Services Executive Sub-group and they were certainly making decisions on the project.

Q Your position is you don't remember this issue cropping up?

A I don't remember that issue. I think I have a good memory sort of generally and maybe you'll end up testing that, but I genuinely do not recall standing down on the basis of money.

Q Can I just then come onto the next page of your witness statement at page 37 at the foot of that page? I think you've obviously been asked about changes to ventilation requirements, and I suspect you've picked up that there was an issue over a change to ventilation requirements, which has been much discussed in this Inquiry. Your expectation – I'm using your word – in paragraph 54 is that the Director of Facilities, the project director and the COO would know about it. Is that your position?

A I'm picking those three because, as I've said, those were the

three technical individuals aside from our advisors. I think the point I'm making there is there's no way there was a change to ventilation and they wouldn't know.

Q Right. Then I think you're suggesting here that not only would they know, but it would then come to the Executive Sub-group, that's the one you were on----

A Yes.

Q -- and then either if another decision was made or simply because minutes go up to the next group, the next group above you would know about it as well.

A Yes.

Q That's what you would expect.

A But-- Sorry, yes. The timing of this, because I've obviously got the other papers, is actually December 2009.

Q Yes.

A So, when I was doing this statement and being interviewed – because my statement largely came from an interview – I didn't really know the time of that, which is why it's then added "If before it was a similar process..." So, if the ventilation change was before December 2009, it would have come to the Acute Services Review Programme Board, which is what I'm trying to do, but it wouldn't be the Exec Sub-group.

Q Right.

A But if there was anything after February 2010, it would find its way to the Sub-group.

Q I think we know that the decision was taken, well, fairly close to the signing of the contract----

A Yes.

Q -- which was on something like 18 December 2009. So, that would go to a different group, that's what you've said?

A Yes. My final add there, "If before 2010, a similar process was in place," it would be different groups. So, that's really----

Q So, you would still expect it to go to some form of governance group----

A Yes.

Q -- even though the name was slightly different at the time.

A Yes.

Q Thank you. You go on in the next few pages to explain how things were organised, so I just wanted to pause briefly, without touching on all of that, on page 39. You're referring back to the structure we looked at a few minutes ago, the one with the organogram----

A Yes.

Q -- and the different organisations, and maybe you've answered this already. You say if you look at the structure, how it all worked, "It's difficult to progress issues without any form of oversight." Now, I'm just

trying to understand why you say that. I suppose, am I right in assuming that each of the organisations on that structure had to produce minutes, and the minutes had to go to the organisation above them? Is the way it worked?

A I don't know that I would see lots of the minutes necessarily from the Design Sub-group----

Q Right.

A -- or, thinking back to your chart, the new Children's hospital Sub-group but as they escalate to the higher groups, you would expect them to then come to the Exec Sub-group and onwards.

Q Can we just put the organogram back on-- Yes exactly, the same one. I'm not looking to put words in your mouth, I'm just trying to understand what you're telling me here. I thought I had picked up that one of the reasons why you can't really just progress something without somebody having oversight of it was because there was a sort of arrangement for minutes to go up from each successive stage to the one above, but you're saying something like the ASR Redesign Group wouldn't necessarily send minutes to the Sub-group?

A No, but I think the individuals, whoever was chairing the redesign group may well have sat on the Executive Sub-

group and if they felt that was an issue, then it should go up. I think the point I'm trying to make now is if you look at the right-hand side, the project supervisors or the Project team, I would not automatically see all of the minutes from that group.

Q Yes.

A But if there was a big issue, I would expect – if it was the Project team – the project director to bring that to the Executive Sub-group, and if they expect an overview from the Acute Services Strategy Board on what the big issues are that are coming to the Executive Sub-group.

Q Just so I fully understand that, if the Project team – on the right-hand side as we look at this screen – don't escalate it, you may not know about it?

A There would be lots of things happening in the Project team of a smaller nature that would not necessarily escalate but if it was something bigger, I would assume that that would escalate.

Q Yes. You go on to give some examples of how your kind of break-even objective operated. So, if A had overspent but B had underspent, you could probably get along----

A Yes.

Q -- but if everybody's overspending, you're in trouble.

A That was really trying to

describe the role I had, yes.

Q Yes, okay. Now, I want to turn to the funding of the project, if I may, because you know a little bit at least about that which you pick up on page 40, near the foot of the page. So, that's the ACADs; that's the ambulatory care arrangements.

A Yes.

Q This idea that people can, if it's ambulatory, if people can go there get what they need done, done, and then leave without staying overnight.

A Yes. Basically, if you had it done in a day and did not have to stay overnight, then you would go to the ambulatory care and if you needed to stay overnight, you had to go to an in-patient service.

Q So, after the ambulatory care has been done, the next stage is the new hospital----

A Yes.

Q -- that we've been talking about here. You say:

"There was no mid-project change of funding from PFI to public funding. It launched under public funding."

But up until that point, I think somebody said PFI was the only game in town.

A Yes.

Q Is that fair?

A Yes, I think so, and that's why

in the Hairmyres-- I was involved in Hairmyres, that was the first health hospital in Scotland under PFI. So, from about 1996 to 2006, it was only PFI. Then the new Scottish Government, I think, was June 2007 and we started hearing that they were coming back towards public funding.

Q Now, I think you pick up a number of points in your witness statement about this but a PFI project in form is not normally just about how you physically build a hospital because it's about who runs it after that.

A Yes, it's actually the opposite to the public building of it. It's very much you are buying the service and to deliver the service, you need accommodation. If it shows that you are actually just building a hospital, it sat on your balance sheet and was treated as capital but if all the services, the medical records, the domestics, the facilities were being delivered, then it was more a service you were buying than a building.

Q You've narrated in your statement that as far as you're concerned, this was simply a government decision that you weren't doing PFI anymore, it had to go back to a different type of funding.

A That was my recollection on the SNP Government's election.

Q The point you make, I think in

paragraph 74 if I've picked it up correctly, is that this was such a big project as a standalone-- Sorry, 74.

A Yes.

Q My apologies.

A I've got that now.

Q It was such a big project it had almost the capacity to bust the national budget if it went wrong.

A Yes. I think to create that, other Boards certainly felt they had less capital during that period to create the funding and if there was a major overspend, then that would have affected the capital budget for Scotland, for the NHS in Scotland.

Q Now, I wanted to ask you about the way these things work because am I right in understanding that there's a great difference then in what you need from people like Estates and Facilities after the hospital is open because most of the maintenance and all the different things that you've just mentioned are then done by -- I'm calling it the PFI company, it's sometimes a separate company----

A Yes.

Q -- but the PFI structure, is that right?

A Yes.

Q So, when you were told that instead of doing PFI, which people had become familiar with, you were to go back to the traditional type of publicly-

funded capital project. Do you remember any discussion about what provision had to be made for the burdens on, for instance, Estates and Facilities after opening because they were going to have to run it rather than the PFI company?

A Yeah, the-- When the PFI company, just to use that, and the Hairmyres-- their ACADs, they-- they were then monitoring and then you were buying a service. So, if 95 per cent of that service was delivered to the standard that you had agreed, then the monthly price was the price. If it was-- I'm making some of these numbers up.

If it was between 90 and 95, there was-- a monitoring regime had to be in place to say, "You did not meet the standard," and then there would be penalty back to the SPV. All the way down to-- if it was 80 per cent, you're saying, "We're not paying this monthly invoice," and that would happen for housekeeping, maintenance. So-- So there was a big element still of overview of the services to make sure the service you bought was being delivered.

Q I understand that, but the maintenance, just to take that as the example, that was being done, albeit someone was giving it oversight, by the PFI company?

A In-- In general?

Q Yes.

A If we came from a PFI hospital back to a capital hospital and bought out the service, there would be an effect, but, in this project, none of that was PFI. The two ACADs had been PFI and therefore the Maintenance Facilities director, the Housekeeping lead, etc., were actually there because all our hospitals were general hospitals. I don't know if I'm understanding your question, sorry.

Q The fault may be mine. I think what I'm trying to understand is that the burden of doing all of these things, maintenance, housekeeping, everything else, initially rests on the PFI company. You may have to oversee it to make sure they're----

A Yes.

Q -- meeting the standards and so on and so forth, and there are people needed to do that, but they do it whereas, under a traditional system, you have to employ a team of housekeepers and Estates staff and everybody else to do it.

A Yeah. I think the point I'm trying to make is, in this particular project, we already had the team of housekeepers et al, so, had we decided to go PFI, you are correct, we would then have bought the service, we would not be running the Housekeeping or the Maintenance, and we'd have a monitoring process. But, at that point, when we "bought the new hospital under capital,"

then those services were being run by Maintenance, by supervisors, etc.

Q I'm understanding your point now. In the existing hospitals----

A Yes.

Q -- pre-Queen Elizabeth University Hospital, there were Housekeeping teams, Maintenance teams and so on----

A Yes.

Q -- because these were not PFI hospitals?

A They were not PFI hospitals.

Q Right, so they were already there. I'm just wondering whether any exercise was done to try to work out what it was going to cost when you had to put them all together in this new different world of the new hospital?

A Yeah, and that was the affordability plan. So, if you take Facilities, then the director of Facilities would say, "What do you require in the new hospital?" and against that we'd then look at the savings and say, "The Southern General, the Sick Kids', the Women and Children's, the Maternity"-- So you would add up what the present costs were. The director of that service -- so, again, for example, Nursing -- would say, "I will need X number of nurses," and the two of them can-- together to say, "Well, that is the saving," and that would be the affordability plan.

THE CHAIR: Could I just confirm a point of detail? You've described a period between 1996 and 2006 where new hospital builds were, I think, if I understood your answer, universally funded under PFI arrangements.

A I would say-- I don't know if there were any odd exceptions, but, generally, from 1996, we started the Hairmyres one, and we did a 210-bed PFI unit in the Southern General, and we did two ACADs, again, PFI. So, the government did not have the capital at that time and therefore you were buying a service, and, in the early iterations of where we were going to go with this new hospital, we assumed that's what would happen.

THE CHAIR: Right.

A And then, in 2007, the SNP Government was elected and noises coming out that they were going to go back to a capital fund.

THE CHAIR: So, the new South Glasgow hospitals constituted the first project in 10 years, as far as you can recollect, which was capital-funded, and therefore the facilities, from the beginning, had to be provided in-house, by which I mean by directly employed GGC employees?

A Yeah. If that project had been launched in 2004, as an example, the likelihood is that would have been a PFI

and the facilities would have been delivered as a service by the PFI team that-- that you had appointed to do that.

THE CHAIR: Right.

A And the only point I was trying to make in the statement is, albeit we had assumed that, when we came to launch it at the OBC, we already knew it was public funding, so we didn't change halfway through our-- an OBC as a PFI and then say, "Hold on a minute, it's going to be capital." That was really the point I was trying to make there.

THE CHAIR: Right. Thank you. Sorry.

MR CONNAL: I think the point you make in your witness statement is you couldn't really go to the OBC, the Outline Business Case----

A Because we didn't know----

Q -- without knowing how you were funding it?

A Yeah.

Q You needed to know one way or the other?

A Yeah, yeah, that's right.

Q You're saying, by the time that happened, you knew that it was what we'll call traditional capital funding?

A Yes.

Q I might as well ask you these questions now. I was going to ask you them a little later. Part of the reason I'm asking this, and you were there until just

about the hospital was handed over, if not necessarily occupied----

A Yeah, yeah.

Q -- is that we have had quite a lot of evidence suggesting that there were just not enough staff to do what needed to be done, there wasn't enough maintenance staff, the demands were too high, people were working very, very long hours all days of the week, and they were being told, to paraphrase it, "There's no money, so get on with it." There were consequences to that, as you can imagine, if things were not getting done when they should have been done. I just wondered if you knew who was, at that point, responsible for holding the purse strings? Because I can understand how there was a budgeting exercise, you've explained that to us, so, here you are, hand it over, and fairly senior people come and say, "That's not enough money to pay for the people we need."

A Yeah, I don't really know how to-- I was away in January '15. I think the completion certificate in there is the end of January '15, about that time.

Q Yes.

A And I think it was about a five or six month "lead in" for commissioning stuff. So, I'm not there, but I think it was probably summer before the hospital opened. We had a fund called "double running costs", recognising that you

would be running, for example, the children's hospital in Yorkhill, and then running it in the new-- and part of that will be a general transfer. So, the first full year of the new hospital running would have started in April '16, which, again, is a good 15 months after I've left, so I really-- I think the director at the time would have been Mark White, but I don't know that I can answer, because I was-- I was well aware-- I'm not aware of those comments, but, obviously, that has been led as evidence.

Q No, I'm just wondering if you were able to help us as to who was-- If the director of Estates or someone like that knocked on the door and said, "My guys can't cope, there's too much going on, we're not getting the stuff done we need to get done, people are being stretched, we need more budget," could you tell us where that would come from, if anywhere?

A Yeah. I think, by that time, that-- using Facilities as-- since you mentioned Estates, I think that was David Loudon at that point. He would have taken that to the chief operating officer, because I think that was a line responsibility, and, if there were issues, it would find its way back to the chief executive.

THE CHAIR: Mr Gallagher----

A Sorry.

THE CHAIR: Did I pick up you using the expression "double running"?

A Yes.

THE CHAIR: Could you just tease that out for me and-- As you rightly say, the certificate of practical completion, or-- I think maybe that's not precisely its name, the handover date is January 2013.

A Yeah, I-- I have a document. That's how I knew that date, yeah.

THE CHAIR: The hospital is receiving patients from about June and July, and you said the financial year from April 2016 was the first year – now, what I picked up from what you said – that was being funded on a single-running basis. Could you maybe just tease out what you meant by "double running" in the context of what Mr Connal is asking you about and that is funding of facilities?

A Okay. Apologies on that if I'm not getting that right. We had-- If we take the new Queen Elizabeth, it was replacing the Western Infirmary Inpatients', the Southern General Inpatients', and the Victoria Infirmary Inpatients'. So, there would have been a programme-- albeit I've left, there would have been a programme because it had been worked out before that, for argument's sake, the first week of June, half of the Victoria is coming over or all of the Victoria is coming over, and then,

maybe the first week in July, the Western is coming over for inpatients, and then the final transfer is, say, the Southern.

Now, during that time, you're still running the Victoria Hospital Inpatients, because they might run over three or four weeks for transfer, you're still running the Western, and you're still running the Southern until they all transfer. So, if they're all in by, say, July, you've had a period of double running, you're still-- you're putting heat, light, and power and facilities into the Victoria, and you're putting heat, light and facilities into the Southern and the Western, and-- and you've also opened the new hospital.

So, to that extent, they're all having power, to use that as an example, and therefore a non-recurring fund was created to deal with that cost. On 1 April '16, those hospitals are well gone and the budget is now the first full year of the new hospital. I don't know if that's any clearer, but that's----

THE CHAIR: No, that is. I mean, it was just my failure to pick you up the first time. So, let us say that all patients have transferred, let's say, by July 2015, and therefore the hospitals which previously provided the services no longer had patients. Now, I think I would understand that there may still be running down costs, but if we leave aside the running down costs, would, let's say, July 2015

be the end of the double running period? In other words, the end of the period when your non-recurring fund was available to provide for services/facilities on the new Queen Elizabeth site?

A If you assume that was July-- Assuming that is July that everybody's going, there may be a hang-- hangover till August because bits and pieces are going on, but largely, by that period, I would have expected those hospitals to be closed and "double running costs" no longer really required, albeit at the margins that the Board was always okay for non-recurring money, so, if something did pop up, the issue would probably not have been the non-recurring in-year problem, the issue would have been what is going to be the recurring cost in 2016 onwards.

THE CHAIR: Okay. At risk of grossly simplifying it, what I'm taking from that is there probably was not, as it were, additional funding in the sense of funding beyond what was budgeted for in relation to the Queen Elizabeth? There was not additional funding to be drawn after, let's say, August 2015?

A I think it would have been anticipated if it was required, and it would have escalated and the Board would have said, "It's a non-recurring money, we can find that to get you through 2015-16, but what are you telling me about

2016-17? Because that sounds like a recurrent cost.”

THE CHAIR: Right. Thank you.

A It's all right.

MR CONNAL: Just so we understand where this came from, if you take January '15, just about the time you're going, and I'm not forgetting that you were only working part-time for a few months----

A Yeah, yeah.

Q Who was responsible at that point, the day the hospital was about to be handed over, for fixing the budget for Estates and Facilities?

A It would work his way back to the director of Facilities and upwards to the chief operating officer, who-- an accountant would be assisting in there, and, if that was an issue, it would work its way up to the chief executive.

Q So, that was the route?

A Yeah.

Q So, if somebody wasn't happy that there wasn't enough budget, it would be logical it would go up to the chief executive and they would then say yes or no to whatever the request was?

A It would be logical it would go to-- using your Facilities example, it would go to the director of Facilities first.

Q Yes, yes.

A If that individual felt, “No, that is a good case, I need to take that case

further,” then that would go to the chief operating officer and, again, if the funds were not available in the acute division, that would go to the chief executive.

Q Right, and that is all therefore separate, if I'm picking you up correctly, from what you're saying about the project funding which is the build to get to that point?

A Yes. Yes. Yeah. The project funding was the capital build, yeah.

Q Right. So, the fact that you were well within budget, or not overspent or whatever phrase one wants to use, didn't affect the ability to obtain funds for the Estates team when they were asking for it in 2015?

A In 2015, if the project was underspent, that would not assist the double running cost because that's a revenue stream. So, if in 2015 they felt there was not enough budget to get through till '16, I would have expected that to escalate all the way up to the chief exec if-- but, if the Facilities director-- picking your earlier point, if the Facilities director said, “I don't think you need anymore,” then I'm not sure that would necessarily escalate any further.

Q Thank you. That's very helpful in understanding the disconnect between getting your project under budget and the problems that we've heard about from others about the staffing at the time.

Now, you go on, in your witness statement, to deal with a number of other issues about site selection and so on. Just so we can see where you've fit it in, you touch on that on page 45, I think, at the foot where you're asked-- and this is where we're always a great risk of getting lost as to the different acronyms for the different boards and which is board is where in the structure. You say in paragraph 93 you did sit on the Acute Services Review Programme Board.

A Yeah.

Q Now, what was that doing? What was its function?

A That is in one of your papers for the June '09. Basically, that is a very large group that-- it's not dissimilar to, probably, the Strategy Board you showed on that chart, because the Laboratories were running, so the director of Laboratories, if you-- Sorry, can I refer to the paper a minute?

Q Yes. Why don't we get out the document you were asked to look at. That's----

A 8 June 2009.

Q Bundle 30, page 29, I think. Now, it may be 24. That's my fault. Yes, this is the ASR Programme Board meeting, 8 June 2009.

A Yes.

Q That's the one you were shown.

A Yes, that's the one.

Q You said there were a lot of people there, and, if there weren't a lot of apologies, there'd have been a huge number of people there.

A I think there's 30, I counted them the other day, because, broadly, that would have been the group that went to the evaluation day, and what you can see if you pick a few out of here, if I could do that--

So, Helen Byrne's there as the-- the project director. You've seen the directors of medical and surgery in there. Rosslyn Crocket: so Rosslyn, at that time would have been responsible for Women and Children, so the new maternity in the Southern-- sorry, I keep calling it the "Southern Site", and the Children's Hospital. I think Jim Crombie is the director of Diagnostics there. He was also in charge of Laboratories.

So, basically, all the new builds, and these were the directors, would have been on that group, and that group was pulling the different streams together, because at that point we haven't appointed a builder yet for the-- for the main hospital. But what you can see-- I think I've said in the statement anyone who was at a senior level that had an input into some of these groups would have been a member there.

Q Right, and that's before you

get to focusing on the build of the new hospital----

A Yes, yes----

Q -- and the structure that you need for that.

A -- six months later or so, yes.

Q Right, thank you. Just looking at page 26, there's a point there that we'd asked you just to clarify for us under the heading of "Competitive Dialogue".

A Yeah.

Q There's a note saying:

"There was some discussion around the scoring system for bidders and it was decided that A Seabourne and P Gallagher [should have]... discussions to clarify the criteria."

A Yes.

Q So, all of a sudden, that seems to have landed on you.

A Certainly Alan and I, yes, yes.

Q What was happening there? Explain it to us. You do deal with it in your witness statement.

A Yeah, well, for some reason I was not excited-- I was not excited on the fact that that was being brought there. So, if I take you back through the structure, and I think you've touched on some of that, within the acute services director of planning Project team, they had a head of finance, and the head of finance and the director of-- the project director had obviously been talking about

when we get-- Sorry, Lord Brodie, when they get further down, they're going to need a scoring system to decide which bidder is going to be selected, and that came up at that meeting.

I think I've said in my statement it's a very, very short minute, because when it came up, I recall saying, "Can Alan and I take this out of here, because we don't have the expertise to do a scoring system for something of this size." I had been involved in the Hairmyres project and the two ACADs, and we'd used advisors to create the scoring mechanism, and I think Mr Seabourne and I met for probably 10, 15 minutes, and we agreed that the scoring system could only be created by the advisors, and we passed it back to the advisors to basically create that system.

Q You took away that action from that minute----

A Yes.

Q -- but, in fact, you then just passed it on to advisors to come up with something?

A No, they-- they were the experts in it. They were dealing with projects all the time. You know, when you come to the scoring system and the number of lines that were going into that scoring system, I don't think we in the NHS had the expertise to create that.

Q Right. Just so we know from

the notes, when you say “advisors”, do you know who you’re talking----

A Yeah, I’m talking about Currie & Brown, Ernst & Young, and the legals, I think, were Shepherd and Wedderburn.

Q So, when you say you “handed over to the advisors”, that’s where it went?

A Yes, and-- and they created the matrix that was then used on the evaluation day.

Q Yes. Now, if we can move on, then, and come back to this question of change, we touched on change earlier in the context of a change control order issued to the contractor under the terms of the contract, and we’ve touched on this with other witnesses. If we go to page 49, there’s a note which is lifted from a series of bullet points which are in the criteria for this particular committee. ASSB was responsible for overall financial control, and there’s a note saying there:

“To approve change control in any change that impacts upon the project must be authorised by this Board.”

A Yes.

Q Now, one of the questions that people have been asking is, well there didn’t seem to be any indication that changes-- I don’t mean change orders that had to be put on your spreadsheet, but any change was ever really discussed at the boards and these different

committees?

A In terms of the finance side, any change that had a finance cost certainly came to the Project Exec Group and to that Strategy Board. I didn’t sit on the Strategy Board, but the remit is pretty clear in the papers that-- that you’ve provided, that, basically, they were the ones that had overall financial control.

Q Yes. So, what you’re focusing on there is the finances, as it were. Is that right?

A Well, I think-- can I again refer to a paper, just to the----

Q What are we looking at now?

A Yeah, sorry, the-- the February 2010 where you had that organogram on it.

Q Right, yes.

A I don’t know what bundle it is, sorry.

Q Is that going back to bundle 30, page, 38, what’s it?

THE CHAIR: 38, yes.

MR CONNALL: 38. Yes, so I’ve got the organogram. Where would you like us to look?

A If you go to the one that says, “Acute Services Strategy Board.”

Q Okay, I think we have to----

A And it gives you the remit. So, probably there.

Q Yes.

A So, 1, 2, 3, 4, 5:

“That Board approved any change control, and any change that impacts upon the project must be authorised by this Board before it can be implemented.”

Q Yes.

A And that’s surely the point. I was trying to pull out anything of a significant nature. Now, they are meeting bimonthly. So, the Project Exec Group was meeting, I think, weekly----

Q Mm-hmm

A -- and that was to keep the project running but, if there was anything of a significant change, it had to come up to that Board, and it’s quite clear in there where, basically, the authorities are.

Q Yes. Can I ask you something, just while we’re sort of thinking about where things went for decisions, because you made the point in your witness statement that this meets bi-monthly so you had to have a provision if something needed done immediately.

A Yes.

Q It could be done at a level lower, and then had to be reported up. One can understand that. Do you know anything about a decision in 2014 about a tap system called Horne taps?

A No, it does not mean anything to me.

Q The reason I ask, and I’ll explain it as briefly as I can get away with, what had happened was that the

project had ordered taps, mixer taps, to be simplistic about it. The manufacturer was a company called Horne, and some of them had been installed somewhere in the process of being installed.

Then there was an outbreak in Northern Ireland, and possibly elsewhere, in which things-- a component of some taps called “flow straighteners” were implicated because they gathered undesirable organisms, and these Horne taps had something equivalent in them, so there’s a big debate about it, “What should we do?” You don’t know anything about this at all?

A I certainly don’t recall it. I certainly don’t recall that.

Q What then happened was there was a big debate. The guidance was going to be to the effect, “Do not install taps or flow straighteners.” That was going to be the national position, but there was a question, “Well, what happens if you’ve got a project where they’re already in? Do you have to rip them out or not?” and there was a debate, and the decision was, “Keep them in, but maintain them,” which is another issue which we’ve dealt with other witnesses.

It may be suggested by some involved in the Inquiry that the driving force behind the decision not to take the taps out and replace them with something

else was a desire to save money. Now, we're asking various people who might know about it what their reaction to that was.

A I certainly-- we-- we did not-- I personally was not involved in that, understand that, and would not have said, "Sorry, we don't have the money to do that." The project when I retired was still quite well underspent, so someone may have decided they didn't want to spend the money, but it certainly never came as far as myself.

Q So, at least so far as you can recall, a discussion of whether or not to press on and what the reason for it didn't come in front of any board that you-- any group that you sat on?

A I certainly don't recall that discussion.

Q Yes, okay. Thank you. Now, I wanted to ask you about a couple of things just to see what you can tell us or not tell about them. If we go to 52 of your witness statement, that'll give us the place we are.

Can I make it clear before I ask you the questions on this, Mr Gallagher, that part of the issue is that, in a number of cases, we don't have very much documentary material on which to go, so if we end up asking you questions you just don't know about, then please just say. Now, one of these is something

that's been called the "temperature variant". There was guidance in something called SHTM. You know what they are?

A Yes, yes. Yeah, I-- I understand that. Sorry, I've read papers and that's why I understand. It's not because I'm technical. I-- I've read the papers.

Q That basically said-- and there's a lot more detail to it than I'm going to tell you but, basically, "Maximum temperature, 28." Now, there's a provision about how many days and so on and so forth, but just stick to the 28. A decision was taken in, I think, June or thereabouts of 2009, so while the project was still at a stage before the contract had been signed, that that should be cut to 26.

A Yeah.

Q You know, "For 28, read 26." First of all, were you aware that decision had been taken?

A Yes. I think it was slightly later, to be fair. My recollection is the director of Facilities-- I think it was after the ACADs opened, and that's why I think it was slightly later.

Q Right.

A Because I think in the June 2009 paper there's discussion on, "Stobhill is already open and the Victoria is about to open," or vice versa, but they

were opening circa the end of June/July 2009, and I think, again, from Mr Seabourne's email of June 16 he mentions the Facilities change. My recollection is that the director of Facilities brought a paper to one of the groups. I would believe it would be the Acute Services Programme Review Group, because that was the biggest-- the highest group----

THE CHAIR: I----

A Sorry, sorry----

THE CHAIR: No, my fault entirely. I just missed the name of the group.

A The Acute Services Review Programme Board.

THE CHAIR: Right.

A That was the one that had about 30 people at it.

THE CHAIR: The director of Facilities at that time would be----

A Alex McIntyre.

THE CHAIR: Alex McIntyre, right.

A Alex McIntyre at that time, yeah. Now, it would have come to one of two groups. Can I deal with the timing first, if that helps?

MR CONNALL: Mm-hmm. If we assume the ACADs opened round about July '09, and Mr McIntyre brought a paper for change because of problems with heating in ACADs. Then my rationale is it's probably September or October 2009 to have two months of ACADs operating

and finding that the patients were finding it too warm. So that's why I'm on September October, but there's no other reason. Mr McIntyre would have brought that paper to one of two groups, the Acute Services Review Programme Board or the Acute Divisional Senior Management team meeting.

Logic to me, because it was a project issue, is it would come to the Acute Services Review Programme Board. I can clearly see a paper. I can't tell you whether it was to note it, whether it was to approve it, or whatever, but I don't have the paper with me. At that point, after agreement in that group, that would have passed to Helen Byrne at that point and to her Project team, and they would have then been charged with going and finding a solution on 28/26-degree temperature. I don't understand all the technicals, but I have read the paper about 15 times.

Now, do you know whether, when this was being done, anyone assessed any risks that might arise from changing the maximum temperature?

A Not that I'm aware-- Sorry, I don't know of what was going on, other than the paper from Currie & Brown that then describes that, which is called----

Q Yes, that's at the time when we're dealing with the ventilation derogation, which is a little later on.

A Yeah.

Q The other question is, "What about any possible financial consequences of the decision to change the temperature variant?" Do you remember seeing any discussion of that?

A I see in one of the papers that Currie & Brown said the Project team wrote to myself, Helen Byrne, and Alec McIntyre. That's a paper in----

Q Yes.

A -- or one of the questions I had originally. I don't think they would have said-- I haven't seen the correspondence. I don't think it would have said, "There's a temperature variant," but-- but at that point we have two bidders, so the cost will be the cost-- There may be a cost; there may not, because they're undercutting each other or whatever.

Q Okay, let's just make sure we don't confuse the two issues. We know that the variation of the temperature was part of the discussion over changing the ventilation specification, which is the communications you're talking about where Mr Seabourne says he told various people, one of whom was said to be you.

A Yes.

Q You've been shown some emails at that time. Can we just go back, make sure we're getting this clear?

A Okay.

Q So far as Mr McIntyre coming forward and saying, "Here's a proposal to do something," which is to depart from the official guidance and go to 26 instead of 28, I'm just wondering whether you can recall at that time any discussion about any financial consequences might arise from that?

A No. I-- I think the financial consequences would flow out of that when the two bidders do whatever change they need to do to deliver that lower temperature.

Q Right.

A We didn't sit and say, "Sorry, that's going to cost £300,000" or whatever.

Q Yes. Well, I was just wondering whether-- you know, we asked one of the other witnesses this in a witness statement and they've said, "Oh, might just be some bigger plant to cope with it."

A Yeah, I-- I wouldn't know what would involve----

Q You've no----

A Yeah.

Q -- knowledge of that? Right. So, you had some knowledge of that. Now, what then happened in around December of 2009 was a discussion about the SHTM air change requirements and what should or should not happen to that. Now, you've been shown some

documents, and you've been told that Mr Seabourne at least says that the people he told about this ventilation change were not any of the committees, but were Helen Byrne, Mr McIntyre, and you.

Now, we've asked Helen Byrne about this and, if I can just step out of that just for a second, GGC have checked, as we have checked, to see if we can find any record, any written material about this in the papers of any of the committees, any of these structures, and nobody can find anything, so we're simply down to who was told orally at the moment.

A I-- I----

Q Do you remember being told about it?

A I don't offhand remember, but I would see the logic, and I've said that in my statement when that question was posed. Mr Seabourne was given the task of solving the different temperature that was required, and he was dealing with two bidders. Presumably, he had a solution, and from that I think he would write to his boss. I think he would write to Mr McIntyre because he was the person who started the change, and I think he would write to me to say, "You should expect the financial cost." I can't see any other reason why he would write to me.

Q But you don't, at this point, recollect any such communication coming

to you? Just that we haven't found any.

A If Mr Seabourne-- I think what Currie & Brown says-- sorry, when I saw it, said, Currie & Brown said the Project team wrote to me. I'm assuming the Project team can't write, because the team can't write to me. So, I'm saying Mr Seabourne wrote to me.

Q Right.

A That's what I'm assuming. And it's logic because he was the project director, he would tell his boss and tell the Facilities Director. And I think any involvement with me at that point would be, "There is going to be a financial cost of changing the temperature." I haven't-- That explains why I haven't got the email or the letter or the communication, but if he said he'd done it and Currie & Brown said he's done it, I have no reason assume he didn't.

Q The reason it has raised an issue, as I think you probably understand, is that it involved not complying with an SHTM----

A Yes. Yes, I saw that.

Q -- guideline. Now, I think I have you noted in your witness statement as saying you would have assumed that had somebody intended to not comply with a government guideline, it would come to the committee structure?

A Mm-hmm.

Q We've not found any trace of it

coming to the committee structure. Can you remember it being discussed?

A The temperature change or----

Q And the derogation from the----

A Okay.

Q -- SHTM.

A The derogation is the ward ventilation design strategy paper?

Q Well----

A Is that what----?

Q -- that sets out what was said to be the justification for it.

A Okay. I'm very clear that the temperature change absolutely came to a senior group, and I would expect that to have been round about September or October. The ventilation strategy paper-- My early notes are exactly as you say, this looks like a paper of documents detailing this, that and the other, and I would have expected that-- These are my scribbles. Around about the end of July, I was having another discussion with the West Support team to finalise the statement. I happened to notice then that Currie & Brown were the source of that document on the footer.

Q Well, the strategy paper was in fact prepared by the M&E consultants to Multiplex through a Mr Parady, although Curry and Brown were, at that time, obviously advising the Board on a variety of matters. So, they're not the original authors, I think, of the strategy paper as

such.

A Okay, I-- I'm sorry, just the one I've got does have Douglas Ross and Currie & Brown at the bottom of it.

Q Right.

A On the footer. And the reason I'm picking that up is I believe on the evaluation day that that paper was given out, from recollection, and that was on a PowerPoint at the evaluation day. And I think my recollection is we had two bidders at that time, we're evaluating two bidders, one of whom has met the HTM/SHTM but not the Board's 26 degree temperature, and the other of whom has met the Board's 26-degree temperature but not the SHTM.

And I think Currie & Brown in the analysis of working through the matrix of scoring had to take the group through, "What are the differences here?" And if you read the paper as it reads through, it's like we are taking-- There are very few technical people there and therefore what would you score on the various parts. I don't know if I'm being clear here, but that's my belief.

Q No, the issue that you're raising for us is simply one of timing, because the information we have is that the exchanges, the production of the strategy paper was done very-- in towards middle of December 2019.

A Okay.

Q And the contract with Multiplex was signed on 18 December 2019. So, by that time, the discussion was only with Multiplex, and, in fact, one of the issues that's been raised is the fact that these discussions were taking place in the last, you know the last few days, the eleventh hour of the last day before the ink was put on the contract. So, it may be-- I'm just asking you this, could it be you're mistaken about when you saw the strategy paper?

A It could be. Currie & Brown had a document up on PowerPoint and handed a document out that day.

THE CHAIR: And that day is the----?

A The evaluation day.

THE CHAIR: The evaluation day? I'm trying to recollect: was that sort of---

A I thought that was December 09, and I thought the Board ratification logically would have been January 10, but it may not be. It may be the Board ratification day was 18 December. Now, we're going back 16 years and I'm not quite sure, but it was at the same time frame.

THE CHAIR: I should know this information but my impression is the evaluation day was October, November.

A I don't know. I'm sorry. We're going back 16 years. Whenever that evaluation day was, there was a paper by

Currie & Brown and, picking Mr Connal's point, it may not have been that paper. My thought process thinks that's where that came.

THE CHAIR: You do seem to have a clear memory of PowerPoint----

A I do have a clear memory of Currie & Brown putting something up on PowerPoint and I was being given a document, which I'm assuming is this document, but if it isn't this document because it's not written, then apologies.

MR CONNAL: This is something we may have to do some more digging into, Mr Gallagher, because the information we currently have is that there were a series of emails and other exchanges and the strategy paper, was produced very much right at the end of these, was sent and delivered. I may be wrong in quoting 13 December, but it was certainly in the period just before Mr Calderwood was being asked to put his pen on the contract.

A It may be. I think the-- I don't know which month it is, but I do think that paper was pretty close to the evaluation day, whenever that evaluation day was.

Q That's the evaluation day which led to the decision to select Multiplex as the preferred bidder?

A Yes, because we had two bidders in at that time and we had to score each bidder.

Q Thank you.

A That's certainly my recollection.

Q Okay. Let's leave that because I suspect we'll just go around in ever-decreasing circles. I just want to ask you something else you'd said because it's cropped up in the context of possible issues that might lead to recommendations and so on, but on page 56, at the top of the page, you say-- well, there's one thing. We'll leave aside what's a good thing or not, that's:

"...going back to the capital funding route certainly cut down the involvement with lawyers."

A Yeah.

Q Because under PFI you had a recollection of lawyers crawling----

A Yeah.

Q -- all over everything repeatedly and at length.

A Yeah.

Q The reason that I ask that is that-- I can understand what you're saying about PFI because there are lots of complications about the mechanisms which operate during the post-handover-- Sorry. Once the building is finished and you enter the next stage, I can understand that because one of the issues perhaps is there's enough crawling all over the papers in this project, you just have a recollection of a

lot less?

A Yeah, the-- I was interviewed at the end of March and, unfortunately, when the statement came back, it took about nine weeks but it was very much vocabular. And when that question was posed, I happened to say, "Yeah, I remember that there was acres of lawyers." So, it was not being derogatory. It was----

Q No.

A It came out that way. And then trying to turn----

THE CHAIR: I thought that was quite a vivid expression actually.

A Yeah, well-- Yeah, trying to turn that back to a statement has not been easy for myself or the West team, to be fair, because I do everything longhand.

I think the point I'm making, in particular the Hairmyres one, we were the first hospital, and "largely" we were writing the PFI book and there was lots and lots of contract meetings. And we would have lawyers in there for contracts, and you'd have second period pricing formula, you'd have how you're going to monitor. Whereas, from my point, we're in the finance heart, when we came back to the capital funding, I don't have so much contract input and therefore it was easier, albeit the numbers were bigger. That's----

MR CONNAL: I think the----

A -- really what I was trying to say. Sorry.

Q No, I understand that. You're perfectly entitled to talk about "acres of lawyers." I suppose the question might come back to a point his Lordship put to you earlier. PFI has been the only game in town for some time. The ACADs were built that way, and so on, so forth. All of a sudden, as it were, you're back into a different structure. From your experience, do you think it might have been a situation where some extra lawyering might have helped?

A I don't know that-- So, my input into finance and into the running of the hospital would have been the day-to-day wages costs and supplies costs, and I don't think we needed any more lawyers in that regard. Whether the change back to capital needed more lawyer input into the way it's built, I don't know. I'm not a builder.

Q Thank you. You were then asked about the full business case, and you say, "Well, that's ultimately the Board's responsibility," and any input you were having into either outline a full business case was purely on financials. Is that correct?

A Yes, I would just have been the financial side, yeah.

Q Yes. Just again so I can get a

picture, probably not that much more to ask you, can I just go to page 59? Near the foot of page 59-- I'm just trying to get a picture of what you're telling us here, because I understand your point about doing things longhand and then being converted into a statement. You say in paragraph 180:

"We had agreed a bed model. We had agreed the number of consulting rooms, theatres, A&E spaces etc., and probably by 2013 that was it, it was all designed..."

So what you're telling us is by 2013, everything was fixed?

A No, I think-- Again, part of the process was that I was asked questions, I answered the questions and then when they create the statement, they take the questions away----

Q Right.

A -- and then you're trying to understand, and that's why the thing falls about a bit so that was quite difficult. One of the questions that was asked was about the transfer of other specialties into the hospital that had not originally been in the plan to come to the hospital. And when that question disappears, the point I was trying to make is we had the number of beds, we have the number of consulting rooms, we know what theatres are, if you decide to transfer a different specialty into the new hospital, it's been

designed for that. So, unless you're taking something out of the hospital, you can't transfer something in. So, that's largely what I'm trying to pick up there.

But the question-- Sorry.

Q No, I----

A The question isn't there, so it looks like it just jumps out.

Q I understand your point entirely. Were you aware that there was a proposal to bring the bone marrow transplant unit from the Beatson in 2013?

A [REDACTED] I think, interviewed me at the end of March, and this is where that whole stream came from. [REDACTED] actually asked, "Were you aware of the transfer of BMT?" My response was, "What is BMT?" She said, "Bone Marrow Transplant." I said, "I don't recall that being discussed. However, there were discussions around the transfer of other specialties." And that dialogue and question doesn't appear there, so that's how it then runs on to, "You couldn't bring any more in because it's designed."

Q Yes. Anyway, so far as your memory goes, you don't remember being involved in a proposal to move the Bone Marrow Transplant unit from the Beatson Centre into the new hospital?

A I don't recall that at all.

Q Something of that kind, which had, we've been told, an initial estimated

cost of around 800,000, but where would you have expected that to go in the structure of committees that we have been talking about?

A 2013/14. It would follow up that chart to the Executive Sub-group and the Acute Services Strategy Board.

Q So, from the group you sat on to the one above? You think.

A It depends where that discussion started. You know, I would imagine the transfer of a service like-- The only one I remember hearing discussions were the infectious diseases from Gartnavel. But if you go back to that previous organogram, the Project team is probably not discussing the transfer of bone marrow transplant, it would probably be somebody senior. So, whether it bypasses that level and doesn't hit those groups, I don't know. I don't personally remember BMT being discussed.

Q You remember something being discussed about infectious diseases?

A Yeah.

Q Can you remember where that was being discussed? In one of these groups or not?

A I remember that-- I'm sure the medical director at the time was discussing the possible transfer of infectious diseases from Gartnavel and,

again, where you're going to put some medical beds out or some surgical beds out or where do you fit it in. That's the only transfer of service that I recall some discussion on.

Q Thank you. Just for the record, I asked you a question earlier about whether you would have expected an SHTM change to go up through the structures, and you gave me an answer to that question, and you've obviously been asked a similar question and given an answer and that's on page 64, paragraph 213. I don't think I need to ask you to repeat it because it's exactly the same as you've told me earlier.

I think what we come to is that your conclusion at the end of your statement is this project was a success. Now, I think we all recognise that a project that comes in, broadly speaking, on time and on budget deserves considerable credit for doing that. I think the issue that I have to put to you to see if you can assist us with at all is this. We know that as early as the date when the late queen was there to open it, a decision had to be taken to remove the Beatson Bone Marrow Transplant Unit from their proposed home in the new hospital, and take them back to the Beatson because the circumstances were not suitable for them, which is after you left.

And we also know from other

evidence that various significant works had to be done to Ward 2A, which was the Schiehallion Unit for the paediatric haematology-oncology service, and the public position of the Board here and elsewhere has been that they were disappointed that they did not get the hospital they hoped for.

Now, I'm just wondering from your experience of sitting on these various groups and committees, if you can help us at all as to-- You know, do you think you were focusing too much on money and too little on scrutinising the quality of the product, or is it a communication issue? Can you assist at all as to how you get to a point where financially the project is a success, possibly less so in other ways?

A I do think it was a success, but I reckon-- But again, that is an answer to the question, "Do you have anything else to tell the Inquiry, and do you think the project is a success?" It wasn't, "Does everyone think the project is a success?" You wouldn't have an Inquiry if everyone thought it was a success. So, I recognise others don't see it as a success, but my own personal view, the healthcare in Glasgow was totally rebuilt, it came in on budget, which isn't there, and my personal interface, between my grandkids and my father, has found that to be first class.

So, in answering that question, I do think it's a success. In among that dialogue, I've forgot your question so apologies.

Q I suppose what I was trying to suggest was that the other aspects might be focused not on money but on content, quality, however you like to put it.

A Yes.

Q I'm just wondering whether, from your experience of working your way through all these endless groups and committees and boards, you were able to assist us with any suggestion as to how things might have been done better.

A I don't think there was an over-reliance on finance because I don't honestly believe at any time that project was financially challenged, and therefore I don't think there was-- if things had to be done, if something had to be built differently and there was a cost, we found it, we reported it, and it went up. In terms of the other side, in terms of quality et al., I don't know that I'm able to comment on that. I don't think I have the skill set.

Q Thank you very much, Mr Gallagher. I have no further questions for this witness, my Lord.

THE CHAIR: I have no further questions for Mr Gallagher, but do you want the opportunity to check?

MR CONNAL: It might be better to check----

THE CHAIR: Check the room.

MR CONNAL: -- that no-one else has any.

THE CHAIR: Mr Gallagher, the procedure that we adopt is to give counsel the opportunity to check with colleagues if there's any questions that they wish to be raised that he hasn't canvassed, so if I could ask you to return to the witness room----

THE WITNESS: Yes, no bother.

THE CHAIR: -- for what should be no more than ten minutes.

THE WITNESS: Yes, no bother. Thanks very much.

THE CHAIR: We will give Mr Connal that opportunity.

THE WITNESS: Thank you.

(Short break)

THE CHAIR: Mr Connal?

MR CONNAL: My Lord, in light of some unexpected content of one or two things that the witness has said, I'm afraid I have to ask him to come back for a few minutes and look at some more material that has been searched for behind the scenes.

THE CHAIR: Very well. (After a pause) Some more questions, Mr Gallagher.

THE WITNESS: Okay.

MR CONNAL: Can I ask you a

general question first of all?

A Sorry, I wasn't sure where that was coming from there, so apologies.

Q Oh right, yes.

A Sorry.

Q I am everywhere; at least it sounds like that sometimes. Yes, there's sometimes a little bit of feedback bounces around the room. Just a question about the temperature variant: you know, the 28 to 26 point.

Now, you were able to tell us that you recalled something going from Mr McIntyre-- I mean, we know what the bidders were told, but something going from Mr McIntyre to a group which you described as the Executive Sub-group.

A No, I think I said the Acute Services Review Programme Board.

Q All right, well we've obviously noted you incorrectly because whatever it is, it wasn't one of the structures that was on the organogram that we were looking at earlier.

A Yes. So, the organogram earlier is from 19 February 2010.

Q Yes.

A The paper to change the temperature which led to the SHTM was sometime after opening the ACADs in June/July 2009. Mr Seabourne's email of June 2016 describes that as being one of the problems was-- the problems they were having with temperature in the

ACADs.

Q I think we know where the discussion came from, I'm just keen to understand which body you recollect it went to for approval or agreement, or whatever.

A The Executive Sub-group only came in on 19 February 2010, so it wasn't that group.

Q Right.

A Logically, it would have been the Acute Services Review Programme Board which was the one you talked about, if half the apologies are there it'd be a big group. That's the one it met in June '09, so that would have met again in August '09, September '09 etc.

Logically, that would be the group; or, failing that, it would be the Acute Services Senior Management team, which was a meeting of the Acute directors, and Mr McIntyre was a member, I was a member, etc., etc., and it would have come to one of those two groups. Logically, the Project Group Acute Services Programme Board.

Q So, that's a group with, if everybody had turned up, about 30 people you had identified----

A It's that group, yes, yes.

Q -- when a minute was put to you earlier today.

A Yes. I'm guessing-- sorry.

Q No, carry on.

A I'm guessing around about September or October of 2009 because it's after the ACADs opened. That's all.

Q Now, as you can probably gather, Mr Gallagher, while we're sitting in here, there's a whole team of people somewhere else listening to everything you say and scratching their heads occasionally and writing things down occasionally.

You mentioned presentations, and you mentioned the issue of the temperature variant and the ventilation derogation. So, we've been looking to find where these are, and we found two of them because you were sure you'd seen a version of the paper from ZBP that you identified earlier at one of these presentations.

Now, the two that we found are a presentation to the Executive Board on 22 October 2009. So, if we could have bundle 42, volume 2, page 77, please-- Right. Now----

A Yeah, it's the-- it's the----

Q Is this something-- This is the agenda for a meeting on 22 October with, obviously, on the right-hand side, speakers to speak to various items: Ms Byrne, Mr Seabourne, and so on. Can we just scroll up so we see the whole of this? Because we see your name, I think, against "Affordability and Revenue Consequences". So, could this be a

meeting you remember being at?

A I would certainly have been at that group. I don't recall all their titles, but, yeah, I would have been in that group, and I would be dealing with affordability, and Michael McVeigh, above that, as a matter of interest, is from Ernst & Young.

Q Right, and he's talking about score rankings.

A Yeah.

Q We found a presentation that was given to that meeting, which is in bundle 43, volume 3, at 882. Now, it's described there as a tender submission. Just looking at the front sheet, is this something you remember?

A I was certainly a member of the New South Glasgow Hospitals and Labs Project Executive Board, yeah. So, if it's a tender submission-- So, the likelihood is I would have been there.

Q Can we just look to see what's in this document briefly? There's an update, exemplar, "Discussed Master Plan", "Planning Approval", obviously different headings there. Can we just scroll on? There's a note of documents being issued to bidders, "The dialogue has been discussed," we remember there was a competitive dialogue process----

A Yeah, yeah.

Q -- where the bidders were spoken to, see that each bidder's (inaudible 16:01:22) several times and so

on. If we just carry on, "Project Stages", which we know about, "Board Requirements," a summary, presumably, of the bidders' approach. Do you remember this being delivered?

A Not offhand, hadn't seen it the first time, but I've absolutely no doubt I was-- I would have been there.

Q Can we just scroll on quickly and see what else is-- "Lab design specification" we needn't worry about. Some pictures, plans, and then "Brookfield's Plans." It's just that we haven't been able to find in this document the narrative of advice on the ventilation derogation that you thought you'd seen.

A It would not be there, I don't think, only because-- well, my recollection is it was on the evaluation day, and, to the best of my recollection, we only had two bidders left at that point, and I think Laing O'Rourke may well have been dropped somewhere along that continuum, and because----

Q So, it's after this, then, that you think you saw it?

A I-- I had it in my mind it was December '09 because the footnote-- the footer on the document that you sent me and I've left next door-- but the footer on the document, I had thought that document, at first, was an NHS document, and I thought, "Why did that not appear at a group?" But when I saw

the Currie & Brown footer, I'm sure it says December '09. So----

Q Yes. So, it will do because there were exchanges between ZBP and Currie & Brown and the Project team in December '09 just before the contract was being signed and, in particular, the design strategy document which I think I suggested to you may have been produced around 13 December. Someone in the room says they've looked it up and it was the 15th, so I was slightly out for that, and the contract was signed on the 18th. So these were exchanges in the last few days before the contract.

A Right.

Q Well, let's leave this presentation if you don't think this is----

A I don't think it's that one.

Q -- the one you held. The other one we found was to the Performance Review Group, which, as I understand it, is in bundle 17 at 2651, if we go to the minute. Now, the Performance Review Group is not a group of which you are a member, but you are recorded as being in attendance about the sixth person down.

A Yeah.

Q This is in November 2009.

A Yeah.

Q And we see who's on-- the members, a couple of councillors, various

other individuals – details don't matter – other Board members in attendance including Mr Calderwood and Rosslyn Crocket who we heard about earlier today, and then a whole string of other people including Helen Byrne, Mr Hall of Currie & Brown and so on and so forth. So, if we just roll onto the next page, we come down to Item 66, "Approval of tender," so that's for the hospitals and laboratory project. There was submitted a paper by the director of Acute Services which sought members' approval. So, if we just roll that on, this seems to be the point at which you're getting down to the end stage.

A It's certainly-- The PRG, the Performance Review Group, I think we touched on earlier, was almost totally non-execs, give or take, and there's a whole string of other people attending a "non-executive" meeting. So that does sound to me like that's coming towards what I'm calling the evaluation day, because there was a lot of people there.

Q It would make sense because if you-- just picking out a few words from a document I've not seen for a long time, we see that there's a bullet point about two-thirds of the way down the page that said:

"The bids submitted by 2 Bidders offered a high degree of certainty around pricing... One Bidder, however, as a

result of its consideration of the fewer larger risks offered a less certain price outcome."

So, this may be coming to the point where it looks as if two are still in the running and one is starting to fall away.

A Yeah.

Q So, can we just scroll to the end to make sure we're not omitting any part of these minutes? There's obviously a lot of discussion, Mr Seabourne advising lots of things about Multiplex. I don't think we'll find anything here saying that it's proposed not to meet any of the employer's requirements or to breach SHTM, but I may be wrong about that, and, rather than delay you, I----

A No, that-- that's fine. The-- As I recall the evaluation day, which is where I believe we had two bidders, my recollection, and I think I've said it in the statement, is that that was run by the advisors. I think Ernst & Young took away the scoring sheets and presumably Ernst & Young or someone from the board did a minute.

Q All right.

A So----

Q So, you think that's not this meeting? Because it reads as if you're---
-

A It certainly looks like-- Why so many people would be at the Performance Review Group that has

largely only got six or eight members, and there's another 30 people there, does sound to me what I've been calling the evaluation day.

Q Yes, okay. Can we just scroll on so we can see where this all takes us? Because we see on page 2655, I think, that, "Decided Brookfield be appointed preferred contractor." So, whatever that group was, and whatever the presentation was, there seems to be a decision at the end of it. Is that what you would expect?

A I thought the Board were the only ones who could actually appoint, and, when you mentioned Mr Calderwood, he was the chief exec of the Board at that point, and he would have been at these meetings. So, I thought it was an evaluation day, but it may well have been that. But if that group decided to appoint the preferred contractor, then it must have been at that group. We're going back 16 years, I'm honestly doing the best I can.

Q No, no, I appreciate that. There was a presentation made, I'm told, to that, which is in the same bundle at 2715. Just to see if you recognise it, we won't otherwise delay you. So, obviously, an obvious starting point, it's a presentation of the PRG, 3 November. Scroll on. It tells you what you're going to get.

A Yeah.

Q And then----

A Sorry, that first bullet point does say, "Technical Overview & Evaluation," so either the evaluation has happened the day before or something, or the evaluation happened that day because that's saying what we're going to do today.

Q Okay. Well, just scroll on, just in case you recognise it. Obviously just names are coming up with some pictures, which we can quickly flip past. Brookfield-- "Fully met the Board's Exemplar requirements." Carry on. "Compliant with Employer's Requirements," it says. Carry on. "Departmental Layouts," and so on. So, this seems to be a presentation to that group in which the general tone is, "This is meeting what you've required."

A Yeah, it does, yeah. And it's the right time frame I have in my mind about the tender. Okay, this is November, but----

Q It doesn't at first sight look as if we're going find anything here which discusses a paper from Brookfield's advisors.

A I don't recall the paper from Brookfield. You've-- You've mentioned things. I'm-- I'm going on the footer of the one that says to me and it says, "Currie & Brown," so, if that was

plagiarised from Brookfield, then I'm not aware of that.

Q Okay. Well, let's scroll up. Can we go to the end of that document? I'm sorry I don't have the page number. Because we don't need to read all the Laing O'Rourke stuff, Balfour Beatty stuff. "Final Qualitative Scoring" there, totals.

A Yeah.

Q Do you remember seeing this stuff?

A Well-- I'm sorry I don't recall, but, if-- if that is the output from what I'm calling the evaluation day, the evaluation day presumably was a period before that, because they deliver all of those pointages and print them and give them out in documents, which says to me something's happened just before that. We didn't score all of that and then give all those numbers out. I think earlier you said you thought it was about October. If this is 3 November, then maybe my time is out-- a month or two out.

Q Okay, carry on. Again----

A I do remember we did tell them to start on the laboratory first.

Q Mm-hmm. Carry on. "Cost Summary" is fine, we can go past that. Yes. "Legal Considerations", and hopefully we'll get to the end shortly. Carry on. I think what this clearly is, given that we've seen what the minutes say, is a presentation which led to a

conclusion that Multiplex was the preferred bidder.

A I would say so, and, on the basis of that, I suspect that's why, not long after that, the Board signed the contract.

Q Yes, okay. Well, I think we can leave the rest of that document, thank you very much, and I have no further questions for this witness, my Lord.

THE CHAIR: Thank you. Thank you, Mr Gallagher. That means that that's the end of your evidence and you're therefore free to go, but, before you do that, can I thank you for your attendance today, but also the work that's gone into preparing that evidence. As you touched on in the course of giving your oral evidence, that has involved a number of interactions with the Inquiry team and the reading of the material that we've asked you to read, and I do appreciate that's quite a lot of work. So, thank you for the background work, and thank you for your evidence today, but you're now free to go.

THE WITNESS: Thank you very much. Thank you, thank you.

(The witness withdrew)

THE CHAIR: Now, I think we've planned to resume tomorrow with, first of

all, Mr Mackintosh and Mr Poplett.

MR CONNAL: I think it's an earlier start tomorrow, I have in my head.

THE CHAIR: Right. Now, that is something I've not been alerted to. I'm getting nods all round.

MR CONNAL: Well----

THE CHAIR: Now, is it an earlier start, half past nine?

MR CONNAL: Yes, people are nodding at me.

THE CHAIR: Right, okay.

MR CONNAL: I'm sorry, I wasn't equipped with that detail.

THE CHAIR: Reliable sources----

MR CONNAL: It's a slightly earlier start tomorrow with Mr Poplett.

THE CHAIR: Right. Well, we'll work on the basis that we'll see each other at half past nine tomorrow morning.

MR CONNAL: Thank you.

THE CHAIR: Thank you, Mr Connal.

(Session ends)

(4.15 p.m.)