Written Statement

Iain Graham

Introduction

1. My name is Iain Graham. I am currently employed as Director of Capital Planning and Projects with NHS Lothian. I was involved in the project to plan, procure, design, and construct the Royal Hospital for Children and Young People (RHCYP) and the Department of Clinical Neuroscience (DCN) ('the Project'). I have been asked to provide a written statement to the Scottish Hospitals Inquiry (SHI) in relation to my involvement in the Project from the commencement up to the start of the procurement exercise. I have been provided with a list of questions and a bundle of documents from the SHI. This statement seeks to answer the list of questions that are relevant to my role in the Project to the best of my recollection. Some of the events I've been asked about occurred fifteen or so years ago and, given the passage of time, I cannot recall all of the events and documents.

Background

2. I worked with City of Edinburgh Council as a trainee chartered surveyor (1984-1989) and then moved to a private property development company as Property Manager around the time I qualified as chartered surveyor (1989 – 1996). I then moved to a property consultancy firm where I was responsible for public sector property and facilities management including the development of a new campus developments in the further education sector (1996-2006). I joined NHS Lothian as Head of Capital Planning and Premises Development on 8 January 2007 and I became Director of Capital Planning and Projects on 1 June 2009 where I am responsible for the delivery of NHS Lothian's overall capital development programme which includes acute and community hospitals, primary care and support premises across Lothian delivered through a variety of capital and revenue funded procurement. I was elected a Fellow of the Royal Institution of Chartered Surveyors in May 2015.

3. I have been involved in the Project since the beginning of my career in the NHS. My role was initially to provide support from a capital planning/ built environment project management perspective for the Project, oversight of the relevant resources and to

support the work being done on the early business cases. My role was mainly to support the Project Director (who at the time was Isabel McCallum), the NHS Lothian Board and the Executive Directors of NHS Lothian on project governance through regular reporting, either directly or through the Project Sponsor (at the time the Project Sponsor would have been Jackie Sansbury) and sponsor departments. Sponsor departments are the internal NHS Lothian client departments which were to be reprovided at the new facility through the Project. I reported by preparing written reports, attending monthly and quarterly meetings and contributing to any briefings to the Project Sponsor to support them in any meetings that they were required to attend. Additionally, part of my overall role was interacting with various departments in the Scottish Government from a financial planning and construction programming perspective, namely the Health, Capital Planning and Capital Finance Departments. My contacts within the Scottish Government were generally Mike Baxter, Norman Kinnear and Alan Morrison. My engagement with these departments was related to the Project, however it went beyond that and I was involved in the wider NHS Lothian capital programme. The Scottish Government require to understand what NHS Lothian needs in order to programme and plan any funding requirements. If there is a change in project timescales, or there is funding available, projects in the programme may be moved. I was also on the Scottish Government's working group for the Scottish Capital Investment Manual (SCIM) refresh between 2014 – 2017(Bundle 3; Volume 3; Document number 77; Page 893). In addition, I supported Health Facilities Scotland ("HFS") (part of NHS National Services Scotland) in the initial procurement for the Principal Supply Chain Partners to the national Framework Scotland programme. This work pre-dated the Project. HFS, on behalf of the NHS in Scotland, sought to procure a framework of design and build contractors to support the pipeline of projects throughout Scotland. The initial procurement Principal Supply Chain Partners ("PSCP") drew on people from a number of health boards. As a result, HFS procured five principal supply chain partners available for use in capital projects by all of the health boards in Scotland. When NHS Lothian undertook the Project, NHS Lothian used the framework to appoint the PSCP.

4. In Lothian, in 2008 to early 2009, I was involved in the procurement for the re-provision of the Royal Hospital for Sick Children ("RHSC") of the initial Professional Services Consultants ("PSC"). These were the technical advisors, who were appointed in terms

of various frameworks covering project management functions, cost advisors and other supervisors. Davis Langdon were appointed in the principal advisory role and Thomson Gray were appointed to advise on costs. I was also involved in the procurement of the PSCP and BAM, through the Framework Scotland. The PSCP, as the design and build contractor, were a construction contracting-led team comprising various professionals such as architects, engineers, and a design team. I was not involved in the day to day design development. I stepped back from more direct project management involvement when the Project Director (Brian Currie) was appointed in August 2009. From 2009 and 2010, my role was to support Brian in his new role and we jointly reported to the Finance and Performance Review Committee and, if necessary, the Board. Following the change of procurement route in November 2010, I took the lead during the procurement for the legal and commercial workstream of the Project, together with support from the Board's Capital Finance team which included Carol Potter. As part of the legal and commercial workstream, we were required to take steps to facilitate the new procurement route, such reach an agreement with Consort and produce Supplemental Agreement 6 and 7 (more fully detailed below from paragraph 29). There was a requirement to draft a Project Agreement that would go out to procurement; a Project Agreement is a standard form contract which is tailored to be project specific. Post-procurement I led the negotiation with each bidder.

<u>Governance and Decision Making</u>

5. I have been asked to explain my understanding of how the key decisions were made in relation to the Project in the period up to the commencement of the NPD procurement exercise.

6. The system of governance in place at NHS Lothian for the Project in the period up until the start of the procurement process was generally consistent throughout the early stages of the project development with the key pillars of governance being Lothian Health Board, one of its committee's responsible for considering capital project business cases (Finance & Performance Review Committee), a Senior Responsible Officer ("SRO")/ Executive Director lead, and a Project or Programme Board. The SRO's reporting and briefings would also include the senior or executive management

team, led by the Chief Executive, prior to going to Lothian Health Board.

7. Each Project Board/Programme Board was the key programme management committee for approving business cases and monitoring project performance and any variations required. Each Project Board/Programme Board reported to the Finance and Performance Review Committee. In the initial stages, the Project Board had a significant focus on the engagement with the wider stakeholder groups and therefore included many external representatives on it. The Project Board reviewed the detailed project and programme governance for the project delivery, and was also required to:

   - Establish project organisation
   - Authorise the allocation of programme funds
   - Monitor project performance against strategic objectives
   - Resolve strategic issues which need the agreement of senior stakeholders to ensure progress of programme
   - Maintain commitment to the programme
   - Manage the project management structure
   - Produce the FBC document
   - Prepare for transition to operational phase

8. The Finance and Performance Review Committee (which changed to Finance and Resources Committee from 2012) had an overall remit to seek assurance that there are systems of control to meet the 'Duty of Best Value in Public Services', which was:

   - To make arrangements to secure continuous improvement in performance whilst maintaining an appropriate balance between quality and cost; and in making those arrangements and securing that balance,
   - to have regard to economy, efficiency, effectiveness, the equal opportunities requirements, and to contribute to the achievement of sustainable development (as all detailed in the terms of reference).

   The Finance and Performance Review Committee would receive updates from the

Project Board/ Project Sponsor and monitor progress of the Project. The committee would report to Lothian Health Board.

9. Lothian Health Board's role in the Project was as the investment decision maker. The Board oversaw the Project and, once operational, the performance of the facility. The Board approved the final contract award which was within the Board's delegated authority. Lothian Health Board reports to Scottish Government Health Department.

10. Additional groups would review other aspects of the Project such as the service changes and redesign was supported through a programme management group, the Improving Care, Investing in Change (or 'ICIC' Executive). External review of the Project was obtained through engagement with Scottish Government's Gateway Review process. Further changes at the project level and associated wider corporate learning were required with the implementation of the Framework Scotland procurement for capital funded projects, of which the reprovision of RHSC was an early adopter project in early 2009. This included the procurement of advisers through the Framework Scotland, training on the NEC form of contract for the project managers, and then procurement of the Principal Supply Chain Partners. Simplified organograms of the project governance were included in each of the Business Cases

11. Jackie Sansbury was the Senior Reporting Officer / Executive Director / project owner therefore internally owned the decision making process to build the new hospital in her role as Director of Strategic Planning. She was the executive responsible and accountable to the Chief Executive for the programme for re-provision and presented the reports taken to the Board but ultimately the decision was made by NHS Lothian under a programme lead by ICIC.

12. The decision with regards to the location of the re-provision of RHSC (and separately the Department of Clinical Neurosciences) was part of the Lothian wide strategic decision making approved before I joined NHS Lothian and I was therefore not part of the process.

13. The site of the new hospital was re-affirmed through the Initial Agreement (Bundle 3;

Volume 1; Document number 3; Page 95) with Scottish Government, and reconfirmed as part of the outline business case (OBC) process (Bundle 3; Volume 1; Document number 12; Page 272). The driving factors for the location remained consistent throughout – namely, close proximity to adult care and emergency department in particular in line with Scottish Government guidance as outline in the Business Cases. Additionally, the existing facilities did not meet current standards given their age and layout.

14. The initial funding model for the new hospital was agreed to be through capital funding. The funding route in all the business cases were reconfirming capital procurement as the best choice for the re-provision of RHSC at Royal Infirmary of Edinburgh (RIE). The capital route was included in the Scottish Government's capital planning as a capital project which allowed NHS Lothian to select and procure BAM through the national Frameworks Scotland in March 2009.

Framework Scotland

15. Health Facilities Scotland (HFS), as part of NHS Scotland National Services, procured Principal Supply Chain Partners (PSCP) (made up of construction contractors in the lead, with their design teams and supply chain) and Professional Services Consultants (PSC) (a series of framework agreements for NHS Board technical advisers for delivery of capital projects). This was known as Framework Scotland and was available to all health boards across Scotland and on a level, national, basis. Therefore, when a health board needed to appoint a consultant for a project, they would go through a mini tender process as detailed in the framework. It utilised the NEC3 suite of construction and services contracts which espoused a collaborative or partnering approach and required everything to be defined in programmes. Each PSPC or PSC was contracted to an overarching 'scheme contract' with HFS.

16. Each Health Board would draw on the Framework Scotland for a capital project with "mini tender" exercises (for PSCs and the PSCP), supported by advisors from HFS. Then each Health Board would enter into a contract with each of the PSC and PSPC in stages, generally aligned to the business case stages, so the commercial commitments

were only as far as the business case and approved funding covered.

17. NHS Lothian completed the procurement exercise for the RHSC capital build with the selection of the PSCP, BAM, from the five on the Framework Scotland in March 2009. The later elements of the contract are Stage 3 – Works Information, and Stage 4 - Construction. The near completed design outputs in the Works Information comes from the work the PSCP has collaboratively undertaken with the Health Board's project team to develop the specifications and requirements in the earlier stages of their appointment. The Project got to the stage that the Works Information stage had nearly been completed, when the Scottish Government decided the Project should proceed under the NPD model; and that this works information had been the product of work between BAM and the NHS Lothian project team.

18. To get to the completion of Stage 3 and the commencement of Stage 4, a "Target Price" is agreed between the health board and PSCP, with a proportion of supply chain packages having been priced up for the contractor and design finalisation, any statutory consents obtained, etc. NHS Lothian and BAM were in the final stages of Stage 3, with packages out for pricing and planning consent about to be applied for when the funding route was changed to be NPD. The Framework Scotland was not designed to deliver revenue funded projects and the collaborative risk sharing approach of NEC has not generally been acceptable to the commercial funders in PPP contracts who seek a fixed price and fixed risk construction contract.

Change in Funding Model

19. The Scottish Government announced in November 2010 that the funding model was to change to NPD (non-profit distribution) which is a revenue funded financing model with a different risk profile to a capital project.

20. Following the Scottish Government announcement, Scottish Futures Trust (SFT) were introduced to NHS Lothian. Effectively this was a requirement imposed by the Scottish Government as SFT were the programme leads for the national NPD model. Initially there were discussions around the project team and resources required to deliver the procurement through a NPD contract as well as the governance and assurance

arrangements SFT were putting in place as NPD programme managers for Scottish Government. The first requirement was to undertake a design assessment as that set the financial parameters for the Project under NPD as formalised in the letter from Peter Reekie dated 1 June 2011 (Bundle 3; Volume 2; Document number 46; Page 399). SFT appointed WS Atkins to carry out the design assessment as SFT required to know that delivery of the NPD programme would be within their budget and present value for money.

21. SFT established Key Stage Reviews (KSR) at milestones for the Project's development which involved detailed interviews with NHS Lothian and its advisors, review within SFT and sign off by NHS Lothian's Senior Responsible Officer. Scottish Government would not approve any of the business cases without an agreed KSR. The KSR process was being developed on the Project as this was the first acute health care NPD project with the additional complication of the existing PFI (private finance initiative) on site with Consort Healthcare Ltd (Consort) which I explain more fully below. However, NHS Lothian's programme from the point of initial engagement with SFT had to be fully in line with SFT's NPD programme requirements.

22. The Board required to consider the approval process for the NPD funding model and procurement as well as reassessing the commercial contract positions with PSCP and Consort. The Board also had to consider the development opportunities for DCN which was previously being considered as a separate business case and project.

23. My role in the governance process was to give detailed presentations to the NHS Lothian Board/Committees and the reports would be submitted under either Jackie Sansbury as Director of Strategic Planning or Susan Goldsmith as Director of Finance. I also became the relationship lead for the legal dialogue and NPD programme actions with SFT once the NPD funding process was developed.

<u>Department of Clinical Neurosciences (DCN)</u>

24. The strategic intent of NHS Lothian, covered in an Initial Agreement business case for the re-provision of DCN from the Western General, was to relocate the services to the campus at the Royal Infirmary of Edinburgh (RIE) from the Western General Hospital. The strategic drivers were similar to those of the re-provision of RHSC, namely colocation with the acute adult services at the RIE and improved facilities. Imaging, critical care and theatres were key components which were being explored as part of the development planning.

25. There were three interlinked and parallel considerations as part of the planning for DCN. Firstly, the business case and funding; secondly, the development of the clinical brief and resultant options for design (layout and scale); and finally the commercial and contract relationships with the RIE PFI provider (Consort) and then also the PSCP, BAM. The timelines criss-crossed so decisions were made against one or more drivers at that point in time.

26. Initially, the vision to extend the “ward arc of the RIE” was developed by Consort as part of work they did on site master planning and this could be funded through a capital injection or by revenue funding through the existing PFI arrangement. However, ultimately, this was not attractive due to insufficient space for the DCN components, and procurement challenges as the existing PFI contract value would be too high for an automatic award.

27. The option to extend the brief for capital build re-provision of RHSC to include the DCN was explored and options appraisal found that to be a preferred option but at that time the DCN components were not as fully developed as the re-provision of RHSC so there would be an impact on programming for both separate business cases. Ultimately, the viability of this option ceased as Scottish Government indicated that the DCN outline business case could not be considered due to the lack of capital funding available. Therefore, the DCN proposals were removed from the re-provision of the RHSC design development.

Site Constraints

28. There were significant constraints identified by NHS Lothian during the process of developing its plan to deliver the Project. These were made up of three interlinked aspects, namely: physical site constraints; legal and commercial agreements with the PFI provider of RIE (Consort); and the positioning of these against the forthcoming procurement of a NPD provider for the Project.

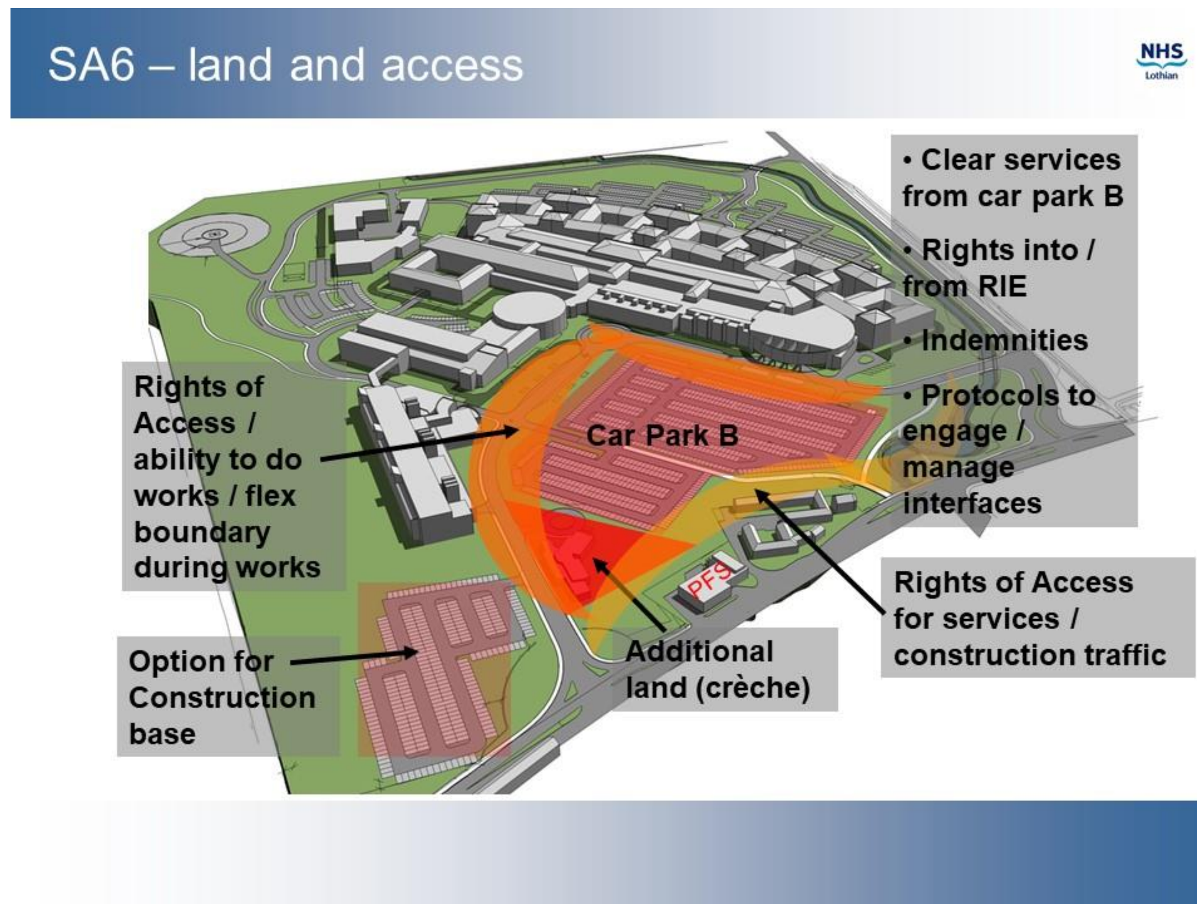
Consort

29. In order to resolve the site constraints NHS Lothian entered into discussions with Consort to address the physical constraints and infrastructure requirements for the new hospital which ultimately resulted in entering into two supplementary agreements to the existing RIE Project Agreement, known as Supplemental Agreement 6 (SA6) and Supplemental Agreement 7 (SA7) and then a reciprocal arrangement included in the new draft NPD Project Agreement (prepared for the commencement of procurement). This included obtaining statutory consents, such as Town Planning approval from City of Edinburgh Council, Drainage approvals from SEPA and Scottish Water, gas main diversions etc. I was directly involved in the legal and commercial negotiations, with other colleagues progressing the technical specifications which were appended to the Supplemental Agreements. The Board of NHS Lothian was kept informed through reports or presentations to the Finance and Performance Review Committee.

30. The Project was going to be built on the old car park B at RIE for proximity to accident & emergency department. Car park B was the existing main hospital carpark (see diagram below). Therefore, in order to operationally have sufficient car parking, which was also a requirement of planning consent, and to ensure the existing PFI arrangement was financially kept whole in relation to car parking provisions, NHS Lothian acquired from Scottish Enterprise the adjacent land east of RIE, known as Plots 14-16 of the Edinburgh BioQuarter, in 2008 to build a replacement car park as a separately tendered capital project tendered 10/2010, completed 6/2011). This was a requirement for the capital proposals for the re-provision of RHSC and had been in progress for some time in advance of the change to NPD. The terms for the car parking arrangement were included in a Memorandum of Understanding with Consort in late 2010.

Supplemental Agreement 6 (SA6)

31.

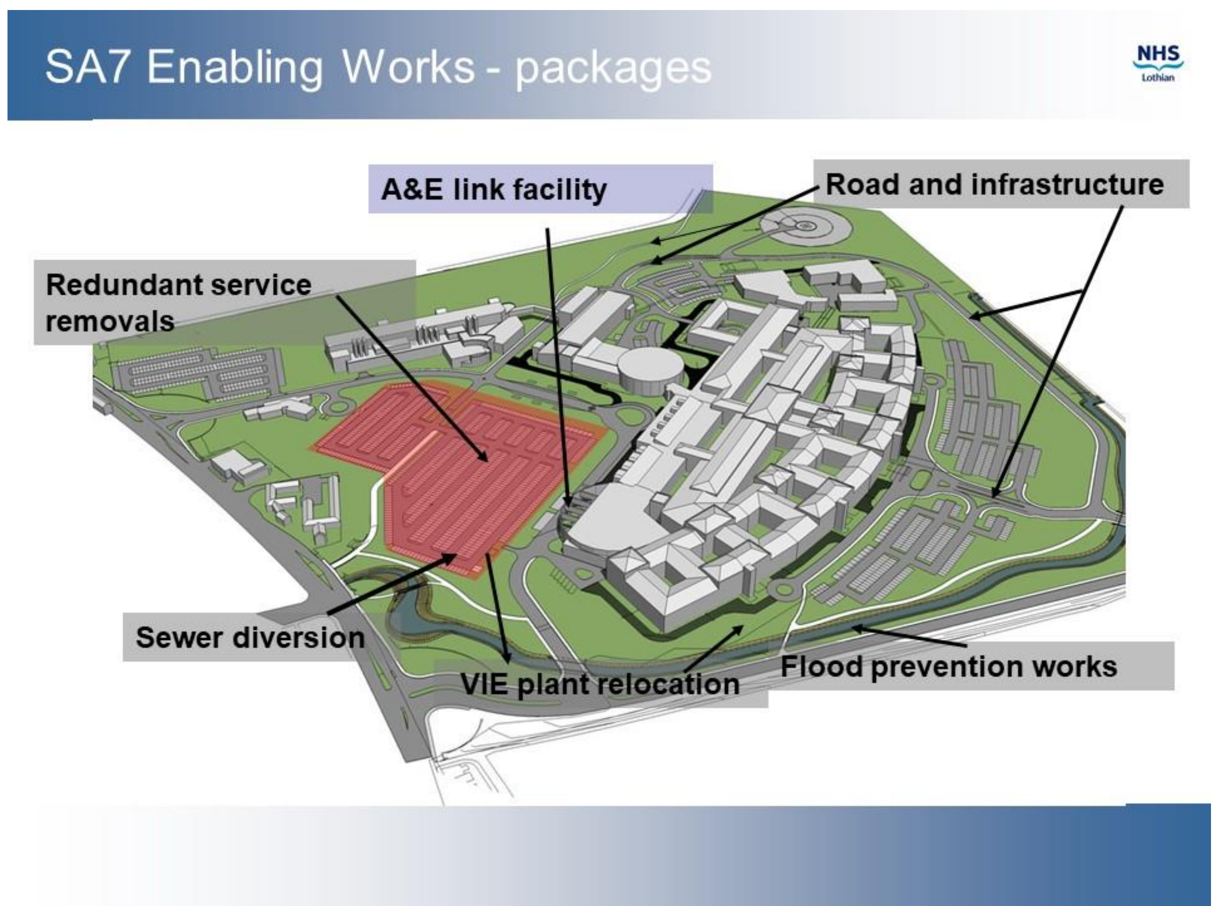


32. After the change of funding from capital to revenue through the NPD model, SFT required that in order to take the Project to the market a commercial "level playing field for bidders" had to be created with the project clear of dependencies and risks outwith the control of bidders. SFT participated in the dialogue with Consort and attended NHS Lothian committee meetings regarding the negotiations with Consort. Addressing the need to excise the land from the control of Consort (through leases and existing Project Agreement) and providing sufficient rights of access and egress (roads and infrastructure services) necessitated a Supplemental Agreement – referred to as SA6. The key aspects of SA6 are shown in the above diagram, extracted from a presentation to Finance & Performance Review Committee on 14 December 2011. Coincidentally, the privately operated nursery, leased from Consort, was closing and this land was incorporated into the development site for RHYCP and DCN in early 2012, with SA6 being signed in August 2012.

Enabling Works – SA7

33. There were a number of interface issues that required to be resolved between the existing hospital and the new Project such as the expansion of critical care to allow for DCN, works at the pharmacy and the 'docking station' to join RIE to the new hospital. Externally, a range of significant infrastructure works were also needed, such as improved flood protection to meet Town Planning requirements, and moving the bus stop hub to accommodate the new road network. All the enabling works were agreed under SA7, with the external elements as illustrated in the diagram below.

34.



35. The decision to add an NPD model together with DCN brought further complexities to the Project. A situation was created where we were putting a Public Private Partnership ('PPP') inside a PPP which, as far as we could ascertain, had never been done before and therefore the understanding and risk profile and assurance processes were being

explored by SFT as much as NHS Lothian. In order to achieve the level playing field and risk profile assessed by SFT for the NPD project at the time, the Project ended up with separate energy centres rather than plugging into the existing energy sector at RIE. We also had to ensure separate rights of access beyond those included in SA6 to accommodate potential bidders' requirements. Under the capital scheme we had envisaged expanding the RIE catering provision, but separate catering, loading bays etc. would be contractually required in the NPD brief. I would add that creating a PPP inside another PPP contract with risk averse lenders created a drag on the programme and additional complexity on the site.

36. I have been asked how NHS Lothian concluded that the benefits offered by the new facilities outweighed the disadvantages of the site constraints. There was still a strategic requirement and a need for a new children's hospital which under policy was to be located with an acute adult hospital. There were options appraisals done and the output of those included in the business cases. There was a risk management workshop held with the resultant options appraisal completed by Davis Langdon the predecessor of Mott MacDonald to confirm the position to progress with the Project. The output of which is detailed in Appendix 8 of the Outline Business Case Addendum.

37. The issues on the site were resolved by negotiating and agreeing what became SA6 and SA7 where NHS Lothian had to accept contract liabilities between an NPD contractor, not yet selected through a procurement, and the existing PFI contractor, Consort, who may also yet bid for the NPD contract.

38. Consort, their shareholders and funders had an expectation to be "kept whole" including, for example, cover for loss of income from car parking following the removal of the PFI controlled main car park to make way for the new hospital. Removing this meant that NHS Lothian became the owners of it in terms of both land but also ensuring NHS Lothian kept Consort and the Royal Infirmary PFI "whole" in terms of contract liabilities and risks. NHS Lothian also had to accept additional commercial points such as not creating a separate profit-making staff canteen in the children's hospital, and retail units there could only be for a charitable purpose not in commercial competition to the units in the Royal Infirmary of Edinburgh.

39. By undertaking additional repairs and improvements to the road network and car parks to accommodate the new children's hospital and an altered bus route, they mitigated Consort's life cycle costs; probably saving monies which were due to be expended by Consort under the PFI contract. At the time there was an argument put forward by SFT that NHS Lothian would have had to accept commercial risk transfers had we progressed with a capital project. But NHS Lothian's project team and advisors identified that there were now two additional factors brought in as a result of the switch to NPD procurement.

40. Firstly, we had to create a new Project Agreement for the NPD, based on the standard form contract prepared by SFT, tailored for an acute hospital use but also for the site specifics. This would then be taken to the market through procurement and therefore needed to be "bankable" – having a suitable position for contractors, lenders and funders, to understand with all risks quantifiable and elicit their support for bidding for the project against other potentially competing projects. This would in due course be negotiated with three separate bidding consortia, their advisers and ultimately funders for the preferred bidder.

41. Secondly, linked to the proposed new NPD Project Agreement, we had to negotiate and agree terms with Consort; and them with their advisers, shareholders, funders; which created the site suitable for development of the new hospital, linking into the existing RIE, and utilising the existing roads, services etc. Whilst there was always a requirement to have such linkages, NHS Lothian would no longer be the contracting party AND the ultimate beneficiary of the provisions. Consort and their backers recognised that an incoming NPD operator could seek to offload their risks onto NHS Lothian and thereby increase the likelihood of claims or challenges against Consort. Therefore, the proposed NPD created 'a piggy in the middle' risk profile for NHS Lothian now to be operating between two different PPP Project Agreements, their 'Special Purpose Vehicles' (SPV), shareholders and funders. In this context, risk is something that impacts the financial models of the respective projects (RHSC / DCN and RIE) and therefore the interests of multiple parties. Each respective SPV had obligations to, and rights from, NHS Lothian, but not directly between those SPVs alone. One SPV operating for several years on an old style of PFI contract, and one still to be procured on a new NPD contract.

42. In practical terms, the NPD contract was drawn up before procurement with a set of constraints and procedures based on the current understanding of the potential building form and designed to mitigate risks to the operation of the current RIE services, the PFI SPV and wider community. The SPV limitations included NHS Lothian liabilities for issues created at the RIE by the NPD SPV during construction, mitigated by procedures put into the NPD Project Agreement for that SPV to follow. Fixed connection points were agreed with Consort and included in the draft NPD project agreement. This included, for example, Consort building a new section out from the RIE, described as a "link facility" - designed specifically for the NPD contractor to connect to, rather than the existing RIE fabric which they would not need to touch. Given that the final building form for the new children's hospital had not yet been designed, there had to be a limited degree of flexibility – or a mechanism to agree changes – within the documentation. All these elements had to be legally bound into contracts, SA6 and SA7, and agreed with Consort, their advisers, shareholders and funders before NHS Lothian could go to procurement. The reciprocal rights and procedures were also created in the new NPD Project Agreement too with those also being agreed by SFT to ensure that the NPD terms would not deter the interest of the PPP market or add further risks to the profile of the project.

43. One outturn of this was a necessity to provide a separate energy centre for the new hospital rather than seek to link to the existing, but poorly performing, RIE energy centre. This was felt to have implications in running costs and carbon reduction targets but instead allowed for separation of risks between the respective PPP contracts.

Impact of negotiations with Consort

44. NHS Lothian were very much reliant on reaching an agreed position with Consort on SA6 and SA7. There were commercial challenges and the process was time consuming especially in relation to getting the funders of the existing PFI to agree to the changes. I would consider the negotiations to be more difficult because there were so many parties that NHS Lothian had no visibility of their commercial options or ability to influence. For example, there were 11 lenders on the PFI, some of which were closed banks who had limited involvement/resources into approving the required changes. If it was a commercial negotiation with just one contactor NHS Lothian would have

known their commercial drivers. We also had an ongoing operational PFI at the site which meant Consort had a significant leverage in the negotiations.

45. In terms of timescales, SA6 completed in August 2012 and SA7 completed in December 2012. The enabling works then took Consort and Balfour Beatty around 18 months to complete, from spring 2013 to autumn 2014. SA6 and SA7 would have been needed regardless of the funding, however, due to the issues described above, the negotiations around SA6 and SA7 were prolonged and challenging because NHS Lothian had no leverage therefore it did have an impact on time and costs.

46. I have been asked whether the negotiations surrounding the purchase of car park F and then SA6 and SA7 became my focus (Bundle 3; Volume 1; Document number 2; Page 39. The answer to that is yes. NHS Lothian couldn't start the NPD procurement until SA6 and SA7 had been agreed.

47. SFT advised and NHS Lothian agreed that we shouldn't start the procurement until the risk profile had been agreed so there was only negotiation with bidders as opposed to having multi-headed negotiations with Consort and bidders. Part of the concern was Consort or its entities could also be potential bidders for the Project then in order not to distort the tender NHS Lothian had to go to the market with the agreed position. As far as NHS Lothian were aware at the time, Consort was 50% owned by Balfour Beatty and the investors and lenders may form a bidding party. In order to ensure we had other bidders equally motivated to bid we had to fix all those points. This explains why there was a lot of focus by NHS Lothian at the time to agree SA6 and SA7 from a commercial and legal perspective. Brian Currie, the Project Director, took an interest in the enabling works from a technical perspective in terms of the impact on the Project. Capital Planning seconded a senior project manager to Brian Currie's team to manage the Board's interests in the projects covered by SA7.

48. I have been asked whether this Project was particularly complex from the outset and I would say that it was, for all of the reasons set out above as the level of complexity kept getting ratcheted up rather than eased as we got to procurement stage.

Switch to the NPD model

49. The Scottish Government announced in November 2010 that the model of funding was going to change from capital funded to an NPD model. I do not know why the Scottish Government changed the funding model but my understanding was financial limitations in capital availability and the application of government policy which resulted in the change in funding model.

50. NHS Lothian were not consulted about the switch to NPD prior to the decision being made. The original OBC for the RHSC drafted by NHS Lothian identified that PFI was not the preferred option. (Bundle 3; Volume 1; Document number 12; Page 272)

51. I do not know why we were not consulted. There were some statements around the DCN project about capital constraints and limitations but nothing so specific to indicate that there was to be a fundamental change of funding to NPD. It is unusual that we were not consulted as there normally would be dialogue around substantial projects, funding, and procurement in advance of the submission of a business case.

52. I think it would have been helpful if NHS Lothian had been consulted because there were contractual and operational issues we knew about and had details of which would have informed any risk profile/assessment. In this context operational issues for NHS Lothian includes both the clinical services but also the facilities or support arrangements on site. The service efficiencies from the co-location of RHSC and DCN services with the RIE included a single adult Critical Care Unit serving both RIE and DCN patients, a single location for pharmacy and laboratory, etc. As such, staff, patients and materials would require ready access between the facilities seamlessly. The Facilities Management of the site with two different PPP SPV establishments could lead to added cost as separation of service provision is needed. This, along with NHS Lothian's own responsibilities and resources, increases the number of parties involved on site delivering for NHS patients and staff.
53. After the announcement, I understand that NHS Lothian did raise concerns with Scottish Government and Scottish Futures Trust via NHS Lothian's Director of Finance.

54. To my knowledge, an NPD model had not been used by NHS Lothian on any previous project. At that time, there was only one NPD project underway in NHS Scotland – a mental health development in NHS Tayside. This would be the first acute hospital NPD project.

55. I have been asked if the switch to NPD resulted in delays to the project and I think that it did. There were also additional costs associated with the creation of additional advisory input from lawyers, technical and financial advisers. There was also construction delay, inflationary cost and ultimately increased cost because of the inclusion of DCN but this was fortuitous as it allowed us to develop that project.

56. The switch to NPD did increase the workload of NHS Lothian as it required a new procurement exercise and additional resources for the new style of contract and competitive dialogue procurement process. The in house project team, clinicians and other stakeholders were all engaged with effectively 3 bidders as well as any internal and stakeholder engagements, and commercial and legal negotiations with Consort, the project teams were working across five dialogues simultaneously. This applied in the period up to the approval of the OBC (Bundle 3; Volume 2; Document number 61; Page 672) / FBC (Bundle 3; Volume 3; Document number 76; Page 729) and thereafter this continued with the preferred bidder. My role, along with other members of the project team, changed. My time on the Project increased to the point where I was attributing more than half my time to the Project.

57. There were previous discussions about DCN being associated with the re-provision of RHSC but the decision to include DCN as part of the NPD was made by the Scottish Government. This was very much welcomed by NHS Lothian as we were getting a new facility aligned with our strategy to relocate DCN clinical services to RIE.

STATEMENT OF TRUTH [to be signed by witness once statement is finalised]

I, Iain Graham, confirm that:

(i) The contents of this statement is the truth to the best of my knowledge and recollection;

(ii) I am willing for this statement to form part of the evidence before the Scottish Hospitals Inquiry.

(iii) I am willing for this statement to be published on the Scottish Hospitals Inquiry website.

Signature:

Date