

Scottish Hospitals Inquiry

Witness Statement of

James Stewart OBE

1. Name, qualifications, chronological professional history, specialism etc – please provide an up-to-date CV to assist with answering this question. Please include professional background and role within NHS GGC, including dates occupied, responsibilities and persons worked with/ reporting lines.
- A. James Stewart – Please see attached CV for details of my professional history (**Appendix B**). My main role on the project was a non-executive member of the NSGHLPEB . I did however attend other meetings. I cannot remember the exact dates when I had a role on the project but I assume, from reading the various documents, that it was from sometime in the second half of 2008 until early 2010. Having said that, the first meeting that I have across where I attended is the Procurement and Finance Group in Feb 2009. I also note that I did not attend the meetings of the NSGHLPEB in October and December 2009 and February 2010. My role of as a non-executive board member would have been to work with other members of the Board to provide oversight and governance to the project. I was CEO of Partnerships UK and so my reporting line in PUK was to the Board of Partnerships UK. My main point of contact at NHS GGC was Robert Calderwood. I cannot remember who the other members of the team were from PUK but assume that they were as listed in the proposal letter of 15 July 2008.

Partnerships UK Limited

2. Please refer to **Bundle 43, Volume 3, Document 5, Page 433**, which includes a letter from you to Robert Calderwood dated 15 July 2008, and subsequently refer to document **Bundle 43, Volume 3, Document 10, Page 488**, Performance Review Group Paper dated 20 January 2009, where it is confirmed that Partnerships UK (PUK) had been commissioned to work with the project team on the South Glasgow Acute Hospital project.

Describe in detail the specific responsibilities and scope of work assigned to PUK at that time? Please outline the areas of expertise PUK contributed to the project, the key deliverables or milestones set for them, and how PUK supported the project team, existing advisors, and the Greater Glasgow Health Board throughout the project

- A. I cannot remember the details of Partnerships UK's appointment and the specific responsibilities. I can only assume that they were as stated in the proposal letter date 15 July 2008. In respect of my role as a non-executive member of the NSGHLPEB my focus would have been strategy, procurement process, governance and commercial strategy. The specific activities would have been dictated by the agenda and papers presented to the Board during the times that I was in attendance.
3. The Inquiry understands you were the Chief Executive of PUK at that time. Please describe your specific responsibilities in this role in relation to PUK's involvement in the project? Who did you report to? How did you ensure PUK's activities were effectively integrated with those already involved in the Project, and what actions did you take to ensure PUK's contributions aligned with the project's objectives?
- A. As stated above my specific responsibility was a non-executive member of the NSGHLPEB. My main contact at NHS GGH was Robert Calderwood and I obviously also had a relationship with the Chair of the Board. As the senior person on the PUK team I would also have provided senior oversight and

support to the other members of the team. I cannot remember any details on actions taken to ensure that PUK's activities were effectively integrated with those already involved in the Project and that PUK's contributions aligned with the project's objectives. However normal practice would have been to have regular conversations with Robert Calderwood to ensure that this was the case.

4. Please refer to **Bundle 34, Document 21, Page 145**. The Inquiry understands that following the appointment of PUK in the Project, you were a 'voting member' of the Project Executive Board. Confirm the key differences between a voting and a non-voting member, and explain how your role as a voting member impacted your involvement in assisting the project?
 - A. It would be normal for a Project Board to have voting and non-voting members. In some Boards this distinction is made by having Board members and observers. In theory being a voting member means that you can vote on key decisions. However, in my experience, in practice votes are hardly ever held in Boards. As a voting member I would have had more influence than non-voting members.

Bidder Selection

5. Please refer to **Bundle 42, Volume 2, Document 9, Page 44**, where you expressed concerns about the tight programme timeline in relation bidder selection, and the absence of contingency. Do you believe that the lack of planned contingency in the procurement process had any impact on the choice of bidder, or indeed the overall delivery of the project?
 - A. Partnerships UK was set up by the UK Government as a centre of expertise for delivery of PPP projects. PUK was expected to provide a robust challenge. I can see from the minutes of the meeting referred to above that I played an active role in discussions. That is not surprising as that was my job. I cannot remember the precise meeting referred to but I am not surprised that I challenged the timetable and whether there was contingency in the programme.

However as a non-executive Board member you are not responsible for taking actions off the back of Board discussions. I note from the minutes that I said that “the programme should be reviewed and contingency included” but I cannot remember whether the timetable or the procurement process was then altered. I note that there was an action noted against this paragraph.

6. Why were Multiplex awarded the contract following the competitive dialogue process? What distinguished Multiplex from the other bidders to make them the preferred bidder?
A. I am sorry but I cannot remember the details of this.
7. In 2009, was it ever reported to you that the Brookfield bid was either compliant with the Employers Requirements set by NHS GGC, or not compliant with the Employers Requirements set by NHS GGC?
A. I cannot recall whether this was done or not.

Specification of the Hospital Ventilation System

8. The Inquiry has prepared a **Provisional Position Paper on the Procurement History (PPP13)** which sets out the Inquiry Team’s understanding of the procurement process. It can be found in **Bundle 26, Document 3, Page 169**. Please refer to pages 215 and 247 of that bundle, and also **Bundle 17, Document 26, Page 1063**. Describe your involvement and understanding, if any, in the removal of the maximum temperature variant? Why was the decision taken and by whom? What risk assessments, if any, were taken prior to making this decision? What was the impact, if any, in removing the maximum temperature variant?
A. My expertise related to overall strategy, commercial issues and the governance and procurement processes. As such these are the areas that I would have focussed on as a non-executive Board member. I am not an engineer. I cannot recollect any discussion on the removal of the maximum temperature variant

and who was involved. If there was a discussion I would not have considered it my expertise and would have relied on the views of experts. The only reason I would have intervened as a layman was if I was not satisfied by the responses given and the dynamic of the debate.

9. The Inquiry has prepared a **Provisional Position Paper on the Procurement History (PPP13)** which sets out the Inquiry Team's understanding of the procurement process. It can be found in **Bundle 26, Document 3, Page 169**. Please refer to section 3.23 page 251-256 and section 3.24 (page 256) and to document **Bundle 43, Volume 2, Document 21, Page 308**. On page 4 of the design summary, it is noted that within Brookfield's proposal, the rate of ACH would be reduced to 2.5 due to the incorporation of chilled beams. Were you aware that Brookfield's proposal did not comply with the requirements of SHTM 03-01, which was a mandatory Employers Requirement? If so, when did you become aware of this, and what were your views on the decision to proceed with a bidder whose proposal was not fully compliant with the Employers Requirements?

A. I cannot remember if I was aware of this or not.

10. Please refer to **Bundle 16, Document 5, Page 342** and document **Bundle 16, Document 13, Page 1357**. Ultimately, a decision was made to accept that the wards of the hospital would not have 6 air changes per hour (ACH) as set out in SHTM 03-01 2009 draft, compliance with which was a mandatory Employers Requirement. Were you aware of this decision? If so, how was this decision made and what involvement did you have in this? If you were not aware of this, would you have expected to have been made aware given your position as Chief Executive of PUK?

A. I cannot remember if I was aware of this or not. My role was not as Chief Executive of PUK but as non-executive on the Board with the experience that comes from being CEO of PUK and other experience in the infrastructure market. As a Board member I would have expected to be made aware by the executive of any material issue that impacted the letting of the contracts and

the ultimate construction and delivery of the hospital. Given my expertise was and is not in design specification the reliance on the executive to have made non-exec Board members like me aware of material issues in this area would have been greater.

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

A. I am not expert and was not an expert in the design specifications for hospital ventilation systems. I have not read the guidance referred to so do not know whether the guidance was mandatory or discretionary. I also do not know or understand the exact issues that have arisen on this project. 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.

12. Is there anything you would like to add that you believe could provide further clarity or assistance to the Inquiry?

A. I have found this questionnaire very difficult to fill in. The events that are referred to took place over 15 years ago and my recollection is very limited. I have also been sent thousands of pages of documents and have only read the pages specifically referred to in the questions. In relation to Q13 below I have reviewed the minutes of meetings and documents as requested. I am puzzled as to why I did not attend the meeting of the NSGHLPEB on 26th October 2009 and I cannot remember whether I attended the Board Seminar on 22 October that preceded it. Maybe I attended the seminar where the substantive discussion took place and therefore it was unnecessary to attend the formal Board but I cannot remember what I did or any conversations that I had at the time. I also

note that I did not attend the meetings of the NSGHLPEB on 7th December 2009 and 16th February. I cannot remember why this was. Maybe it was because the contracts were all but let and my involvement was no longer thought to be necessary - but that is a guess.

Membership of the New South Glasgow Hospitals and Laboratory Project Executive Board

13. The Inquiry understands that as Chief Executive of Partnerships UK you were a voting member of the New South Glasgow Hospitals and Laboratory Project Executive Board (NSGHLPEB) during Stage 1 of the new SGH project and had also attended meetings of its predecessor the New South Glasgow Executive Board.

The minutes of the NSGHLPEB from 1 June 2009 to 16 February 2010 can be found in **Bundle 42, Volume 2, Documents 10 to 23, Pages 54 to 112**. The minutes of other relevant meetings you attended can be found in **Bundle 43, Volume 7, Document 5, Page 11** and **Document 6, Page 15** and **Bundle 42, Volume 2, Document 9, Page 44**.

The NSGHLPEB was set up by the NHS GGC Performance Review Group on 19 May 2009 (**Bundle 34, Document 21, Page 145 at Page 153**). That decision is recorded in:

- The Minutes of 19 May 2009, Item 32 (**Bundle 34, Document 20, Page 133**)
- The Paper (09/21) at Item para 2.3-2.5 (**Bundle 34, Document 21, Page 145**)
- The actual remit (Appendix 2) (**Bundle 34, Document 21, Page 145 at Page 152**)

It appears from these documents the NSGHLPEB had delegated authority to conduct and conclude negotiations at project critical moments and was required to “oversee the management of change control processes” so that “any change

which impacted on the project must be authorised by [it] before it can be implemented (see remit at **Bundle 34, Document 21, Page 145**).

The Inquiry has heard evidence from Mr Seabourne and Ms Byrne that no such change control system existed and that no report was made to the NSGHLPEB of the decision to accept that the single rooms of the hospital would have 2.5 to 3 air changes per hour (ACH) rather than 6 ACH as set out in Scottish Health Technical Memorandum 03-01 2009 (Draft), compliance with which was a mandatory Employers Requirements as issued to the bidders by NHS GGC.

There are indications that Scottish Ministers would not have funded the construction of the hospital if they had known of this non-compliance with their issued guidance and evidence that not only was this non-compliance not reported in the full business case but was not widely known of within the Board following the end of Stage 1.

Please review the minutes of the NSGHLPEB from 1 June 2009 to 16 February 2010 (**Bundle 42, Volume 2, Documents 10 to 23, Pages 53 to 112**).

- a) Why was there no change control process in place for the Stage 1 of the new SGH project that would report a decision such as this to the NSGHLPEB?
 - A.** I don't know and cannot recall any discussions about it but I would have expected it to be in place. In normal circumstances, a Board of this type would only be informed about material changes and it would have been up to the judgement of the executives to decide what constituted as material; i.e. the Board could only have acted on information provided to it. That, however, does not answer why the Board did not ask about the topic of change control and be proactive in asking whether any significant changes have taken place.
- b) Considering the above, how did the contract come to be signed on 18 December 2009 despite the NSGHLPEB not being asked to authorise any

changes and in fact the NSGHLPEB not conducting and concluding the negotiations?

- A.** I cannot recall the reasons for this but, as stated above I was not at the meeting on the 7th December when perhaps this was discussed.
- c) What if any advice did Partnerships UK give to NHS GGC or the NSGHLPEB about the need for a system of change management controls to ensure that changes to that impacted on the approved Employer's Requirements were not agreed without being properly considered against the approved outcomes required by the Board and its external funder.
- A.** I do not have access to any correspondence that other members of the PUK team might have sent so I do not know if any advice was given on this matter. If we had given any advice, it is likely that this would have been generic as to the need for a system/process for managing change rather than specific advice in relation to Employer Requirements.

Declaration

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

The witness was provided the following Scottish Hospital Inquiry documents for reference when they completed their questionnaire statement.

Appendix A

A47851278 – Bundle 16 – Ventilation PPP

A49342285 – Bundle 17 – Procurement History and Building Contract PPP

A49615172 – Bundle 26 – Provisional Position Papers

A51785179 – Bundle 34 – Performance Review Group and Quality and Performance Committee Minutes and Relevant Papers

A52498034 – Bundle 42 – Volume 2 – Previously omitted miscellaneous meeting minutes and papers

A52523997 – Bundle 43 – Volume 2 - Procurement, Contract, Design and Construction, Miscellaneous Documents

A52725667 – Bundle 43 – Volume 3 – Procurement, Contract, Design and Construction, Miscellaneous Documents

A52942007 – Bundle 43 – Volume 7 - Procurement, Contract, Design and Construction, Miscellaneous Documents

The witness provided the following documents to the Scottish Hospital Inquiry for reference when they completed their questionnaire statement.

Appendix B

CV - James Stewart, OBE

Date of Birth: [REDACTED]

Nationality: British

Marital Status: [REDACTED]

Education/Qualifications

1980 - 1984 Pembroke College, Oxford, BA Hons, Chemistry

1975 - 1980 Harrow School

Fellow of the Institute of Civil Engineers

Directorships and other appointments

| | |
|-------------|---|
| 2024 - | Chair, Sequoia Economic Infrastructure Income Fund |
| 2023 - | Chair, Agilia Infrastructure Partners Limited |
| 2022 - 2023 | Non-Executive Board member, Sequoia Economic Infrastructure Income Fund |
| 2021 - | Trustee, The Shaw Trust |
| 2017 - 2021 | Non-executive Board member, KPMG LLP and member of the Board Risk Committee |
| 2019 - 2021 | Chair, Audit Board, KPMG LLP |
| 2018 - 2019 | Chair, Audit Oversight Board, KPMG LLP |
| 2016 - | Chair and Trustee, Power for the People |
| 2006 - 2016 | Trustee, Cumberland Lodge |
| 2008 - 2014 | Non-executive Director of Sport England |
| 2000 - 2010 | CEO and Director of Partnerships UK plc |
| 2004 - 2009 | Ex Officio Director of Partnerships for Schools |
| 2003 - 2009 | Non- executive Director of Northern Ireland Strategic Investment Board |
| 2006 - 2009 | Non-executive Director of Ploughshare Innovations Ltd |
| 2008 - 2010 | Non-executive Director of Local Partnerships |
| 2001 - 2006 | Non-executive Director of Partnerships for Health |

Other Positions

| | |
|-------------|---|
| 2018 - 2021 | Co-Chair, UK/Brazil Infrastructure Taskforce |
| 2017 - 2021 | Member of Be the Business Advisory Board |
| 2017 - 2021 | Member of Infrastructure Exports:UK Board |
| 2014 - 2020 | Chair, UNECE PPP Business Advisory Board |
| 2012 - 2016 | Member of the World Economic Forum Infrastructure Global Agenda Council |
| 2005 - 2010 | Independent member of Crossrail Sponsor Board |

Project and Assurance Roles

| | |
|-------------|---|
| 2007 - 2010 | Member of the Major Projects Review Group Panel |
| 2020 | Chair of two Red Team Reviews for HS2: Phase 2a and Euston |
| 2020 | Member of the Crossrail 2 Independent Assurance Panel |
| 2019 | Member of the Institution of Civil Engineers Governance Review |
| 2018-19 | Member of the HS2 Independent Assurance Panel for Enterprise Capability |
| 2005 – 2010 | Independent member of Crossrail Sponsor Board |
| 2007 – 2010 | Member of the Major Projects Review Group Panel |
| 2007 – 2010 | Member of numerous project/programme boards including the Shadow Olympic Delivery Authority, Tubelines restructuring, Enabling Savings Retirement Programme, M25, Glasgow Southern General, Barts and Royal London Hospital |

Career Record

March 2021 – Portfolio of non-executive positions

Since retiring from KPMG James has taken on a number of non-executive positions with two focussed on the infrastructure sector and two charities.

Sequoia Economic Infrastructure Income Fund - James joined the Board of Sequoia in Jan 2022 as a non-executive director. Sequoia is a FTSE 250 company and invests in infrastructure debt. In January 2024 James became the Chair.

Agilia Infrastructure Partners Limited – Agilia is a infrastructure boutique advisory firm. James joined Agilia as a Senior Adviser in 2021 and in 2023 became the Chair.

The Shaw Trust – James joined the Board of Shaw Trust in 2021 and is the Chair of the Finance Committee. Shaw Trust is a large charity challenging inequality and breaking down barriers to enable social mobility.

Power for the People – James was appointed Chair in 2016. Power for the People provides support to communities in Kenya and Uganda.

Jan 2017 to March 2021 Vice-Chair, KPMG UK LLP

As a Vice-Chair James had a portfolio of responsibilities operating at the most senior level in KPMG in the UK. James was a non-executive member of the KPMG LLP Board, chaired the Audit Board, and a member of both the People and Risk Board sub-committees.

James was responsible for KPMG's engagement on Brexit and the Government's growth agenda (including the Industrial Strategy). James was also the Vice Chair responsible for KPMG's engagement and relationships with the Government and the wider public sector. The Chief Economist reported into James.

Over the three year period James provided senior support to the Infrastructure, Government and Health business (IGH) and was interim head of IGH for eight months during the height of the Covid crisis responsible for a business with an annual turnover of [REDACTED] and 800 people.

Over his last twelve months James hosted /chaired KPMG's flagship webinar series which was set up in response to the Covid crisis. Guests included Ministers, private sector CEOs, senior military and third sector leaders and even Jonny Wilkinson!

James was also the senior sponsor for the engagement with the NSPCC who are KPMG's national charity partner and has helped raise over one million pounds.

March 2011 – 2017 Chair, Global Infrastructure, KPMG

James was chair of KPMG's Global Infrastructure practice. During his tenure the business grew from [REDACTED] to just short of [REDACTED] and James visited over 60 countries.

The role broke down into four main parts

- 1) Leading the Global Infrastructure business, setting the strategic direction and identifying new markets and services for KPMG to offer.
- 2) Developing relationships with public and private sector clients at a senior level and supporting major proposals and projects.
- 3) Working with country senior management to develop business plans and growth strategies.
- 4) Managing a small global team and integrating and joining up the KPMG infrastructure network.

This role gave James extensive access to best practice across the world in developing, implementing, financing and assuring major infrastructure projects.

December 2009 – February 2011 Chief Executive, Infrastructure UK

James was based in the Treasury as the CEO of Infrastructure UK (IUK). IUK was a new organisation responsible for supporting infrastructure investment in the UK and providing support on major projects. The staff consisted of existing teams at the Treasury and 30 staff from Partnerships UK (PUK).

Roles included:

- Leading IUK's engagement at a senior level with external stakeholders in the UK and internationally including regulators and the private sector.
- Advising Ministers on policy issues relating to the infrastructure sector and the PFI and PPP market.
- Ensuring that there was sufficient capacity in the UK infrastructure financing market to support the investment pipeline.
- Publication of a UK Infrastructure Strategy on budget day in March 2010.
- Publication of the first National Infrastructure Plan, launched by the Prime Minister at the CBI Conference in October 2010.
- Publication of the Infrastructure Cost Review in December 2010.
- As a panel member of the Major Projects Review Group providing assurance on major projects and programmes.
- Senior troubleshooting role on major infrastructure projects and other significant public sector programs.

May 2000 – December 2009 Chief Executive, Partnerships UK

James was appointed Chief Executive of PUK in May 2000. PUK was responsible for assisting in the development and implementation of the Public Private Partnership program in the UK. PUK was owned 51% by private sector investors and 49% by the Treasury and Scottish Ministers. PUK was essentially a “not for dividend” company operating on a commercial basis but with a clear public sector mission. PUK had 80 staff and a balance sheet of £45m which grew to £75m+.

James' role at PUK included the following activities:

- As CEO leading and managing a people-based business.
- Managing a complex stakeholder environment including public and private shareholders.
- Providing support to Ministers and senior officials on PFI and infrastructure policy.
- Playing a senior troubleshooting role on major infrastructure projects and programmes such as Crossrail, the Olympics, M25 and Allenby and Connaught.
- Acting as an international ambassador for the UK infrastructure market.

James was part of the senior team that established the Major Projects Review Group and was a founder panel member.

James oversaw the setting up of the Treasury Infrastructure Finance Unit which was the first intervention by the Government in the infrastructure financing market and in response to the lack of capacity following the Financial Crisis.

James led the development and creation of a new joint venture, Local Partnerships, between PUK and the LGA to support community based public sector bodies in the improvement of infrastructure and public services. James was a non-executive director on the Board until he left IUK.

James was also a director of the Northern Ireland Strategic Investment Board (SIB). He was instrumental in the establishment of the SIB as a coordinated response to solving the infrastructure deficit in Northern Ireland.

1999 – 2000 Newcourt Capital

James was appointed Head of European project finance at Newcourt Capital which was part of the CIT Group. During this time James helped establish the Newcourt

Capital European Project Finance Fund which was the first debt fund to make use of private institutional debt.

1984 -1999 Société Generale/Hambros (Hambros was acquired by SG in March 1998)

James spent fourteen years at Hambros and SG. His final position was Managing Director, Project Finance, and the Global Head of Infrastructure and Environment. James was responsible for leading a global team involved in lending, investing equity and advising on infrastructure projects.