SCOTTISH HOSPITALS INQUIRY

Hearings Commencing
9 May 2022

Day 1
Monday 9 May
Edward McLaughlan

C O N T E N T S

Pages

McLaughlan, Mr Edward, Affirmed

Questioned by Mr MacGregor 1-74

14:30

THE CHAIR: Good afternoon, Mr McLaughlan.

THE WITNESS: Good afternoon.

THE CHAIR: Have you been provided with assistance and been well looked after?

THE WITNESS: Well looked after, thank you.

THE CHAIR: Now, I understand you would prefer to affirm.

THE WITNESS: Yes.

Mr Edward McLaughlan

Affirmed

Questioned by Mr MacGregor

Q Are you Edward McLaughlan?

A I am.

Q You have provided a witness statement to the Inquiry dated 20 April 2022?

A I have, yes.

Q Thank you. For the benefit of core participants, that is at pages 15 to 42 of the bundle of statements. Mr McLaughlan, the content of the statement will form part of your evidence to the Inquiry, but I am also going to ask you some questions today. If at any point you want to refer to your statement or your Inquiry brief, please do just let me know.

A Thanks.

Q I want to begin by covering your qualifications and experience. You are an engineer, is that correct?

A Yes.

Q You graduated with a Bachelor of Engineering degree in 1991 and became a Chartered Engineer in 1993?

A Yes.

Q In 1996, you became a member of the Institute of Healthcare Engineering and Estate Management. Is that correct?

A I did.

Q What is the Institute of Healthcare Engineering and Estate Management?

A That is the institute most relevant professionally to management of estates and facilities in the healthcare service. It specialises in the service.

Q Thank you. You say at paragraph 4 of your statement that you wouldn't classify yourself as an expert in healthcare ventilation?

A I'm just aware that expertise is on a spectrum and people are a lot more expert than me.

Q And you're currently on secondment to NHS Lanarkshire?

A Yes.

Q Why are you on

secondment to NHS Lanarkshire?

A It's part of the work of NHS Scotland Assure, which is looking to assure that future projects in Lanarkshire – the biggest project currently on the stocks – are all managed such that they will be delivered compliant with all appropriate standards and guidance.

Q So what's your role, in practical terms?

A My role is to manage that assurance side of the work and to build the links between NHS Scotland Assure and the NHS Lanarkshire project team.

Q Are you providing advice and assistance on guidance such as the Scottish Health Technical Memorandum?

A I will be, but a lot of the advice that is needed for the team will be much more specialised than I can provide, so my role will essentially be a governance focused role.

Q When did your secondment begin?

A 18 May.

Q 18 May?

A 18 April, sorry.

Q 18 April of this year? So am I right in thinking that since 2006, before you went on your secondment, that you've been the assistant director

of healthcare at Health Facilities Scotland?

A Assistant director for engineering, environment and decontamination at HFS.

Q Okay. Thank you. What is Health Facilities Scotland?

A Health Facilities Scotland is part of NHS National Services Scotland, which is a central health service body that provides a whole range of services best provided centrally. The health facilities part of it provides support to the service in the management of healthcare facilities.

Q NHS National Services Scotland, is that also sometimes called the Common Services Agent?

A The formal name of NSS is the Common Services Agency, but it's normally called, and has been for 15 years or so, NHS National Services.

Q Within that, your role as assistant director, what does that involve?

A I manage approximately a third of the business of Health Facilities Scotland. It's divided into three parts: one looking at facilities management, which is cleaning, catering, portering, stuff like that; one which focuses on property and capital planning; and my part is engineering,

environment and decontamination.
So, the engineering things that we're referring to here through the guidance, decontamination of medical devices for re-use and the sustainability aspirations of the HFS.

Q Both yourself and your staff, would you be responsible for providing engineering support to NHS boards?

A Yes.

Q How many engineers have been available within Health Facilities Scotland to support NHS health boards since 2009?

A Until quite recently, one. Since the creation of NHS Scotland Assure that number has climbed and will continue to climb, but there has been one for most of that period.

Q So approximately when did NHS Assure come into being?

A It came into being in – it's right here – the end of 2019. It launched in shadow form, and it was launched formally in the summer of 2021.

Q 2019 within Health Facilities Scotland, we are talking about there being one engineer?

A Yes.

Q So, for the period when the projects for both the Queen Elizabeth University Hospital in Glasgow and the Royal Hospital for Children and Young People in Edinburgh are being progressed, there is one engineer within Health Facilities Scotland?

A Yes.

Q What are your thoughts about that?

A My thoughts on that go back to the creation of HFS's predecessors which was set up to provide support to the trusts, as they were at the time, and the boards as they became. That was the resource that they chose to put in place at that time. When it moved into NHS National Services, its remit didn't change. Some things were added, but the remit didn't change. Like a lot of services, if we'd had more capacity, we could have provided more support. That was the capacity we had.

Q At a practical level, what level of support could Health Facilities Scotland provide to individual health boards on engineering issues?

A The support was on request, so it was generally support from practicing healthcare engineers looking for advice on the interpretation of guidance or how to deal with specific situations. Although there was one person in HFS, that one person was part of a network right across the

service. So I mentioned in my statement here the national advisory groups and Scottish Engineering Technology Advisory Group, and they were staffed by the expertise, such as it existed, throughout the service. So there was a problem sharing approach to support.

Q If I could ask you just a little bit more about NHS Scotland Assure. Just explain a bit more detail just exactly what it is and how it came about.

A So, in 2019, the Scottish Government asked NSS to put together a proposal for a national body that would ensure that all projects, all construction projects, were delivered compliant with all appropriate standards and guidance. That was July 2019, if I remember right. There was no decision at that time that that body would lie within NSS, it was just the NSS had to put together the proposal to do that. That's what became NHS Scotland Assure. So it's set up to ensure not only is the appropriate expertise available in the centre, it's also got a remit to make sure the appropriate expertise is there in the boards to deliver projects and the training, the research, guidance are in place for them.

Q How many engineers are employed within NHS Scotland Assure?

A There are currently seven, I think. Now, we're in the middle of recruitment at the moment and we are heading for something in excess of 20, final numbers are not yet settled. That's partly what you might call new resource, but it's partly the in-sourcing of some resources that were provided under a framework contract, specifically for authorising engineer services.

Q It is just one very minor point of detail, but if I could ask you to have your witness statement in front of you. You have obviously mentioned that NHS Scotland Assure was effectively a soft launch in 2019, as you described it, but not really fully starting until 2021. You do mention it at paragraph 1, “NHS Assure was created in 2020.” Should that really be 2021 in terms of the full launch of NHS Scotland Assure?

A Yes, that's a typographical error that's subsequently been corrected.

Q Thank you.

THE CHAIR: Sorry to interrupt you. You are using the expression “engineer”. Chartered Engineer, or a particular level of----?

A For me?

Q Well, you have said that there are currently seven engineers in NHS Scotland Assure. Are these people with engineering degrees or perhaps further qualifications, or----?

A Yes, there's a mix. The intention is that all of the senior engineering staff will be chartered, but in the recruitment process what we are finding is that the calibre of engineer that we require is not readily available in the market. So in some cases, yes, we are able to recruit Chartered Engineers with healthcare experience. In some cases we are able to recruit Chartered Engineers who will have to gain health service experience and in some cases it is the opposite. In some cases, we can recruit people with healthcare experience who are not yet chartered, but they will all have development plans to get up to speed.

Q Thank you.

MR MACGREGOR: Mr McLaughlan, you say in your statement very fairly that you do not have direct experience in designing or building a hospital, but given your position within Health Facilities Scotland, can you assist the Inquiry in relation to policies, guidance and procedures that will have been published by Health Facilities Scotland?

A I can in some areas. I do also say in my statement that some areas I would defer to colleagues for more accurate guidance and I'm mindful that the relevant parts of HFS are split between my side of things, which is focused on the engineering systems, and my colleague Stuart Brown's side of things, which is focused on the capital procurement, the contracts and the construction processes. So, in relation to government policy on construction, Stuart, or one of his team would be better placed.

Q Sorry, so that would be Mr Stuart Brown?

A Yes.

Q If I can then move on and ask you some questions about Scottish Health Technical Memorandum. What are they?

A They are the accepted health service guidance and have been for a very long time. They originate from guidance that was developed in the 1980s or earlier, going into what they are now and they are intended to cover the healthcare specific aspects of the key engineering services in hospitals.

Q In simple terms, are they engineering guidance notes?

A They are engineering

guidance notes.

Q Or are they aimed at a wider audience than just engineers?

A They have aspects that are aimed-- so they are engineering guidance notes, but they also deal with the management of engineering services, which sometimes goes wider than engineering.

Q Why are they produced?

A They are produced to assist the service, to help to promote common good quality standards.

Q Are they produced by Health Facilities Scotland?

A They are generally produced essentially on a UK basis and then adapted for use in Scotland.

Q So should we understand that there is the English Health Technical Memorandum and then that would be adapted to create the Scottish Health Technical Memorandum?

A Yes. Not in principle. In principle, it's a UK core document which is then adapted for England and then Scotland, Wales and Northern Ireland. The chronology of how it normally happens is because England manages the process, the thing is developed immediately into English format.

Q I think one of the phrases

that has been used is there is "a four nations approach" to the Health Technical Memorandum. Is that correct?

A Yes.

Q Can you just explain in simple terms, what does that mean?

A When a need, or even before a need is identified, for new guidance, so the process by which the need for new guidance is identified involves representatives from the four administrations, albeit that that process is managed by England and that sometimes has an implication for how things get prioritised. When the decision is taken to create or update guidance, England manages it, but other administrations have a feed in to that process.

Q So bodies in Scotland, such as Health Facilities Scotland, have fed into a new Health Technical Memorandum?

A Yes, indeed.

Q You mention at paragraph 5 of your statement, the Scottish Health Technical Memorandum, you say that:

> "…those not close to the issue might assume they are an instruction manual handed out by Government. This is not the case; they are the health

service's interpretation of the responsibilities it has under the applicable legislation, regulations, codes of practice and government policy."

Is that right?

A Yes.

Q So effectively it is an NHS document, as opposed to a Scottish Government document?

A The obligations on the healthcare bodies are obligations of law and policy. So, if they have legal or policy requirements, those are then reflected in the guidance. So the guidance is entirely a health service publication.

Q And is the intention that it is general guidance or comprehensive guidance?

A I understand why that question has been asked. For me, those two things are not necessarily mutually exclusive. It's general in terms of it has to apply to a wide range of different circumstances and can't be written to be specific to every circumstance that may encounter, but it's comprehensive in that it covers all the key issues that relate to a particular type of engineering system.

Q Effectively, is your position that you simply could not cover every eventuality in any guidance, it would just be too big?

A Absolutely.

Q Is compliance with Scottish Health Technical Memorandums mandatory?

A It's not mandatory.

Q In your view, is it advisable to follow such guidance?

A In my view, it definitely is.

Q When could there be a departure from such guidance?

A Given that the guidance has to be general and it can't be written to cover every eventuality, there's an expectation that the people using the guidance will be suitably skilled, able to make decisions, albeit the guidance is there to help them, and they will then take the guidance and apply it to the circumstances that they are working with and come to reasonable thought-through decisions about how the guidance should be applied.

Q Would you expect a departure to be documented in some way?

A I don't know that I can answer that for every individual circumstance, but if I was the person departing from the guidance, I would expect to document it.

Q Would you expect there to be a risk assessment done before

there was a departure from guidance such as Scottish Health Technical Memorandum?

A In circumstances where a risk assessment was deemed to be appropriate, yes, but I'm not sure in every circumstance it would be necessary.

Q At paragraph 16 of your statement, you outline a number of guidance documents. So there is the Scottish Health Technical Memorandums. There is also Scottish Health Facilities Notes. What are they?

A The division of the guidance is intended to reflect the people who are expected to read it. So, the SHTMs are focused primarily on engineering, although there are fire SHTMs. The Facilities Notes are non-engineering documents by and large, although there is some cross over, so they are intended to be aimed at non-engineers.

Q Okay, and what are Scottish Health Planning Notes?

A They are the guidance around how healthcare facilities are put together, if I can use that expression, sizes and shapes of rooms and types of facilities that are provided within them.

Q We can maybe just take one example. If we could look within bundle 1, please, at page 252. Do you see there, "Scottish Health Planning Note 04 In-patient Accommodation: Options for Choice Supplement 1: Isolation Facilities in Acute Settings"?

A Yes, indeed.

Q Have you seen this document before?

A Yes, I have.

Q So what is it? What would this health planning note be aimed at doing?

A This is a supplement to a document that's about the layout and service provision of inpatient facilities. This one specifically relates to isolation facilities, general isolation facilities within inpatient accommodation.

Q We see-- If we look on to page 254, see that there's a disclaimer there: "The contents of this document are provided by way of general guidance only at the time of its publication…" Why is that disclaimer put onto the document?

A That guidance-- that disclaimer dates from a time when the resource that was available to what became HFS was four, maybe five, people supplying services directly to the NHS trusts, as they were at the time, who were then using this guidance to form part of the briefing

and contractual arrangements, and the disclaimer is intended to deal with any potential contractual implications of having provided guidance into the construction sector.

Q If we then look on to page 255, paragraph 1.4 onwards, do we see being set out what the purpose of the guidance would be?

A Yes.

Q Is that quite standard within this type of document that that approach would be adopted?

A That is a standard approach.

Q What are Scottish Health Technical Notes?

A That's a form of document not in common use now. It dates back to essentially the 1990s and into the early 2000s where guidance was produced on very specific topics that weren't at that time replicated in UK-wide guidance. All, I think, of the Scottish Hospital Technical Notes have now been incorporated into updates to the SHTMs.

Q You also mentioned Health Building Notes, so they're obviously HBNs as opposed to everything else has an S.

A Yeah.

Q What are HBNs and how

do they apply to the health services?

A They are equivalent to Scottish Hospital Planning Notes. Scottish Hospital Planning Notes and Scottish Hospital Building Notes cover the same ground, and the Health Building Notes are the English equivalent.

Q So really is what we see out of paragraph 16, is that really the suite of guidance that's provided in relation to hospital facilities in Scotland?

A Sorry, I don't understand the question.

Q Sorry, at paragraph 16, I'm just saying there's technical guidance set out----

A Oh, sorry. Paragraph 16 of my statement?

Q Sorry, paragraph 16 of your statement. No, it's my fault.

A Yes, that is the suite of guidance.

Q Thank you. So, thinking back then to Scottish Health Technical Memoranda, you explain in your statement that the Scottish Health Technical Memoranda 00, which effectively gives a general overview, and there's then more specific guidance that follows on after SHTM 00, is that correct?

A It's more that SHTM 00 is

about the management arrangements for engineering services. When that suite of SHTMs, or suite of HTMs before it was created, there was a recognition that over time the HTM guidance had different-- often different nomenclature for management positions rather than different structures, and 00 was intended to pull all that together into a single system.

Q So 00 pulls together all the general principles, and then there's more specific guidance after that.

A Yes.

Q So you'd have specific guidance, for example, on water and specific guidance on ventilation.

A Yes, we would.

Q In terms of ventilation, am I right in thinking that originally there was Scottish Health Technical Memorandum 2025, and that was then updated into Scottish Health Technical Memorandum 03-01?

A That's correct.

Q Why was there the change from calling it 2025 to 03-01?

A That was something that was led by NHS Estates, which was the agency of the Department of Health that managed it at that time, who were really looking for a rebrand, effectively; so the change in numbers was nothing more than a change in the presentation to represent a change in the format of the documents. The documents came down from four-volume documents to two-volume documents.

Q If we could look at SHTM 00, so that's in Bundle 1 at page 333, please. We see it's called: "Best practice guidance for healthcare engineering, Policies and principles", and this copy is dated February 2013. Do you know when SHTM 00 first came into being?

A I'm afraid I don't. We had a search of our records for that and the record of that didn't appear. I don't know why.

Q So we know that there was SHTM 00 guidance from February 2013 onwards but you can't say whether there was guidance prior to that.

A From memory, it was-- I'm checking if this has got a version number on it. So this is version 2.1, so there would have been a version 1, but the date I don't have.

Q But within Health Facilities Scotland, no one can identify an earlier version of SHTM 00?

A Not that we have.

Q Why not?

A "I don't know" is the answer. We have searched our

records. We have a records management policy that requires any records that are deleted to be recorded; it doesn't appear to have any record of these documents having been deleted, so I'm afraid I don't know.

Q Would that still be the case within NHS Scotland Assure?

A You mean going forward?

Q Yes.

A No, in recognition of this and the light of what we're trying to do with NHS Scotland Assure, we now have a computerised quality management system-based document tracking system which doesn't allow documents to be deleted without somebody entering some information.

Q If I could ask you to look within bundle 1 to page 336, at the bottom, do we see the general disclaimer again that the contents of the document are provided by way of general guidance only? Again, is that just there for the same reasons that you've explained previously?

A Exactly.

Q If we look on to page 137, you see that it says:

> "About Scottish Health Technical Memoranda
>
> Scottish Health Technical Memoranda (SHTMs) give comprehensive advice and guidance on the design, installation and operation of specialised building and engineering technology used in the delivery of healthcare."

A Yes.

Q So would you agree that this guidance is giving that comprehensive advice and guidance?

A That's my view, yes.

Q Then it continues:

> "The focus of SHTM guidance remains on healthcare-specific elements of standards, policies and up-to-date established best practice. They are applicable to new and existing sites and are for use at various stages during the whole building life cycle."

Do you think that's a fair appraisal, that it's best practice guidance?

A There is debate and there has been debate for years about whether it's good practice guidance or best practice guidance, and terminology varies from document to document based on the people who are involved in its production. I do say in my statement I'm not aware of better

guidance.

Q If we could just read on. Below the diagram, it says:

"Healthcare providers have a duty of care to ensure that appropriate engineering governance arrangements are in place and are managed effectively. The Scottish (Engineering) Health Technical Memoranda (series) provides best practice engineering standards and policy to enable management of this duty of care."

Do you see that?

A Yes.

Q So it's really aimed at ensuring that health boards can comply with duties of care imposed upon it.

A Indeed.

Q Then the final paragraph on that page there:

"Healthcare-specific technical engineering guidance is a vital tool in the safe and efficient operation of healthcare facilities."

Do you see that?

A Yes.

Q Would you agree? Is this really about trying to ensure that there's safe and efficient operation of healthcare facilities?

A Absolutely.

Q Then it says:

"Scottish Health Technical Memoranda guidance is the main source of specific healthcare-related guidance for estates and facilities professionals."

I think you've already very fairly said you're not aware of anything that's better than what's provided here.

A Yeah. I make the point in my statement that there are other pieces of guidance that may impinge in the healthcare field, so it's not that SHTMs are the exclusive source but they are definitely the main source.

Q Thank you. If we could look on, still within the same document, to page 340. If you see under the heading "Scope":

"Scottish Health Technical Memorandum 00, and the series it supports, provides comprehensive specialist advice and guidance on the design, installation and effective operation of a healthcare facility from an engineering technology perspective. While it is not intended to cover every possible scenario, for example the concept of hospital at home (in a domestic dwelling), the standards and principles it advocates may

be appropriate to follow in all locations where healthcare is provided."

Do you see that?

A Yes.

Q Is that really your point, that it's general guidance but it's trying to be as comprehensive as it possibly can be, recognising that it can never be fully comprehensive for every scenario?

A Yes, and I think that paragraph tries to get across the underlying principles are applicable more broadly than the guidance. So somebody deviating from the guidance but following the underlying principles is probably on reasonably solid ground as well.

Q Then below that, there's the bold paragraph: "Aims of the guidance", couple of paragraphs setting out what the aims of the guidance are. In the third paragraph there, it states:

"Only by having a knowledge of these requirements can the healthcare organisation's Board and senior managers understand their duty of care to provide safe, efficient, effective and reliable systems which are critical in supporting direct patient care. When this understanding is achieved, it is expected that (in line with integrated governance proposals) appropriate governance arrangements would be put in place, supported by access to suitably qualified staff to provide this 'informed client' role, which reflect these responsibilities."

Do you see that?

A Yeah.

Q What's meant there by the term "informed client"?

A There are various duties, and specifically health and safety duties, for the client to be in control of the works; and to be in control of the works, the client needs to have a certain skill set. So they need to be able to understand what the risks are and to be able to check the competence of the people that they're employing and assure themselves that what they're getting is what they intended to get.

Q Is this again back to the point we discussed previously that this isn't just guidance written by engineers for engineers, that this is also looked at by healthcare organisations, boards, and senior managers?

A There is a management component in the guidance, a specific management component in previous

iterations, in the 2025 series was a document on its own. Part one of SHTM 2025 was the management of healthcare engineering services.

Q If we look on then to page 341, to the final paragraph, we see some recommendations. So are these recommendations effectively being made by Health Facilities Scotland?

A These recommendations are being made by, yes, Health Facilities Scotland but by the people who develop the documents, so the recommendations are made by a wide group of people, UK-wide, and endorsed in this publication by Health Facilities Scotland.

Q So essentially what we see at page 341 onto page 342, is that a UK-wide consensus view?

A I haven't checked the wording's the same, but in principle, going down that, I can see anything I wouldn't didn't expect to be in the English document.

Q It states, just for completeness:

> "Scottish Health Technical Memorandum 00 recommends that Boards and Chief Executives, as accountable officers, use the guidance and references provided:

> - when planning and designing new healthcare facilities or undertaking refurbishments…"

Then, after all the bullet points, it says:

> "Once NHS Boards and Chief Executives have embraced the principles set out within this document and taken the necessary actions, their duty of care responsibilities are more likely to be fulfilled, as will their ability to maintain public confidence in the NHS at local level."

Do you see that?

A Yes.

Q So really two things there: firstly, duty of care they, but also about maintaining public confidence in the NHS.

A Yes, indeed.

Q If I could ask you to look on to page 343, please, and the bold heading "Engineering Governance", 1.6:

> "Responsibility and, more specifically, the duty of care within a healthcare organisation are vested in the board of management and its supporting structure."

Do you see that?

A Yes.

Q Presumably you would agree with that?

A Absolutely.

Q If we move onto page 344, at paragraph 1.11, again, we see the guidance being described as:

> "… a best-practice framework which aims to raise awareness and provide the confidence for strong management."

A Yes.

Q If we could put SHTM 00 to one side, and if we could then look to Bundle 1, to page 4, please. This is Scottish Health Technical Memorandum 2025. This is the June 2001 version. Bundle 1, page 4. It states-- in the top right-hand corner, we see reference to "National Health Service Scotland Property and Environment Forum". Just remind me, what was that?

A The Property and Environment Forum was the second iteration of what became Health Facilities Scotland. It started out as the Estates Environment Forum, and when it gained additional responsibility-- the whole history is a history of added responsibilities. So it started off dealing with specifically estates issues and environment

issues, hence the name. It then gained responsibility for that property and capital planning, that thing that we were talking about and became the Property and Environment Forum.

Q Its headed: "Ventilation in healthcare premises" What was this document aimed at?

A This was the document that came before SHTM 03-01 and covers very much the same ground. You see there that it's in four parts, and the first part of that is that management part that I spoke about. It covers the same ground as SHTM 03-01 – more in some areas, less in other areas – and it's a slightly older version of the same thing.

Q So if we look within page 6 of the bundle, look at paragraph 1.2, the final sentence:

> "It gives comprehensive advice and guidance to health care management, design engineers, estates' managers and operations' managers, on the legal requirements, design implications, maintenance and operation of specialist ventilation in all types of healthcare premises."

Is that what the document is trying to do?

A Yes, indeed.

Q Then we see the bottom of that page, paragraph 1.6:

> "The sophistication of ventilation systems in healthcare premises is increasing. Patients and staff have a right to expect that the systems will be designed, installed, operated and maintained to standards that will enable them to fulfil their desired functions reliably and safely."

Again, is that with this document is aimed at, the----

A That's correct.

Q -- reliability and safety of those technical systems?

A Yes.

Q If we go over the page on page 7, see a whole raft of statutory requirements being set out. If we just look at paragraph 2.1, second full sentence:

> "As these installations are intended to prevent contamination, closely control the environment, dilute contaminants or contain hazards, their very presence indicates that risks to health have been identified."

So that is really the starting point for the guidance, that there's a risk, and it's about managing----

A Yes, indeed.

Q Can I ask you to look on to page 11, please? There's a range of designated staff functions set out. We have the management defined as the owner, or occupier, employer, general manager, but there's also a definition of the "authorised person". What's your understanding of an authorised person?

A The authorised person is a technically competent person who manages safety-critical works at a site level. They're authorised by an authorising engineer, who is a more qualified person who sits aside from the management chain and advises on the safety issues within the subject.

Q At 2.29, we have got the "Infection Control Officer". What is your understanding of an infection control officer?

A That will generally be a clinical person, sometimes a microbiologist, who advise on the implications of the environment or control of infection.

Q And do you see at paragraph 2.29, the final sentence, it says, "Major policy decisions should be made through an infection control committee"?

A Yes, indeed.

Q If I can ask you, still within that guidance, to look on to

page 41 of the bundle, please, where we will see Table 2.1. So, within that table, under the bold heading, we see in brackets, a reference to, “Refer to Activity Database for specific details.” What is your understanding of the reference to an activity database?

A So I've said in my statement that I am not the expert on the activity database or the things that surround it. I do have a superficial knowledge, and in terms of what's being referred to here, the activity database is a mechanism that's used to define the specification for spaces within a healthcare facility, and in relation to this document in particular, that's the environmental conditions – the temperature, humidity and so on and so forth.

Q So your understanding is that there is a database that you would find that information in?

A No, sorry, that's not what I mean. The activity database has-- Yes, there is some information, but it's intended to be-- like the rest of the guidance, it’s intended to be used to inform decisions rather than to provide (?) with. When the room specifications are generated, that will be generated on room data sheets, and those room data sheets are the bit that the system is designed to meet.

Q So, for example, if you look on, still within this guidance, to page 46, you can see at paragraph 2.52:

> “Specific requirements for individual spaces and departments are included in the Scottish Hospital Planning Notes (SHPN), Health Building Notes (HBN) and Activity Data Base (ABD) A-sheets.”

Do you see that?

A Yes.

Q So it is your understanding that activity database sheets are just another form of guidance?

A Yes, that's my understanding.

Q If we could look on, please, to page 101, still within Scottish Health Technical Memorandum 2025, paragraph 6.11, there's a reference to “Dilution of airborne bacterial contaminants”. It says:

> “Supply flow rates for the main rooms of the operating suite are given in Table 6.6. For the other areas where room sizes and activities vary from site to site, air change rates are given in Table 6.1. These figures have been found to give sufficient

dilution of airborne bacterial contaminants, provided the mixing of room air is reasonably uniform."

Do you know the basis for that statement or does that really just come from, again, the collegiate approach that you have talked about?

A Again, I have a superficial understanding, but I believe that one of your other witnesses will be better placed to go into the detail, and that's Andrew Poplett. But, essentially, the corporate memory, if you can call it that, is built through the history of the development of this guidance, dating back to the 1970s and before, and building on each additional version to improve the understanding.

Q Thank you. Now, if we put Scottish Health Technical Memorandum 2025 to one side, if I could ask you to look, still within bundle 1, but this time to page 618, please, you will see the Scottish Health Technical Memorandum 03-01, "Ventilation for healthcare premises, Part A – design and validation", and this document is from February 2014. You mentioned in your statement that there have been a couple of iterations of Scottish Health Technical Memorandum 03-01, but the references you have given in your

statement, I think, are to the February 2014 version. I think I am right in saying there has been some interim guidance that has been provided since then. You say in your statement that you are not able to really comment on that new guidance.

A Only in as much as the new guidance reflects the new guidance that has been produced at UK level and that has been issued on an interim basis because we haven't been able to deploy the resource needed to bring it to its final version.

Q Thank you. Still within this version of HTM 03-01, if we could look to page 624, please. Bundle 1, page 624. So page 624, again, we can really see the preface setting out exactly what the guidance is going to cover. So it's "comprehensive advice and guidance on design, installation and operation of specialised building and engineering technology used in the delivery of healthcare", similar to what we've seen in SHTM 20-25.

A Yes.

Q If I could ask you, still within the same bundle, to look to page 633, please, and at paragraph 1.35, in terms of management action:

"The guidance contained in this SHTM should be applied in full to new installations and major

refurbishments of existing installations."

And then at 1.37:

"In assessing the need for more specialised ventilation and the standards desired for patient care, managers will need to be guided by their medical colleagues and by information published by Health Facilities Scotland."

Do you see that?

A Yes.

Q So, again, duty on management, that management is to be led by clinicians and guided by Health Facilities Scotland.

A Essentially, the message here is management bear the responsibility and they have to discharge that responsibility through appropriate skills, some of which are engineering skills, some are medical, some are project management and, no doubt, various other things.

Q If I could ask you to look at page 756, please, within that bundle, so that is "Appendix 1: Recommended air-change rates". So, you will see there that there is a table whereby there are various applications, such as a general ward or critical care areas. There is then ventilation, air changes per hour,

pressure differentials. Do you know how these various values within this table were derived?

A I don't have detailed knowledge, but I have spoken to a number of people involved in the process who told me that some of those figures came from the previous guidance, some adapted with additional knowledge input to the system, and some were drawn from guidance elsewhere in the system to try to bring them all together in one publication.

Q Is this, again, really what you say at paragraph 39 of your statement, that the guidance is the outcome of a collaboration between professionals from diverse technical and clinical backgrounds?

A Yes, it is.

Q Are you aware of whether there is any specific scientific research that underpins the values in that table?

A I am aware of some of the research. I know that there's stuff that goes back before my involvement and was incorporated in the original iterations of this guidance. I have personal knowledge of some of the research that was done at Leeds University and some of the work that was done at the Building Services

Research and Information Association.

Q Can you just explain, what is your understanding of those?

A Yeah, so the Building Services Research and Information Association related to that SHPN 4 Supplement 1 document we discussed a moment ago, the isolation rooms and patient accommodation, where there was a physical mock-up of an isolation room made essentially to test the pressurised lobby arrangement because the functionality of that is very dependent on the pressures that are available and the ability to control opening of doors and suchlike, so that was all done as part of a fairly major research project there. The other bits, the stuff done at Leeds University, was computer modelling done by Professor Cath Noakes, who looked at various impacts on different ward configurations, different space configurations of different ventilation systems.

Q And is it your understanding that that has all been factored into what we see in Appendix 1?

A Yes, it has.

Q In relation to Health Facilities Scotland, are you aware of whether Health Facilities Scotland has a role in design approval for a hospital?

A We don't.

Q Would that all be for the----

A Sorry, that's an overstatement. We have a national design assessment programme – I can't remember the terminology – which is, again, managed by the Property and Capital Planning team within HFS. Approval would be putting it too strongly. There's an assessment made at various stages of the design of new facilities.

Q So when we are talking about the national design approval process, I think a lot of people call it NDAP. Is that correct?

A Yes, yes.

Q If we are talking about NDAP, is that another part of Health Facilities Scotland that is not within your remit?

A It's not within my direct remit, although members of my team do contribute to that.

Q I just want to ask you some further questions, just both about NHS design quality policies and also around about that design assurance policy. If we could begin by looking within bundle 3 at page 114, so bundle 3, volume 1, page 114. So this is a document issued by the Scottish

Health Executive. You see in the top right-hand corner, it is dated 23 October 2006 and it is called "A Policy on Design Quality for NHS Scotland". Have you seen this before?

A Yes.

Q What is your understanding of what this document is?

A I don't know a lot about it in detail as it's a different team that deals with that. I was aware of its development at the time through conversations with colleagues, and essentially what it is a focus on making sure that the Health Service was delivering what it set out to deliver when it built new buildings. That's across a wide, wide array of things, including things like place making and architecture and the engineering systems are part of that.

Q Because if you see it is for action by NHS boards and specialist boards, but it is sent for information to the Director of Health Facilities Scotland. It says, in "Summary":

> "1. This letter provides colleagues with a statement of the Department's Policy on Design Quality for NHS Scotland (Annex A). Associated with the policy is an Annex of policy guidance (Annex B) which should be reflected in the Design Action Plans and related operational policies of NHS Scotland Bodies.
>
> 2. The policy requires that each NHS Scotland Body appoints a Design Champion at Board level and a supporting Project Officer. Colleagues will already be aware of the requirement to appoint a Design Champion and supporting Project Officer through written notification from the SEHD Head of Property and Capital Planning …
>
> 3. The attached policy statement reflects consultation with colleagues in the Scottish Executive, NHS Scotland and Architecture and Design Scotland. It provides a concise definition of policy along with details of mandatory requirements which must be complied with by NHS Scotland Bodies …"

Do you see that it says "mandatory requirements"?

A Yes.

Q If we then look on to page 117 of the bundle, we've got the document headed "A Policy on Design Quality for NHS Scotland" from 2006. Then if we look on to page 125, you

can see paragraph 5. So this is "Mandatory Requirements":

> "All NHS Scotland Bodies engaged in the procurement of both new-build and refurbishment of healthcare buildings must use and properly utilise the English Department of Health's Activity DataBase (ADB) as an appropriate tool for briefing, design and commissioning. If deemed inappropriate for a particular project and an alternative tool or approach is used, the responsibility is placed upon the NHS Scotland Body to demonstrate that the alternative is of equal quality and value in its application."

Do you see that?

A Yes, I do.

Q Does that come as a surprise to you? I appreciate you said you did not really know about ADB, but you suggested that activity databases were really just one other suite of guidance, whereas this suggests it is mandatory. It is either activity database or something that is equivalent to that.

A I don't think those things are necessarily contradictory. So, in terms of-- if I preface this with my lack of detailed understanding of ADB: if it's mandatory for it to be used, that doesn't necessarily – as I understand it – preclude health boards from deviating from the specifications that are contained in the actual database if they have good justification, and that's a bit like what I was saying about the SHTM guidance where applicability to circumstances becomes important. So it becomes an issue for those making the decision to be able to justify the decision but, beyond that, I probably shouldn't venture a comment and leave it to colleagues better placed.

Q No, thank you. Just on page 125, within the mandatory requirements at point 8, it says:

> "Awareness and training will be required by NHS Scotland on a number of issues in relation to the implementation of this Policy. This will be facilitated in the first instance through the Framework Agreement between SEHD and Architecture and Design Scotland whereby appointed NHS Scotland Design Champions will be provided with training and support appropriate to their role and, additionally, through ad-hoc support as deemed appropriate from Health Facilities Scotland."

Do you see that?

A Yes.

Q So would that be Mr Brown's team that would be providing the ad-hoc assistance or would it be your team(?)?

A It would be Mr Brown's team that was managing that process, although that's not to say that specific support wouldn't come from my team. The example that jumps immediately to mind would be HAI-SCRIBE, the system for controlling the risk of healthcare and associated infection in the built environment, which would be a member of my team that would provide.

Q Because we see that mentioned. If we look on to page 132 within the guidance, you see, within "Project Brief", about four paragraphs down, the paragraph:

> "Of particular importance in the context of healthcare buildings is the need for the Project Brief to incorporate policy, guidance and best practice in relation to reducing Healthcare Associated Infections (HAI). Guidance to ensure that prevention and control of infection issues are identified, analysed and planned for at the earliest stage of the provision of new or refurbished healthcare facilities Is contained within Scottish Health Facilities Note 30 (SHFN 30): 'Infection Control in the Built Environment: Design and Planning', published by Health Facilities Scotland."

Is that what you are referring to?

A Yes, it is.

Q If we then look to the bottom of page 132, again, there is a further reference to activity database:

> "Activity DataBase (ADB) is the briefing, design & commissioning tool for both new-build and refurbishment of healthcare buildings. It is a briefing and design package with an integrated textual and graphical database, an interface with AutoCAD and an extensive graphical library - the complete tool for briefing and design of the healthcare environment.
>
> ADB is produced by the Department of Health in England and is endorsed for use in Scotland by the Scottish Executive Health Department as the preferred briefing and design system for NHSScotland. It has been developed to assist in the construction, briefing development, design and alteration of healthcare facilities.

In 2005, the Scottish Executive Health Department, in association with the NHS Scotland Property and Environment Forum (now Health Facilities Scotland) launched an initiative to support NHS Boards in the implementation of ADB throughout NHS Scotland by way of a national agreement in which SEHD would fund the first year's licence subscription to ADB and Health Facilities Scotland would provide ongoing training and user-network support.

This is now in place and NHS Boards, having recognised the merits and cost-effectiveness of the system, are expected to continue to subscribe annually on their own behalf."

Do you have any recollection of Health Facilities Scotland's involvement in that project?

A A bit. So, this policy document wasn't created in Government and then disseminated to the health service, it was created in discussion with the health service. So, the directors of facilities and health boards knew about the contents of this before it came along and the support to be provided for them had been thoroughly discussed at the Strategic

Facilities Group, which Government and the health boards attend. So, it's not new. It wasn't new at the time.

Q Then, just to complete that paragraph, the paragraph just above "The Client Design Adviser":

"Spaces designed using ADB data automatically comply with English planning guidance (such as Health Building Notes (HBNs) and Health Technical memoranda (HTMs) as ADB forms an integral part of the English guidance publication process. Whilst Scottish users can create their own project-specific briefs and designs using ADB's extensive library of integrated graphics and text which includes room data sheets, room layouts and departmental room schedules, extreme care should be taken to ensure that such data generated by the package are consistent and compliant with Scottish-specific guidance such as Scottish Health Planning Notes, Scottish Hospital Planning Notes (SHPNs) and Scottish Health Technical Memoranda (SHTMs) as published by Health Facilities Scotland."

Do you see that?

A Yes.

Q So, effectively what is being said here is if you can use ADB sheets, you will definitely comply with English requirements, but you need to be very careful to make sure that you comply with Scottish requirements.

A Yes.

Q Still within that document, if I could invite your attention on to page 144, please, the section headed "Role of Health Facilities Scotland". There is a narration of Health Facilities Scotland and the various issues it can help with and then the final paragraph states:

> "This assists the NHS Scotland meet the Government's policy and strategic aims and to establish professional/technical standards and best practices, including the promotion of new initiatives in the field of healthcare practice and management. Clearly HFS can have a pivotal role to play in the implementation and support for this Policy, both through the provision of supporting guidance and through their Continuous Professional Development (CPD) programme which provides essential training to NHS Scotland personnel on operational issues as impacted by national policies and objectives."

Do you see that?

A Yes.

Q In relation to that comment, that Health Facilities Scotland can have a pivotal role, can you assist the Inquiry with that or would that be for Mr Brown?

A Mr Brown would do it better.

Q Mr Brown could do it better. What assistance, if any, could you provide?

A Yes. Sorry, I'm trying to be helpful, but not overstep here. Health Facilities Scotland, apart from providing direct support to the health boards across all those specialities within the resources available, also organises and provides training, CPD training. So there has been training in a whole range of things. Which would fit into this and which would fit into other initiatives is difficult to be precise about without going through a list of all the different training that was involved, but the implications of this policy will have been discussed at the Scottish – and again, my terminology is maybe not right here – the Scottish Property Advisory Group, SPAG, which is one of the three national advisory groups.

Work streams flowing from that will have been intended to provide the appropriate support to the boards on this, some of which may have come to my team, but I'm not sighted on them at the moment.

Q Thank you. If I could, the next document I would like you to look at, please, is within bundle 4, page 99. So, in the top right-hand corner is, "The Scottish Government, CEL 19 (2010)" dated 2 June 2010. Have you seen this document?

A I have, yes.

Q What is your understanding of what this document is?

A This is, again, a policy to drive design quality. The key issue, I guess, for the Inquiry here is the bits about an assessment process, which in my understanding – and again, others may be better prepared to speak to it – is the creation of NDAP?.

Q In relation to that, is that really what Mr Brown was leading on, as opposed to you?

A Yes.

Q Again, I just want to put a few sections of this document to you for comment, but again, in fairness, if you do not think that you can answer the question, please do feel free to say that. So it is really in the summary, at

paragraph 3:

> "This CEL and the attached policy statement supersedes NHS HDL(2006)58. This CEL also provides information on Design Assessment within the SGHD CIG Business Case process."

What do you understand "SGHD CIG Business case process" is?

A So CIG is the Capital Investment Group, which is the group that is chaired by a representative from Government, but it contains a broad cross-section of health service representation to make decisions on the approval or otherwise ,of capital projects.

Q If we look on to page 100, just at the very top, it says:

> "…the outcomes of development projects meet the Scottish Government's objectives and expectations for public investment. Support for the implementation of the design agenda will be provided by means of a coordinated, tripartite working arrangement between Scottish Government Health Directorates (SGHD), Health Facilities Scotland (HFS) and Architecture and Design Scotland (A+DS) to facilitate the

procurement of well-designed, sustainable, healing environments which support the policies and objectives of NHS Boards and the Scottish Government Health Directorates."

Do you see that?

A Yes, I do.

Q Was that your understanding of how this NHS design assurance process worked, that it was a tripartite relationship between those bodies, including Health Facilities Scotland?

A Only from a re-reading of this policy. Up until I re-read this policy in preparation for this hearing, my view was it was a relationship between Architecture and Design Scotland and Health Facilities Scotland, reporting to Government. If that's what that's intended to mean, I don't know.

Q So was your understanding, certainly, that Health Facilities Scotland had a lesser role, it was not really a tripartite role?

A No, no. Health Facilities Scotland has a key role in the delivery of NDAP and that's done through our principal architect primarily, although members of my team contribute to it. So we are deeply involved in the, what you might call technical aspects of the review. Architecture and Design Scotland are more involved in the place-making aspects of the review.

Q Just to be clear, is that input engineering input, or is it input in relation to the architecture?

A The bit from my team is engineering, sustainability, decontamination and (inaudible), which is effectively the four parts of my team, but there's also architectural bits, there's fire input, there's probably others, but I'm not very close to that. So I wasn't involved in designing and implementing it.

Q Thank you. Then if we look on to page 102, you see this is, again, "A Policy on Design Quality for NHS Scotland", but this time it is the 2010 guide that we see there. Just look at page 113, please. This is mandatory requirements again, but this time mandatory requirement 7:

> "All NHS Scotland Bodies engaged in the procurement of both new-build and refurbishment of healthcare buildings must use and properly utilise the English Department of Health's Activity DataBase (ADB) as an appropriate tool for briefing, design and commissioning. [If deemed inappropriate for a particular project and an

alternative tool or approach is used, the responsibility is placed upon the NHS Scotland Body to demonstrate that the alternative is of equal quality and value in its application.]"

Do you see that?

A Yes.

Q So, again, mandatory to use Activity DataBase or you have to prove that you are using something. If I could ask you to look onto page 120, please, again deals with the role of Health Facilities Scotland. In the first paragraph after the bullet points, we see the reference to HFS can have a "… pivotal role to play in generally supporting the implementation of this Policy…" as in the next paragraph:

"With particular regard to the objectives of this Policy, HFS will lead the agenda through the central operation of Frameworks Scotland and through the administration of the Design Assessment process now mapped into the Business Case process."

Is that your understanding, that Health Facilities Scotland was-- were they leading the process?

A That's probably another area where Mr Brown is better able to comment. Those two facets are both

within his remit, Framework Scotland and that.

Q Thank you. It just continues, for completeness:

"HFS will provide technical expertise including those aspects of design which relate to functionality and, particularly, technical and sustainability standards. This will underpin the strands of work identified to support the design agenda in NHS Scotland through the coordinated tripartite working relationship between HFS, SGHD and A+DS and with NHS Scotland stakeholders."

See that?

A Yes.

Q Can I ask you to look on to page 131, please? There's reference to design assessment:

"An assessment of design quality is now part of the SGHD Business Case process. All projects submitted to the SGHD Capital Investment Group for approval are now subject to an assessment of design quality and functionality, including technical and sustainability standards. This Design Assessment will take place at the Initial Agreement, Outline Business Case and Full

Business Case stages of approval."

Do you see that?

A I do.

Q In terms of the technical assessment, would that be conducted by Health Facilities Scotland?

A Yes.

Q Would it be conducted by your team?

A Partly by my team. The engineering aspects-- well-- again, as those four parts: engineering, decontamination, HAI-SCRIBE and sustainability, would all be contributed to by my team.

Q How intensive would that design review conducted by Health Facilities Scotland at the initial agreement, outline business case and full business case----

A Sorry, I missed the beginning----

Q How intensive was that review?

A I'm not the best placed person to speak on that, but what I can say is is there's a-- in the design of NHS Scotland Assure, there's a recognition that the detail that Assure is going into on the engineering systems and infection control is significantly more detailed than what was included in NDAP. NDAP is

broader, it covers more areas.

Q The person that would actually be doing that assessment, is that the one engineer that was within Health Facilities Scotland?

A It could be that-- depending on the pipeline of work and the various other demands, it could be somebody brought in under contract, it could be that engineer, or it could be somebody sourced from another part of the service.

Q It continues:

"There are two complimentary areas of consideration in the design of healthcare buildings. These can broadly be described as healthcare specific design aspects – the areas generally covered by guidance issued by Health Facilities Scotland - and general good practice in design considering the human experience of being in and around buildings. These are brought together in this process and in the collaboration between Health Facilities Scotland and Architecture and Design Scotland in the NHS Scotland Design Assessment Group which reports to the SGHD Capital Investment Group. This process forms part

of the coordinated tripartite working relationship with SGHD and A+DS."

Again, is that Mr Brown's aspect----

A Yes.

Q -- of Health Facilities Scotland or is that your aspect?

A No, it's Mr Brown's. The management of that process falls into his remit.

Q Just for completeness, if we could look on within this to page 136, please, which again is headed up "Activity DataBase" towards the bottom.

"Activity DataBase (ADB) is the briefing, design & commissioning tool for both new-build and refurbishment of healthcare buildings. It is a briefing and design package with an integrated textual and graphical database, an interface with AutoCAD and an extensive graphical library - the complete tool for briefing and design of the healthcare environment.

ADB is produced by the Department of Health in England and is mandated for use in Scotland by the Scottish Government Health Directorates as the preferred briefing and design system for NHS Scotland (see Mandatory Requirement 7 of this Policy). It has been developed to assist in the construction, briefing development, design and alteration of healthcare facilities.

Spaces designed using ADB data automatically comply with English planning guidance (such as Health Building Notes (HBNs) and Health Technical memoranda (HTMs) as ADB forms an integral part of the English guidance publication process. Whilst Scottish users can create their own project-specific briefs and designs using ADB's extensive library of integrated graphics and text which includes room data sheets, room layouts and departmental room schedules, extreme care should be taken to ensure that such data generated by the package are consistent and compliant with Scottish-specific guidance* such as Scottish Health Planning Notes, Scottish Health Facilities Notes (SHFNs) and Scottish Health Technical Memoranda (SHTMs) as published by Health Facilities Scotland."

So we see the same warning that we saw in the original 2006 policies. We see in the asterisk:

"In the near future, all technical guidance will be available from the 'Space for health web resource. The Space for Health website will provide a single portal to the knowledge and expertise of the four UK health organisations. It will draw together the technical guidance published by HFS, the DoH and their equivalents in Northern Ireland and Wales. Further information is available from Health Facilities Scotland."

Can you just explain what is this Space for Health web resource?

A What Space for Health was intended to be was what it describes there; it was a single, web-based portal for healthcare estates guidance. One of the features of the relationship UK-wide has been the changes that happen in(?) the Department of Health and therefore in its various bodies that it works with, and I've not heard of Space for Health for quite some time now – I don't know if it still exists.

Q You say you don't know if it exists; was it ever established?

A It was created, but whether it actually-- whether it ever actually got to a fully functioning system, I don't know.

Q But this idea of one portal where you could access all of the guidance UK-wide, was that ever created?

A As I say, it was-- there was a version of it created, but whether it was ever actually launched as a final version-- I'm dredging my memory here, trying to remember it but I can't remember that. What happened, just for hopefully added clarity there, is NHS Estates was disbanded and that responsibility was taken back into the department before it was then put to NHS Improvement, which is the body that's now responsible for the guidance.

Q Thank you. The next document I want to look at is within Bundle 8 at page 63, please, and it's the "Scottish Capital Investment Manual Supporting Guidance: Design Assessment in the Business Case Process". Do you have that in front of you, Mr McLaughlan?

A Yes.

Q So if we look on to page 64, in the introduction it says: "From the 1st of July 2010 an assessment of design quality will become part of the business case approval process." Do

you see that?

A Yes.

Q So is this really what you refer to as the NDAP process?

A I believe so.

Q So if we look then to the final full paragraph just before the contents. It says:

> "… it is intended and expected that Boards will develop 'design statements' and utilise the self-assessment methodologies described below on all development projects."

Really, this has all got to be done on all projects going forward – is that your understanding?

A Yes.

Q If we then look on to page 65, which is, "Design Assessment in the Business Case Process". Final sentence:

> "These are brought together in this process, and in the collaboration of HFS and A+DS in the NHS Scotland Design Assessment Process, by the means described below."

Can you see that?

A Yes.

Q And, again, in fairness to you, is your position that you have got a general understanding of the NDAP process, but it is really Mr Brown who knows the detail?

A Yes, I wasn't involved in the creation or operation of NDAP, but we do speak to each other about it.

Q Because at paragraph 1.1, we see:

> "A Policy on Design Quality for NHS Scotland requires that:
>
> 'The SGHD must provide guidance on compliance with those aspects of statutory and mandatory requirements which are particular to the procurement, design and delivery of healthcare buildings and guidance on best practice. This will be affected through the support to be provided by Health Facilities Scotland and Architecture and Design Scotland under the tripartite working partnership with SGHD."

Can you see that?

A Yes.

Q So that is the policy intention. Then if we look to the final paragraph, three lines down, it says:

> "… Boards will be requested to submit a comprehensive list of the guidance that they consider to be applicable to the development under consideration (see inset on next page), together with a schedule of derogations

that are required for reasons specific to the project's particular circumstances."

Can you see that?

A Yes.

Q So, essentially, the procedure is that the Board comes up with a comprehensive list of the guidance and then they state any derogations, state anything that they are not going to comply with.

A Yes.

Q Now, if we look over the page onto page 66, we see at the top that that will include Scottish Health Planning Notes and Scottish Health Technical Memoranda. If we look over the page onto page 67, paragraph 1.3, at the bottom, it says, "Referral to the NHS Scotland Design Assessment Process." It says:

"Health Facilities Scotland (HFS) and Architecture and Design Scotland (A+DS) will provide support to Boards in considering design matters …"

Do you know at a practical level what support was provided by Health Facilities Scotland to health boards?

A I couldn't describe that off top of my head.

Q And is that because that sits within Mr Brown's remit?

A Yeah, it's not a thing I've thought about as a package. It's likely that it mentioned HAI-SCRIBE support. So it's likely that, as part of that package, that support would be called from my team, and sustainability as well. It's likely that support would be called in as part of that overall package, but I don't have a picture of the package in my mind. But I don't doubt that the Property and Capital Planning colleagues will have.

Q Okay. Again, we can see it at page 68, it has set out really what Health Facilities Scotland should be doing. So it says:

"Staff from HFS and A+DS, supported as necessary by a broader panel, will have the following roles in relation to all projects that are to be assessed:

- to advise the project team if the standard of benchmarks and self-assessment process being established for the project are in line with policy objectives.
- to provide an assessment of the design aspects of the project to support the Board in their consideration of the business case.
- to provide a verification, to the Capital Investment Process

(CIG), of the opinion previously given to the Board to support the CIG's consideration of the business case."

Just returning to your statement, Mr McLaughlan, at paragraph 13, you state that you consider that "compliance with Scottish Health Technical Memorandum 03-01 should be achievable in most circumstances."

A Yes.

Q Yes. So would your expectation be that, for hospitals being constructed, that they should be able to comply with everything that is set out within that guidance?

A I make the point elsewhere in the statement that the process of designing and planning a hospital is a process of compromises, many, many, many compromises, where not everything can be achieved at the same time. I think it goes back to the point I was making about the underlying principles. If the solutions that are arrived at are demonstrated to have been thought through and fulfil the core of the intention of the SHTMs, and the detail is not significant in terms of the safety impacts, then that would be appropriate.

Q Thank you. Mr McLaughlan, I have just got three

more questions that I want to ask you. The first would just be to ask for your comment on something that has been put (?) in from one of the experts, and that is Professor Humphreys. So if I could ask you to have a look at Professor Humphreys' report, which is in Bundle 6 at page 15, and to look to paragraph 4.4.2 of his report in the penultimate sentence.

A The one that starts, "Advances in haematology"?

Q So it is a sentence beginning, "The increasing complexity of patient care". Can you see that? So it begins, "The increasing complexity". So it states:

> "The increasing complexity of patient care in recent years makes a case for near universal single room accommodation or at least double rooms in new hospitals or units, while acknowledging that this presents challenges in terms of facilitating the continuous observation of patients by nursing and other staff."

I think in your statement you note that there are other challenges beyond the facilitation of patient observation. For example, children in single rooms might be deprived of social interaction and feel isolated. Do you have any

comment to make on that sentence that I have taken you to from Professor Humphreys' report?

A I'm not sure I'm qualified to answer that one.

Q Okay, thank you. The next question is in relation to a report that has been submitted by Mr Maddocks, which is in bundle 6 at page 65. It is the point that is made by him at paragraph 3.3.1. Now, at paragraph 3.3.1, he is making a point regarding "Key Briefing requirements for Designers", and Mr Maddocks refers to the "Schedule of Accommodation and Brief". He says that this is "often generated by the client," and he puts in brackets, "(HFS Scotland or Health Board)". That is at page 66.

A Yeah.

Q Do you have any comment to make on paragraph 3.3.1 of Mr Maddocks' statement?

A That appears to be a misunderstanding of the role of HFS because, just for clarity, HFS doesn't have a place in the management chain of the Health Service. It goes from the various departments and the Health Board through the Chief Executive to the Chief Executive of the NHS, who is the Director General. HFS is advisory in all that.

Q So would the contractual relationship really be between the design team and the Health Board?

A Indeed. HFS may have an advisory role in aspects of that where requested; wouldn't have an automatic role in it.

Q Or, for example, the Common Services Agency might have entered into a framework for various contractors that health boards could call off from?

A So there is the Framework Scotland arrangement which is managed by HFS, but it's-- it doesn't put HFS in a contractual relationship. Again, this is a property and capital planning issue, but that framework is there for the boards to call those services from.

Q If you are able to, just in very brief terms, can you explain what the framework agreement you're referring to is?

A Framework Scotland is a Scottish version of an English initiative called Procure 21, which aims to simplify the construction procurement process and remove some of the difficulties that trusts in England and, subsequently, boards in Scotland would experience because they didn't have the expertise in construction management consultancy (?). The

people involved wouldn't generally come from a background where they are always involved in construction management, so Framework Scotland was intended to simplify that process and provide a vetted quality of advice for various aspects of the construction management process.

Q In simple terms, with the Framework, does that mean that there are pre-approved people you can call off, i.e. you can enter into a direct contract with one of those people in the Framework?

A Yes, it does.

Q The final issue that I want to raise with you, Mr McLaughlan, is just a statement that is made by one of the other witnesses, Mr Baxter, in his witness statement. It is a comment made at paragraph 123 of his statement, which I think should hopefully be at page 114 of the bundle of statements. It just simply concerns derogations. Mr Baxter states that, "If a derogation was being sought…" So if you were seeking to derogate from a technical guidance standard:

> "… you would have expected the relevant Health Board to engage with Health Facilities Scotland as technical experts in relation to any proposed derogation, and for the Health Board to provide a clinical justification."

Please take a moment to read paragraph 123 and please let me know if you have got any comments about that aspect of Mr Baxter's statement.

A (After a pause) Okay, so I'm not aware of a formal basis for the expectation that a health board would contact HFS in relation to a derogation. That said, it is known for health boards to contact HFS for interpretations of guidance, and that interpretation of guidance sometimes refers to an interest in doing things differently from what the guidance is setting out. That's not to say that it's ever expressed in terms of a derogation. So HFS has no formal process, to the best of my knowledge, in advising on or agreeing derogations, although it does have a role in advising on the interpretation and application of the guidance.

Q Thank you. Mr McLaughlan, I do not have any further questions for you, but thank you for answering those questions today. Lord Brodie may have some questions or equally there may be some applications from core participants. Lord Brodie, that concludes (inaudible).

THE CHAIR: Thank you, Mr

MacGregor. Does anything arise out of-- Ms Doherty, would you wish to perhaps speak to Mr MacGregor or are you confident being able just to----

MS DOHERTY: (Inaudible).

THE CHAIR: Right, if you would like to just take a moment to deal with it informally first.

MR MACGREGOR: (After a pause) Lord Brodie, thank you for the opportunity to discuss matters with my learned friend. I do not think there is anything else that is arising and there is no application to be made.

THE CHAIR: No application to be made. Are you content, Ms Doherty? Thank you very much. Well, thank you, Mr McLaughlan. That is the end of your evidence. Thank you very much for coming to give that evidence. You are now free to go.

(The witness withdrew)

THE CHAIR: Well, I think that ends today, am I right?

MR MACGREGOR: Yes, my Lord. That is everyone for today.

THE CHAIR: Right. Well, thank you very much for your participation and I look forward to seeing you tomorrow morning at 10 o'clock.

16:00

(Session ends)