Scottish Hospitals Inquiry

Closing Statement by National Services Scotland

Re hearings commencing on 26 February 2024 (Royal Hospital for Children and Young People / Department of Clinical Neurosciences)

1. In this Closing Statement, National Services Scotland ("NSS") will respond to the Closing Statement by Counsel to the Inquiry dated 7 May 2024. The subheadings in bold (except for the first one) are taken from the Closing Statement by Counsel to the Inquiry. NSS will be happy to provide further input and clarification as required.

General points in response

2. NSS notes multiple references in the Closing Statement by Counsel to the Inquiry to SHTM 03-01 and SHFN 30. Whilst these are important documents to consider, NSS would emphasise that all applicable guidance should be considered holistically when briefing, designing, and constructing facilities. This reduces the risk of an over-reliance on, or incorrect application of, a single piece of guidance. Guidance should always be implemented by appropriately competent and experienced individuals.

3. NSS also notes that, whilst guidance is generally not mandatory, some guidance is underpinned by legal requirements in the Health and Safety at Work etc Act 1974, the Fire (Scotland) Act 2005, the Electricity at Work Regulations 1989, and the Building (Scotland) Regulations 2004. Compliance with guidance can also be achieved through a contract, or by way of Scottish Government policy such as the Single Rooms policy CEL 48 (2008).

2. Key Themes

4. Para. 55 of Counsel to the Inquiry submission states that: "There is no role specification as to what is required from IPC on projects." NHS Scotland Assure notes Professor Alex McMahon's evidence to the Inquiry regarding work being done on job descriptions [see the transcripts for the hearings commencing on 26 February 2024 at day 8, page 70]. The Scottish Government has now issued DL (2024) 11, titled "NHS Scotland Infection Prevention and Control (IPC) roles and responsibilities, including IPC Team (IPCT) and specialist IPC role descriptors". Even putting aside that recent publication, NSS considers it going too far to state that there is <u>no</u> role specification. Recommended infection prevention and control roles are described in various guidance documents, including SHTM 03-01 Part B and SHFN 30 Part B.

   SHFN 30 Part B (2014) states:

   "2.9 The main responsibilities of Infection Prevention and Control specialists are:

   - advising the Project Team on the principles of infection prevention and control of infection as applied to the built environment;

- contributing to risk assessment and providing advice on infection risk to susceptible patients;
- contributing to advice and guidance on control measures to be implemented;
- advising Project Manager/Estates Manager as to the need to stop work where infection prevention and control measures have not been adequately implemented or have failed;
- providing education on infection prevention and control measures to relevant staff involved in the project where required;
- determining with the Project Team and Health & Safety representatives a suitable and sufficient dust monitoring methodology for each project;
- assisting in the review of all HAI-SCRIBE assessments within agreed timescale."

SHTM 03-01 Part B (2011), which has now been superseded, stated:

"Infection Control Officer

2.11 The Infection Control Officer (or consultant microbiologist if not the same person) is the person nominated by management to advise on monitoring the infection control policy and microbiological performance of the systems.

2.12 Major policy decisions should be made through an infection control committee. The infection control committee should include representatives of the user department and estates and facilities or their nominated representative (that is, the Authorised Person).

The latest version of this guidance, SHTM 03-01 Part B (2022), states:

"Infection Prevention and Control Person

2.11 The Infection Prevention and Control Doctor or consultant microbiologist is the person nominated by management to advise on monitoring the infection control policy and microbiological performance of the systems."

NSS notes that in July 2023 the 'Key Stage Assurance Review (KSAR): Notes for Board Infection Prevention and Control Teams' was added to the National Infection Prevention and Control Manual. This document sets out support that NHS S Assure can give to local project teams. NHS S Assure will look at who is providing IPC advice, what experience or qualifications they have in the IPC role with respect to the built environment, and how they receive the technical/advisory support they need (for example from mechanical, electrical, and plumbing specialists or more experienced members of the IPC Team).

3. List of topics

5. Para. 277 states that: "HFS were content with the proposed solution (Bundle 3, page 797; 944) albeit HFS were not taking design responsibility itself." NSS respectfully submits that HFS was not "content" with the proposed solution, except perhaps in the narrow sense that it did not take fundamental issue with it. For example, in the response of David McNeill (HFS) on 5 May 2020 [Bundle 3 for hearing commencing 26

February 2024 at page 944] he stated: "At this stage the design is not completed and we await both corrected information and the outstanding elements which we have still to see (revised Stage 4 report, revised drawings, revised equipment schedules, architectural details, coordination details, etc.)."

6. Para. 311 states that NHS S Assure is a "division" of NSS. It is actually a Directorate within NSS.

4. The questions posed in Terms of Reference 1 - 12

7. Para. 396 states that:

> "HFS was fully involved in relation to reviewing NHSL's proposed permanent solution for the ventilation and the "…contracting, design, installation, commissioning and setting to work processes as well as assurance around the appropriate advice on infection control." (Bundle 3, pages 16, 17). All topics were to be reviewed from Estates and IPC perspectives and an assessment made against the published guidance."

NSS notes that Paragraph 396 references a draft briefing document outlining what HFS's role would be. However, HFS's formal role in relation to commissioning and validation was, in fact, very limited. In the Oversight Board's Technical Assurance report dated 19 November 2020, for example, appendix 1 set out 'Technical Assurance for HVC 107 – ventilation works in haematology/oncology and critical care self-delivered by IHSL' [Bundle 3 for hearing commencing 26 February 2024 at page 1,057]. HFS's input at the commissioning/validation stage was stated to be: "None".

5. Potential recommendations

8. Paragraphs 429 to 430 raise the possibility of a standard form for derogations from guidance. It is the intention of NHS S Assure to produce a "Once for Scotland" derogation standard process, which will be put out to stakeholders for consultation within the next six months.

9. Paragraphs 431 and 432 cover "Duplication of Procedures". NHS S Assure is currently progressing work on this with stakeholders. The work will review opportunities to enhance, and integrate our existing services and processes provided by NHS S Assure across all capital processes including for example KSAR, NDAP and SDAC. This is being done in order to provide an updated framework that encompasses and guides users through the key mandated and recommended stages of projects. This is expected to enhance clarity and streamline communication and resource use as part of our wider process of continual improvement.

10. Paragraphs 433 to 435 cover "Information about common errors". Paragraph 435 considers whether the "lessons learned" process introduced by NHS S Assure adequately addresses the issue of common project errors being repeated. NSS has been asked to address the question in these closing submissions. With regards to the 2007

and 2014 versions of SHFN 30, NSS notes that Guidance should be viewed as a suite of documents. HFS were asked to review the Healthcare Associated Infection System for Controlling Risk In the Built Environment (HAI-SCRIBE) process by the HAI Task force in 2012. The Scottish Executive Health Department set up the HAI Task force HAI Task Force to improve the prevention and control of HAI across the NHS in Scotland. The Task force was initially chaired by the Chief Medical Officer to enhance Infection Prevention and Control through the progression of the Healthcare Associated Infection (HAI) Action Plan. From 2005 the Task Force was led by Chief Nursing Officer. The request to review HAISCRIBE was via the April 2011 delivery plan in which area 2.8 requested a Review HAI System for Controlling Risk in the Built Environment (HAI-SCRIBE). This revision was requested to ensure that the guidance remained current and ensured that relevant staff understand it's application and use. The output of this was the 2014 version of the guidance.

11. Prior to updating the 2007 version of SHFN 30, there were several questionnaires and focus group studies to gain insight on what areas needed review. Feedback included a request for greater clarity on roles, and for expansion of the questions within HAI-SCRIBE to enable more discussion on risks. The expansion of the questions was intended to proactively facilitate discussions, which would reduce the risk of common errors being repeated. The question set in the 2014 version of SHFN 30 was expanded to achieve that, and so to generate a more informed design choice.

12. With regards to paragraphs 334 and 335, it may be helpful for NSS to expand on para 300 ("Assure has introduced procedures to seek to ensure that lessons are learned from previous projects."). On 13 December 2022, NSS published a paper on its website identifying lessons learned by HFS and ARHAI from significant healthcare construction projects ('NHS Scotland Assure Lessons Learned: Overview for the Interim Review Service'). Work is underway (to be published this financial year) to both update this publication and refine the mechanisms for sharing lessons learned. Escalation of any immediate risks identified through the KSAR process would take place via either Incident reporting and Investigation Centre (IRIC) alerts, the Scottish Government, or the National Strategic Groups.

13. Paragraph 463 suggests that research might address "emerging areas including "equivalent air changes per hour" and new technologies (such as ultraviolet light) for which there is no national guidance in Scotland (cf. England: Bundle 13 – Miscellaneous, Volume 10, page 297)." NHS S Assure was part of the NHS England working group responsible for the production of guidance on portable HEPA devices ('NHS Estates Technical Bulletin (NETB 2023/01A): application of HEPA filter devices for air cleaning in healthcare spaces: guidance and standards') and UVC air cleaning devices ('NHS Estates Technical Bulletin (NETB 2023/01B): application of ultraviolet (UVC) devices for air cleaning in occupied healthcare spaces: guidance and standards'). This guidance was published by NHS England. NHS S Assure have not yet published equivalent Scottish guidance, but health boards can utilise the NHS England

guidance as required. NHS S Assure, in conjunction with the Scottish Engineering and Technology Advisory Group and the National Heating & Ventilation Advisory Group, are currently updating SHTM 03-01. The updated version will make reference to the NHS England guidance documents. NHS S Assure aims to publish this in 2024.

14. As agreed, NHS S Assure will provide a supplementary statement further addressing paragraphs 462, 463, and 464 of the Closing Statement by Counsel to the Inquiry. This will provide information to the inquiry on ongoing and future research topics, the approach taken to research, and research on new and emerging technologies.

15. Paragraphs 478 to 480 discuss "The role of NHS S Assure". NSS received a commission from the Scottish Government in 2019 to support the creation of Quality in the Healthcare-Built Environment. NHS S Assure was developed from this aspiration. The aim of NHS S Assure was to provide assurance to the Scottish Government that current new builds and major refurbishment projects were being delivered in line with extant NHS Scotland guidance, were fit for purpose, and were free from avoidable risk of harm (e.g. healthcare associated infections, burns, electrocution, ligature injuries, and medical gas intoxication). The Scottish Government stated that: "To ensure patient safety we will create a new national body to strengthen infection prevention and control, including in the built environment. The body will have oversight for the design, construction and maintenance of major infrastructure developments within the NHS and also play a crucial policy and guidance role regarding incidents and outbreaks across health and social care." (Hearing Commencing 26 February 2024 – Bundle 9 – Documents relevant to NHS Assure - A32341688 – Page 6). Hospital builds are complex, once in a lifetime event for most Health Boards. The people who sit on the Health Boards or the capital and estates teams may not ever have experienced that type of a build. It was considered useful to have a central resource to support that process and minimise risk in healthcare buildings. Throughout the development of NHS S Assure it was not proposed that NHS S Assure take responsibility for healthcare build compliance or risk mitigation.

16. Paragraph 481 concerns "A review of NHS S Assure". The paragraph states that NHS S Assure has "created a significant burden, particularly for IPC professionals." It is important that this be put into context. To the extent that the burden comes from having IPC staff involved in the design and build phases of projects as part of a multi-disciplinary approach, these are not new requirements (albeit that they may not always have been followed in practice). For example, the role of the IPC Team in new builds and refurbishments was set out by Scottish Government in 2007 when CEL 18 (2007) 'Healthcare Associated Infection: SHFN 30 and HAI-SCRIBE Implementation Strategy' was issued. It stated that: "Use of the Implementation Strategy, SHFN 30, HAI-SCRIBE and the Contractor Endorsement Document is a mandatory requirement for all NHS Scotland capital projects and maintenance/refurbishment projects. This requirement takes immediate effect." NSS also notes that the resourcing of local health boards is not a matter that it has any role in.