

## Closing Statement of IHS Lothian Limited ("IHSL")

### Public Inquiry: Queen Elizabeth University Hospital, Glasgow and the Royal Hospital For Children and Young People and Department of Clinical Neurosciences (RHCYP/DCN), Edinburgh ("The Inquiry" Or "SHI")

Hearing Diet: 20 September 2021 to 5 November 2021

#### 1. INTRODUCTION

- 1.1 This is the Closing Statement of IHSL in relation to the hearing which took place before the SHI between 20 September 2021 and 5 November 2021 (the "**Hearing**").
- 1.2 IHSL is the Project Company (i.e. the special purpose vehicle) in relation to the RHCYP and DCN, Edinburgh and is a Core Participant in the Inquiry. IHSL was granted leave to appear at the Hearing only in so far as it related to the RHCYP/DCN, Edinburgh. Evidence was provided by five witnesses who had experience of the Royal Hospital for Sick Children ("RHSC") (at Sciennes) and one witness in relation to the Department of Clinical Neurosciences (whilst located at Edinburgh's Western General Hospital) prior to their relocation to the new RHCYP and DCN at the site of the Royal Infirmary of Edinburgh at Little France. Five witnesses supplemented their witness statements with oral evidence at the Hearing.
- 1.3 This document has been prepared in response to the Closing Statement by Counsel to the Inquiry dated 3 December 2021 ("**Counsel's Closing Statement**") and, specifically, to Part 2: Edinburgh of Counsel's Closing Statement.
- 1.4 As noted at paragraph 257 of Counsel's Closing Statement, the issues engaged by the evidence in relation to the RHCYP and DCN, Edinburgh are narrower in scope than those relating to Queen Elizabeth University Hospital, Glasgow. Paragraph 257 continues by stating that at their centre is the delay in opening the new RCHYP and DCN as a result of concerns about the safety of the facilities.
- 1.5 Paragraph 6 of Counsel's Closing Statement states that in order to assist the Inquiry, Core Participants are directed to the questions which follow the summary of the evidence for Edinburgh. In this document IHSL wishes to respond, insofar as it is able, to the questions posed to Core Participants at paragraph 259 of Counsel's Closing Statement in relation to the evidence heard in respect of the RHCYP and DCN, Edinburgh.
- 1.6 These questions are in the following terms:
  - 1.6.1 Do Core Participants accept that in the executive summary, and in what follows, this closing statement accurately sets out the accounts given by witnesses (and if not can they identify where) ("**Question 1**")?
  - 1.6.2 At this stage, are Core Participants able to identify any areas of the narrative provided by the patient and family evidence that is capable of agreement ("**Question 2**")?
- 1.7 IHSL responds to each of these questions as follows.

#### 2. QUESTION 1: ACCOUNTS GIVEN BY WITNESSES

- 2.1 Paragraph 5 of Counsel's Closing Statement states that one thing must be emphasised about the evidence: the stated purpose of the Hearing was to enable the Inquiry to obtain evidence of patient and family perceptions. Counsel's Closing Statement invites us to recall that the evidence should not be treated as proposed findings of fact but as a summary of witness perceptions.

2.2 IHSL recognises with Counsel that in relation to Edinburgh the evidence of witnesses was clear (paragraph 6 of Counsel's Closing Statement) and witnesses gave their evidence in a conspicuously fair and balanced manner (paragraph 258).

2.3 Direction 4 states that the Chair is conscious that the evidence led at the Hearing was evidence of the perceptions of patients and families and no challenge was offered at the Hearing to that evidence. Similarly, no challenge is made to Counsel's summary of that evidence in the Closing Statement in relation to Edinburgh. In relation to Question 1, IHSL accepts that Counsel's Closing Statement accurately sets out the accounts given by witnesses in relation to Edinburgh during the Hearing.

### 3. **QUESTION 2: NARRATIVE CAPABLE OF AGREEMENT**

3.1 With regard to Question 2, Counsel has invited Core Participants to identify any areas of the narrative provided by the patient and family evidence that is capable of agreement.

3.2 IHSL is mindful (as set out in the paragraphs above) that the evidence provided should not be treated as proposed findings of fact but as a summary of witness perceptions. As such, IHSL is not in the position of being able to agree (or otherwise) with the witnesses' perceptions. With regard to the themes identified in Counsel's Closing Statement, IHSL briefly comments as follows.

3.3 Theme 1 identified in Counsel's Closing Statement concerned the condition of the existing RHSC (at Sciennes) and DCN (at the Western General Hospital). The condition of the existing facilities and the equipment in those facilities (and the need for their replacement with new facilities) are outside IHSL's scope of knowledge.

3.4 Theme 2 identified in Counsel's Closing Statement concerned the delay to the new opening of the new RHCYP and DCN. IHSL agrees that the decision not to open the new RHCYP and DCN was publicly communicated by the Scottish Government on 4 July 2019. IHSL recognises that the communication of the decision not to open the new facilities was sudden. IHSL was not a party to that decision and IHSL is not in the position of being able to agree (or otherwise) any evidence relating to the making of that decision or the communication of that decision to the families because that is outside IHSL's knowledge.

3.5 Theme 3 identified in Counsel's Closing Statement concerned the impact of the delayed opening. The impact of the decision to delay opening upon the families is outside IHSL's knowledge.

3.6 Finally, theme 4 identified in Counsel's Closing Statement concerned the witnesses' perceptions of the new RHCYP and DCN. IHSL understands why it can be said that "families observed a world of difference in the new facilities when they eventually opened" (paragraph 259 of Counsel's Closing Statement). Again, however, IHSL is not in a position of being able to agree (or otherwise) with the witnesses' perceptions of the new facilities as that is outside IHSL's scope of knowledge.

### 4. **CONCLUSION**

4.1 IHSL appreciates the invitation and opportunity extended by the Chair to put forward its perspective of events and the causes of events. IHSL is very mindful, however, that the evidence provided at the Hearing concerned witnesses' perceptions and as such IHSL respectfully submits that it is not in a position of being able to agree or otherwise with that evidence.

4.2 IHSL notes the comments from the Chair that there will be opportunity for core participants to respond to evidence at the Hearing during the course of the Inquiry's investigations or at future hearings. IHSL would warmly welcome such an opportunity. In the meantime, IHSL remains committed to assisting the Inquiry in any way that it can.

**17 December 2021**