



**Oral Hearing**

**Day 82– Thursday, 18<sup>th</sup> January 2024**

**Being heard before: Ms Christine Smith KC (Chair)**  
**Dr Sonia Swart (Panel Member)**  
**Mr Damian Hanbury (Assessor)**

**Held at: Bradford Court, Belfast**

Gwen Malone Stenography Services certify the following to be a verbatim transcript of their stenographic notes in the above-named action.

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**Gwen Malone Stenography Services**

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1        THE INQUIRY RESUMED AT 11:00 A.M ON THURSDAY, 18TH  
2        JANUARY 2024 AS FOLLOWS:

3  
4        CHAIR: Good morning, everyone, I hope everyone got  
5        here safely. Easier journey than maybe everyone  
6        anticipated this morning. Mr. Wolfe.

11:00

7  
8        ROBERTA BROWNLEE, HAVING PREVIOUSLY BEEN SWORN,  
9        CONTINUED TO BE EXAMINED BY MR. WOLFE KC AS FOLLOWS:

11:00

10  
11       1 Q. MR. WOLFE KC: Good morning, Mrs. Brownlee. I wanted  
12       to commence this morning by just revisiting something I  
13       raised with you yesterday morning, and it concerns your  
14       state of knowledge about the development of the June  
15       Champion Report.

11:01

16  
17       You may recall that you told the Inquiry that you had  
18       no problem in principle with the Chief Executive  
19       commissioning a review of clinical and social care  
20       governance. Your difficulty was, as you put it, was  
21       that:

11:01

22  
23       "We didn't know, myself and the Non-Executive  
24       Directors. I felt that the Chief Executive should at  
25       least sent to me in an email 'I'm going to look at  
26       clinical and social care governance, I'm engaging with  
27       a lady called June Champion'".

11:01

28  
29       So your concern was about the process, the lack of, I

suppose, communication to you and your Non-Executive Directors that this was in his mind and that he was going to pursue such a review.

Can I refer you and have your comments on a couple of documents that have been drawn to the Inquiry's attention. The first is to be found at TRU-303616.606, I beg your pardon, and just scrolling down. So, on 15th April, Geraldine Donaghy, who was one of your Non-Executive Directors; is that right?

11:02

11:03

A. Yes. Yes.

2 Q. She is writing to you, having, in your absence, met with the Chief Executive on 11th April for an update on important and emerging issues. She covers a number of matters that Mr. Devlin will have shared with her during the meeting. Scrolling down the page to the fifth item, she's telling you under the heading "Clinical Governance Framework":

11:03

"A review by Trust to commence within the next month by June Champion, associate at the Leadership Centre".

11:04

The implication of this is that Mr. Devlin wasn't holding back information in respect of the commencement of this review, he was telling one of your Non-Executives in your absence that this was happening. Do you remember being told that?

11:04

A. Yes, if I could -- thank you, Mr. Wolfe. Just to clarify, I had no problem at all with a review of

1 clinical and social care governance. I hope my point I  
2 was trying to say yesterday was the first I knew of a  
3 draft report coming to the Board was when Sandra Judt,  
4 the Board Assurance Manager, when she was going through  
5 the draft agenda, as she would normally do having met 11:05  
6 with the Chief Executive, said there's a draft report  
7 coming to the Board on the governance review. And when  
8 I asked what was that about, I realised the document  
9 talked about corporate governance and the Board  
10 governance, not just clinical and social care 11:05  
11 governance.  
12

13 So, I want to be clear there. I have no problem  
14 whatsoever, and have had many different chief  
15 executives looking at flow of information and improving 11:05  
16 governance. That's very healthy and very important for  
17 patient safety. My point was the corporate governance  
18 of the Trust that I didn't know about, and my name was  
19 cited in it, and I had not met, I mean, June Champion.  
20 That must have been because when I brought that then to 11:05  
21 the attention to see the terms of reference, I then  
22 asked could I meet June Champion and also could some of  
23 the Non-Executive Directors meet if it was going to be  
24 about the governance.  
25

26 No, I remember that email, I had been away abroad for  
27 six weeks.

28 3 Q. With respect, Mrs. Brownlee, I just want to cut to the  
29 chase on this. Certainly you made the point that you

1 were disappointed about seeing the draft report,  
 2 disappointed that your Non-Executive Directors had been  
 3 spoken to. But you also made the point, and this is  
 4 what I'm focusing on, you also made the point in your  
 5 evidence, and I have just read it back to you, my point 11:06  
 6 was "we didn't know myself and the Non-Executive  
 7 Directors. Therefore I felt that the Chief Executive  
 8 should have at least sent me in the email 'I am going  
 9 to look at clinical and social care governance, I am  
 10 engaging with June Champion'. That's what you wanted 11:06  
 11 at the beginning of the process. The point I am making  
 12 to you is that you must be wrong about that, you were  
 13 told at the commencement of the process that this was  
 14 going to happen. You must agree with that?

15 A. Yes, yes. No, I agree with that in that email, yes. 11:07  
 16 But, okay.

17 4 Q. Just to make a further point, I know that you don't  
 18 attend or don't typically attend a governance meeting,  
 19 but if we can bring it up on the screen, please,  
 20 TRU-22013. Just at the top of the page, Dr. O'Kane is 11:07  
 21 speaking. I should say, just to orientate you, this is  
 22 21st May 2019. Dr. O'Kane is speaking about internal  
 23 audit report. Then she goes on to say -- goes on to  
 24 inform members that June Champion is undertaking a  
 25 review of clinical and social care governance within 11:08  
 26 the Trust and the outcome will be discussed at the next  
 27 meeting in September 2019.

28  
 29 So that's in the system. You read, no doubt, the

1 minutes of governance meetings?

2 A. Yeah.

3 5 Q. I suppose the point, by contradistinction with what you  
4 said yesterday, is that Mr. Devlin and his senior  
5 management team were being open and clear with you that 11:08  
6 a review of CSCG was happening?

7 A. Yes. Clinical and social care governance, yes.

8 6 Q. Thank you.

9

10 I wish to move on now and spend much of the rest of our 11:08  
11 time with you in looking at, in particular, the issues  
12 that the Trust found were confronting Mr. O'Brien in  
13 his practice, the difficulties they found with his  
14 practice, and whether that was well-handled in terms of  
15 communication with the Board. I also wish to explore 11:09  
16 aspects of your interaction with those issues and give  
17 you an opportunity to address some of the concerns that  
18 have been expressed about your behaviour in terms of  
19 your involvement with those issues and, on the evidence  
20 that we've received to date, the communications that 11:09  
21 you may have made to people seemingly in support of  
22 Mr. O'Brien from time to time. As I say, I want to  
23 give you a fair opportunity to deal with each of those  
24 inputs.

25

11:10

26 Can I commence by asking you about your engagement with  
27 Mr. O'Brien. You've explained in your witness  
28 statement that in 1992, you became very unwell and you  
29 were his patient in Craigavon Hospital, and that was

1 the first time you met with him; isn't that right?

2 A. That's correct, yes.

3 7 Q. You set this out, as I say, in your witness statement.  
4 If we just bring up WIT-90870. If we just maybe scroll  
5 back a little bit to the bottom. There you are 11:11  
6 explaining that you had never met Mr. O'Brien before  
7 your illness, and he and Sister O'Hagan provided you  
8 with care. Mr. O'Brien was excellent to you and your  
9 husband, and provided such professional support,  
10 visiting you late into the evenings on the ward. You 11:11  
11 were, and it's obviously to Mr. O'Brien's credit, the  
12 subject of excellent care, in your view?

13 A. Absolutely. I was a young mother with small children  
14 and had a very sudden onset of an illness and was  
15 admitted via the Emergency Department. It was 11:12  
16 Mr. O'Brien that saw me when I was admitted to the  
17 Urology ward. That's a long story but the service and  
18 the care that I received in the Urology Department  
19 under the care of Mr. O'Brien, who I had never met  
20 before, and Sister O'Hagan who was the ward manager, 11:12  
21 was exemplary.

22 8 Q. Yes. You go on to explain, scrolling down, how  
23 appreciative you were of that care and attention, and  
24 thoughts moved to how you could, in some sense, reflect  
25 your gratitude for the care that you received by 11:12  
26 perhaps giving something back to the Trust or the  
27 hospital; is that fair?

28 A. Yes. From memory at that time, it was a very traumatic  
29 time in my life and our family. The Urology Department



1 was just in its formation. As a [REDACTED],  
2 the treatment plan for me was not possible in Northern  
3 Ireland and I was transferred to services in the  
4 Republic of Ireland. It worked very well for me but it  
5 was horrific, the travel and the post journey back. 11:13  
6 Rightly so as a young mother, as I've said with our  
7 families, we were indebted to the services provided in  
8 the Urology Department. I mean, Sister O'Hagan took  
9 over my life and my young children and to this day I  
10 will never forget that. 11:13

11  
12 So, we as a family believed it was right to give  
13 something back to the ward. One day I had a discussion  
14 with Sister O'Hagan. Sadly, as you can see from my  
15 records, Sister O'Hagan was a young mother too and 11:14  
16 tragically died from a serious illness. But I spoke to  
17 her as I was coming back and [REDACTED]. I was  
18 in and out probably for the following five years for  
19 services in the Urology Department, and I spoke to her  
20 about what would be that we could buy. So, for 11:14  
21 example, there was no services for stone therapy or  
22 anything there. Instead of maybe just giving a  
23 donation, she said she would like to talk to the other  
24 consultants. From memory, I think Mr. Young, and there  
25 may have been another consultant before who may have 11:14  
26 started during this time, I'm not quite sure, and she  
27 arranged to have a meeting. I mean, Mr. O'Brien was  
28 there and Sister O'Hagan was there, and I think there  
29 was someone else, to discuss what it would be.

1  
2 So to move on quite a bit, then it was decided rather  
3 than giving an amount of money, it would be better to  
4 form some kind of a recognised charity that would look  
5 at research and development, and support doctors in 11:15  
6 research, and indeed enhance the quality of training  
7 and development for nurses. So that's how it all  
8 began. Rather than giving something to the ward, we  
9 would set up a charity of which Sister O'Hagan, who I  
10 had never met before until I was ill, we would become 11:15  
11 the cofounders. So it was Sister O'Hagan and I were  
12 the cofounders.

13 9 Q. Yes. Just on your patient-doctor relationship with  
14 Mr. O'Brien, for how long were you a patient of his?

15 A. I probably continued up and down to the Republic for 11:15  
16 maybe a year. Then, to ensure that the treatment plan  
17 had worked, I continued to [REDACTED]  
18 and I would have seen -- come into the ward to have  
19 seen Mr. O'Brien, like any outpatient, and to discuss  
20 the plan. From memory, I believe I [REDACTED] for 11:16  
21 the following -- it seems a long time that I went up  
22 and down but probably maybe five years. That's in my  
23 mind, that.

24 10 Q. Your illness was 1992 and then the follow-up to ensure  
25 you were okay, that would take us to about 1997 or so; 11:16  
26 is that fair?

27 A. Yes. I think the charity was formed officially in, was  
28 it 1995 I think I have cited? So the charity became a  
29 recognised charity in that year with many people on

1 that charity, on the committee. I mean, the Director  
 2 of Finance from the Trust was on it, other senior  
 3 officials were on it. It wasn't Mr. O'Brien and I, as  
 4 maybe referred to in places. It was Sister O'Hagan and  
 5 I formed it. Then we had to, for regularity, get 11:17  
 6 proper people to be on to make sure we were doing this  
 7 well. So we had accountants, we had other business  
 8 people from the province, we had quite a team of  
 9 excellent people who would oversee the discharge of the  
 10 function of the charity but I would probably, because 11:17  
 11 of my past history and my enjoyment of raising money, I  
 12 became the lead fundraiser for it in the organisation  
 13 where I was the chief executive and moved on to be a  
 14 managing director. So, the companies that I was in  
 15 supported me tremendously to raise money for this 11:17  
 16 charity.

17 11 Q. At the formation of the company, which we can call  
 18 CURE, you were appointed a director; isn't that right?

19 A. Yes. I was a director, Mr. O'Brien was a director, I  
 20 think Mr. Young was a director and I think a gentlemen 11:18  
 21 -- he had a doctor in education, Dr. Michael Murphy,  
 22 who was a former Chief Executive of one of the  
 23 education and library boards here, was a director from  
 24 early memory. Then, I believe the Director of Finance  
 25 at that time in the Trust overseen, outside of his 11:18  
 26 hours at work, just the whole financial aspect of it.

27 12 Q. Yes. Just scrolling down this page, you describe the  
 28 role of the company. You say, just in terms of your  
 29 interaction with Mr. O'Brien and others in that

context:

"Mr. O'Brien and his wife, along with many other consultants, attended many fundraising events for CURE and other charities."

11:19

You say every 12 to 18 months, Mr. O'Brien and his wife would attend a dinner with your husband and yourself, and when Sister O'Hagan sadly died, her husband remained a great friend to Urology and CURE so he too attended the dinner.

11:19

You go on to explain that beyond the work of CURE, Mr. O'Brien and his wife were invited to and attended three of your children's weddings over the past 15 years, and you have attended one of his son's weddings. So, is it fair to say that in terms of your relationship with both Mr. and Mrs. O'Brien, that from a point of not knowing him at all, the relationship became threefold - doctor and patient, co-director with him in CURE, and then blossoming out into a friendship which would have had social interaction, including attendance at notable events such as weddings?

11:19

A. Yes. Mr. O'Brien - with his wife because she was part of that partnership of course - Mr. O'Brien's name in our home was held in the highest regard by our children. Please remember, Mr. Wolfe, our children were very small when I was very sick. They were used with me going off quite a distance to have my treatment

11:20

11:20

1 plan and they went off to stay with other family  
 2 members. So Mr. O'Brien's name in our home was very  
 3 important. I'm sorry for saying, and I've no problem  
 4 in declaring that, he was a very important person in  
 5 our home and in our life because of the path we had, so 11:21  
 6 we did become friends and in that way a friendship.  
 7 And he attended our children's wedding because - sorry  
 8 for saying this - but one of my comments always was  
 9 when I was ill, if I could just live to see my children  
 10 go to school, that was all I asked. With the care and 11:21  
 11 treatment plan from Mr. O'Brien and the team of other  
 12 people, I had longevity more than I ever expected. So  
 13 therefore, to see my children get married, part of that  
 14 was actually looking back a journey that I was grateful  
 15 to for the contribution of not just Mr. O'Brien, other 11:22  
 16 people. I mean Mr. Young as well, other people in the  
 17 Urology Department, and in the Republic of Ireland, you  
 18 know, made my recovery work. I am indebted to that to  
 19 this day, that I have been able to see my children  
 20 married and that is why he was there at the wedding. 11:22  
 21 So, there's nothing hidden about that.

22 13 Q. Yes. There's absolutely no reason to apologise for  
 23 saying that; that's entirely valid and appropriate that  
 24 you should say it.

25  
 26 In terms of his view of your friendship, he  
 27 reciprocates the remarks that you have made. In his  
 28 evidence, Mr. O'Brien has described you as good friends  
 29 and he set out the value that he has, that he places on

1           you, particularly in the context of the fundraising  
2           work that you have performed together with others in  
3           association with CURE.

4  
5           In terms of your relationship with CURE and your  
6           involvement with CURE as a cofounder and then a  
7           director and company secretary, you saw the need to  
8           declare those involvements as part of the process  
9           surrounding your Chairmanship of the Trust. Again, you  
10          were entirely open about that; isn't that fair?

11:23

11:23

11          A.    Yes, and I do believe when Mrs. Balmer was the Chair  
12               and I was a Non-Executive Director, I declared my  
13               interest on the register of interests, which is a  
14               public document which anyone can see and it's always  
15               held in the Board Assurance or else the Chief  
16               Executive's office that anyone can view. So I declared  
17               my interest at that time. Even when I became Chair, I  
18               continued for the following time to record that.

11:24

19    14    Q.    Let me just show a couple of examples of that for  
20               2010/'11 financial year. If we bring up WIT-90960.  
21               The document is Declaration and Register of Interests,  
22               and various of the Non-Execs are referred to. As  
23               regards you, there we see your directorship and  
24               secretarial role with the CURE company described. In  
25               2011 and '12, a similar declaration made.

11:24

11:25

26  
27           If we go to WIT-90970, you're explaining to Sandra  
28           Judt, primarily for record purposes, "I wish to inform  
29           you that I have resigned as a director of CURE". Did

1           you resign your secretaryship of the company at or  
2           about the same time?

3           A.    Yes.  Yes, I did.

4   15   Q.    And why was that?

5           A.    I think there was two reasons.  First of all, I didn't   11:26  
6           want to be closely involved with this charity when I  
7           had taken on a new role, but also from memory - and I  
8           haven't looked at any of the CURE records at that time  
9           of the fundraising - CURE became a very powerful  
10          vehicle for raising money for the Urology Department.   11:26  
11          I'm pleased to say, along with many others, the number  
12          of research fellows that went through that department,  
13          and the support to the training of nurses for stone  
14          therapy, et cetera, is on record to show that.  So, it  
15          raised a lot of money.  It nearly raised more money   11:26  
16          than they could spend.  So, not only Mr. O'Brien but  
17          other consultants used this money for all that we could  
18          describe in greater detail.

19  
20          The other reason was, as I've said because of my   11:27  
21          Chairmanship, I wanted to not be doing as much  
22          fundraising because the funds that had been raised,  
23          there was significant funds still in CURE at that time  
24          that couldn't be spent because we didn't have the  
25          workforce of the consultants to do the same research.   11:27  
26          So that was nothing else other than I had taken on the  
27          Chair's role, I didn't want to be in there any more,  
28          and also I was pulling back from CURE because of  
29          fundraising.  But I raised, along with many people in

1 Northern Ireland and beyond, much money for CURE and it  
2 was just amazing.

3 16 Q. Yes. You continued, notwithstanding that resignation,  
4 as a committee member of CURE; isn't that right?

5 A. Yes, yes, but I never attended any meeting. I don't 11:28  
6 think there is any record to show - and CURE records  
7 would be there; I mean, it was very well run - I don't  
8 believe I attended any meeting. They would have been  
9 evening meetings, you know people after work would have  
10 come to it. But I don't recall attending any committee 11:28  
11 meetings or if there were many committee meetings. But  
12 yes, I remained possibly just a year or two after it  
13 just for continuity.

14 17 Q. Yes. One can see at WIT-90976, this is 2013 into '14,  
15 that you are declaring yourself a committee member. 11:28  
16 You say you stopped that role at a certain point in  
17 time; is that right?

18 A. Yes. I stayed on, I think from memory, for maybe a  
19 year or two for continuity. I don't recall attending  
20 any meetings. Then, as I say for the reasons I've 11:29  
21 described, CURE wasn't as busy because of just the  
22 fundraising and just workforce. I mean, the Department  
23 just weren't able to facilitate the work. So probably  
24 a couple of years after that, yes.

25 18 Q. As part of your work with CURE, let's take it up to 11:29  
26 that point, would you have had regular engagements with  
27 Mr. O'Brien, Mr. Young, perhaps others, about the  
28 business of the organisation, what it should be doing  
29 by way of fundraising, what it should be doing by way



1 of expending those funds and other issues perhaps  
2 associated with the company?

3 A. No, not after that time.

4 19 Q. No, no, I mean up to that point.

5 A. Up to it? Well, at a CURE meeting prior to when I had 11:30  
6 been attending, I mean we would have talked about how  
7 to spend the money. It was mostly that's what the  
8 meeting was about; how much it was taking in, the state  
9 of the accounts and how the money was going to be  
10 spent. Now we didn't, those of us who weren't working 11:30  
11 within the Urology, got any way involved in how the  
12 money was spent. It was up to the consultants and the  
13 lead nurses when they had their training and what they  
14 used it for. We didn't want to be a committee that was  
15 restrictive. So we were the vehicle for raising money 11:30  
16 but we were never involved in the decision-making. I  
17 believe from memory there was very clear accountability  
18 in the Urology Department how you requested the funds  
19 and who approved that. It wasn't that Mr. O'Brien  
20 approved that. I believe any other consultant, and 11:30  
21 records again would support that of what the money was  
22 used for, but it was many were involved. I'm not -- I  
23 think you've had Kate O'Neill and Jenny before you,  
24 they would have benefitted greatly from the money of  
25 CURE to assist in the urodynamics and the stone therapy 11:31  
26 clinic, et cetera, et cetera. I wouldn't have had any  
27 other engagement.

28 20 Q. Okay. You're saying in terms of your engagement, it  
29 rather petered out around 2014 or so?

1           A.    And probably before that, because once I resigned from  
2                   that director's role. I don't know if there was  
3                   meetings, I was still a committee member but I don't  
4                   recall there was meetings, but I never attended then  
5                   that I can remember.

11:31

6    21   Q.    In any event, notwithstanding your pulling away from  
7                   CURE in the sense that you've described, the friendship  
8                   with Mr. O'Brien had been established by that point and  
9                   that friendship continued thereafter?

10           A.    Yes.

11:32

11   22   Q.    I want to ask you something about your understanding of  
12                   conflicts of interest, because it's in that context  
13                   that this area is of potential interest to the Inquiry.  
14                   We saw yesterday some of the materials that were sent  
15                   to you as a Chair. I think I brought up yesterday,  
16                   I'll bring it up again, TRU-113435, a letter of  
17                   24th March reminding Chairs of conflicts of interest,  
18                   advising that you've got to act appropriately when a  
19                   conflict of interest situation arises, and stating that  
20                   all Non-Executives must discharge their duties in line  
21                   with the seven principles of public life, the so-called  
22                   Nolan Principles, and to act with integrity.

11:32

11:33

23  
24                   The letter refers to the Northern Ireland Audit Office  
25                   guide, if we could just look at aspects of that. If we  
26                   scroll down to 103228. WIT-103228. This is the  
27                   Northern Ireland Audit Office guide on conflicts of  
28                   interest. Within paragraph 1, it's explained, 1.1,  
29                   it's explained!

11:33

"Staff and Board members must discharge their duties in a manner that is seen to be honest, fair and unbiased".

It goes on to say:

11:34

"Public bodies must ensure that conflicts of interest are identified and managed in a way that safeguards the integrity of staff and Board members, and maximises public confidence in the organisation's ability to deliver public services properly".

11:35

It is perhaps a statement of the obvious, Mrs. Brownlee, it's a principle you would have been aware of?

11:35

A. Oh, this document and the letter? Absolutely.

23 Q. The principles it is articulating there?

A. Yes. Yes.

24 Q. If we can scroll down four pages to 103232. It goes on to offer some assistance with definitions. If we go to 2.1.

11:35

"At its most basic, a conflict of interest arises where an individual has two different interests that overlap. The guide uses a broad definition", but this, they say, is relevant to public officials and Board members alike.

11:36

"A conflict of interest involves a conflict between the

1 public duty and the private interest of a public  
 2 official in which the official's private capacity  
 3 interest could improperly influence the performance of  
 4 his/her official duties and responsibilities".

11:36

6 Again, a well-known statement. Is that something you  
 7 well understood in your role as Chair?

8 A. Yes. Yes, I did.

9 25 Q. There's also a concept of a perceived conflict of  
 10 interest, and we see it explained at 2.3.

11:37

11  
 12 "A perceived conflict of interest exists where it could  
 13 be perceived, or appears, that private capacity  
 14 interests could improperly influence the performance of  
 15 a public official or Board official's official duties  
 16 and responsibilities".

11:37

17  
 18 I suppose the distinction with an actual conflict of  
 19 interest is that a person with perceived or a perceived  
 20 conflict of interest, it says, may pose no actual risk  
 21 to the conduct of public business but it requires  
 22 proper management in order to minimise the risk of  
 23 reputational damage, both to the organisation and the  
 24 individuals concerned.

11:37

25  
 26 Again, would you have understood the importance of  
 27 properly managing perceived conflicts of interest?

11:38

28 A. Yes, I would.

29 26 Q. The document goes on at paragraph 8, if we can --

1           sorry, I'm moving to a different document, I'm moving  
2           to the code of conduct, which again I think was opened  
3           yesterday. TRU-113440. At paragraph 8, the important  
4           piece is that towards the end:

5  
6           "Where there is a potential for private voluntary  
7           charitable interests to be material and relevant to HSC  
8           business, the relevant interest should be declared and  
9           recorded in the Board minutes and entered into a  
10          register which is publicly available. When a conflict  
11          of interest is established, the Board member should  
12          withdraw and play no part in the relevant discussion or  
13          decision". 11:39

14  
15          Again, clear advice or direction from the code of  
16          conduct. Again, is that something you would have known  
17          about and understood? 11:39

18          A. Yes.

19   27   Q. These materials are gathered as part of what is sent to  
20          Non-Executive Directors, including the Chair. Would  
21          you have understood these principles from elsewhere in  
22          your professional life? 11:40

23          A. Absolutely, yes, I understood it. I received these and  
24          received them in many other positions I was in.

25   28   Q. In terms of your engagement with Mr. O'Brien, you  
26          said -- sorry, let me rephrase this. In terms of your  
27          engagement in relation to issues concerning  
28          Mr. O'Brien, you've said in your witness statement that  
29          you absolutely refute any suggestion that you advocated 11:40

for him at any time. You say:

"I never advocated for Mr. O'Brien to any SMT member or to any Chief Executive at any time".

11:41

That's your position. I am going to give you an opportunity in the course of the remainder of your evidence to deal with what people have said about how they perceived your relationship and perceived your behaviour and some of the things they have indicated that you have said.

11:41

When you think back across the entirety of your career as Chair, when issues came to your attention relating to Mr. O'Brien, do you have anything to reproach yourself about? Do you have regrets about any of the matters that you had to deal with in that context?

11:42

A. Well, getting back to all that you've discussed, I as a Chair, at all times, adhered to the principles of the Nolan as set out. I was an open, honest, very visionary Chair. That's the first thing. I never did anything in any of my career or in any position that brought it into disrepute.

11:42

What I've said in my Section 21, at no time did I speak to any Chief Executive about Mr. O'Brien or advocate for him, neither to Mrs. McAlinden, Mrs. Clarke, Mr. Rice, Mr. McNally or indeed to Mr. Devlin. I never advocated for Mr. O'Brien.

11:43

1  
2 Also, Mr. Wolfe, I never was involved in any  
3 investigation or, as it refers, decision-making in  
4 relation to the pathway of Mr. O'Brien. I never was  
5 involved in any investigation and I never was involved 11:43  
6 in any decision-making. So what I recorded in my  
7 Section 21, I can still stand over. I haven't read all  
8 of the former Chief Executive's Section 21 but I have  
9 absolutely no recollection of ever speaking to any of  
10 those. Mrs. McAlinden, in her time, having left in 11:43  
11 March '15, never spoke to me about Mr. O'Brien nor I to  
12 her. I don't remember ever talking to Mrs. Clarke, who  
13 was there the following year, or did she ever bring  
14 anything to my attention. The first time that I knew  
15 anything about Mr. O'Brien was when Dr. Richard Wright, 11:44  
16 who was then the Medical Director whose office was  
17 opposite my door, walked into my office -- I do believe  
18 actually my personal assistant's door was ajar.

19 29 Q. Sorry to cut across you, can we park the detail of  
20 that?

21 A. Okay.

22 30 Q. We will come to that in due course?

23 A. Okay.

24 31 Q. I just wanted to get your basic position. I think, to  
25 summarise it, you don't believe you've anything to 11:44  
26 reproach yourself in terms of your behaviours in this  
27 sphere?

28 A. Definitely not. I never spoke to a Chief Executive  
29 that I have named, or did they to me, about

Mr. O'Brien, and I've nothing to report to the Inquiry or change in relation to that.

32 Q. Can we broaden it beyond chief executives. In terms of your interaction, you know I am going to bring you to interactions with a variety of people - Mr. wilkinson, Mrs. Gishkori, a number of others - is it fair to say - clearly they weren't chief executives - what is your basic position with regard the broad range of possible dealings vis-à-vis Mr. O'Brien?

A. At no time, to any of the people that you have named and indeed Dr. Maria O'Kane, which will come up, did I ever advocate for Mr. O'Brien. Absolutely not. And I never was involved with any of those people regarding decision-making or investigation. I have nothing further to add on that that changes my statement.

33 Q. Yes. If we go to WIT-90878, you're asked at 37:

"During your tenure, did you engage with Mr. O'Brien and or his family after concerns were raised regarding his practice? If yes, provide full details and explain why you became involved".

what you've said here is:

"Aside from the phone call referred to at question 27 and the email exchange of 11th June 2020, Aidan O'Brien or any family member never contacted me, formally or informally, to discuss concerns about his practices during my tenure".



1 Just to be clear, the phone call that's referred to  
2 there in relation to question 27 relates to engagement  
3 around Mr. Wilkinson's role. Maybe if I just bring you  
4 back to that and to check. The 11th June 2020 email  
5 exchange is at that point where Mr. O'Brien wrote to 11:47  
6 you, Mrs. Toal and the Chief Executive to express  
7 concerns about how he was being treated about a  
8 possible return to work, that opportunity was being  
9 removed from him in connection with his retirement. So  
10 it's only those two engagements that you're alerting us 11:48  
11 to in terms of your dealing with Mr. O'Brien directly?

12 A. Yes. If I can just take, Mr. Wolfe, that question  
13 number 37, in relation to Mr. O'Brien's family - I'm  
14 assuming that's his children - at no time did any of  
15 Mr. O'Brien's children ever speak to me formally or 11:48  
16 informally.

17  
18 In relation to Mrs. O'Brien, Mrs. O'Brien made that  
19 phone call via my PA, who put it through to my office.  
20 That is the only phone call during my tenure that 11:48  
21 Mrs. O'Brien ever made to the office.

22 34 Q. Let me just bring you to your answer to question 27 so  
23 we can see in black and white what you are referring to  
24 there. WIT-90871. You're recalling on one occasion  
25 during 2016 and 2017: 11:49  
26

27 "I recall Mr. O'Brien, or it could have been  
28 Mrs. O'Brien ringing me to my office - my personal  
29 assistant's office is interconnecting and she heard the

1 call that day - to express concerns about the length of  
2 time the investigation Mr. O'Brien was under was  
3 taking".

4  
5 we take that to be more likely to be 2017, the 11:49  
6 investigation commencing after it was triggered in  
7 December of 2016.

8  
9 I note, Mrs. Brownlee, in association with  
10 Mr. Pengelly's evidence earlier in the week, you 11:50  
11 provided us with -- you volunteered to provide us with  
12 phone records to show your dealings with him on  
13 26th October. We haven't invited you to provide phone  
14 records in connection with your dealings with  
15 Mr. O'Brien, or indeed Mrs. O'Brien or any member of 11:50  
16 the O'Brien family, but you are being clear with us,  
17 are you, that you can only recall one telephone  
18 conversation with either Mr. or Mrs. O'Brien in respect  
19 of that investigation?

20 A. Absolutely. None of his children ever phoned me, and I 11:50  
21 don't believe you'll find a record on that. When I was  
22 doing my Section 21, I didn't have all of the bundles  
23 that I now have so I couldn't remember if it was  
24 Mr. or Mrs. O'Brien, but it was Mrs. O'Brien phoned  
25 into the office via Jennifer and she was extremely 11:51  
26 upset, emotionally upset, about her husband and the  
27 trauma that was being caused to her husband and the  
28 family in relation to how long it was taking to  
29 expedite the completion of an investigation and

1 failure, as she referred, to get documents. She  
 2 wouldn't have been on very long. I don't know if the  
 3 Trust keeps records of that, but I have no recollection  
 4 - and again if you get my records - of Mr. O'Brien ever  
 5 phoning me during an investigation to discuss clinical 11:51  
 6 issues or how he was being treated that I can recall.

7 35 Q. Yes. The suggestion around this phone call is that if  
 8 it was 2017, that's at the earliest stages of the  
 9 investigation. You go on to say: "I referred his  
 10 concerns", that's Mr. O'Brien's concerns, "to John 11:52  
 11 Wilkinson and the Interim Chief Executive at the time  
 12 as well. You weren't involved in the investigation but  
 13 simply forwarded the concerns on for their attention.  
 14 So, that was 2017?

15 A. Yes. I know we're coming back to when Dr. Wright spoke 11:52  
 16 to me, but my normal style, if I received a call like  
 17 that, and I would have had many - not from a  
 18 consultant's wife as such but would I have received  
 19 many calls and my personal assistant will confirm  
 20 this - I normally then would action that straightaway. 11:52  
 21 So I've no doubt whatever day Mrs. O'Brien phoned me, I  
 22 would have phoned John wilkinson, who was the  
 23 Non-Executive Director under the Maintaining Higher  
 24 Professional Standards, to say to John, look John,  
 25 Mrs. O'Brien has been on the phone, she was extremely 11:53  
 26 upset and she was very emotional about her husband and  
 27 --

28 36 Q. We don't need to reiterate that. We have your basic  
 29 position and I want to go into the detail of some of

these engagements as we go along. Your basic position is that you behaved appropriately when these matters were brought to your attention.

You've gone, just in the course of your evidence this morning, from being uncertain about whether it was Mr. O'Brien or Mrs. O'Brien who contacted you, as reflected in your statement, by now being somewhat insistent that it was Mrs. O'Brien who called you?

11:53

A. Yeah. Well, I can just go by what I had written. At the time when I was writing that, I wasn't sure if it was Mr. O'Brien, but I've tried to really reflect hard who made that call and I believe now it was Mrs. O'Brien. I have no other reason but my own reflection to think it was Mrs. O'Brien. You know, I've not went looking who made the call or talked to anyone about it; definitely not. But at the time I was doing my Section 21, I was on my own, apart from my solicitor. I had very little records from the Trust.

37 Q. My question to you, just to be specific, is what was it within your own reflection, what was it that you came to within your process of reflection that has now led you to more confidently say you think it was Mrs. O'Brien?

11:53

11:54

A. Well, just over the passage of time, because I had no other calls from Mrs. O'Brien that I ever recall at that time, I just thought about it and keep thinking about this constantly, that it was Mrs. O'Brien that made the call. But it is just my own personal

11:54

1 reflection, it's nothing else other than that.

2 38 Q. It's not founded on any specific memory?

3 A. No. No, just --

4 39 Q. So it could have -- sorry to seem pedantic about this  
5 but it could have been Mr. O'Brien who contacted you?

11:55

6 A. Well, if you want to say that, I respect that. But at  
7 the time I wasn't sure because I didn't make a note of  
8 that call. My personal assistant, if she has a good  
9 memory, may remember who she put through to the office  
10 because you can't ring my office directly without going  
11 through my personal assistant. But I have nothing  
12 other than that, my own personal reflection on it.

11:55

13 40 Q. Yes. Let me work through something of a timeline in  
14 terms of when Mr. O'Brien's practice came to the  
15 untoward attention of the Trust and led to some comment  
16 and action, and let me explore whether you had any  
17 knowledge or involvement. If we could bring you to  
18 WIT-90854, just above where it says "Question 8", you  
19 say:

11:56

20  
21 "It was only when Richard Wright, then Medical  
22 Director, walked into my office 2016/2017 year", when  
23 Francis Rice was the Interim Chief Executive, "to  
24 inform me that concerns had been raised about  
25 Mr. O'Brien. Dr. Wright did not go into any detail of  
26 the concerns".

11:56

27  
28 scroll up a little. Just scroll on up further to get  
29 the question. Yep. The question was asking you to set

11:57

1 out:

2  
3 "The frequency and duration of your engagement and, if  
4 different, the Board's engagement, whether formal or  
5 informal, with senior members of the Trust management 11:57  
6 team including the Chief Executive. Please provide  
7 notes and minutes of any of those engagements involving  
8 Urology or Mr. O'Brien".  
9

10 The answer that you have given that I have drew your 11:57  
11 attention to would seem to suggest that it wasn't until  
12 2016/2017 that you became aware of any Urology issue  
13 relating to Mr. O'Brien?

14 A. Yes. No, I knew nothing about Mr. O'Brien until  
15 Dr. Wright walked into my office. 11:58

16 41 Q. Yes. The Inquiry has observed through the evidence  
17 that concerns about Mr. O'Brien's practice were known  
18 to management within the Acute Directorate, and  
19 obviously within Urology Service itself, and had  
20 engaged the attention of chief executives, medical 11:58  
21 directors, associate medical directors, the range of  
22 management over a period of time, probably certainly  
23 from the very start of your tenure as a Non-Executive  
24 Director and all the way through. For example,  
25 concerns around Mr. O'Brien's management of triage; 11:59  
26 concerns around his handling of patient records;  
27 concerns around dictation and his management of private  
28 patients.  
29

1 Did any of those issues come to your attention at any  
2 point?

3 A. Never before Dr. Wright spoke to me. Without repeating  
4 and taking time, I have already said Mairead McAlinden,  
5 being the Chief Executive, when she left in March '15, 12:00  
6 I had nothing that she ever told me about Mr. O'Brien.  
7 I know you refer the chief executives may have known; I  
8 can't comment on that. But no, no Chief Executive  
9 until that '16/'17 year ever mentioned anything to me  
10 about Mr. O'Brien or did I know anything until 12:00  
11 Dr. Wright stepped into my office.

12 42 Q. It may be that that's entirely appropriate. Obviously  
13 by 2016/2017, the Trust was moving into a formal phase  
14 of preliminary exclusion and then into an MHPS process.  
15 Is there a line that you have in mind when the 12:00  
16 executive directors should be telling the Trust Board,  
17 the Non-Executive Directors on the Trust Board, about  
18 the practices of a doctor? Or think about it from the  
19 other perspective, should those matters simply be held  
20 in the operational sphere and generally not be drawn to 12:01  
21 the attention of the Trust Board?

22 A. I believe if there is any doctor that is of concern and  
23 that's being managed by the operational team, if it  
24 becomes a patient issue of safety and quality and they  
25 are not able to manage it, for whatever reason, that 12:01  
26 should always be reported either into governance, or  
27 importantly into the Board if it's more urgent. I  
28 would have expected that to come through on the Medical  
29 Director's report, if there is something he wants to

1 inform, or indeed the Director of Acute Services. But  
 2 I'm sure, Mr. Wolfe, every day in the hospitals that  
 3 line management are dealing both operationally and  
 4 clinically with issues that as a Board we wouldn't  
 5 know. But there is a place where it becomes of a very 12:02  
 6 serious nature, they are no longer able to manage it or  
 7 it's becoming too big and it's not being referred to us  
 8 through audit and information flow, I would have  
 9 concerns, and I do believe that to be very important.

10  
 11 But that's a decision-making of the line management up  
 12 to the director level and to the Chief Executive.  
 13 Their flow of information, what the Chief Executive has  
 14 been told and what it is they believe needs to be  
 15 reported into the Board. But to answer your question, 12:02  
 16 I believe if it is of a very serious nature, that they  
 17 are not able to manage and it's going on for a long  
 18 time and there is risks and patient safety and quality  
 19 outcomes being affected, of course the Trust Board  
 20 should have been and should be informed. 12:03

21 43 Q. As we go along this morning and into the afternoon,  
 22 I'll ask you about specific instances as to whether you  
 23 were or whether you are now satisfied with the flow of  
 24 information. Do you have any general observations to  
 25 share with us in terms of what you now know and, by 12:03  
 26 reference to what you now know, whether you think the  
 27 flow of information into the Trust Board was adequate  
 28 or appropriate with regard to Mr. O'Brien's practice?  
 29 A. Certainly knowing now from what I've heard through the



1 Inquiry and what I've received, it should have been  
 2 informed to the Trust Board much sooner. I have no  
 3 explanation other than why, at their weekly meetings  
 4 when they discuss Urology waiting lists, performance,  
 5 all to do with audit and clinical indicators, a lot of 12:04  
 6 that is discussed with the Head of Service. So the  
 7 Head of Service was managing this along with the  
 8 clinical lead and if they had concerns at all, I would  
 9 have assumed - and as I've read through this - they  
 10 would report that into the Assistant Director. 12:04

11  
 12 I still can't understand why did the Assistant Director  
 13 and line management not report this to the Director, to  
 14 the Chief Executive. I can't say if a Chief Executive  
 15 knew anything before the time I knew, I can't comment 12:04  
 16 on that. But that should have been reported,  
 17 absolutely, through line management, having identified  
 18 it earlier and with information flow through to the  
 19 Director. Certainly I would have thought the Chief  
 20 Executives met the director, their directors 12:04  
 21 fortnightly, usually for a morning or afternoon. Half  
 22 of their meeting, I believe, was around governance and  
 23 patient safety, et cetera. Again I don't know this but  
 24 I am asking and wondering why did the Director, be it  
 25 the Medical Director or the Acute Director reporting to 12:05  
 26 those meetings, never have reported this to a Chief  
 27 Executive? That's what I would have expected.

28 44 Q. Okay. Let me take you back to 2010, you are in  
 29 attendance in a confidential Trust Board meeting. The

1 reference is TRU-158962. Maybe I should just take you  
2 to the front page. Go two pages back to 60. You're  
3 listed as attending this meeting. You are not yet in  
4 the role of Chair; Mrs. Balmer is the Chair,  
5 Mrs. McAlinden the Chief Executive. If we scroll back 12:06  
6 then to 62, item 7. Attention is being drawn to  
7 clinical issues in Urology Service. Dr. Rankin is  
8 taking the lead on this and she is outlining the issues  
9 which are also contained in a briefing note. She is  
10 explaining that an immediate review is underway of a 12:06  
11 cohort of 10 patients who are receiving IV therapy.  
12 Under the heading of "Cystectomies", the Commissioner  
13 has drawn attention to the Trust's slightly increased  
14 rate of cystectomy practice for benign pathology  
15 compared with the rest of the region. 12:07

16  
17 Each of those issues touch upon the practice of  
18 Mr. O'Brien. If we go to the report provided by  
19 Mrs. Rankin to the meeting, we can find it at  
20 TRU-158958. I should say each of those practices touch 12:08  
21 upon Mr. O'Brien. Certainly as regards the IV  
22 antibiotic issue, they also touch upon the practice of  
23 another practitioner, Mr. Young, although we have had  
24 his evidence in respect of that which raises his  
25 concerns about that analysis. 12:08

26  
27 But in terms of the issues being drawn to your  
28 attention, this is the report that Mrs. Rankin is  
29 putting in to the Board in respect of the antibiotic

1 issue. If we scroll down the page to the heading  
2 "Current Action", she's explaining the background.  
3 She's saying that the Director of Acute Services and  
4 the Associate Medical Director have met the two  
5 surgeons individually to require an immediate review of 12:09  
6 each patient in the remaining cohort.  
7

8 Did you understand, Mrs. Brownlee - and it's quite a  
9 long time ago, self-evidently - did you understand that  
10 one of the surgeons concerned with these practices was 12:09  
11 indeed Mr. O'Brien?

12 A. No, I wouldn't have known that at that time now unless  
13 it goes on to refer that.

14 45 Q. No, it doesn't. It is maintained --

15 A. I remember this. Dr. Rankin was the Director for Acute 12:10  
16 Services then. I do remember this coming around. IV  
17 antibiotics, because I remember it well having IV  
18 antibiotics myself and some of the difficulties. But  
19 no, I didn't know who those consultants were at that  
20 time, no. 12:10

21 46 Q. Plainly the names of the clinicians concerned are not  
22 mentioned, it is being discussed in the confidential  
23 section of the Board. The issue comes up again at the  
24 next Board meeting in November of that year and then,  
25 as we understand it, disappears from the Board agenda. 12:10  
26 Are you saying that at no point did you understand  
27 there to be a concern about Mr. O'Brien in relation to  
28 his prescribing of IV antibiotics?

29 A. No, not at that time. I knew nothing of that,

1 definitely not.

2 47 Q. Yes. Is it the fact that his name isn't mentioned, is  
3 it the absence of a name that allows you to stay in the  
4 meeting because knowing Mr. O'Brien, and having a  
5 friendship with him at that point, would have placed 12:11  
6 you in a conflict situation, would it?

7 A. No, I didn't see I had any conflict to attend that  
8 meeting because of being a patient or my association  
9 with CURE. I didn't declare an interest at that time  
10 and I don't believe at that time - whilst I'll stand to 12:12  
11 be corrected, I'm sure - that I had a conflict in  
12 relation to the item that Dr. Rankin was bringing  
13 because it was about Urology Services in the Southern  
14 Trust and then the plan of change for the future  
15 pathways. So I didn't -- I don't remember -- 12:12  
16 remember this certainly but I don't remember ever  
17 thinking of declaring an interest. I mean,  
18 Mrs. Balmer --

19 48 Q. Sorry, the point I'm making to you - perhaps I didn't  
20 make it entirely clearly - is the name of the 12:12  
21 consultant or consultants concerned isn't, it would  
22 appear, given to you at the meeting, so in the absence  
23 of that meeting you wouldn't perhaps even be in a  
24 position to assess whether you had a conflict?

25 A. That's probably right but I didn't believe I had a 12:13  
26 conflict.

27 49 Q. I'm interested in your thinking around that and we'll  
28 compare it later to meetings you didn't participate in.  
29 If Mr. O'Brien's name had been placed on the record

1 here, 'Mr. O'Brien is behaving in a way which is  
2 causing concern with the Commissioner in terms of his  
3 administration and use of antibiotics, intravenous  
4 antibiotics with certain patients', if that was to be  
5 explicit to you, would you not have had a conflict? 12:13

6 A. Certainly if the paper being presented had have been  
7 about Mr. O'Brien and his practices and specific to  
8 him, I would have stepped out of that meeting.

9 50 Q. And why is that?

10 A. Because I had been a patient and because of CURE. But 12:14  
11 what I'm trying to say is when this paper came at that  
12 time about Urology Services, I didn't see that I had  
13 any conflict of interest that would defect me from  
14 actually hearing about the report and the detail going  
15 forward. There was nothing there that was going to be 12:14  
16 part of me doing investigation or decision-making, from  
17 my memory of that. That was a report coming in to the  
18 Board to inform what was going to happen under  
19 Dr. Rankin, and looking at cohorts of patients and all.  
20 I mean no, I didn't see that. 12:14

21 51 Q. But surely the point in bringing -- and this is  
22 somewhat hypothetical but it is hopefully clear to you  
23 and I'm testing your approach to managing conflicts of  
24 interest using this example. Mr. O'Brien, his name is  
25 known to you. Using my hypothesis, you're seeming to 12:15  
26 say on the one part if I had known, because I was a  
27 patient of his, I would have stepped out. But then you  
28 go on to say at that time I judged this as simply a  
29 report for information purposes, I wasn't investigating

1 anything, therefore I wouldn't have stood out --  
2 stepped out, I should say.

3  
4 But surely the purpose in bringing this information to  
5 your attention as a NED is to invite you to make a 12:15  
6 contribution, if you saw or your colleagues saw it is  
7 relevant to make a contribution, as to how this issue  
8 should be handled, how it has been handled hitherto and  
9 whether some different approach is necessary. Surely  
10 that's an area you would or ought to be inclined to 12:16  
11 step away from because it concerns the behaviours of a  
12 clinician, two clinicians but certainly one clinician  
13 you had a relationship of friendship with; both  
14 clinicians were directors in CURE. Clearly is it not  
15 clear that you should have stepped away from that 12:16  
16 meeting or that agenda item if you had known the names?

17 A. I respect that. I don't remember that we were making  
18 decisions around this paper because Dr. Rankin was  
19 informing us of the findings and what they were going  
20 do as a result of it, and we hadn't had the complete 12:17  
21 outcomes. But no, I didn't declare an interest.  
22 Thinking back to then, I didn't see it necessary at  
23 that time to declare an interest. That's all I can  
24 say, I didn't declare an interest because I didn't  
25 believe I had an interest in that subject matter as 12:17  
26 such that was going to --

27 52 Q. It's interesting you put it in those terms. You didn't  
28 have an interest in the subject matter but you had an  
29 interest in the personnel concerned. In other words,

1 outside of the work that you are performing at that  
 2 meeting, you had an interest in Mr. O'Brien, an  
 3 interest in Mr. Young, and the source of that was  
 4 patient relationship, the CURE relationship and then a  
 5 blossoming friendship relationship. So, you had those 12:18  
 6 interests. If you are then, in your public role, being  
 7 invited to express an opinion when considering this  
 8 report about those behaviours and/or the Trust's  
 9 response to the clinician's behaviours then, isn't that  
 10 the area where conflicts or a perception of a conflict 12:18  
 11 would arise?

12 A. Yes, but I didn't declare an interest.

13 53 Q. Mhm-mhm. What I am inviting you to say is whether now,  
 14 upon reflection, you think if that information in terms  
 15 of the names of the doctors had been shared with you 12:18  
 16 and if you knew who they were, should you have declared  
 17 an interest?

18 A. Yes. On reflection, yes. Even if I didn't know the  
 19 names, having heard what you have said, I mean I should  
 20 have declared an interest. 12:19

21 54 Q. Over a period of time, it appears from the evidence  
 22 that the Inquiry has received that Mr. O'Brien ran into  
 23 a number of conflicts with the Trust on a range of  
 24 issues. Let me just itemise some of them for you. You  
 25 had this difficulty around intravenous antibiotics. He 12:19  
 26 ran into a difficulty with his job plan that went to  
 27 facilitation, in other words an appeal. That was  
 28 October 2011. He was known to be facing administrative  
 29 backlogs which led to the threatened cancellation of a

1 study leave trip abroad, and that was April 2010. He  
2 ran into a disciplinary difficulty in relation to the  
3 placement or the disposal of some patient notes in a  
4 bin. That was in August 2011. Then there was an issue  
5 relating to deductions from his pay which brought him 12:21  
6 into some conflict with Mr. Mackle in particular, and  
7 that was January 2012. There was also a dispute over  
8 the implementation of the 2009 review recommendations,  
9 and himself and Mr. Young were engaged in what had been  
10 described as some very heavy meetings with the Trust. 12:21

11  
12 were any of those issues ever the subject of  
13 discussions between you and Mr. O'Brien?

14 A. Never. Never.

15 55 Q. During those three or four years, maybe from 2009 to 12:21  
16 2012, would you have been meeting him regularly?

17 A. No. Mr. O'Brien, I never met on my own, either at work  
18 or out of work for a coffee or anything, never. Nor  
19 indeed the same for Mrs. O'Brien, I never met her on  
20 her own. My husband and I would have been the only 12:22  
21 people -- I never went out to dinner with Mr. and  
22 Mrs. O'Brien on my own, my husband was always present.

23  
24 we would have probably - if we are talking about that  
25 particular period that you are referring - we would 12:22  
26 have been doing quite a bit of fundraising. You may  
27 have been out a big function, I think there were  
28 fashion shows, there was table quizzes, we were out at  
29 those together. But when it came down to individual



1 times out, my husband and I, along with maybe  
2 Mr. Hagan, we might have went out say every 12 to 18  
3 months, but we wouldn't have been out any more  
4 frequently.

5 56 Q. Yes. That doesn't quite answer the question. Clearly 12:23  
6 you have interaction with Mr. O'Brien in a number of  
7 places or the potential for interaction with him. The  
8 question is did you discuss with him or did he discuss  
9 with you any of these professional issues?

10 A. Never. Never. 12:23

11 57 Q. Did he ever engage you with any discussion about  
12 professional issues or practice issues or the state of  
13 urology in the Southern Trust?

14 A. No, he never formally. But if we were out, and as I've  
15 said it could have been every 12 to 18 months, I mean 12:23  
16 he may have talked about - with others there, of  
17 course - about how busy he was. We all knew  
18 Mr. O'Brien's workload was huge, we knew he worked very  
19 long hours as a consultant. I can even refer that when  
20 I was a patient, I mean how after theatre, he would 12:24  
21 have been seeing you maybe 10:30/11:00 at night. I  
22 remember one of the nights he rang me with the results

23 [REDACTED], it is clear in my mind, it was 11:50 at  
24 night when he phoned me to say that he had got the  
25 pathology back. So he would have at a gathering, at 12:24  
26 dinner, say, if we were there with others, just how  
27 busy he was, but he never on a  
28 one-to-one, or out with others. Remember, the people  
29 we were out with didn't all work in the hospital. I

1 mean, so Mr. O'Hagan, for example, and friends that we  
 2 had weren't working in the health and social care  
 3 family. I mean, I never -- Mr. and Mrs. O'Brien were  
 4 never to my home in all of the years right to today's  
 5 date for a meal or anything. Nor was I. Only once for 12:24  
 6 a meal when CURE was formed and Mrs. O'Brien hosted all  
 7 of the --

8 58 Q. Again sorry to cut across you, Mrs. Brownlee, that's  
 9 not quite answering the question. The nub of the  
 10 question is discussion of professional practice or 12:25  
 11 urological issues, regardless of the occasions that you  
 12 are describing at some length. I'm asking you whether  
 13 at any moment, whether picking up the phone or on the  
 14 edges of any of these encounters with him, did he speak  
 15 to you about how his professional life, for example, 12:25  
 16 was going on within the Southern Trust?

17 A. Never, no.

18 59 Q. Thank you. Could I bring you to what Mr. Mackle has  
 19 said in his evidence. Did you know Mr. Mackle?

20 A. Yes. Yes. 12:25

21 60 Q. Had you any engagement with him wearing your Chair hat?

22 A. Yes. Mr. Mackle would have been, from memory, an  
 23 Associate Medical Director or a director.

24 61 Q. That's correct?

25 A. I mean, he was a lead surgeon and highly thought of. 12:26  
 26 He would have sat -- which I should have said earlier,  
 27 sorry, Mr. Wolfe, Mr. O'Brien would have sat on panels  
 28 for appointments for consultants, with many others.  
 29 During those, and I think I referred to that yesterday,

1           there may have been times that we heard about workloads  
2           and pressure, and where the consultant was needed, and  
3           where the vacancy factor was in relation to stone or  
4           whatever. So yes, he would, along with other  
5           consultants. Just to clarify that.

12:26

6  
7           Getting back to Mr. Mackle. Mr. Mackle would have sat  
8           on panels. I think from memory I remember him sitting  
9           on an appointment panel for urologists.

10   62   Q.   Yes. So you had some dealings with him?

12:26

11           A.   Yes. But only through appointment panels, I never had  
12           any other.

13   63   Q.   If I could bring you to WIT-11769. At paragraph 92,  
14           Mr. Mackle is explaining how it had been reported to  
15           him that a complaint about his approach to Mr. O'Brien  
16           had come into the system through you. What he says is:

12:27

17  
18           "In 2012, I am unsure of the exact date, I was informed  
19           that the Chair of the Trust, Mrs. Roberta Brownlee,  
20           reported senior management and Aidan O'Brien had made a  
21           complaint to her that I had been bullying and harassing  
22           him. I was called into an office on the admin floor of  
23           the hospital to inform me of the accusation. I was  
24           advised that I needed to be very careful where he was  
25           concerned from then on. I recall being absolutely  
26           gutted by the accusation and I left and went down the  
27           corridor to Martina Corrigan's office".

12:27

12:28

28  
29           Now, the timing of this in terms of 2012 comes after

1           those series of interactions or conflicts that I  
2           outlined for you earlier which Mr. O'Brien faced within  
3           the work place, everything from the threatened  
4           cancellation of his study leave to disputes about his  
5           pay, disputes about his job plan, et cetera. The 12:28  
6           question is whether you received expressions of concern  
7           from Mr. O'Brien to the effect that Mr. Mackle was  
8           bullying and harassing him. First of all, did he ever  
9           make such a complaint, formal or informal, otherwise to  
10          you? 12:29

11          A.   Mr. O'Brien never made any complaint formally or  
12               informally to me about Mr. Mackle.

13   64   Q.   And nothing at all to suggest --

14          A.   Nothing. Nothing.

15   65   Q.   -- a relationship problem? 12:29

16          A.   Nothing that I -- definitely not. Mr. O'Brien never  
17               discussed - sorry, I am going off - anything about his  
18               job plan, cancellation of his holidays that you've  
19               referred, not getting paid, all of that. I never heard  
20               anything of that from Mr. O'Brien and he certainly 12:30  
21               never made any complaints to me about Mr. Mackle. I  
22               never heard that.

23   66   Q.   There's nothing in your memory, no recollection which  
24               would indicate to you that Mr. O'Brien was at all  
25               unhappy with how he was being managed by anyone in the 12:30  
26               Trust system?

27          A.   Nothing in my memory. That would have been in the time  
28               of Mrs. McAlinden would have been the Chief Executive  
29               then, who was outstanding in her performance and an

1           excellent leader and really knew her Trust very well.  
2           I again don't know what she has said but if there was  
3           any complaints, Mrs. McAlinden would have known about  
4           it.

5  
6           But to answer your question, Mr. O'Brien never made any  
7           complaint to me or told me anything about his  
8           dissatisfaction with Mr. Mackle.

12:30

9       67   Q.    If he had, hypothetically, and I think you have been  
10           very clear in what you are saying about it, but  
11           hypothetically if a member of staff engaged you  
12           privately to discuss problems in the work place, what  
13           would your response be?

12:31

14       A.    I certainly would have to listen to them but I would  
15           report that to the Chief Executive, you know. I've  
16           never actually had that, where someone outside of work,  
17           in my Trust days anywhere, ever talked to me about  
18           complaints/concerns outside of work. If they did in  
19           work, of course I follow due process and I would have  
20           told the Chief Executive always. I would have kept my  
21           chief executives very well informed. But those would  
22           have been rare occasions rather than more.

12:31

23       68   Q.    You have already intimated - indicated, I should say -  
24           Mrs. O'Brien spoke to you about a problem faced by her  
25           husband in the work place and by telephone, and you  
26           passed that on?

12:32

27       A.    Yes.

28       69   Q.    So you do consider it or did consider it part of your  
29           role - it may have been rare occasions - but a part of

1           your role to listen to staff complaints if they did  
2           come your way?

3           A.   Absolutely, when I was at work. I mean when I would  
4           have been out and about, if anyone raised a concern,  
5           more than a complaint, I mean if they raised any  
6           concerns when I was out on my walks, or just my  
7           general --

12:32

8   70   Q.   Sorry to cut across you. I am narrowing this to their  
9           professional life, their employment life as opposed to  
10          concerns about the service.

12:32

11          A.   Right.

12   71   Q.   Is it appropriate that the Chair should be a listening  
13          point for staff complaining about how they are being  
14          treated as per their contract of employment?

15          A.   Well, I have never had anyone that spoke to me about  
16          their contract of employment in all of my -- at work,  
17          never.

12:33

18   72   Q.   Well, you have if Mrs. O'Brien is speaking to you --

19          A.   Oh yeah.

20   73   Q.   -- about how her husband is being treated through an  
21          investigation. That's an outworking of his contract of  
22          employment, self-evidently?

12:33

23          A.   Sorry, I thought I had covered that. No. Mrs.  
24          O'Brien, when she phoned, I did pass that to the  
25          appropriate people.

12:33

26   74   Q.   Yes. Now, you've explained how in 2016/2017,  
27          Dr. Wright entered your office and informally let you  
28          know that concerns had been raised regarding  
29          Mr. O'Brien. You've explained that he didn't go into

any detail. You've said, if we just bring this on the screen again. I think we looked at it earlier but just to point to the words that you used. WIT-90866, and it's the bottom paragraph.

"Dr. Wright did not go into any detail but was only informing me as someone who knew Mr. O'Brien personally and had been a former patient of his. The conversation only lasted a few minutes and I do not remember any detail of the clinical issues being told of".

So, you've expressed or explained the reason for Dr. Wright's approach as being because of your personal and former patient connections with Mr. O'Brien, that's why he was approaching you. Where does that thinking emerge from? Is that what Dr. Wright told you, 'I'm telling you this because I know you're a personal friend and a former patient'?

A. I mean, I remember this clearly. Dr. Wright walked into the office and he said "Roberta, just to give you your place, I wanted to mention to you that we have some concerns with Mr. O'Brien".

75 Q. Yes.

A. I actually was shocked. I was sitting behind my desk, he was standing. I didn't ask any questions at that stage. He said they are to do with administration, there was absolutely nothing mentioned about clinical issues, and he said but due process is being followed and an investigation. It was only minutes. I didn't

ask any questions apart from thanked him for telling me. He did say that, as I say, at the start, you know, "to give you your place because I know you know Mr. O'Brien". I don't recall him saying because I know you are a personal friend or because you are a patient, you know, that detail. 12:36

76 Q. But that's what you've said in the evidence that you have adopted yesterday morning?

A. Yes, but he definitely did give me my place, as he called it, "because I know you know him personally" and that. But he didn't go into any detail of -- definitely not clinical issues. I did ask that one question, "Goodness, what's it about", and he said it is to do with administration. That was all. I don't know if he said about triage of patients but he didn't go into any detail. 12:37

77 Q. It's been reflected through the evidence, so that's the premise for the question. Were you aware of a perception, indeed a knowledge, of your friendship with Mr. O'Brien as being known to the Southern Trust community in general? A number of witnesses have come forward to say we knew about that friendship between Mr. O'Brien and Mrs. Brownlee. We know, for example, the patient relationship. Did you appreciate that that was known to the wider Southern Trust community? 12:37 12:38

A. Well, I certainly would have known that some staff knew that. I don't know how many in the wider community but I certainly would have known that some staff knew I was a patient, I had fundraised a lot, and lots of



1 different things. So certainly I would have known  
2 that.

3 78 Q. Yes. How do you consider that people would have known  
4 of a friendship between the two of you as opposed to  
5 simply the patient relationship of some years  
6 previously?

12:38

7 A. Well, I don't recall ever saying in any environment  
8 that I know of that we had this friendship. I mean, I  
9 certainly didn't say it. But we had many functions, of  
10 which lots of staff from the Trust would have attended,  
11 you know fashion shows and whatever so they would have  
12 known that. But I certainly never said to anyone.

12:39

13 Like, Mrs. McAlinden would have known all of the  
14 fundraising and what went on. It was never discussed  
15 and I would have assumed because Mrs. Clarke was her  
16 deputy, she knew. I don't remember ever talking to any  
17 Chief Executive about a friendship with Mr. O'Brien.

12:39

18 79 Q. Yet it appears to have been well known that you were?

19 A. Yes. I would say it was for the reasons that I have  
20 described.

12:39

21 80 Q. Mr. Rice then at that time, he puts it at September  
22 2016 -- if we can just bring up his statement,  
23 WIT-18016. At paragraph 90, just towards the bottom, I  
24 think. Yes, so 94.4. He is saying:

25  
26 "I appraised the Chair Mrs. Roberta Brownlee when I  
27 became aware of potential concerns in relation to  
28 Mr. O'Brien's work in September 2016. I also met  
29 with", and he lists Dr. Wright, Mrs. Gishkori, Ronan

12:40

Carroll, Vivienne Toal to discuss the issues and decide on a course of action. And then he goes on to say:

"After December 2016 I met with Richard Wright and Esther Gishkori and Vivienne Toal at least weekly to monitor the progress and the investigation until [REDACTED] 12:40

Can you remember your engagement with Mr. Rice in this context? 12:41

A. I think it might have been around the same time when Mr. Rice talked to me about Mr. O'Brien. I don't remember a lot of that detail. It wasn't in a formal one-to-one or anything. He must have again come into the office but I have no record or anything in my diary of that date. But I would assume Mr. Rice -- Mr. Rice was excellent, a professional nurse background. I mean, if he says that was the date, I have to assume that and he would have told me. But I don't remember a lot of detail of what Mr. Rice told me, and I would have a pretty good memory. So I don't recall any detail that Mr. Rice told me but I am assuming that must have been around that time when he refers that. 12:41

81 Q. Okay. The position would appear to be, from your perspective, this is the first time these two interventions or communications, this is the first time you are becoming aware of any aspect of concern in respect of Mr. O'Brien; isn't that right? 12:42

A. Right. Sorry, yes, yes. I thought you were going to

1 ask something else. Yes.

2 82 Q. Do you understand that you're being told,  
3 notwithstanding your answer in respect of Dr. Wright's  
4 communication, do you understand that you are being  
5 told both because of your Chair position you needed to 12:42  
6 know this information as well as your position of  
7 friendship with Mr. O'Brien, or do you think it was  
8 simply because you were the Chair?

9 A. Oh no, I think Dr. Wright was telling me because I need  
10 to know but he assured me there was a process beginning 12:43  
11 or being worked through. Mr. Rice would have been  
12 telling me as well to inform me as the Chief Executive.  
13 It wouldn't have been just because I was a friend. I  
14 mean, no, they were telling me that it had started.

15 83 Q. As matters move on, Mr. O'Brien is excluded from work 12:43  
16 throughout January of 2017. That information is  
17 brought to the Trust's Board at a confidential meeting  
18 on 27th January. Were you aware of that development  
19 when it happened or how did you come to hear about it?

20 A. That meeting you're referring was when it was reported 12:44  
21 in under Maintaining Higher Professional Standards by  
22 Mrs. Toal.

23 84 Q. That's right.

24 A. Normally, as I have said before, we wouldn't have very  
25 many going through that process. I have covered it 12:44  
26 without repeating it again, I believed the Maintaining  
27 Higher Professional Standards reported into the Board  
28 in that format and we didn't ask questions because,  
29 well, from our training with DLS, et cetera, we did not

1           see when an investigation had started like that that we  
2           should be asking questions. I stand to be corrected on  
3           that. But I... sorry, I have just lost the question.

4   85   Q.   The question is how did you learn that he was excluded  
5           from work? 12:45

6           A.   I don't remember until I read the minute that he was  
7           back, I didn't know he was off.

8   86   Q.   The question is how did you learn that he was excluded?

9           A.   From the meeting, from the minutes, or from the  
10          information shared at the meeting that he was off for 12:45  
11          the four weeks. I don't remember being told he was off  
12          formally. I may have forgotten that but I don't  
13          remember being told. But I didn't hear it any other  
14          way. I didn't know that.

15   87   Q.   Did you speak to Mr. O'Brien or Mrs. O'Brien during 12:45  
16          January about the exclusion and their concerns about  
17          it?

18          A.   Definitely not that I can remember. I don't remember  
19          Mr. O'Brien, certainly not Mrs. O'Brien, I don't  
20          remember Mr. O'Brien talking to me when he was off work 12:45  
21          that I can recall.

22   88   Q.   Dr. Wright recalls that after what they called the  
23          Oversight Committee meeting in late December of 2016,  
24          he approached you to give you the information around  
25          the exclusion and the need for a Non-Executive Director 12:46  
26          to be appointed or to be designated for the purposes of  
27          a likely MHPS investigation. Do you remember that?

28          A.   I don't remember Dr. Wright speaking to me about  
29          Mr. O'Brien apart from the time he walked into my

1 office. I certainly don't remember him telling me that  
2 he was excluded from practice. Now, that's on my  
3 reflection.

4 89 Q. Yes.

5 A. I don't remember that. I don't remember any other 12:46  
6 one-to-one conversations with Dr. Wright about  
7 Mr. O'Brien on a one-to-one.

8 90 Q. Yes.

9 A. He was an excellent colleague, we had really good  
10 working relationships, so if he says he did, I can't 12:47  
11 remember it. You know I'm not...

12 91 Q. Let me bring you to the meeting of 27th January. If we  
13 could have on the screen, please, WIT-90914. Under the  
14 heading "Maintaining High Professional Standards",  
15 Mrs. Toal provides an explanation as to what is 12:47  
16 happening. Before that item is minuted, it is recorded  
17 that the Chair left the meeting for the next item, the  
18 MHPS item. You can remember doing that?

19 A. I vaguely remember, yes. But if I left the meeting,  
20 yes, I did. I don't distinctly remember it but I left 12:48  
21 the meeting.

22 92 Q. Can you give us some insight into your thought  
23 processes around that, why did you leave the meeting,  
24 what was your thinking in causing you to leave the  
25 meeting? 12:48

26 A. Well, at that time no doubt the agendas, as I have  
27 referred before, is always discussed what's on it, so I  
28 must have known this was coming or something. But my  
29 thought for leaving was I'm going to hear about this

1 urologist and I'm stepping out. I don't remember  
2 stepping out but I see I did. That's all I remember,  
3 that I stepped out for that discussion.

4 93 Q. well, you didn't step out because you were bored with  
5 the prospect, you stepped out for some good reason? 12:49

6 A. I stepped out, yes, because I didn't want to be  
7 involved in that. Yes.

8 94 Q. But why did you not want to be involved?

9 A. Again, probably because the conflict of interest, I  
10 didn't stay. I can't be any more specific than that, 12:49  
11 than thinking I need to step out, I don't want to be in  
12 for this discussion point and I left.

13 95 Q. You stepped out, can I suggest, because you knew the  
14 discussion concerned Mr. O'Brien?

15 A. Yes. 12:49

16 96 Q. And you knew --

17 A. It must have been.

18 97 Q. -- that as a former patient and friend, and former  
19 co-Director with Mr. O'Brien in CURE, that that would  
20 give rise to a conflict of interest or a perceived 12:50  
21 conflict of interest?

22 A. Yes, that's right. Also, Mr. Wolfe, just to mention  
23 this was very -- not only was it very important but  
24 when this was told to me, it actually came as quite a  
25 shock. I was quite traumatised, you know, that this 12:50  
26 had happened. So I have no other reason to say I left  
27 for the reasons that you have described under conflict  
28 of interest, but I was hurting.

29 98 Q. In what sense? If you could develop that for us.

1 A. I'm just saying, you know, I was still shocked that  
2 this had happened. I mean, rightly so I was going out  
3 because of conflict of interest but it brought back a  
4 lot of memories to me. That's all I mean.

5 99 Q. About your own circumstances? 12:51

6 A. About my own illness, yes.

7 100 Q. And how Mr. O'Brien -- is it fair to say what you're  
8 saying to us it brought back memories of Mr. O'Brien  
9 helping you through that illness and now he was in  
10 difficulty? 12:51

11 A. Well, not really the specifics in that way but it was  
12 just like my illness never leaves me, it's with me  
13 24/7, believe it or not, because of what I have went  
14 through and that. So anything to do with urology, I  
15 mean I still find quite painful. But I certainly left 12:51  
16 because of conflicts of interest, all like you have  
17 described. But my thinking of it, like you've asked,  
18 would have been I don't need to be in here, and also  
19 because of the conflicts. But I just stepped out  
20 because of all that I have described. 12:51

21 101 Q. Yes. There's no doubt, the Panel will no doubt  
22 recognise, a difficulty for someone in the position of  
23 a Chair of an organisation when an issue like this  
24 emerges, on the one hand is it right to say that as the  
25 Chair of the organisation, you need to have some 12:52  
26 knowledge of the issue - the issue we're talking about  
27 here is the behaviours or the alleged behaviours of a  
28 clinician - and you need to know that because you need  
29 to be in a position to make some assessment of the

1 implications for the organisation, perhaps the  
 2 implications for patients. But on the other hand, as  
 3 you acknowledge, there is this conflict of interest.  
 4 As a result of you stepping out of the meeting, you're  
 5 acknowledging that I shouldn't participate in a  
 6 discussion, notwithstanding my role as Chair. So  
 7 that's a difficult thing to manage, is it not?

12:53

8 A. It is. Equally, I have to be able to overcome my  
 9 emotions and my past and try and still act in the best  
 10 interest of not only my role in performing that duty,  
 11 but making sure that anything that needs to come to the  
 12 Board should come and I can be objective as I can be,  
 13 and where I can't be, I declare that.

12:53

14  
 15 I would agree with you, I should have been able to  
 16 overcome my time with that. But again getting back to  
 17 that point 6, that's the way, even in all of my years  
 18 even under my former Chair, that was reported in like  
 19 that. We were given an assurance that an investigator  
 20 and a case manager would have been selected, and  
 21 notification to the Department had gone. I don't know  
 22 from your previous looking at minutes, there would  
 23 never have been no questions asked at that time in  
 24 relation to the particular consultant, whoever it was,  
 25 because we had been trained and believed that because  
 26 an investigated started, we shouldn't be asking  
 27 questions during that, be it corrected or not.

12:53

12:54

12:54

28 102 Q. One notes the style of the record here, "The Chair left  
 29 the meeting for the next item." There is no formal



1 conflict declared on the face of the minute. I pointed  
2 to the accountability guidance earlier this morning  
3 which calls for conflicts to be explicitly recorded.  
4 Did you actually say at the meeting 'I have a conflict  
5 of interest'?

12:55

6 A. No, I didn't, no. I left the meeting.

7 103 Q. Should you have formally declared the interest?

8 A. I should have formally declared it but, I'm sorry, I  
9 didn't. But there was nothing deliberate or nothing --  
10 no reason for that, I just must have forgotten. I  
11 didn't declare it and appreciate I should have.

12:55

12 104 Q. Because as this process goes on, you take some role in  
13 it, don't you? Mr. Wilkinson, if we just scroll  
14 down -- it's explained by Dr. Wright that the  
15 investigation process will commence, and he identifies  
16 the cast list: Dr. Khan is case manager, Dr. Weir as  
17 case investigator, and Mr. Wilkinson has been nominated  
18 as the Non-Executive Director. You nominated him;  
19 isn't that right?

12:56

20 A. Yes. What normally happens is the Director of HR would  
21 write to me and ask for a nominated Non-Executive  
22 Director. Then my personal assistant would keep a  
23 record of who's working at which one. At that time I  
24 don't think we had many others, only one, which a lady  
25 Siobhan Rooney was working on or coming to completion.  
26 So remember, we had all new Non-Executive Directors  
27 nearly there at that time. She just said to me it  
28 would look like John Wilkinson should be the next one,  
29 so that's how it is selected. There is nothing other

12:56

12:56

1           than going through a list.

2   105   Q.    I wonder, upon reflection, that after you were told by  
3           Dr. Wright that there is to be an investigation into  
4           the practice of your friend, Mr. O'Brien, should you  
5           not have made a decision, having been provided with   12:57  
6           that information, to step back altogether from any  
7           decision-making role or indeed any role that might have  
8           carried any influence on the process? But you appointed  
9           Mr. Wilkinson -- no criticism of Mr. Wilkinson at all,  
10          this is about perception - you appointed Mr. Wilkinson   12:58  
11          to be the nominated member attached to this process,  
12          the process being an investigation into the practice of  
13          your friend?

14          A.   Well, I didn't see at that stage I needed to step out  
15          and not be involved. All I was doing was in a process   12:58  
16          allocating the next Non-Executive Director. Bearing in  
17          mind what I have said before, my understanding, and  
18          indeed those of my Non-Executive Director colleagues,  
19          they never would have seen themselves as a  
20          Non-Executive Director part of an investigation. It   12:58  
21          was a process and all I was doing was allocating. I  
22          could easily have selected one of the other five.

23   106   Q.    Sorry, the point is should you have been selecting any  
24           of them? Should you not, in light of your conflict,  
25           have taken yourself away from any decision-making role   12:58  
26           in this process?

27          A.   Well, at that time I did not see I was in any way  
28          conflicted to select a Non-Executive Director.

29   107   Q.    Do you see the problem now?

1 A. Well, I do as we have went through this Inquiry. I  
2 mean, all that I have heard and all that I have seen,  
3 yes. If I was going back over my years, I mean, would  
4 I have asked someone else to nominate a Non-Exec.  
5 Actually, my personal assistant probably could have 12:59  
6 done it without involvement of anyone because it was  
7 only a matter of actually looking down the list to see  
8 who was available and willing.

9 108 Q. After the lunch break, I want to come back to your  
10 engagements with Mr. Wilkinson during the process -- 12:59  
11 A. Yes.

12 109 Q. -- and to have your views on whether, having reflected  
13 upon it, that was all entirely appropriate. We'll deal  
14 with that after lunch.

15 CHAIR: Okay. Two o'clock, ladies and gentlemen. 13:00  
16

17 THE INQUIRY ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS:  
18

19 CHAIR: Thank you, everyone.

20 MR. WOLFE KC: Good afternoon, Mrs. Brownlee. We were 14:02  
21 talking just before lunch about the commencement of the  
22 MHPS process. Just before I move back to your  
23 engagement with Mr. Wilkinson, you said this morning  
24 upon reflection that in terms of information coming to  
25 the Board about the practices of Mr. O'Brien, you 14:03  
26 reflect that really there was a shortcoming there; you  
27 think that the executive should have been telling the  
28 Board more about what was going on at various points.  
29 Of course, you step outside for good reason of the

January meeting, January 2017. Not very much information is given to the Trust Board at that time. You say that in terms of MHPS, the training that you were getting was not encouraging you to ask too many questions of the facts that lay behind the investigation. Is that an accurate view of where you were at at that time?

14:04

A. Yes. I would have had quite a number of trainings with DLS regarding that investigation process. I'm mindful of when I came into the Trust in my former Chair, and through that time, how these were reported. Maybe one a year, or less. I mean, we never asked questions because that's what we believed; as a Non-Executive Director, we shouldn't be asking questions during an investigation. Yes, we were led to believe that through the training, with a lot of other detail in the training, of course, but also from my predecessor and what had went on with other medical directors, that we wouldn't have asked any detail at that. I'm not sure if there is any record of that to confirm that.

14:04

14:04

14:05

110 Q. Yes. I'm struck by the evidence which shows that Dr. Wright comes to see you, Mr. Rice comes to see you at an earlier point, highlighting that there's a problem. So from September 2016 when Mr. Rice comes to see you through to December 2016, you're aware that there's issues going on but you don't, on your evidence, get to be told just what was the concern?

14:05

A. No, I wasn't. I mean I or the Board weren't told of the concern. But also, I think especially Dr. Wright,

1 I remember distinctly his visit, he didn't go into any  
2 detail at all apart from administrative, and he assured  
3 me then at that time that the investigation process had  
4 started, you know, and then that came to the January  
5 meeting. But I had no other information before that  
6 time that I can recall. 14:06

7 111 Q. Yes. Let's put to one side for the moment the question  
8 of whether you should have stepped back altogether and  
9 handed to perhaps your Deputy Chair or somebody else  
10 the role of interacting with senior management with 14:06  
11 regard to this issue. Should the Trust executive team,  
12 whether that's the Medical Director or whoever it might  
13 have been, been telling somebody within the  
14 non-executive side of the Board that, for example, we  
15 are concerned that there are 500, 600, 700 perhaps 14:07  
16 cases that have not been triaged? Is that the very  
17 kind of information that you should have been told  
18 about?

19 A. I agree with you, that should have been told. It could  
20 have been told through governance. The confidential 14:07  
21 section of governance was an opportunity for that to be  
22 fed in, that information. Absolutely.

23 112 Q. Now, in terms of your further involvement in this after  
24 you have declared, at the Board, that you are not going  
25 to participate in that agenda item -- I nearly said you 14:07  
26 declared a conflict of interest. Do you accept that  
27 you didn't declare a conflict but you just stepped out?

28 A. Yes. Yes.

29 113 Q. After that stepping out, we've received some evidence,

as I say, of your engagement around these issues. Take for example Mrs. Toal. If I could bring up on the screen, please, the transcript of her evidence or an aspect of the transcript. TRA-03397. Just at line 16 there, she recalls one discussion with you. She says she doesn't know why she would have been in your office. Your office is literally just across the corridor from hers.

14:08

"I might have been in for some other reason. It was during January; I don't know a date. She did express to me her unhappiness, I suppose maybe is the way to describe it, in relation to Mr. O'Brien's exclusion".

14:09

She goes on to say:

14:09

"I think it was in the context of this, you know, he's a very hardworking, excellent clinician, that type of language. Those are my words, I'm not quoting her. But my response, I mean it was a very short exchange and my response to her was these are serious issues, Roberta, and they need to be looked at. That was the sum total of our conversation and she never brought it up with me again".

14:09

were you unhappy with Mr. O'Brien's exclusion?

14:10

A. well, I do not recall this --

114 Q. I'm not asking you that yet; you are preempting me.

A. Sorry. No, I wasn't un --

1 115 Q. Let's focus on the question.  
2 A. Sorry, I wasn't --  
3 116 Q. Were you unhappy with his exclusion?  
4 A. No. No, I wasn't unhappy.  
5 117 Q. What thoughts or emotions did you have in respect of 14:10  
6 it?  
7 A. I think I've said earlier, I may have missed it, but I  
8 didn't realise he was excluded until the meeting in  
9 January, albeit I know other colleagues have said they  
10 told me, like Dr. Wright in December. I don't remember 14:10  
11 that but I might have --  
12 118 Q. The timings are irrelevant for the purposes of this  
13 question. Mrs. Toal is recalling a conversation when  
14 you plainly did know about his exclusion. In terms of  
15 your view of it, did you form a view so that you were 14:11  
16 unhappy about it, or did you not form a view?  
17 A. I didn't form a view. I don't remember this. Sorry  
18 for going back into it again. I didn't have a view and  
19 I don't recall giving my view to Mrs. Toal.  
20 119 Q. So you didn't form a view. Do you remember meeting 14:11  
21 with Mrs. Toal?  
22 A. No, I don't remember.  
23 120 Q. Or having, it does seem to be very much an informal  
24 bumped into each other or whatever it might have been?  
25 A. She talks about she was in my office. To be fair to 14:11  
26 Mrs. Toal, she was excellent again in her role and  
27 would have been possibly in and out to inform me of  
28 different aspects of work and her office was directly  
29 opposite me. But I don't remember that particular one

1           that she is referring to, why she was in the office or  
2           even talking about Mr. O'Brien.

3   121   Q.   Yes. The evidence that she has given is clear; I've  
4           read it out. I think she's clearly trying to be fair  
5           to you, she's not attributing to you specific words but 14:12  
6           the sense of it was you were unhappy, this was an  
7           excellent doctor, and perhaps a sense of concern around  
8           his exclusion. You're not, as I understand it,  
9           challenging --

10          A.   No, I don't remember it. 14:12

11   122   Q.   -- her version of events, you simply don't remember?

12          A.   I just don't remember that. I mean, I am respectful to  
13               Mrs. Toal but I don't remember it. I don't remember  
14               her in the office and discussing that at all.

15   123   Q.   She was the Director of Human Resources? 14:13

16          A.   Yes, and Organisational Development.

17   124   Q.   Do you think it would be inappropriate of you as Chair  
18               to engage with her in the way that she has reported?

19          A.   Absolutely, absolutely, and I don't believe I did that  
20               but I don't remember her in my office. So it would be 14:13  
21               inappropriate, yes.

22   125   Q.   I just want to be clear, you don't remember it?

23          A.   No.

24   126   Q.   It would be inappropriate but you don't believe you did  
25               it? 14:13

26          A.   No, I don't remember in the office. I don't remember  
27               -- I thought you asking me what did I think if I would  
28               have done it and I'm saying I wouldn't have done it  
29               because it would be inappropriate.



1 127 Q. okay. So you are challenging her version of events, I  
2 take it; you wouldn't have done it?

3 A. I wouldn't have done it but I don't remember her in the  
4 office and having any discussion. I just don't  
5 remember that. 14:14

6 128 Q. Just following along the timeline and allowing you an  
7 opportunity to respond to what various protagonists  
8 have said. Can I bring you to 24th January 2017. This  
9 was the date on which Mr. O'Brien was invited to come  
10 into a meeting with Mr. Colin Weir. If I can bring you 14:14  
11 to an account which Mrs. Hynds has given, WIT-91922.  
12 At paragraph 7, just scrolling down, she is recalling  
13 that Mr. O'Brien attended a meeting on 24th January  
14 2017, accompanied by his son.

15 14:15

16 "The meeting was held in Mrs. Toal's office in Trust  
17 headquarters. Mr. Weir and I were sitting in  
18 Mrs. Toal's office waiting to begin the meeting, when  
19 Mr. O'Brien and his son arrived accompanied by  
20 Mrs. Roberta Brownlee, Trust Chair. Mrs. Brownlee came 14:15  
21 to the door of the meeting and made some introductions.  
22 Mrs. Brownlee left before the meeting commenced. At  
23 the meeting on 24th January, the concerns identified at  
24 the 10th January Oversight meeting were put to  
25 Mr. O'Brien for response". 14:16

26

27 Can you remember the events that she has described  
28 here?

29 A. Yes. I think, Mr. Wolfe, I have explained yesterday

1 the layout of her office, it was in a long corridor.  
2 You came out, you always had to go right because left  
3 was a dead end. So I came out of my door to go maybe  
4 to the Chief Executive's office or somewhere, and  
5 Mr. O'Brien was coming down the corridor with his son. 14:16  
6 I actually was very unaware. I mean, "Goodness" and  
7 they said "We're looking Mrs. Toal's office". Mindful  
8 I'm just outside my door, it is a short distance  
9 across, I just said "This is Mrs. Toal's office here",  
10 as I believe I would have done for anyone visiting in 14:16  
11 headquarters. I literally said "This is the door",  
12 knocked the door and let them in, but that was all I  
13 did.

14 129 Q. You made the introductions; you made some  
15 introductions? 14:17

16 A. Well, I must have knocked the door and just said, you  
17 know, "Mr. O'Brien" or something but I didn't make  
18 introductions. I can't even think who else was in that  
19 room. But that's all it was, I bumped into him in the  
20 corridor and they were looking that office which was 14:17  
21 below mine and I just directed them to it.

22 130 Q. So it wasn't in any sense part of a preplanned --  
23 A. Absolutely not.

24 131 Q. -- meet with Mr. O'Brien to bring him into this  
25 meeting? 14:17

26 A. Absolutely not and my personal assistant would confirm  
27 that, where I be, where I was going and what I'm doing.  
28 I had no planned meeting with Mr. O'Brien on that day,  
29 definitely not.

1 132 Q. Certainly just to conclude on what Mrs. Hynds said in  
2 her oral evidence to the Inquiry - the Panel can find  
3 it at TRA-03770 - she used the word "innocuous", albeit  
4 she says a little strange to describe the encounter.  
5 Here you have the Chair of the Board apparently 14:18  
6 bringing the person at the heart of the MHPS  
7 investigation into a meeting. You would accept that it  
8 probably looked a little unusual?

9 A. And that's what she believed but there was nothing that  
10 I had planned in it. I literally opened my door, go to 14:18  
11 the corridor, met Mr. O'Brien and his son, they told me  
12 they were looking for a door and I directed them to the  
13 door. That's all it was.

14 133 Q. Yes. Now, let's go back to Mr. Wilkinson's role. You  
15 described at earlier points your understanding of the 14:19  
16 role to be played by the designated Non-Executive  
17 Director in the context of an MHPS investigation. A  
18 primary task is to try to keep the momentum of the  
19 process going. Another task might be, I think you used  
20 the word "intermediary" or something to that effect. 14:19  
21 If the clinician has an issue or a problem, the  
22 Non-Executive Director might be a sounding board, and  
23 to provide an expression of that concern back to HR,  
24 for example. Is that broadly your understanding of the  
25 job description in that context? 14:19

26 A. My understanding from the training and from my  
27 predecessors was the Non-Executive Director's role was  
28 not part of the investigation, it was a supportive  
29 role; one to provide like support, pastoral, just care,

1 in inverted commas. As well, to act as a conduit if  
2 the process and the timing of the process wasn't going  
3 as planned. That's all. We never saw it as part of an  
4 investigation.

5 134 Q. Can I bring you to an email that you sent to 14:20  
6 Mr. Wilkinson? It's WIT-41592. Just scrolling down.  
7 You are writing to Mr. Wilkinson, 6th January. You are  
8 asking would you do this for me, I think it must have  
9 been a -- yeah, maybe you are copying him in to  
10 something from Vivienne Toal. Just scroll down to see 14:21  
11 it all. Mrs. Toal is saying to you:

12  
13 "I am aware that Dr. Wright has spoken to you regarding  
14 the immediate exclusion under MHPS of Mr. O'Brien and  
15 the need for a formal investigation. I would be 14:21  
16 grateful if a recently MHPS trained NED could be  
17 identified as soon as possible to enable this to be  
18 communicated to Mr. O'Brien in accordance with the  
19 framework".

20  
21 Scrolling up then, you've written to Mr. Wilkinson to  
22 invite him to take on that role and he writes to you:  
23

24 "No issue. We would need to chat. Let me know when or  
25 ring me on my mobile". On up the page, you say: 14:21  
26 "Thanks John. Will call you. Will let Vivienne know.  
27 Also would you be free next 16th after 11:00 or Tuesday  
28 17th. I would like you to meet with the director and I  
29 who has expressed an interest to act up during

1 Francis"... and then there is personal information.

2  
3 So, you've arranged to meet him for two purposes, is  
4 that right, to discuss his role in the MHPS and also an  
5 issue to do with a replacement for the Interim Chief 14:22  
6 Executive?

7 A. Yes. Normally when a Non-Executive Director is  
8 required, I would have perceived that or did see that  
9 as an administrative role. Once they were selected, I  
10 would normally - remembering six of these Non-Executive 14:22  
11 Directors were new and the one that was ready to retire  
12 had, I think, was completing one or had completed one -  
13 so there were new Non-Executive Directors. I know when  
14 we had looked down the list, he had got the job and we  
15 would meet with them, you know, just to make sure they 14:23  
16 understand their role. Also then I was meeting with  
17 him, Francis must have been going off [REDACTED]  
18 [REDACTED]; we had an expression of interest  
19 from a director who wanted to act up, and we probably  
20 needed to have the interview. So I assume that was 14:23  
21 what that email was about. I had copied Vivienne into  
22 it, I see.

23 135 Q. We can see from this series of emails that Mrs. Toal is  
24 telling you in clear terms about an investigation, so  
25 you knew it from at least 6th January? 14:23

26 A. Yes. I must have, yes. She had asked for it, yes.

27 136 Q. Just scrolling back down. What was it that you had in  
28 mind when you told Mr. Wilkinson "I would want to  
29 explain regarding Mr. O'Brien"?

1 A. well, that's what I was saying. I mean, I would  
2 normally have had an overview to the Non-Executive  
3 Director about the process, you know, what their role  
4 was. That's why I would want to explain re  
5 Mr. O'Brien. That's what I was meaning, your role in 14:24  
6 doing that.

7 137 Q. I mean, I think that's a little inelegantly expressed  
8 then. You're not saying to Mr. Wilkinson 'I want to  
9 tell you about Mr. O'Brien and anything about him', you  
10 want to tell Mr. Wilkinson about the process; is that 14:24  
11 what you meant?

12 A. I would also have told him about the process and I  
13 know --

14 138 Q. Sorry. Just to be clear, when you say that it seems to  
15 suggest that you wanted to speak to Mr. Wilkinson about 14:25  
16 Mr. O'Brien, 'I want to explain re Mr. O'Brien'. But  
17 what you are telling me is that we should read that as  
18 saying 'I want to tell you about the MHPS process'?

19 A. well, that would have been, yes. I mean, I'm sure  
20 previous records will show for any Non-Executive 14:25  
21 Director did that before, I would have had a brief  
22 telling them what their role was. As I've said maybe  
23 too often, this was a role that Non-Executive Directors  
24 did not feel comfortable in or confident in because  
25 they weren't really independent, but I don't want to be 14:25  
26 repeating myself. But it was again Mr. Wilkinson, I  
27 was only meeting him to explain that to him and that's  
28 it.

29 139 Q. well, Mr. Wilkinson has told us that in a series of

1 interactions with him, you go beyond simply discussing  
 2 the MHPS process. You make interventions with him  
 3 which are, as he interpreted them, at least at this  
 4 remove, as being in a sense helpful or supportive of  
 5 Mr. O'Brien's interests. Can I ask you about some of 14:26  
 6 those? If we go to WIT-26092. At paragraph 6,  
 7 Mr. Wilkinson is explaining that he met you on  
 8 26th January "and we discussed the case".  
 9

10 "Roberta Brownlee expressed her opinion about the case. 14:27  
 11 She explained that she'd known Mr. O'Brien for a number  
 12 of years and that he had been her consultant, that he  
 13 was an excellent surgeon and that he has helped many  
 14 people. That he had built up the Urology Department  
 15 and had worked hard to meet patients needs as they 14:27  
 16 awaited surgery or diagnosis. Then she asked me to  
 17 make contact with Mr. O'Brien".  
 18

19 Let me just stop it there. So, can you see in what he  
 20 is describing there that, in fact, you had gone beyond 14:27  
 21 describing the process of MHPS and introducing him to  
 22 his role, you've actually provided your view on the  
 23 qualities of Mr. O'Brien, your friend?

24 A. I don't remember giving the opinion about the case.  
 25 But second to that, I'm sure I said he was an excellent 14:28  
 26 surgeon and that he'd helped many people. I mean I  
 27 must have said that. I don't deny that. I would have  
 28 said he was an excellent surgeon.

29 140 Q. The next day, the Board met to discuss MHPS. You

stepped out of that meeting. When you think about it now, would you agree that you should not have been meeting with Mr. Wilkinson if, as you realised, you had a conflict of interest?

A. I suppose again getting back to what I see as a Non-Executive Director's role, I saw that more as administrative and being part of support. I didn't see it as the investigation. I respect, yes, when I look back now where I am to all of this, I should have stepped out and not been involved with Mr. O'Brien.

14:28

14:29

141 Q. Mr. Wilkinson. If I can bring his transcript up, TRA-4196. Thank you. The correct reference is prefixed by 004196, my apologies. If we get to line 17, this is Mr. Wilkinson's evidence, he's saying:

"Really the substance of that was 'John, this is a really good surgeon. He has the interests of the patients at heart. I'm not sure why this process is where it is at the moment, just look after him'".

14:30

He goes on, if we go down on to the next page, just to set out his thinking on this, "at that time", this is line 2:

14:30

"I just took it at face value, I have to say, but as things progressed, then I began to question, I use the term, independence of the Chair".

14:31

Do you appreciate, Mrs. Brownlee, how, in terms of a



1 series of interactions - and we'll go through a number  
2 of the others with Mr. wilkinson - he could have  
3 perceived your independence to have been compromised --  
4 A. Yes --  
5 142 Q. -- because of what you were telling him and how you 14:31  
6 were putting it?  
7 A. I do respect what John has written there but I still  
8 believe I was telling him about the process. I would  
9 have said to him he was an excellent surgeon and what  
10 he had done. 14:32  
11 143 Q. Can you explain to us why you would say that? what  
12 would be the relevance of that to his role within the  
13 process?  
14 A. It was probably just to give him an introduction to  
15 that person. I mean again, when I look back to other 14:32  
16 Non-Execs who did it, who did this process, I would  
17 have had a discussion with them, very high level, about  
18 possibly who the consultant was. I can think of one or  
19 two others, and I would have said they were excellent  
20 consultants. 14:32  
21 144 Q. Yes, but you would have realised that this is a  
22 process, the MHPS process, where his excellence, or  
23 perhaps to put it in another way, his reliability as a  
24 practitioner, in some respects was going to be the  
25 subject of investigation, and what you're doing by 14:33  
26 saying he's an excellent surgeon, putting patients at  
27 the heart of his practice and that kind of language,  
28 is, is it not, an attempt to balance up any concerns  
29 that might be about to be investigated. Isn't that

1           what you were at, in a sense?

2           A.    well, I didn't. I definitely wasn't doing that,

3                because I didn't see Mr. wilkinson as being part of any

4                investigation of detail regarding Mr. O'Brien. I

5                didn't see that in this role. I saw him as a 14:33

6                supportive role, talking to him, giving him the care

7                and attention, like any of the consultants who used the

8                service. Also to make sure what had started continued

9                in a timely manner. I didn't see John, or any of the

10              NEDs, ever part of the wider investigation. 14:33

11 145    Q.    So why tell him this?

12           A.    Sorry?

13 146    Q.    So why tell him this?

14           A.    well, I just was saying what I knew about him. I mean,

15                you know, you are going to meet him, you know, look 14:34

16                after him, he's a good man, I mean, and the role that

17                you're in is going to be of support. That's still what

18                I feel strongly the non-executive's role should be;

19                they are one to provide support and care, independence

20                to the Trust, and reporting back to the Trust if due 14:34

21                process is not being followed.

22 147    Q.    You visited the home of Mr. O'Brien shortly after the

23                appointment of Mr. wilkinson to his role within the

24                MHPS process and, at the time of that visit, according

25                to Mr. O'Brien's evidence, you informed Mr. O'Brien as 14:35

26                to the identity of the Non-Executive Director and

27                assured him that Mr. wilkinson was a person you had

28                some regard for, great regard for?

29           A.    Yes.

1 148 Q. Do you remember that visit?  
2 A. Yes. It was Mr. O'Brien lives about a mile, a mile and  
3 a half from our home. My husband had been informed by  
4 two different people that he was very unwell, and I  
5 went -- it was a Sunday afternoon. I remember going to 14:35  
6 see him. He was in a broken state, he was extremely  
7 unwell. So I would have left after lunch and I was  
8 back again before -- I must have been there in the  
9 afternoon but I was back again for duties on the farm.  
10 But Mr. O'Brien that I visited on that day was a very 14:36  
11 sick, upset, very stressed gentleman actually. I won't  
12 ever forget it. His wife was there, there was no one  
13 else there. I remember him saying something to me like  
14 in his head there was so much, he felt as if he was  
15 having an autopsy, he couldn't sleep and he was 14:36  
16 distraught.  
17  
18 And I do remember yes, saying to him -- now,  
19 Mr. Wilkinson wouldn't have met him at that stage. I  
20 did say to him that the Non-Executive Director who is 14:36  
21 supporting you will be a John Wilkinson who I held in  
22 the highest regard within the Trust, he had worked  
23 excessively with myself. That's what I remember saying  
24 to him. There wasn't a lot of detailed discussion  
25 during that visit. I went from the wellbeing point of 14:36  
26 view because he was just so unwell, and he was very  
27 unwell.  
28 149 Q. Let's go back to Mr. Wilkinson's statement, WIT-26095,  
29 and paragraph 19 at the bottom of the page. On

1 2nd March 2017, he recalls that you telephoned him and  
 2 expressed concerns about case progression and time  
 3 scales, stating that Mr. O'Brien was a highly skilled  
 4 surgeon, had built up the Urology Department and was  
 5 well-respected by the service users.

14:37

6  
 7 "She further expressed concern about the handling of  
 8 the case by Human Resources, pointing out that the case  
 9 was having an adverse effect on Mr. O'Brien and his  
 10 wife and asking Mr. Wilkinson to contact Mr. O'Brien".

14:38

11  
 12 Do you remember engaging with Mr. Wilkinson in those  
 13 terms?

14 A. Yes. I can only think the 2nd March '17 must have been  
 15 the same day that Mrs. O'Brien phoned the office.

14:38

16 150 Q. Yes.

17 A. Because I would have actioned that immediately. I'm  
 18 assuming I phoned him after that to say the concerns,  
 19 the time scales and progression, and that it was having  
 20 an effect, as listed there. I mean, I did. I didn't  
 21 know the date but I'm assuming that's what it would be.  
 22 Yes, I did.

14:38

23 151 Q. Do you see in any of what he describes as inappropriate  
 24 behaviour on the part of you as the Chair? You're  
 25 taking information, whether from the telephone call  
 26 from Mrs. O'Brien or from your home visit to  
 27 Mr. O'Brien, and you are relaying to Mr. Wilkinson  
 28 their views and perhaps aligning yourself with their  
 29 views about how Human Resources was handling the

14:38

1 process?

2 A. Mr. Wolfe, I would think by 2nd March '17 that John  
3 wilkinson had already met Mr. O'Brien. Remember when I  
4 did the home visit, he hadn't. So, this call, I do not  
5 believe was to discuss the home visit; it must have  
6 been after the Mrs. O'Brien call. I'm just clarifying  
7 dates there.

14:39

8 152 Q. Yes, but in terms of the information you're receiving,  
9 you're building up a picture of the O'Briens' views of  
10 the process. That is coming to you because of your  
11 personal relationship with them, isn't that right?  
12 They know to pick -- she can pick up the phone to you  
13 because she has your phone number as a friend?

14:39

14 A. No, Mrs. O'Brien never phoned me to my mobile. The  
15 phone call that Mrs. O'Brien made was to the landline  
16 in the office of headquarters. Never did she do that.

14:40

17 153 Q. But the point I'm making to you is she's the spouse of  
18 an employee of the Trust, she's phoning you because she  
19 knows who you are, she has a relationship or friendship  
20 with you, and it's on that basis that she's able to  
21 make contact with you and share with you her and her  
22 husband's feelings about how they were being treated.  
23 You offer the view to Mr. Wilkinson that these are  
24 matters that you will work on on their behalf by  
25 passing the information into the system.

14:40

14:41

26  
27 Should you not have been stepping away from any  
28 engagement with the O'Briens on this, wearing your  
29 professional hat?

1 A. Can I come back to that one in a minute? I just want  
2 to say that what Mr. John Wilkinson's is saying there,  
3 that I expressed concern about the case progression and  
4 time scales, that is what I was phoning him about  
5 because Mrs. O'Brien had phoned the office. That's  
6 just a point.

14:41

7  
8 I would have had -- I mean, I can think of other  
9 consultants who would have phoned to express concerns  
10 and I would have done the same, Mr. Wolfe, of informing  
11 the Chief Executive or whatever. I do remember one  
12 consultant phoning me who did not accept the offer of  
13 Non-Executive Director, and why. I think I have  
14 covered that before.

14:41

15  
16 So, should I have been stepping back? If I knew then  
17 what I know now from this inquiry, I would not have  
18 been involved in this, but in that instance that we are  
19 referring to I believe all I was doing, having told the  
20 Chief Executive about the call and the non-executive  
21 that was responsible for this process of timelines and  
22 how it was being taken forward, I was telling John  
23 Wilkinson I've had a call from Mrs. O'Brien and  
24 explained what it was. That's what I believe I was  
25 doing in that case at that time.

14:42

14:42

26 154 Q. The point is, if I could just deal with it succinctly,  
27 where you are receiving representations from an  
28 employee, where you know you have a conflict of  
29 interest, should you not have been inviting the

14:42

1 employee or his spouse to take the matter up at the  
 2 appropriate entry point in the process, in other words  
 3 directly with Mr. wilkinson because they have his  
 4 contact details, or directly with Human Resources with  
 5 whom you are in your contact with Mr. wilkinson,  
 6 expressing some concern or criticism? Is that not the  
 7 way it should have been handled?

14:43

8 A. Yes, I was expressing concern to John wilkinson about  
 9 the length of time it was taking, hence what  
 10 Mrs. O'Brien had told me. You're asking me should I  
 11 have stood back and not done that?

14:43

12 155 Q. Yes.

13 A. At the time I didn't honestly think of doing that. I'm  
 14 just saying to you on reflection --

15 156 Q. Is it fair to say that you didn't conceive of doing  
 16 that, that is you didn't conceive of stepping back,  
 17 because you were so closely linked to Mr. O'Brien by  
 18 reasons of friendship and what have you, that you  
 19 thought it appropriate to continue to go in and bat for  
 20 him, to express your concerns on his behalf to the  
 21 likes of Mr. wilkinson so that things might be  
 22 progressed more favourably or, in the particular  
 23 context of this, more expeditiously? Isn't that what  
 24 was happening?

14:44

25 A. Sorry, I didn't see myself on that occasion for using  
 26 the word "batting" for Mr. O'Brien. I was making a  
 27 phone call to the Non-Executive Director responsible  
 28 for the timeframe and saying here are the concerns.  
 29 But I didn't at that time believe that I was advocating

14:44

1 or working on behalf of. I was transferring  
2 information that I was told to the Non-Executive  
3 Director.

4 157 Q. Your engagement with the O'Briens around the MHPS  
5 process, did it stop at this point with that phone call 14:45  
6 or did you have further engagements with them in  
7 relation to their concerns?

8 A. Never. I was never back visiting his home after that  
9 and I never had any more calls from Mrs. O'Brien or  
10 Mr. O'Brien regarding the Maintaining Higher 14:45  
11 Professional Standards process.

12 158 Q. Could I put to you just two points in relation to that.  
13 If I can go to three pages further on in  
14 Mr. wilkinson's statement. At para 38, page 99, at the  
15 bottom of the page he refers to receiving a telephone 14:46  
16 call from Mr. O'Brien on 11th September. He explains  
17 that he was working in a school and he responded to the  
18 call sometime later. He says he was able to distil the  
19 following and made a contemporaneous note. Scrolling  
20 down the page, he records in his note that Mr. O'Brien 14:47  
21 told him that he was going to meet up with Roberta  
22 Brownlee and he mentioned a previous meeting with her.  
23 This is Mr. wilkinson explaining what Mr. O'Brien was  
24 telling him. There had been a previous meeting with  
25 you and Mr. O'Brien was going to meet up with you 14:47  
26 again, the context being by September 2018. His  
27 concerns about the process, which as you can see has  
28 been articulated as being a criticism of the process  
29 which had lasted 21 months.



1 So is it correct to say that you had met previously  
2 with Mr. O'Brien to discuss MHPS?

3 A. No, I never met with Mr. O'Brien, only the Sunday when  
4 I went to visit him when I heard he was very ill or  
5 very unwell. Mr. O'Brien never, where this refers to 14:48  
6 he was going to meet up with me again, I never met with  
7 Mr. O'Brien and I think I have said that yesterday as  
8 well. I had no meetings with Mr. O'Brien, formally or  
9 informally, to my office or to my home or was I ever  
10 back to his home to discuss Maintaining Higher 14:48  
11 Professional Standards.

12 159 Q. Can I take you to a second issue in terms of contact  
13 with the O'Briens. If we go to AOB-56363. This is a  
14 record which Mrs. O'Brien made of a meeting that she  
15 had with Dr. Wright. We believe the date of the 14:49  
16 meeting was 14th September 2018, so that's three days  
17 or so after Mr. Wilkinson and Mr. O'Brien had had their  
18 discussion. If we go down to line G, Mrs. O'Brien is  
19 expressing her disappointment with the non-executive  
20 person, that's Mr. Wilkinson. She says: 14:50

21  
22 "You see I look at things, maybe I am very black and  
23 white person, but if I had have been, if I was a member  
24 of a Non-Executive Board and I was appointed to it  
25 once, I would have been looking through and I would 14:50  
26 have said right, okay, all right, there's a room for,  
27 in exceptional circumstances it might go on a bit  
28 longer. But do you see when it would have come to  
29 March, I, as the non --I was saying this to Roberta, I

would have been saying, I would have been going down to whoever it be, we have to call a halt to this, this is illegal, this is a breach of the employee's terms and conditions of employment. We have to stop this, we have to stop right now".

14:50

So she's referring to a discussion with you about the longevity of the process and, in her view, its legalities regarding the contract of employment and what have you.

14:51

A. First of all, I never --

160 Q. Do you dispute that?

A. -- I didn't know Mrs. O'Brien even met Dr. Wright until I got it in my bundle. I can assure you apart from the phone call that I have referred that Mrs. O'Brien made to my office, at no time did I ever meet Mrs. O'Brien, both at the office or anywhere outside for coffee or in her home, to discuss Mr. O'Brien or anything there. Definitely not, I never met her. Definitely not. If what she is saying, if I am being named like this, it is unknown to me that my name was being used like that. But I did not meet Mrs. O'Brien, as I've said, at any time to discuss that process.

14:51

14:51

CHAIR: Mr. Wolfe, in fairness to the witness and to Mrs. O'Brien, what she seems to be saying here is when it would have come to March I was saying this to Roberta, rather than this meeting in September.

14:52

MR. WOLFE KC: Yes, it's open to that interpretation certainly, it is a matter for yourselves. This is

1 obviously September 2018 that this discussion is taking  
2 place, but it might well be a reference to the previous  
3 March. One way of looking at it.

4 161 Q. MR. WOLFE KC: So in terms of your engagement with  
5 Mr. wilkinson, to put it in the round, he considers 14:53  
6 that your contact with him, and he said any phone calls  
7 after the first occasion was made by you to him, but it  
8 was his impression in the round that you were looking  
9 to him to be more supportive of Mr. O'Brien, and you  
10 had concerns about the situation and the support that 14:53  
11 he was being given and that was the reason for your  
12 contact with him across several phone calls.

13 A. well, I would disagree with that. Also, John wilkinson  
14 told me himself that he was inundated with  
15 documentation and overwhelmed over the reading process, 14:54  
16 and so he had had that conversation with me. I believe  
17 he phoned me to discuss that or else he was in for a  
18 subcommittee meeting of the Board, and he spoke to me  
19 just about he was overwhelmed. I always remember his  
20 word about that. But I do not believe what I told John 14:54  
21 wilkinson, as an introduction to the process, yes,  
22 whilst Mr. O'Brien was an excellent consultant, I did  
23 tell him when Mrs. O'Brien phoned because he was the  
24 lead NED, and I have explained to you what I believed  
25 the non-executive role was from my understanding. 14:54

26 162 Q. Can I bring you to Mrs. Gishkori. She is, I suppose, a  
27 second person, if we count Mr. wilkinson as the first,  
28 who believes that you made an inappropriate contact  
29 with her in support of Mr. O'Brien, and I want to take

1 your view on that. If we go to TRA-06824, and if we go  
2 to line 27. She's confirming that a phone call was  
3 placed by you in connection with the affairs of  
4 Mr. O'Brien. I'm asking her, "Do you think that the  
5 phone call could have occurred in September 2016?" Over 14:56  
6 the page she says "No", and she goes on to explain - if  
7 we go down to line 21 - that the phone call, she  
8 thinks, was taking place at a point in time when a  
9 number of SAIs, serious adverse incidents, in  
10 association with Mr. O'Brien were known to her. She 14:56  
11 goes on over the page, if we go over to TRA-06830, to  
12 say, this is line 7, that she thinks it probably  
13 occurred in 2017.

14  
15 I suppose, first of all, Mrs. Brownlee, in terms of 14:57  
16 towards the summer perhaps, the summer of 2017 by which  
17 stage MHPS investigated had started, do you remember  
18 calling Mrs. Gishkori, the Director of Acute Services,  
19 to speak to her about the MHPS investigation and  
20 Mr. O'Brien? 14:58

21 A. No, I don't remember phoning Mrs. Gishkori to talk  
22 about Mr. O'Brien or the Maintaining Higher  
23 Professional Standards process. I'm just not sure with  
24 the dates when it refers to when this may have been to  
25 help me to think what did I know. I would have had a 14:58  
26 lot of contact with Mrs. Gishkori as Director for Acute  
27 Services about a range of matters, but I definitely did  
28 not phone Mrs. Gishkori to discuss Mr. O'Brien as  
29 referred.

1 163 Q. So it's not a question of you don't remember, it's an  
2 adamant "I do not", "I did not call Mrs. Gishkori to  
3 discuss Mr. O'Brien"?

4 A. A particular call about Mr. O'Brien. What I'm saying  
5 is I would have made many calls and could have been 14:59  
6 talking to her. I could have been talking to  
7 Mrs. Gishkori in any given week once, twice, three  
8 times if I was up in the hospital. Indeed, she had a  
9 very complex directorate to look after and we would  
10 have talked often because some of her own struggles. 14:59  
11 But I definitely didn't make one call to talk  
12 specifically about Mr. O'Brien. What I'm saying  
13 Mr. Wolfe, is I would have made many calls and  
14 could this call that she is referring, whatever date  
15 that she's talking about, been about other things as 14:59  
16 well. What I'm saying is I didn't make one call just  
17 to talk about Mr. O'Brien and then off the phone.

18 164 Q. Okay. That begs another question, Mrs. Brownlee, as  
19 part of another call, maybe talking about other things,  
20 did you introduce the name of Mr. O'Brien and discuss 15:00  
21 your concerns about how he was being treated?

22 A. I may have discussed the timing, you know, what's  
23 happening with Mr. O'Brien and how long it's ongoing,  
24 the process, but I didn't get into anything in the  
25 investigation. Also, I wouldn't have been talking to 15:00  
26 Mrs. Gishkori about her role in the investigation  
27 because there was other people, many other people,  
28 involved in this investigation. So I mean, I may have  
29 yes, when I would have been on with her talking about

1 other matters, I may have said to her what on earth is  
 2 going on, how long it's taking, but I didn't get into  
 3 the detail of the investigation that I can recall.  
 4 Actually I don't remember it, I don't know if it was  
 5 '16 or '17 year.

15:00

6 165 Q. I wish to be fair to you, Mrs. Brownlee, about this, it  
 7 is an important matter. You have had the opportunity  
 8 to review the transcript that we have produced for you  
 9 in respect of Mrs. Gishkori's evidence. You have had  
 10 an opportunity to reflect upon it. Can I perhaps have  
 11 just a straight answer to the question, did you speak  
 12 to Mrs. Gishkori about the MHPS process concerning  
 13 Mr. O'Brien?

15:01

14 A. I may have spoken to her, yes, about the process and  
 15 the timeframe but I didn't make one deliberate call to  
 16 talk about that.

15:01

17 166 Q. I'll take that to be a firm memory that you did speak  
 18 to her about the process?

19 A. I mean, I'm just trying to remember that I may have  
 20 spoken to her about that.

15:01

21 167 Q. I'm sorry to put it to you in these terms, but is it a  
 22 may or is it a definite?

23 A. It's not a definite because I don't remember the  
 24 particular call she's talking about, but what I'm  
 25 saying is when I was on calls, I may have. But I have  
 26 no definite recollection of making a call to  
 27 Mrs. Gishkori to discuss Mr. O'Brien or the process. I  
 28 don't remember that.

15:02

29 168 Q. In light of the answer you've given, can you explain or

1 help the Panel to understand why it may have been a  
2 possibility that you did contact her to discuss the  
3 process? why would you even conceive of doing that?  
4 A. What I'm saying is I wouldn't have made a deliberate  
5 call to talk to her about the process. I may have, 15:02  
6 when I was on, asked her how is it progressing.  
7 169 Q. Okay. why would you permit yourself to trespass into  
8 that topic of conversation?  
9 A. Probably because of the timeframe and the length it was  
10 ongoing, but definitely not into the detail. 15:03  
11 170 Q. If we bring you to another part of the transcript, it's  
12 TRA-06831. At line 20 she is explaining that the  
13 telephone call from you made her very angry. She goes  
14 on to explain - if we go forward to TRA-06833 at the  
15 top of the page - she, when you phoned her, according 15:04  
16 to her recollection, is in a meeting with Dr. Tracey  
17 Boyce. Her PA Emma interrupted that meeting because  
18 you had phoned in, and she agreed to take the call.  
19 She records that you said to her, this is at line 8:  
20 15:04  
21 "What's all this going on with Mr. O'Brien? You know,  
22 Esther, that man saved my life once". She goes on to  
23 say: "I said, well, he may well have saved your life  
24 but he has potentially harmed a few others so you may  
25 let the GMC deal with it. That was it, I just ended 15:05  
26 the call very angry, indeed".  
27  
28 So the substance of it, or the sense of it, is that she  
29 felt that you were telephoning to make a point on

1 Mr. O'Brien's behalf in a sense, it would be appear to  
2 be implied, that you felt he was being badly treated  
3 despite his background of service and the care he gave  
4 patients, including yourself. Is that how you recall  
5 your approach to Mrs. Gishkori?

15:06

6 A. I don't remember that call or Mrs. Gishkori being very  
7 angry and telling me 'let the GMC deal with it'. I  
8 don't remember any of that detail that she refers to.  
9 I don't remember making a specific call to  
10 Mrs. Gishkori to discuss Mr. O'Brien. I don't know  
11 when this call may have taken place. What I'm saying,  
12 Mr. Wolfe, is I would have had many calls with  
13 Mrs. Gishkori about numerous things, so I can't be  
14 specific and know when this date was. But I definitely  
15 know I never made just a call to talk about  
16 Mr. O'Brien.

15:06

17 171 Q. Yes. We have all of that but what we have from you in  
18 addition is an admission of the possibility that you  
19 made a call to talk about process. What I'm asking you  
20 is this: If you do allow for the possibility that you  
21 made a call to talk about process, could you have  
22 allowed yourself to be speaking about your perception  
23 of an unfairness being visited upon Mr. O'Brien and you  
24 were sharing that with the Acute Directorate?

15:07

25 A. No, I don't believe I said that. But what I keep, and  
26 I must emphasise, I never made any telephone call to  
27 Mrs. Gishkori to discuss Mr. O'Brien per se on its own.  
28 What I was saying was I made many calls to  
29 Mrs. Gishkori's office about a variety of things, and I

15:07



1           may have --

2   172   Q.    I have to intervene, Mrs. Brownlee. Why is it relevant

3           to repeat that to me for the third time?

4           A.    Sorry, just because well, all I can say is I did not

5           say that to Mrs. Gishkori. 15:08

6   173   Q.    You wouldn't have said that?

7           A.    I wouldn't have said it.

8   174   Q.    Why wouldn't you have said something like that?

9           A.    Well, it's just some of the language that's used. I

10          mean, I wouldn't have said -- and I would have 15:08

11          remembered Mrs. Gishkori and I got on very well

12          together --

13   175   Q.    Again, why --

14          A.    -- I would have remembered if she was angry.

15   176   Q.    -- Why are you telling us that, Mrs. Brownlee? 15:08

16          A.    What I am saying is if she was angry with me and came

17          across on the telephone call how she described, I would

18          have remembered it. I don't remember.

19   177   Q.    Did you believe Mr. O'Brien was being treated unfairly?

20          A.    I was never told that. 15:08

21   178   Q.    No. Did you form that view?

22          A.    No. No, I didn't form that view.

23   179   Q.    Well, you were told that, weren't you? You were told

24          by Mrs. O'Brien that she felt he was being unfairly.

25          A.    Mrs. O'Brien's call was about the process, the length 15:08

26          of time it was taking to work through it and getting

27          information.

28   180   Q.    And you formed the view that Human Resources wasn't

29          covering itself in glory?

1 A. I formed the opinion to John wilkinson that the time  
2 scale of the process and sharing of information  
3 appeared not to be going as planned.

4 181 Q. Yes.

5 A. I didn't form any opinion about detail.

15:09

6 182 Q. Dr. Tracey Boyce was present in the room, on her  
7 evidence, as this phone call took place. She, while  
8 she couldn't hear the telephone call, has given  
9 evidence of Mrs. Gishkori's obvious annoyance as the  
10 phone call took place. She recalls what Mrs. Gishkori  
11 told her after the telephone call concluded. If I can  
12 bring you to Mrs. Boyce's evidence in that respect,  
13 it's WIT-87673. If we go to 44.1. She recalls that  
14 she would like to add information about a telephone  
15 call that she inadvertently witnessed. She says:

15:09

16  
17 "I think it may be evidence of some level of pressure  
18 on one of the Acute Service directors who did not fully  
19 investigate Mr. O'Brien's practice". She says: "I  
20 can't remember the date of the meeting and I did not  
21 make a note of the incident at the time. However, I  
22 know that it must have been after the concern in  
23 relation to Mr. O'Brien's triage practice was  
24 identified as I understood the context of the call  
25 without it having to be explained. I was in a  
26 one-to-one meeting with Mrs. Esther Gishkori in her  
27 office in the Craigavon Hospital administration floor  
28 updating her on my pharmacy responsibilities. The  
29 telephone rang and Mrs. Gishkori answered it whilst I

15:10

15:10

15:10

1 was in the room. I realised she was speaking to the  
2 Chair of the Trust and while I indicated that I would  
3 leave the room to give her privacy, she told me to  
4 stay".

5  
6 She goes on to explain, as I have said already, that  
7 she couldn't hear what you were saying but it would  
8 appear that Mrs. Gishkori did not say very much in  
9 response to you during the call and she became very  
10 flustered.

11  
12 "When the call ended, Mrs. Gishkori told me that the  
13 Chair had asked her to leave Mr. O'Brien alone as he  
14 was an excellent doctor and a good friend of hers who  
15 had saved the life of one of her friends. I remember  
16 saying to Mrs. Gishkori that I thought the Chair's  
17 behaviour was unacceptable and that she should document  
18 the call and speak to the Chief Executive about it as  
19 her line manager".

20  
21 So, this is a senior employee of the Trust sitting  
22 beside Mrs. Gishkori as a telephone call takes place  
23 between the two of you. She didn't make a note. It  
24 would appear that aspects of her recollection may not  
25 be correct. So, for example, Mrs. Gishkori would deny  
26 that she ever reported to Dr. Boyce that you had said  
27 that Mr. O'Brien had saved the life of one of her  
28 friends; that doesn't appear to be correct. But the  
29 sense of Mrs. Boyce's evidence would appear to be that

1 it was reported to her that a flustered -- it was  
2 reported to her by a flustered Mrs. Gishkori that you  
3 had sought, through the telephone call, to apply  
4 pressure to Mrs. Gishkori with words to the effect of  
5 "leave Mr. O'Brien alone". That's a specific memory 15:13  
6 that Mrs. Boyce has of what was said to her. Can I  
7 have your observations on that?

8 A. Well, I certainly never said who had saved the life of  
9 one of my friends because I don't know who that would  
10 be. Secondly, I don't remember ever saying to 15:13  
11 Mrs. Gishkori, or anyone else, to leave Mr. O'Brien  
12 alone. I absolutely deny that. I never said that and  
13 would not have said it. I didn't say it, I couldn't  
14 have said it because Mrs. Gishkori was one of many  
15 involved in the process. Nor would I have said it 15:14  
16 because I was a highly professional person all of my  
17 life and why would I bring my profession into disrepute  
18 and get caught in a conversation to say to leave a  
19 consultant, who was under an investigation, alone. I  
20 never said it. 15:14

21 183 Q. Could I bring you to one final conversation just before  
22 we take a break. Mrs. O'Kane, it would appear that you  
23 met with her shortly after she took up the reins as  
24 Medical Director on 11th January 2019. You have kindly  
25 provided the Inquiry with your diary entry for that 15:15  
26 date. If I could briefly look at that, we can find it  
27 at INQ-55501. Just reflecting on where this date  
28 stands on the timeline, it is January 2019.  
29

1 In the latter months of 2018, that is October 2018,  
2 Dr. Khan had produced his determination in respect of  
3 the MHPS consequent on the report issued by Dr. Chada  
4 at the tail end of the summer, and here we have  
5 Dr. O'Kane coming into her post. What was the purpose 15:16  
6 in meeting her that day, from your perspective?

7 A. Well, when a new director is appointed, I always would  
8 have met with them. I call it informally because you  
9 were going maybe to have a cup of tea with them. I  
10 didn't know Dr. O'Kane, I had never worked with her 15:16  
11 before. I was the Chair of the interview panel that  
12 appointed her. I always meet every new director to  
13 introduce myself and also to explain the Board  
14 etiquette, the governance of the Board, just how Board  
15 works. I also mindful of whoever the director is, when 15:16  
16 I would be talking to them, I would give them some of  
17 the high level big tickets that we're dealing with and  
18 their particular directorates.

19  
20 In this case, Dr. O'Kane was the Medical Director and I 15:17  
21 was just telling her, after the cup of tea and the  
22 Board etiquette, et cetera, here's what's on. So  
23 that's why I met her. You will see from my diary, I  
24 think I was to meet her at 10:30 in the morning, and  
25 Dr. O'Kane had a fairly busy schedule so she must have 15:17  
26 changed the time. At 12:00 noon I must have had a  
27 meeting with the Chief Executive. I would normally  
28 make a note of the meeting. That's the Board  
29 development day I was discussing with them, the

1 workshop, the Way Forward. Then Dr. O'Kane must have  
2 changed to 3:30, and I see, according to my diary, it  
3 was changed then to 4:00.

4 184 Q. You're discussing with her some of the big ticket items  
5 and you've noted those in your diary; is that right? 15:17

6 A. I would have those written down before I would go. I  
7 remember I met her, our canteen in headquarters would  
8 close about three o'clock, and it was after that. So  
9 we were in the canteen, a small area on our own. Yes,  
10 I would have mentioned to her, I mean about the Cawdery 15:18  
11 murders, the unfortunate situation about that.

12 Bluestone is our mental health unit where we had had  
13 many problems and where we had an independent inquiry,  
14 and the investigation of that. And I mean, B McNaney,  
15 that's Barney McNaney, who would have been the Director 15:18  
16 of Mental Health, the report that he had and was  
17 bringing to the Board. I also appear to have told her  
18 about the sad situation we'd had in Craigavon Hospital,  
19 the general end of a patient by suicide. And AOB. I  
20 would have mentioned to her that, and I keep mentioning 15:18  
21 again, we didn't have many consultants under an  
22 investigation, so I would have seen that as a very high  
23 one. So I was saying to her that 'And we've one  
24 consultant, AOB', I would have said 'who's going  
25 through a process that you would need to keep an eye 15:19  
26 on'. That is what I was just giving her the high  
27 level.

28  
29 From memory, Dr. O'Kane would have said some of those

1 she didn't know of, but the lady was only a short time  
 2 in post for the Chief Executive, I'm sure, had updated  
 3 her on some. You know, I was giving her what I saw  
 4 coming to the Board at that stage.

5 185 Q. Did she know about the Aidan O'Brien situation?

15:19

6 A. From memory, no. No, she didn't.

7 186 Q. What information would you have shared with her, to the  
 8 best of your memory?

9 A. I probably would have said, like I've said to others,  
 10 we have one consultant who is going through a process.  
 11 I mean, I have no doubt I would have said to her I knew  
 12 him and that he was excellent, I mean, but I didn't go  
 13 into any other detail that I can recall, just like I  
 14 wouldn't have gone into any of the detail around the  
 15 ones listed above that, you know, that I was telling  
 16 her about.

15:19

15:20

17 187 Q. Yes. Obviously the process that you refer to in terms  
 18 of MHPS had concluded late in the year before. What  
 19 did you know about the process at that stage?

20 A. Nothing, Mr. Wolfe. My first time reading the outcome  
 21 of Dr. Khan's determination was here for this Inquiry.

15:20

22 188 Q. Yes.

23 A. I never saw that determination or knew anything of that  
 24 investigation, the outcomes or actions flowing from it.  
 25 I never saw that, nor do I believe that ever came to  
 26 the Board confidential section.

15:20

27 189 Q. Yes. What I'm asking you is what, by 11th January  
 28 2019, were you inviting her to have some consideration  
 29 of in respect of Mr. O'Brien?

1           A.    No, I wasn't asking her as such consideration. I was  
2                    just telling her like the list above, and you have a  
3                    consultant that's going through an investigation, you  
4                    should be aware of that. I knew no determination, as I  
5                    have said, or anything else about detail. 15:21

6   190   Q.    Right. Was he the only clinician you saw fit to  
7                    mention?

8           A.    Well, as far as I was aware as the Chair of the Board,  
9                    I knew of no other consultant that was going through  
10                  Maintaining Higher Professional Standards or was under 15:21  
11                  question their performance. No, there was no other I  
12                  knew of.

13   191   Q.    I want to ask you for your observations on  
14                    Mrs. O'Kane's recollection of that meeting. If we go  
15                    to WIT-45034. At paragraph 30.4, she recalls: 15:21

16

17                    "I was also aware that Mr. O'Brien had the support of  
18                    the Chair of the Trust, Mrs. Roberta Brownlee. At my  
19                    first meeting with her after taking up post as Medical  
20                    Director on 11th January 2019, she advised me against 15:22  
21                    pursuing him in the way that she believed my  
22                    predecessors had done, and she intimated that she  
23                    believed that he was an excellent surgeon and that he  
24                    had saved her life".

25 15:22

26                    So, that's the view of the now Chief Executive of the  
27                    organisation, the then Medical Director. The first  
28                    meeting with her, you use it as an opportunity to  
29                    advocate on Mr. O'Brien's behalf and suggest to her



1 that she shouldn't pursue him in the way she understood  
2 her predecessors had.

3  
4 First of all, did you say anything to Dr. O'Kane that  
5 might have made it apparent to her that you were  
6 supportive of him? 15:23

7 A. Mr. Wolfe, I was shocked to read this when I got my  
8 papers. I was shocked that Dr. O'Kane - who I didn't  
9 know, this was my first meeting with her - had made  
10 this statement about advising her to not pursue him. 15:23  
11 To me those aren't words that I would use. She  
12 believed her predecessors, I'm assuming that's  
13 Dr. Wright, Dr. Khan and Dr. Simpson -- and be assured  
14 Mr. Wolfe, those three persons in those posts, I held  
15 in the highest regard, had an excellent working 15:24  
16 relationship with them, kept me very well informed.  
17 And I would be -- I was very offended when I read that  
18 because under no circumstances, meeting a new Medical  
19 Director for the first time, would I have brought three  
20 colleagues into such disrepute and saying that about 15:24  
21 them. I'm sorry, I never said anything about the  
22 predecessors of the medical directors. I may have said  
23 he was an excellent surgeon, but I mentioned to her in  
24 my list that she had one consultant, a Mr. O'Brien who  
25 was under investigation and she should keep an eye on 15:24  
26 that one as such. But absolutely not did I say  
27 anything about my previous medical directors. In no  
28 way would I have said that.

29 192 Q. And nothing that could be construed as supportive of

1 Mr. O'Brien within the process, save that you  
2 considered him an excellent surgeon?

3 A. I may have said he was an excellent surgeon. I mean, I  
4 can't remember that, but I can definitely tell you I  
5 would not have been critical of former colleagues to a 15:25  
6 new person coming into post. I mean, telling someone I  
7 didn't know not to pursue another, I definitely never  
8 did that. I just can't understand how Dr. O'Kane, from  
9 a conversation - we weren't very long together, if we  
10 met at 4:00, we were certainly out by 4:40 because she 15:25  
11 has a very busy schedule - how she interpreted that  
12 from what I told her, that I just can't understand.

13 193 Q. Yes. We know from Mr. Devlin's evidence that she went  
14 from her meeting with you and related the conversation,  
15 as she describes there, to him, and he has recalled 15:26  
16 that in his evidence. Could I just go to her  
17 transcript because she elaborates a little on what she  
18 says. Her transcript is TRA-01461 and at question  
19 20 -- 120, is it?

20 15:26

21 She again is talking about the first one-to-one that  
22 she had with you in January in 2019. She made comment  
23 about the fact that she felt he had been essentially  
24 persecuted by Dr. O'Kane's predecessors; repeats that  
25 you expressed the view he was an excellent surgeon and 15:27  
26 a good man and, "She hoped I wouldn't treat him in the  
27 same way". I see you shaking your head; that is  
28 something that you appear to reject?

29 A. Mr. Wolfe, I don't think I ever used the word

1 "persecuted" in my vocabulary on a day-to-day basis  
 2 because of my own personal faith. I don't like the  
 3 word "persecuted". "Essentially persecuted by my  
 4 predecessors", I mean, is not something I would have  
 5 said about any of my former colleagues who held those 15:27  
 6 senior positions. I am sorry, I refute that  
 7 categorically and, I mean, I never said that.

8 194 Q. You will recognise, I hope, that in terms of the  
 9 evidence of Mrs. Gishkori and the evidence of  
 10 Dr. O'Kane, a similarity of content attributed to you. 15:28  
 11 "Leave him alone" in the conversation with  
 12 Mrs. Gishkori, according to Mrs Boyce's recollection,  
 13 and with Mrs. O'Kane, a sense of "I hope you won't  
 14 treat him in the way that my predecessors have treated  
 15 him." 15:28

16  
 17 Your comments on that, two different women at two  
 18 different times are attributing to you, the Chair of  
 19 the organisation, clearly inappropriate messaging or  
 20 communication on your friend's behalf? 15:29

21 A. As I've said before, Mr. Wolfe, I never said to  
 22 Mrs. Gishkori leave Mr. O'Brien alone, and I definitely  
 23 never said to Dr. O'Kane that he was being persecuted  
 24 by his predecessors and you treat him well. It isn't  
 25 something I would do. I didn't do it, as I've said. I 15:29  
 26 couldn't do it. This was a new Medical Director who I  
 27 didn't really know. The determination by Dr. Khan that  
 28 you referred, I hadn't seen. And I wouldn't do it as a  
 29 professional. Why would I, as a professional person

1 having worked all of my life and held senior positions,  
2 to someone new say to them this kind of language? I'm  
3 sorry, Mr. Wolfe, I didn't say it.

4 195 Q. I'll leave that question hanging and the Panel can  
5 resolve that. I think from everyone's perspective, and 15:30  
6 certainly the stenographer's ...

7 CHAIR: we'll take a break until a quarter to.

8 MR. WOLFE KC: I think a natural break in my next set  
9 of questions will be about 4:15.

10 CHAIR: I think we will all have had a long enough day 15:30  
11 by that stage, Mr. Wolfe. That means, I'm afraid,  
12 Mrs. Brownlee, you will have to come back and talk to  
13 us on another occasion. I don't know if you have quite  
14 appreciated that or not but that's what is likely to  
15 happen. I don't think you are going to be finished, 15:30  
16 are you, Mr. Wolfe, by 4:15?

17 MR. WOLFE KC: I don't think so. I think another  
18 morning. Ms. Donnelly is already undertaking  
19 investigations about an appropriate date to come back.

20 CHAIR: That can be sorted out in due course. So, 15 15:30  
21 minutes, ladies and gentlemen.

22  
23 THE HEARING BRIEFLY ADJOURNED AND RESUMED AS FOLLOWS:

24  
25 CHAIR: Thank you, everyone, last lap for today. 15:45  
26 Mr. Wolfe.

27 196 Q. MR. WOLFE KC: Let me bring you, Mrs. Brownlee, to some  
28 of the events of 2020. That was to be your last year  
29 as Chair and it was the last year of Mr. O'Brien's

1 employment in the Trust as well. He had intended to  
2 retire from employment in the summer of 2020 and then  
3 come back on a part-time basis from in or about August  
4 2020. That was certainly his plans but those plans  
5 didn't come to fruition. Did you know, through your 15:46  
6 personal contacts with him, that those were his  
7 intentions?

8 A. No. No, I didn't.

9 197 Q. He didn't discuss his retirement plans with you?

10 A. No, definitely not. I have no record of meeting 15:46  
11 Mr. O'Brien during the previous year, from my diary,  
12 I've looked through it. So he never discussed his  
13 retirement plan with me that I recall. I had no  
14 meeting with him to discuss it.

15 198 Q. Yes. He certainly wrote to you on 10th June 2020 after 15:46  
16 the problem arose, a dispute arose with the Trust about  
17 whether he could come back and he was essentially told  
18 that he couldn't, that existing processes, the Human  
19 Resources processes that hadn't concluded where he was  
20 being told a barrier to his return. He sets out his 15:47  
21 unhappiness in relation to that in a letter to you. We  
22 can find it WIT-90953, or at least that is the email he  
23 sent you on 10th June.

24  
25 He attaches the letter. He says he is also attaching 15:47  
26 letters he sent to Mr. Devlin and to Mrs. Toal of  
27 around the same period:

28  
29 "And I would be most grateful if you could bring the

1 contents of these letters to the attention of the  
2 Non-Executive members of the Board".

3  
4 If we go forward to 90954, we can see the letter. The  
5 issues raised in the letter, to summarise, are that he 15:48  
6 had received an assurance of support from colleagues  
7 and line managers in relation to his desire to return  
8 part-time but then, as he explains in that second main  
9 paragraph in front of you:

10 15:48  
11 "I was advised by telephone on 8th June 2020 that I  
12 would not be permitted to return due to ongoing HR  
13 processes".

14  
15 Over the page he says, just at the bottom, that he 15:48  
16 hopes that the Non-Executive Directors may be able to  
17 have some bearing in attempting to resolve this ongoing  
18 situation.

19  
20 You complied with his suggestion that this letter would 15:49  
21 be placed in front of the Non-Executive Directors. You  
22 sent it to each of them. Bearing in mind the grievance  
23 which Mr. O'Brien had, and as reflected in that piece  
24 of correspondence, his main issue being I'm being  
25 prevented from returning to work because of ongoing 15:49  
26 processes, and his complaints about those ongoing  
27 processes and whether the Trust was honouring his  
28 contract of employment regarding those processes, were  
29 those the kinds of issues that really ought to have

1           been brought to Non-Executive Director attention, or,  
 2           when you reflect upon it, were these not, strictly  
 3           speaking, operational issues that were a matter between  
 4           the responsible director and the employee or former  
 5           employee Mr. O'Brien?

15:50

6           A.   Well I would, in my role as a Chair, have received  
 7           numerous letters, emails from different staff members  
 8           of different grades if they were unhappy about how they  
 9           were being looked after, so this didn't come as a  
 10          surprise to me. Mr. O'Brien --

15:50

11   199   Q.   What didn't come as a surprise to you?

12          A.   This letter. You know, what you're asking me is is  
 13          this out of the ordinary. What I am saying is I didn't  
 14          find the letter --

15   200   Q.   No. I'm asking you whether it was appropriate to send  
 16          a letter with such content to your Non-Executive  
 17          Directors given that it's, strictly speaking, referring  
 18          to an employment relationship problem which is  
 19          self-evidently operational in nature?

15:50

20          A.   Well, certainly anyone who would write to me about any  
 21          detail asked me to copy Board members into it,  
 22          Mr. Wolfe, I always copied it to my Non-Executive  
 23          Directors. I would not have held that letter or any  
 24          letter or communication myself in the office, it would  
 25          have been sent out. I didn't think it unusual because  
 26          we would have a wide range of letters that came across  
 27          my desk. When I read it, I hadn't read these letters  
 28          before, I hadn't seen them, I mean what Mr. O'Brien was  
 29          saying was he hadn't had a response from the Chief

15:51

15:51

1 Executive or from Mrs. Toal --

2 201 Q. Is he saying that?

3 A. Well, is there something that he is bringing it to them

4 in the covering email.

5 202 Q. He is sending to Mrs. Toal a letter the day before and 15:51

6 sending Mr. Devlin a letter on the same day?

7 A. Yes. Well, he is referring that. So I was not aware

8 this letter was coming, or any letters. Anything that

9 would come into my office that's to be shared with the

10 Board, would be shared, and that's what I did. 15:52

11 203 Q. What did you expect your non-executives to do with the

12 correspondence?

13 A. Well, I expected them to read it and if they had any

14 questions about it, they would have brought it back

15 through the confidential section of the Board. 15:52

16 204 Q. And was it subsequently discussed?

17 A. I don't remember this being discussed. I acknowledged

18 it, the email back. I don't remember it discussed

19 until -- I didn't attend the August meeting. I don't

20 remember the detail of his letter being discussed at 15:52

21 the Board, no, or where that would have come back to.

22 I do remember when it came in, talking to the Chief

23 Executive about, you know, Mr. O'Brien has written to

24 us. I think I haven't seen the covering email that I

25 sent out to the non-execs, if I copied Mr. Devlin in -- 15:53

26 205 Q. Just scroll up.

27 A. But that would be --

28 206 Q. Just scroll up.

29 A. I don't think I would have ever sent something to a NED



1 without copying Mr. Devlin in. But, you know, I meant  
2 when I forwarded it on.

3 207 Q. There you are. That's to you and I think the email  
4 circulating it to the NEDs is perhaps above that, if we  
5 scroll up. 90959. So, that's you forwarding it on to 15:53  
6 your NEDs, including Mr. Devlin.

7  
8 Did you discuss the content of Mr. O'Brien's letter  
9 with Mr. Devlin?

10 A. I certainly didn't go into detail, no, but I would have 15:54  
11 said to him you are aware he has written to us and I  
12 have copied you in on it. But I didn't go into the  
13 detail of it, no.

14 208 Q. Chair, you asked on a previous occasion whether the  
15 correspondence was the subject of a reply from anyone. 15:54  
16 We gave you on the previous occasion the reference for  
17 Mrs. Brownlee's response, which can be found at WIT...  
18 there it is there in front of us, that's right.  
19 Equally, just to be clear, Mr. Devlin acknowledged it  
20 and that is to be found at TRU-262061. Mrs. Toal sent 15:54  
21 a substantive response, which is to be found at  
22 TRU-265273. I think I have Mr Fox to thank for those  
23 references.

24  
25 Mr. wilkinson, if we could bring up his witness 15:55  
26 statement in this respect. It's WIT-26103. He is  
27 explaining at paragraph 51 that he was made aware by  
28 you -- sorry, he was made aware by you that the Chair,  
29 that is yourself, the Chief Executive and the Director

1 of Human Resources had received emails from  
2 Mr. O'Brien. He replied, acknowledging the email and  
3 requesting direction as the designated NED. So he  
4 continued to believe he was in the role of designated  
5 NED to the MHPS process. 15:56

6  
7 "Mrs. Toal advised me that the Chair was not willing to  
8 engage with the case since she might be compromised.  
9 Subsequently I received a telephone call from the Chair  
10 requesting that I try to expedite the matter. I 15:56  
11 explained to the Chair what"... he believed his role to  
12 be. He has made various diary entries in that respect.

13  
14 Can you recall engaging with Mr. wilkinson on this  
15 issue? 15:56

16 A. I don't remember having any calls with Mr. wilkinson  
17 after the much earlier calls when the process was  
18 starting and where he was meeting with Mr. O'Brien. I  
19 never had any more discussions with anybody involved in  
20 the investigation or any aspect of that, either 15:56  
21 Mr. wilkinson, Mrs. Toal, or anyone.

22 209 Q. He wrote to Mr. O'Brien, AOB-04365. As appears clear  
23 from his witness statement, he certainly does remember  
24 a further communication with you, and it was  
25 communication with you that caused him to write to 15:57  
26 Mr. O'Brien in the following terms:

27  
28 "As requested by your letter to the Chair, I can  
29 confirm receipt of the letter sent by you to the Chair,

1 Chief Executive and Director of HR". He says: "Since  
2 I am the designated Non-Executive Director as set out  
3 in the MHPS document, shall I treat this as  
4 representation to me in my capacity as NED or is this  
5 communication for information. If your intention is 15:58  
6 the former, then I will deal with the matter on this  
7 basis".

8  
9 It doesn't appear that Mr. O'Brien -- I am certainly  
10 not aware of any reply by Mr. O'Brien to that. 15:58  
11

12 Just on what Mrs. Toal had said, you didn't wish to  
13 become further involved because you recognised a  
14 conflict, is that accurate? Is that an accurate  
15 reflection of your state of mind at that time? 15:58

16 A. Yes, that's away at the beginning of the process. This  
17 letter here that John is writing, "as requested by your  
18 letter to the Chair", the only letter I ever remember  
19 Mr. O'Brien writing to me as the Chair was the letter  
20 that we've referred. 15:59

21 210 Q. Yes, that's what he is referring to.

22 A. Sorry.

23 211 Q. The letter of 10th June. So this is all happening  
24 within... It's now the 19th so it's all happening  
25 around -- he is responding just over a week after you 15:59  
26 had passed the letter on to him. As he said in his  
27 statement, it had been communicated to him that you  
28 didn't wish to take an involvement because you  
29 recognised a conflict. This is three years obviously

1 after the MHPS had commenced, and you say that you were  
2 aware of a conflict from that time. Again, what he has  
3 said about a conflict, is that still in your mind at  
4 this point in time?

5 A. Yes. I wasn't involved in anything further from back a 16:00  
6 long time before that. Yes, Mr. O'Brien wrote to me,  
7 yes I forwarded the letter, but I was not involved in  
8 anything that I can recall in relation to the  
9 Maintaining Higher Professional Standards or any other  
10 investigation in relation to Mr. O'Brien. I wasn't 16:00  
11 involved with anyone and I didn't talk to anyone.  
12 Definitely not that I can recall.

13 212 Q. There is an email which I will bring up which you have  
14 sent to Jennifer Comac at WIT-396521. Sorry,  
15 TRU-396521. So, this is 11th June. Just scrolling 16:01  
16 down. Mr. O'Brien is writing, as we've seen in respect  
17 of his letters, asking you to circulate them to the  
18 Non-Executive Directors. Then up the page, you tell  
19 Jennifer Comac, she is who? Is she your PA and  
20 Mr. Devlin's PA? 16:01

21 A. Yes. No, no, she was my PA, along with Sandra Judt who  
22 was the Board assurance. But those two ladies would  
23 have been of tremendous support to me and actually were  
24 my ears and eyes within my role. Also if I wasn't  
25 there, how they managed communication to keep me 16:02  
26 informed for when I'd come back.

27 213 Q. So you are reflecting that the Chief Executive is aware  
28 of this email from Mr. O'Brien, self-evidently, and  
29 John Wilkinson spoken to as he was the NED involved. I

1 suppose contrary to your recollection earlier, you did  
2 speak to him, that's fairly clear? As he recalls as  
3 well, you did speak to Mr. Wilkinson about these  
4 letters?

5 A. Well, I'm sorry, I just don't remember talking to him. 16:02  
6 It mustn't have been... I just don't remember.

7 214 Q. So you say:

8  
9 "You are aware of my possible conflict of interest and  
10 the Chief Executive and the NEDs have been made aware 16:02  
11 of this again today. Therefore, I do not wish to get  
12 involved in the finer operational aspects of this  
13 situation. The NEDs, without me present, can seek  
14 clarity on the process and procedure, which I  
15 understand John Wilkinson has been doing". 16:03

16  
17 Just to be clear, the conflict of interest which you  
18 allude to, or the possible conflict of interest, as you  
19 put it, is a recognition on your part that to be  
20 dealing with any matters relating to Mr. O'Brien, given 16:03  
21 your relationships with him, would be inappropriate?

22 A. Yes, yes, now that it had moved on to this detail. I  
23 mean I wasn't involved in anything, and that's what I  
24 was saying.

25 215 Q. Mr. Wilkinson, if we look at his diary entry for 16:03  
26 18th June 2020, receives a further phone call from you.  
27 If we go to TRU-262021, and just where it's marked in  
28 pink. It's a heavily annotated page. He has drawn an  
29 arrow from the evening of the 18th into the page for

1 the 19th. He says:

2  
3 "Telephone call pm, R Brownlee re Aidan O'Brien case,  
4 initially asking me to phone, then came back off  
5 position. I had ring V Toal and ask possibly about 16:04  
6 situation and grievance, what are the developments  
7 perhaps and impediments; is there a policy regarding  
8 retirement and retiring for [something] pending HR  
9 issue, and do the NEDs need an update on the issue from  
10 perhaps Chief Executive and HR". 16:05

11  
12 Although you had indicated, Mrs. Brownlee, on 11th June  
13 in the email that we have just seen to Sandra Judt, you  
14 are phoning Mr. Wilkinson apparently not once but  
15 perhaps twice on that evening, initially adopting a 16:06  
16 position and then countermanding it, can you remember  
17 speaking to Mr. Wilkinson at that time?

18 A. I don't remember speaking to Mr. Wilkinson at that time  
19 and I don't ever recall talking to him about the  
20 grievance and is there a policy and do NEDs need an 16:06  
21 update. I mean from what I can read, I definitely  
22 never discussed that with Mr. Wilkinson.

23 216 Q. You definitely didn't discuss?

24 A. Sorry, I am just going by what's written here on the  
25 screen. It refers to a phone call that I may have 16:06  
26 made. I don't remember making that phone call. It  
27 goes on to list three areas about -- but I did not  
28 discuss point 1, the grievance; 2 is there a policy re  
29 retirement, and 3, do the NEDs need an update on this

1 issue. I never made or had that conversation with John  
2 wilkinson.

3 217 Q. I think what he is saying, and it's confirmed in his  
4 witness statement, if I just bring it up on the page.  
5 I think I referred to the possibility of two phone 16:07  
6 calls earlier, I think he is pretty clear about one  
7 phone call but he describes it as a strange phone call,  
8 and I'll bring you to his explanation for that. If we  
9 go to WIT-26104. At paragraph 53, he said:

10 16:07  
11 "On 18th June I received a telephone call from Roberta  
12 Brownlee requesting that I telephone Aidan O'Brien".  
13 Then he goes on to say: "This was a strange call as  
14 after a number of minutes, she came back on this  
15 request. She explained that the process was exerting 16:08  
16 undue pressure on Aidan O'Brien and his family. I  
17 suggested that I would ring Vivienne Toal and get  
18 information on the following".

19  
20 That's how he articulates it. You were able to tell 16:08  
21 him that the process, by that point, June 2020, was  
22 exerting undue pressure on Mr. O'Brien and his family,  
23 and he made the suggestion that he would ring Vivienne  
24 Toal.

25 16:08  
26 The meeting, on Mr. wilkinson's account, certainly  
27 happened. He has given evidence that he made a  
28 contemporaneous record of it, which he has reflected  
29 back in his witness statement.

1 CHAIR: Do you mean the telephone call, Mr. wolfe?  
2 Telephone call or meeting? You said meeting, but  
3 telephone call.  
4 MR. WOLFE KC: Sorry, you will have to help me on what  
5 I said. 16:09  
6 CHAIR: I think you said the meeting definitely  
7 happened but I think you mean the telephone call.  
8 MR. WOLFE KC: The telephone call, on Mr. Wilkinson's  
9 account, certainly happened.  
10 218 Q. Are you saying it didn't happen, I wouldn't have made a 16:09  
11 call like that by this time? Or is it just a frailty of  
12 memory and you simply can't remember?  
13 A. I don't recall this conversation with Mr. Wilkinson and  
14 I definitely don't remember anything being discussed  
15 about grievance. I think what he is saying here, he 16:09  
16 suggested - is that to me - that he would ring Vivienne  
17 Toal and get information on the following grievance, is  
18 there a policy and do NEDs... I don't remember that,  
19 definitely not. I don't believe that happened.  
20 219 Q. You don't believe it happened? 16:09  
21 A. No, definitely. I don't remember John wilkinson  
22 talking to me about those three areas on that date on  
23 18th June.  
24 220 Q. You sometimes, unfortunately for us in terms of our  
25 understanding of our evidence, jump between 'it didn't 16:10  
26 happen' or 'I can't remember it happening'. Just hear  
27 me out, it is important that you understand what I am  
28 saying to you. It either didn't happen and you are  
29 adamant about that, or I simply can't remember it



happening, it could have happened but I don't recall it. Do you understand the distinction?

A. Well, I don't remember having a call on 18th June with John wilkinson where these areas were discussed. I don't believe that happened. I definitely have no recollection of those areas being discussed.

16:10

221 Q. If his account is accurate, it would seem to suggest where you are able to say to him that this process, this exerting undue pressure on Mr. O'Brien and his family, that would seem to suggest, on one reading, that you are in contact with Mr. O'Brien and his family in order to obtain that kind of information?

16:11

A. well, I have nothing in my diary, and I have checked it for the Inquiry, in relation to meeting Mr. or Mrs. O'Brien during that year of 2020. I don't remember this call. I believe from my memory it didn't happen, I appreciate how you have explained the distinction between the two. But I would not have known at 18th June about undue pressure on AOB and his family. I don't remember that.

16:11

222 Q. Of course, given your acknowledged conflict of interest which you had communicated just a few days earlier to Mrs. Judt, you would accept that it would be inappropriate for you to be engaging on Mr. O'Brien's behalf in conversations of this nature?

16:12

A. I would agree with you. I didn't do it and I wouldn't do it and I have explained why I wouldn't do it before, so I accept that.

223 Q. Just going back to Mr. wilkinson's oral evidence at

TRA-04244. At line 21, referring to this strange call,  
as he puts it, he explains:

"Initially Mrs. Brownlee came on and was making requests of me, the detail of which I just can't. I  
knew it was to have conversations with Mr. O'Brien to see if this matter, this whole situation, could be expedited more quickly; would I have a chat with Mr. O'Brien. I found it strange because as Chair of the Trust, I felt that she shouldn't be making those requests of me and that in terms of the independence of the role, then those were out of order. I think at the end of the telephone call she came back off that position, having listened to me. I can't remember if I noted I wouldn't be doing it. That was just how I felt about that".

You would appear, at least, to be in agreement with him that such a call would be inappropriate; the difference between you is he is insistent that the call happened and you dispute that?

A. Yes, I do. Maybe I'm not allowed to ask but it refers to that telephone call "she came back off that position, having listened to me". I just don't understand what that means, "she came back off that position, having listened to me"; what was it Mr. wilkinson told me?

224 Q. As he explained in his diary entry and in his statement, your initialled suggestion was please

1 contact Mr. O'Brien, and then this is why the call  
2 seemed strange to him because within some minutes of  
3 having said that, you came off that position and  
4 indicated that maybe he shouldn't call Mr. O'Brien. I  
5 think that's the sense of it.

16:14

6 A. I don't remember that, that call. I don't.

7 225 Q. well, I think we can leave it there for today. I think  
8 that seems a natural place to break.

9 CHAIR: Thank you, Mrs. Brownlee. Apologies we  
10 couldn't get through your evidence in its entirety but  
11 I'm sure we will identify a morning or an afternoon  
12 when you can come back and conclude your evidence.  
13 That is it, I think, until 6th February; is that  
14 correct? Have I got the date right?

16:14

15 MR. WOLFE KC: I am wondering in my head if the date  
16 for Mrs. Brownlee to come back a little earlier than  
17 that.

16:15

18 CHAIR: No, no. I mean that's when we are due to sit  
19 again.

20 MR. WOLFE KC: Yes. Okay, is that right? well, it  
21 can't be any earlier for Mrs. Brownlee in those terms.

16:15

22 CHAIR: That might actually be the day that you are due  
23 back.

24 MR. WOLFE KC: I'll not say it out loud now for fear of  
25 it being wrong, but we will communicate it round the  
26 parties tomorrow.

16:15

27 CHAIR: Thank you all very much, and safe home,  
28 everyone.

29

THE HEARING ADJOURNED UNTIL TUESDAY, 6TH FEBRUARY 2024

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