



Urology Services Inquiry

Urology Services Inquiry | 1 Bradford Court | Belfast BT8 6RB
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Mr Richard Pengelly
Former Permanent Secretary of Department of Health
C5.11
Castle Buildings
Stormont
Belfast
BT4 3SQ

22 November 2023

Dear Sir,

**Re: The Statutory Independent Public Inquiry into Urology Services in the
Southern Health and Social Care Trust**

**Provision of a Section 21 Notice requiring the provision of evidence in the
form of a written statement**

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust (the Urology Services Inquiry) which has been set up under the Inquiries Act 2005 ('the Act').

I enclose a copy of the Urology Services Inquiry's Terms of Reference for your information.

You will be aware that the Inquiry has commenced its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals. In addition, the Inquiry has also now begun the process of requiring individuals who have been, or may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry panel.

The Urology Services Inquiry is now issuing to you a Statutory Notice (known as a Section 21 Notice) pursuant to its powers to compel the provision of evidence in the form of a written statement in relation to the matters falling within its Terms of Reference.

This Notice is issued to you due to your previously held post, within the Department of Health and any knowledge you may have, that may be relevant to the Inquiry's Terms of Reference.

The Inquiry understands that you will have access to all of the relevant information required to provide the witness statement required now or at any stage throughout the duration of this Inquiry. Should you consider that not to be the case, please advise us of that as soon as possible.

The Schedule to the enclosed Section 21 Notice provides full detail as to the matters which should be covered in the written evidence which is required from you. As the text of the Section 21 Notice explains, you are required by law to comply with it.

Please bear in mind the fact that the witness statement required by the enclosed Notice is likely (in common with many other statements we will request) to be published by the Inquiry in due course. It should therefore ideally be written in a manner which is as accessible as possible in terms of public understanding.

You will note that if certain questions raise issues regarding documentation, If you in your personal capacity hold any documentation which you consider is of relevance to our work and is not within the custody or power of the Department and has not been provided to us to date, then we would ask that this is also provided with this response.

If it would assist you, I am happy to meet with you and/or the Trust's legal representative(s) to discuss what documents you have and whether they are covered by the Section 21 Notice.

You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which is also enclosed with this correspondence. In addition, as referred to above, you will also find enclosed a copy of the Inquiry's Terms of Reference to assist you in understanding the scope of the Inquiry's work and therefore the ambit of the Section 21 Notice.

Given the tight time-frame within which the Inquiry must operate, the Chair of the Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

If there is any difficulty in complying with this time limit you must make application to the Chair for an extension of time before the expiry of the time limit, and that application must provide full reasons in explanation of any difficulty.

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed Notice by email to Personal Information redacted by the USI.

Please do not hesitate to contact me to discuss any matter arising.

Yours faithfully

Personal Information redacted by the USI

Anne Donnelly
Solicitor to the Urology Services Inquiry

Tel: Personal Information redacted by the USI

Mobile: Personal Information redacted by the USI

THE INDEPENDENT PUBLIC INQUIRY INTO
UROLOGY SERVICES IN THE
SOUTHERN HEALTH AND SOCIAL CARE TRUST

Chair's Notice

[No 26 of 2023]

pursuant to Section 21(2) of the Inquiries Act 2005

WARNING

If, without reasonable excuse, you fail to comply with the requirements of this Notice you will be committing an offence under section 35 of the Inquiries Act 2005 and may be liable on conviction to a term of imprisonment and/or a fine.

Further, if you fail to comply with the requirements of this Notice, the Chair may certify the matter to the High Court of Justice in Northern Ireland under section 36 of the Inquiries Act 2005, where you may be held in contempt of court and may be imprisoned, fined or have your assets seized.

TO: Mr Richard Pengelly
Former Permanent Secretary
of the Department of Health
C5.11
Castle Buildings
Stormont
Belfast BT4 3SQ

IMPORTANT INFORMATION FOR THE RECIPIENT

1. This Notice is issued by the Chair of the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust on foot of the powers given to her by the Inquiries Act 2005.
2. The Notice requires you to do the acts set out in the body of the Notice.
3. You should read this Notice carefully and consult a solicitor as soon as possible about it.
4. You are entitled to ask the Chair to revoke or vary the Notice in accordance with the terms of section 21(4) of the Inquiries Act 2005.
5. If you disobey the requirements of the Notice it may have very serious consequences for you, including you being fined or imprisoned. For that reason you should treat this Notice with the utmost seriousness.

WITNESS STATEMENT TO BE PRODUCED

TAKE NOTICE that the Chair of the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust requires you, pursuant to her powers under section 21(2)(a) of the Inquiries Act 2005 ('the Act'), to produce to the Inquiry a Witness Statement as set out in the Schedule to this Notice by noon on **13th December 2023**.

APPLICATION TO VARY OR REVOKE THE NOTICE

AND FURTHER TAKE NOTICE that you are entitled to make a claim to the Chair of the Inquiry, under section 21(4) of the Act, on the grounds that you are unable to comply with the Notice, or that it is not reasonable in all the circumstances to require you to comply with the Notice.

If you wish to make such a claim you should do so in writing to the Chair of the Inquiry at: **Urology Services Inquiry, 1 Bradford Court, Belfast, BT8 6RB** setting out in detail the basis of, and reasons for, your claim by noon on **6th December 2023**.

Upon receipt of such a claim the Chair will then determine whether the Notice should be revoked or varied, including having regard to her obligations under section 21(5) of the Act, and you will be notified of her determination.

Dated this day 22nd November 2023

Signed:

Personal information redacted by the USI

Christine Smith QC
Chair of Urology Services Inquiry

SCHEDULE**[No 26****[26 of 2023]****Discussions with Roberta Brownlee**

1. In her statement in response to Section 21 Notice 105/22, Mrs Roberta Brownlee describes a series of discussions she had with you during 2020 at **WIT-90872** as follows:

“I had spoken to the Permanent Secretary, Mr Richard Pengelly [sic] on two occasions: my first call was sometime in Summer 2020, and it was regarding my replacement as Chair. I remember I was interviewing in the Seagoe Hotel Portadown and stood out of the meeting to take this call. I asked Richard Pengelly when my replacement was being announced. I was advised that interviews were completed, and he would push to get on announcement. I explained then the investigation into Mr O’Brien, the situation that I was in, and that I did not wish to be involved in any meetings. [“Discussion 1”]

The second telephone call with Richard Pengelly was late September, again cannot recall the exact date and I did not take notes. Mr Pengelly phoned me to ask about the CURE Charity. I explained the history behind the foundation and management of this charity. I told Mr Pengelly that I had not been attending Board meetings with an agenda item on Mr O’Brien.

Mr Pengelly told me that – whilst I had a conflict of interest – it still was extremely important that I fulfilled my role and responsibilities as Chair. He reminded me that I should be careful that, in my absence from Board meetings, I was kept well informed and maintained control as Chair.

Richard stated to me that he knew me well enough to know I would act professionally. I had a particularly good meaningful conversation with Richard. [“Discussion 2”]

Having regard to the statement from Mrs Brownlee above, you are now asked to address the following:

- (a) Please outline your recollections about any discussions which took place between yourself and Mrs Brownlee in 2020 including a description of the circumstances leading up to the discussions and a summary of what was discussed.
- (b) Please comment on Mrs Brownlee's evidence above, indicating in which respects you agree or disagree with it, and why.
- (c) Please also provide any and all documents within your custody or under your control relating to these discussions.

2. Specifically, regarding Discussion 1, please address the following:

- (a) Please confirm the date of this discussion.
- (b) Do you agree with Mrs Brownlee's recollection that she discussed *"the investigation into Mr O'Brien, the situation [she] was in, and that [she] did not wish to be involved in any meetings."*
- (c) What do you recall as to the nature of this discussion concerning *"the investigation into Mr O'Brien, the situation [she] was in, and that [she] did not wish to be involved in any meetings."*
- (d) In her response to Section 21 Notice at **WIT-90849** Mrs Brownlee states that *"I have recollection of telling Richard Pengally [sic] that I did not wish to be in post during the investigation into Mr O'Brien and my reasons for that."* To the extent not covered by (b) and (c) above, please address the following:
 - i. Do you agree with Mrs Brownlee's recollection that she stated that she *"did not wish to be in post during the investigation into Mr O'Brien and my reasons for that"*?
 - ii. What do you recall as to the nature of this discussion?
 - iii. Specifically, what do you recall Mrs Brownlee explaining as to the *"reasons"* for her not wanting to be in post during the investigation?
 - iv. In response to this what action, if any, did you take?

- (e) What, if anything, was agreed between you and Mrs Brownlee with regard to her future involvement with any concerns regarding Mr O'Brien and/or Urology Services within the Southern Health and Social Care Trust.
 - (f) On reflection, and considering Mrs Brownlee's potential conflict of interest, do you consider that this conversation was handled appropriately by Mrs Brownlee and yourself? Please explain why.
3. Specifically, regarding Discussion 2, please address the following:
- (a) Please confirm the date of this discussion.
 - (b) What led you to contact Mrs Brownlee regarding her involvement with CURE?
 - (c) When, and in what circumstances, did you or others within the Department of Health become aware of Mrs Brownlee's involvement with CURE?
 - (d) When, and in what circumstances, did you or others within the Department of Health become aware of any further conflicts Mrs Brownlee may have had concerning Mr O'Brien and/or Urology Services? Outline what, if any, further conflicts you understand Mrs Brownlee may have had.
 - (e) Do you agree with Mrs Brownlee's recollection that she explained *"the history behind the foundation the management of this charity"*?
 - (f) What do you recall as to the nature of this discussion concerning *"the history behind the foundation the management of this charity"*?
 - (g) Do you agree with Mrs Brownlee's recollection that she told you that she *"had not been attending Board meetings with an agenda item on Mr O'Brien."*
 - (h) What do you recall as to the nature of this discussion concerning Mrs Brownlee's attendance at Board meetings?
 - (i) Do you agree with Mrs Brownlee's recollection that you *"told [her] that – whilst [she] had a conflict of interest – it was still extremely important that [she] fulfilled [her] role and responsibilities as Chair"*?
 - (j) What do you recall as to the nature of any discussion you had with Mrs Brownlee regarding a potential conflict of interest and her attendance / involvement in future Board meetings relating to concerns regarding Mr O'Brien and/or Urology Services.
 - (k) Did you provide any advice, guidance or direction to Mrs Brownlee regarding her future attendance at any Board meetings which would likely address

concerns relating to Mr O'Brien and/or Urology Services? If so, what advice, guidance or direction did you provide to her?

- (l) What, if anything, was agreed between you and Mrs Brownlee with regard to her future involvement with any concerns regarding Mr O'Brien and/or Urology Services within the Southern Health and Social Care Trust.
- (m) On reflection, and considering Mrs Brownlee's potential conflicts of interest, do you consider that this conversation was handled appropriately by Mrs Brownlee and yourself? Please explain why.

4. Mrs Brownlee attended and participated in a subsequent meeting of the Trust Board on 22 October 2020 at which concerns regarding Mr O'Brien and/or Urology Services were discussed. Minutes of the relevant meeting found at **TRU-159011 – TRU-159017** are attached hereto. In her response to Section 21 Notice Mrs Brownlee states at **WIT-90874** that *"the decision to attend was influenced by the second conversation I had with Richard Pengelly, in late September 2020, as referenced to above"* (Discussion 2) and, further, at **WIT-90884** Mrs Brownlee states that *"Richard Pengelly phoned me in late September and then I attended the October meeting because of this phone call."* Having regard to this evidence, you are now asked to address the following:

- (a) Do you consider it a reasonable outcome or interpretation from what was discussed during Discussion 2 that Mrs Brownlee could have been *"influenced"* by same to attend the Trust Board meeting of 22 October 2020? Please fully explain your answer with reference to what, if any, was discussed with Mrs Brownlee and your understanding of same.
- (b) When, and in what circumstances, did you or others within the Department of Health become aware of Mrs Brownlee's participation in the Trust Board meeting of 22 October 2020?
- (c) Were you or others within the Department of Health concerned about Mrs Brownlee's participation in the Trust Board meeting of 22 October 2020? If so, outline the nature of those concerns.
- (d) If you or others within the Department of Health were concerned about Mrs Brownlee's participation in the Trust Board meeting on 22 October 2020, On becoming aware of Mrs Brownlee's participation in the meeting, outline what,

if any, action was taken by yourself or others within the Department of Health to address those concerns?

- (e) On reflection, and considering Mrs Brownlee's potential conflicts of interest, do you consider that this issue was handled appropriately by Mrs Brownlee? Please explain why.

5. In his statement in response to Section 21 Notice 5/21, Mr Shane Devlin describes a series of discussions in October 2020 at **WIT-00096** as follows:

I was left with the strong impression during the meeting that the Chair was advocating on behalf of Mr. O'Brien, a feeling which was shared and relayed to me by a number of SMT colleagues. It was common knowledge amongst the Trust Board and the SMT that the Chair had previously been a patient of Mr. O'Brien and that she was a personal friend. I felt aggrieved that the Chair had not declared a conflict of interest in the conversation at the Board meeting. I discussed my concerns with members of SMT and was considering what I should do. A few days later (I cannot recall the exact date as I did not note the time and date of the call) I received a telephone call from the Permanent Secretary, Richard Pengelly, asking whether I was aware of 'Craigavon Urology Research and Education – CURE'. I was not aware and advised him of this. He proceeded to explain to me that it was a charity that had been created in 1997 by Mr. O'Brien and that he understood Roberta Brownlee had been a director of the charity for 15 years up to 2012. Richard Pengelly asked me if Roberta had been declaring a conflict of interest in our Board meetings with regards to Mr. O'Brien and Urology, which she had not. Richard Pengelly then instructed me to telephone the Chair and advise her of our conversation this topic. I subsequently phoned the Chair and advised her accordingly. It is my understanding that Roberta then telephoned Richard to discuss the issue. From that point forward Roberta excused herself from further Board meeting conversations on the topic. It is important to note that, even though our working relationship was less than optimal, I do not believe that this had any impact on the path that was followed with the Mr. O'Brien Case and / or urology. All appropriate regard, to Mrs Brownlee as Trust Chair, was given from me. Our relationship did not alter my behaviours with regards

to sharing information with the Chair and Board and I am of the view that the actions Mrs Brownlee chose to take were not affected by our relationship.

Having regard to the evidence from Mrs Brownlee above, you are now asked to address the following:

- (a) Please outline your recollections about any discussions which took place between yourself and Mr Devlin in 2020 relating to Mrs Brownlee including a description of the circumstances leading up to the discussions and a summary of what was discussed.
- (b) Please comment on Mr Devlin's evidence above indicating in which respects you agree or disagree with it, and why?
- (c) Please also provide any and all documents within your custody or under your control relating to these discussions.
- (d) To the extent that there is any conflict between what is said by Mr Devlin at **WIT-00096** and Mrs Brownlee at **WIT-90872** (above at question 1), please outline the aspects of each account which you consider to be more accurate and your reasons for reaching that conclusion.

Evidence from Department of Health

- 6. The Inquiry has received evidence from Peter May (now Permanent Secretary to the Department of Health) and Ryan Wilson (Director of Secondary Care). On review of that evidence, please provide any comments, revisions, or additional information which may assist the Inquiry within its Terms of Reference.
- 7. If you have any additional information or documentation relevant to provide in respect of any of the questions raised above or anything further you wish to add then please provide same along with your response.

NOTE:

By virtue of section 43(1) of the Inquiries Act 2005, "document" in this context has a very wide interpretation and includes information recorded in any form. This will include, for instance, correspondence, handwritten or typed notes, diary entries and minutes and memoranda. It will also include electronic documents such as emails,

text communications and recording. In turn, this will also include relevant email and text communications sent to or from personal email accounts or telephone numbers, as well as those sent from official or business accounts or numbers. By virtue of section 21(6) of the Inquiries Act 2005, a thing is under a person's control if it is in his possession or if he has a right to possession of it.



UROLOGY SERVICES INQUIRY

USI Ref: Notice 26 of 2023

Date of Notice: 22 November 2023

Witness Statement of: Richard Pengelly

I, Richard Pengelly, will say as follows:-

1. On 1st July 2014, I took up post as Permanent Secretary in the then Department of Health, Social Services and Public Safety – renamed in 2016 as the Department of Health. I remained in this post until 4 April 2022, when I moved to the post of Permanent Secretary in the Department of Justice.
2. Prior to July 2014, I had been Permanent Secretary in the Department for Regional Development (now the Department for Infrastructure) (since 1 January 2013), and before that had held a number of roles in the (then) Department of Finance and Personnel (now the Department of Finance).
3. The key issue on which I have been asked to comment is the potential conflict of interest on the part of the then Chair of SHSCT, Mrs Roberta Brownlee. A number of specific questions have been put to me (in paragraphs 1, 2, 3, 4 and 5 of the Schedule) in this regard, and I have set these out, together with my responses, below.

1 (a) Please outline your recollections about any discussions which took place between yourself and Mrs Brownlee in 2020 including a description of the



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circumstances leading up to the discussions and a summary of what was discussed.

4. I have no recollection or record of any conversation with Mrs Brownlee at any time in 2020 on the issue of Mr Aidan O'Brien or Urology Services at Craigavon Area Hospital. I do recall (but cannot attribute a date to) a brief conversation with Mrs Brownlee on the timeline for her replacement as Chair of the Trust Board.

1 (b) *Please comment on Mrs Brownlee's evidence above, indicating in which respects you agree or disagree with it, and why.*

5. As set out in 1(a) above, I have no recollection of any conversations on the issue of Mr Aidan O'Brien or Urology Services at Craigavon Area Hospital taking place with Mrs Brownlee.
6. I do have a clear recollection that the first time I was made aware of any potential conflict of interest issue involving Mrs Brownlee was when my departmental colleague, Jackie Johnston, advised me that Mrs Brownlee had been listed as a Director of CURE. I was unaware of this before this conversation. My notebooks from the time record this conversation as taking place on 26 October 2020 (copy attached titled RP1, page 5).
7. Later that same day, I telephoned the then Chief Executive of SHSCT, Shane Devlin, about the issue. In the course of my call with Mr Devlin on 26 October 2020, he advised me that he had not been aware of the CURE link. Mr Devlin also made me aware of the further potential conflict of Mrs Brownlee being both a friend and a former patient of Mr O'Brien. I was not aware of this before that conversation. Mr Devlin advised that he was uncomfortable with this, and particularly the specific fact that Mrs Brownlee had not formally declared this as part of any Board discussion of the Urology issue (including as regards her participation in the Board meeting on 22 October). I indicated to Mr Devlin that I agreed with his view that the issue should have been disclosed, and I recall outlining my further view that, in light of the potential conflict, Mrs Brownlee should not be a party to any discussion of the issue. To resolve this going



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forward, I suggested that Mr Devlin should speak to Mrs Brownlee as a matter of urgency and make this view clear to her.

8. I do not recall, nor have a record, of any follow up call by me with Mrs Brownlee on this issue.
9. The fact that 26 October 2020 was the first time I was made aware of any potential conflict of interest is clearly at odds with the suggestion of me being part of any conversation with Mrs Brownlee prior to that date (she has indicated both discussions pre-dated October 2020).
10. Notwithstanding my view that such a conversation did not take place, if, as Mrs Brownlee suggests, in Discussion 1 (in "Summer 2020") she indicated to me that she "did not wish to be involved in any meetings", it is odd that she subsequently participated in the Board discussion on the issue on 22 October 2020. My view is that it would have been entirely open to her to withdraw from such a discussion, and I am unaware of any assertion that she was compelled to participate.
11. I firmly believe that, had I been part of any discussion with Mrs Brownlee as regards a potential conflict of interest, my clear advice would have been that this should have been formally disclosed and recorded, and that she should not have participated in Board level discussions of the matter.

1 (c) *Please also provide any and all documents within your custody or under your control relating to these discussions.*

12. It is my normal practice to use a personal notebook as part of my work routine. This notebook is used to capture points that arise during meetings/discussions etc to assist me in managing the flow of those meetings/discussions – i.e. it is not intended to be a complete record of every meeting/conversation I have, nor a comprehensive record of every component of those discussions that are recorded. The main aim is to help me in the flow of the meetings as they take place, and the notes are not intended to be a substitute for the official record of such meetings/discussions, where one is appropriate. I have attached the



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relevant extracts from all such meetings/conversations on the Urology issue (RP1).

2 (a) Please confirm the date of this discussion.

13. See 1(a) above.

2 (b) Do you agree with Mrs Brownlee's recollection that she discussed "the investigation into Mr O'Brien, the situation [she] was in, and that [she] did not wish to be involved in any meetings."

14. See 1 (a). As indicated above, I do not recall Mrs Brownlee discussing with me, at any time, any conflict of interest between her and Mr O'Brien.

2 (c) What do you recall as to the nature of this discussion concerning "the investigation into Mr O'Brien, the situation [she] was in, and that [she] did not wish to be involved in any meetings."

15. See 1(a) above.

2 (d) In her response to Section 21 Notice at WIT-90849 Mrs Brownlee states that "I have recollection of telling Richard Pengally [sic] that I did not wish to be in post during the investigation into Mr O'Brien and my reasons for that." To the extent not covered by (b) and (c) above, please address the following:

- i. Do you agree with Mrs Brownlee's recollection that she stated that she "did not wish to be in post during the investigation into Mr O'Brien and my reasons for that"?**
- ii. What do you recall as to the nature of this discussion?**
- iii. Specifically, what do you recall Mrs Brownlee explaining as to the "reasons" for her not wanting to be in post during the investigation?**
- iv. In response to this what action, if any, did you take?**

16. See 1(a) above.



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2 (e) *What, if anything, was agreed between you and Mrs Brownlee with regard to her future involvement with any concerns regarding Mr O'Brien and/or Urology Services within the Southern Health and Social Care Trust.*

17. See 1(a) above.

2 (f) *On reflection, and considering Mrs Brownlee's potential conflict of interest, do you consider that this conversation was handled appropriately by Mrs Brownlee and yourself? Please explain why.*

18. See 1(a) above.

3 (a) *Please confirm the date of this discussion [Discussion 2].*

19. See 1(a) above.

3 (b) *What led you to contact Mrs Brownlee regarding her involvement with CURE?*

20. See 1 (a) above.

3 (c) *When, and in what circumstances, did you or others within the Department of Health become aware of Mrs Brownlee's involvement with CURE?*

21. See 1(b) above.

3 (d) *When, and in what circumstances, did you or others within the Department of Health become aware of any further conflicts Mrs Brownlee may have had concerning Mr O'Brien and/or Urology Services? Outline what, if any, further conflicts you understand Mrs Brownlee may have had.*

22. See 1(b) above.

3 (e) *Do you agree with Mrs Brownlee's recollection that she explained "the history behind the foundation the management of this charity"?*

23. See 1(a) above.



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3 (f) What do you recall as to the nature of this discussion concerning “the history behind the foundation the management of this charity”?

24. See 1(a) above.

3 (g) Do you agree with Mrs Brownlee’s recollection that she told you that she “had not been attending Board meetings with an agenda item on Mr O’Brien.”

25. See 1(a) above.

3 (h) What do you recall as to the nature of this discussion concerning Mrs Brownlee’s attendance at Board meetings?

26. See 1(a) above.

3 (i) Do you agree with Mrs Brownlee’s recollection that you “told [her] that – whilst [she] had a conflict of interest – it was still extremely important that [she] fulfilled [her] role and responsibilities as Chair”?

27. See 1(a) above.

3 (j) What do you recall as to the nature of any discussion you had with Mrs Brownlee regarding a potential conflict of interest and her attendance / involvement in future Board meetings relating to concerns regarding Mr O’Brien and/or Urology Services.

28. See 1(a) above.

3 (k) Did you provide any advice, guidance or direction to Mrs Brownlee regarding her future attendance at any Board meetings which would likely address concerns relating to Mr O’Brien and/or Urology Services? If so, what advice, guidance or direction did you provide to her?

29. See 1(a) above.



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3 (l) *What, if anything, was agreed between you and Mrs Brownlee with regard to her future involvement with any concerns regarding Mr O'Brien and/or Urology Services within the Southern Health and Social Care Trust.*

30. See 1(a) above.

3 (m) *On reflection, and considering Mrs Brownlee's potential conflicts of interest, do you consider that this conversation was handled appropriately by Mrs Brownlee and yourself? Please explain why.*

31. See 1(a) above.

4 (a) *Do you consider it a reasonable outcome or interpretation from what was discussed during Discussion 2 that Mrs Brownlee could have been "influenced" by same to attend the Trust Board meeting of 22 October 2020? Please fully explain your answer with reference to what, if any, was discussed with Mrs Brownlee and your understanding of same.*

32. See 1(b) above - I do not recall any such conversation taking place. Also, given the fact that the first time I was made aware of any potential conflict of interest was after the Board meeting took place, I do not accept that any attendance at, and participation in, the 22 October meeting by Mrs Brownlee could have been influenced by my views or advice.

4 (b) *When, and in what circumstances, did you or others within the Department of Health become aware of Mrs Brownlee's participation in the Trust Board meeting of 22 October 2020?*

33. See 1(b) above - I was advised of this for the first time by Shane Devlin in the course of our telephone conversation on 26 October 2020. I do not know what the position is for former colleagues in DoH.



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4 (c) *Were you or others within the Department of Health concerned about Mrs Brownlee's participation in the Trust Board meeting of 22 October 2020? If so, outline the nature of those concerns.*

4 (d) *If you or others within the Department of Health were concerned about Mrs Brownlee's participation in the Trust Board meeting on 22 October 2020, on becoming aware of Mrs Brownlee's participation in the meeting, outline what, if any, action was taken by yourself or others within the Department of Health to address those concerns?*

34. As indicated above, I only became aware of Mrs Brownlee's attendance at this meeting after the event. I do not know what the position is for my former colleagues in DoH. Upon learning of her participation, my view was that this was not appropriate, that the potential conflict should have been formally disclosed and recorded, and Mrs Brownlee should have stepped away from the meeting for the duration of any discussion of the Urology issue. This is reflected in the advice I gave to Mr Devlin in the course of our telephone conversation on 26 October.

35. Although I cannot recall my specific thought process at the time, I suspect my view on handling (i.e. that Mr Devlin should make this view clear to Mrs Brownlee rather than any more formal intervention) would have been based on the very limited time remaining in Mrs Brownlee's tenure as Chair (I believe the new Chair was taking up post on 1 December 2020). I note that this approach was effective, as Mr Devlin records that "*From that point forward Roberta excused herself from further Board meeting conversations on the topic*".

4 (e) *On reflection, and considering Mrs Brownlee's potential conflicts of interest, do you consider that this issue was handled appropriately by Mrs Brownlee? Please explain why*

36. As indicated above, I believe the potential conflict should have been formally disclosed and recorded, and that Mrs Brownlee should not have participated in any discussion of the issue by the Board. That this was not the case was, I believe, a failing on the part of Mrs Brownlee, who – as an experienced Chair



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– should have been familiar with both the procedures for, and importance of, the appropriate management of potential conflicts of interest.

5 (a) Please outline your recollections about any discussions which took place between yourself and Mr Devlin in 2020 relating to Mrs Brownlee including a description of the circumstances leading up to the discussions and a summary of what was discussed.

37. See 1(b) above.

5 (b) Please comment on Mr Devlin's evidence above indicating in which respects you agree or disagree with it, and why?

38. With one minor caveat, Mr Devlin's evidence is a fair reflection of the conversation I had with him, and reflects the facts as I know them. The minor caveat is that he records his understanding that Mrs Brownlee telephoned me after my conversation with him on 26 October – presumably to discuss the potential conflict issue. I have no recollection or record of such a call – and I note that no reference has been made to such a call by Mrs Brownlee in the material presented to me.

5 (c) Please also provide any and all documents within your custody or under your control relating to these discussions.

39. See 1(c) above.

5 (d) To the extent that there is any conflict between what is said by Mr Devlin at WIT-00096 and Mrs Brownlee at WIT-90872 (above at question 1), please outline the aspects of each account which you consider to be more accurate and your reasons for reaching that conclusion.

40. As indicated, Mrs Brownlee makes reference to conversations with me that I have no recollection or record of ever having taken place. Mr Devlin's evidence aligns with the facts as I know them (subject to one minor caveat as addressed in my response to Question 5(b)).



Urology Services Inquiry

- 6 *The Inquiry has received evidence from Peter May (now Permanent Secretary to the Department of Health) and Ryan Wilson (Director of Secondary Care). On review of that evidence, please provide any comments, revisions, or additional information which may assist the Inquiry within its Terms of Reference.*
41. I have reviewed the evidence provided by Peter May and Ryan Wilson and have no comments to make on it, nor anything further to add to it.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Personal Information redacted by the USI

Signed: _

Date: _____ 20 December 2023 _____

Jackie 9/10/20

Craigam voley O'ban

- 5 STAs a week ago
- guy to put light TOL (saw on internet looking). He later changed entry to rear
- might take time to recall
- cancelled voley stopped + said give range of work this week possible
- done a lot but seen - said hundred marks
- now shifted 9 STAs - pulled for another 9-15
- self up & put pen to look at all STAs as a group
- 2 main issues - time for more refined not good (one can only up to 12 voley graphs)
- priority of a patching drug (re prostate) → maintain sexual function but not shorten life. Patching not one of back ft. Presented to me 82 year old.
- Jack to send for symptoms report for next Wednesday
- Same guy had pen 5 STAs. May need to go back to these families
- ⇒ look like Michael Watt all over again

- Jamie had Trent to find the best to manage this. Has talked to Blye Trent about Walt case.
- but → don't feel they have seen if what is coming down the road from them

Shane - 9/10/20

- to send computer report that was really provided to Trent Bros
- up until recently, looked just like administrative things. Now looking more about clinical treatment
- feel like they need with couple of weeks to better at all the detail. Up to 8 SAs to run
- Probably 1700 unreviewed diagnostic reports
- feel like the like Medical Walt
- not picking up any extra work I would
- Trent going to medical boards as issues arise. Has plan to go public, but not really yet.

Tasks 15/10/20

Urology at Salford

SHICR - common and day started not well
common and poorly practice (underused + not enough
resources)

Meet this afternoon

SHICR under review with CMO - not happy
'Lapatin' report in it not been revised yet
since they want to do the on initial scan

Still go next week if not (note the next week)

? set up for San Antonio Camp to review and a this?

Southern Test Urology 22/10/20

- Early start in summer
- cases escalated in Tuck investigated
- pink pants controlled in one home
- pen size at one consult is 2016 (2 and 2009?)

- Ranges pants
 - weekly doctor
 - seen to present
 - Ranges high

? What (date to 54565) present do we need to
 source this

? In 'maintaining high' water (link to Michael Watt)

? Michael stated need after rest?

Tuck has been investigating patients & trying to find case

① Ring Shave

I'm to deliver.
 Jackie — 26/10
 CVR — Bill Dwyer (only).
 I spoke to Sharon — He will go to
 Bill & get Bill to me
 Bill 4/97 → 7/12

Sharon was not
 an. Bill had
 not ever disclosed.

Aidan O'Brien

(Cyril — Only not & other
 Cyril.)

Personal information redacted by USI

Brett?

Urology SHSCF 4/11/20

Agree to name consultant as Minister's statement

① Consultation with Brett
[2am call]

Urology 6/11/20

Minutes of

Melanie McClench - Director of Patient Services
to be fully added to
networking.

9 SHs providing

training to network of patient services

help to bring services

~ 150 calls to help line

sep info for the As - only 1 call to date

191 per full to 15

Beckhams audit. 2 per ^{low dose} _{high dose}

Meet by College to discuss this week

Need to set up a ~~dent~~ panel for SHs

(let a panel at network).

low dose - not to.

BAUS Best Anal of Urology Services

Trust to make GMC aware of concerns
re patient practice

15 patches

Urology 13/11/20

Panel - updated on Beck's reluctance

South East update

SM, - 2 intended repl + 1 severely repl
high data for capital and Jan 2021

ISS calls (to updates) to patient updates (line

GP line - only 1 call to date

Chase process audit underway

GMC going to undertake oversight into doctors conduct

Prostacy issues → not fixed, but in regard
of openness & honesty with patients

Private practice?

→ likely also to have
private patients for P&I(Trust don't believe he is registered with GMC - so
my belief after what has been the barrier)

Land - important to keep dignified when
 public or private patient contacts.

- need to deal with patient re
 IMC regulations (widely well known
 as reported in the past)

(A) Mark / to Cabin
 to carry //

Intel Asset

Paul Patra

High College

IPY

GMC

Bidirectional Asset

Robson/Ham ?

Support is plan to help the staff from

to ? and with respect to the system.

CURE - essential to the doctor

body to deal with the medical staff who
 no longer have the trust

? should be?

Urology 20/11/20

Urology Reports

236 IS

1300 Birkdale patient
across NI

Was reported with IMC until 1999
but not since

CURE → send certificate for
individuals of which they
have had any relationship
with CURE (as per
appet) in the past.

Letter to GP (of Mr
debar statement)

Urology Shunt 23/4/20

21/7/20 Total catch dept

7/6/20 Total from area of concern

Start — round 147 patients
Jan 19 — May 20

↳ cases with 46

1/1/19 — 1/1/20 2327 patients under his care

352 cases patient appears on

↳ 120 delays is discharge info
36 no discharge info

→ 2 met shunt for SAT

168 total patients / catch

↳ 50 unmarked

3 SAT
5 total info regard

the idly 1531 only
the up bill covered

231 MAT dinner

3 SAI
1 by covered

236 only (phd) → put of belly

1 SAI

Tell 9 SAI
6 phd better

Binkabank - 300 phd
26 by road up

9 93 78
100 61
100 5. 91

Darkly

800
was 544

Minister re Urology 23/11/20

Irrelevant information redacted by the USI

→ der skt - Neurology

⇒ need to identify a char
but request of consult char a ToR
(per Sygini Act 2005)

Headline by needed
for statement → difficult to

type this out
we reading out
a list of names.

Irrelevant information redacted by the USI

Left school this afternoon

↳ she was late
as possible tomorrow

↳ we shall still
be away on the
in the morning to
from the Minister -
send advice for by
late to return to
the speaker.

Urology Ann Group 18/12/20

Professor Seltzer (in England) agrees
to be involved

IS might plan visit + review
by actual consultant

& Jan not meeting

Urology Interview 8/1/21

SHLs in line R angle
by and from
(9 + 1 months)

② Non Distraction

② SHL Engaged → to come
back to me

IS — later 24/11

LPP information redacted by the USI

+ explained in need to
go after this approximately.

Not ready → 2 weeks

Urology Update 22/1/21

SAI

- on target to end Jan
- urgent need and due
- left all 2, shared with families

Pete ph -

LPP Information redacted by the USI

Discovered all GHE

Pete ph letter to sell → L on scan 2

SSR - power for Dept clearing?

Smaller patients?

Shane Pawlin 5/2/21

Urology

SAI report

- delay of SAI 4 weeks
- agreed
- PHA & SHSC agreed
different date
- ensuring

SUSCT Urology - 5/3/21

SATs received (9 medical + 1 overarching)

LPP information redacted by the USI

Michael - quote of what SATs reflect
certain negative, given he
but they are.

Agreed he would write to Don today
saying it was happy on Monday
(but case summary would not be
shared to nearby people as they
could break confidentiality).

? Miter ?

Tell Audit - trial is Jan 19
to June 20

I put a note down and
recovery costs for the
unapproved children to NHS list.

Jackie 9/10/20

Craigavon urology O'Brien

- 5 SAls a week ago
- going to pull together TOR (based on central finding) for future urological scrutiny to review
- might take them to recall
- consultant urologist stopped and said given range of work this work tenable.
- Done a look back review – several hundred records
- Now identified 9 SAls – potential for another 9-15
- Setting up expert panel to look at all SAls as a group
- 2 main issues
 - time for onward referral not good (some areas waiting up to 12 weeks to refer)
 - Prescribing of a potential drug (re prostate) maintain sexual function but could shorten life. Patients not aware of trade off. Prescribed to one 82 year old.
- Jackie has asked for comprehensive report for next Wednesday.
- same group had 5 previous SAls. May need to go back to their families.
- Looks like Michael Watt all over again.
- Jackie feels Trust has tried their best to manage this. Have talked to Belfast Trust about Watt case.
- But – don't feel they have sense of what is coming down the track towards them.

Shane 9/10/20

- To send comprehensive report that was recently presented to Trust Boards
- Up until recently, looked just like administrative failings. Now finding concerns about clinical treatment.
- Feels like they need another couple of weeks to bottom out all the detail. Up to 8 SAls at most.
- Potentially 1700 unread diagnostic reports.
- Feels to Shane like Michael Watt
- Not picking up any external noise at moment
- Trust speaking to individual families as issues arise. Has plans to go public, but not ready yet.

Jackie 15/10/20

Urology at Southern

SHSCT - concerns about doing statement next week

concerns about prescribing practice (unlicensed and sub therapeutic medicines)

Meeting this afternoon

SHSCT wanted meeting with CMO – not happy.

‘Comprehensive’ report in but not been reviewed yet. Sense they want to do their own internal review.

Statement prob be week after next (rather than next week)

? set up Perm Sec Assurance Group to oversee work on this?

Southern Trust Urology 22/10/20

- Early alert in summer
- Concerns escalated as Trust investigated.
- Private practice conducted in own home
- Previous issues about same consultant in 2016 (? and 2009?)
- Managing patients
- Investigating doctor
- Overview of process/learning
- Maintaining high

? What (external to SHSCT) process do we need to oversee this

? Has ‘maintaining high’ worked (link to Michael Watt)

? Ministerial statement week after next?

Trust has been identifying patients and trying to provide care.

Ring Shane

Jackie 26/10/20

CURE – Roberta Director/Secretary - Shane was not aware. Roberta had not ever disclosed.

I spoke to Shane – he will speak to Roberta and get back to me.

Roberta 4/97 – 7/12

Aidan O’Brien

Craigavon Urology Research and Education company

GP [unclear]

Urology SHSCT 4/11/20

Brett?

Agree to name consultant in Minister's statement

Conversation with Brett [zoom call]

Urology 6/11/20

Minister ok

Melanie McClements – Director of Acute Services to be formally added to membership.

9 SAls proceeding

Trying to maintain 3 month timeline

Further 6 being screened.

150 calls to help line.

Separate info line for GPs – only 1 call to date 191 patients transferred to IS.

Bicalutamide audit. 2 parts – low dose – high dose

Meet Royal College of Surgeons this week.

Need to set up a clinical panel for SAls (let 9 proceed in meantime) focus on next 6.

BAUS British Association of Urological Surgeons

Trusts has made GMC aware of concerns re private practice.

Urology 13/11/20

IS position

Panel – updated re Brett's reluctance

Southern Trust update

SAls – 9 individual reports and 1 overarching report

Target date for completion end January 2021

155 calls (to yesterday) to patient information line

GP line – only one call to date

Clinical process audit underway

GMC going to undertake investigation into Doctors conduct

Probity concerns – not financial, but in respect of openness and honesty with patients.

Private practice? – likely also to have private patients from RoI

(Trust don't believe he is registered with IMC – so may limit other work done across the border).

Lourda

- important to keep alignment between public and private patient cohorts
- need to check definitive positions re (IMC registration (including whether he was registered in the past))

A) Mention to Colm today

Redress/harm?

Internal Audit

Private practice

Royal College

IPT

GMC

Bicalutamide audit

Support in place for families through difficult process

- contact with Inspire being explored.

CURE - Consultant listed director.

Funding for clinical staff to undertake further education.

No formal link with Trust

? Clinical trials?

Urology 20/11/20

Update reports

236 IS

1300 Bicalutamide patients across NI

Was registered with IMC around 1999 but not since.

CURE – seek certificate from individuals of whether they have had any relationship with CURE (or financial support) in the past.

Letter to GPs (after Minister delivers statement)

Urology Statement 23/11/20

31/7/20 Trust contacted department.

7/6/20 Trust became aware of concerns.

Start – reviewed 147 patients – Jan 19-May 20 – concerns with 46.

1/1/19 – 17/1/19 – 2327 patients under his care.

352 elective patients operated on – 120 delay in discharge info – 36 no discharge info – 2 met threshold for SAI.

168 required pathology/cytology – 50 unactioned – 3 SAI – 5 further info required

Trust identified 1536 radiology results that require further assessment.

271 MDT decisions – 3 SAI – 1 being reviewed

236 oncology patients – part of backlog – 1 SAI

Table 9 SAI

6 potential further

Bicalutamide – 300 patients – 26 being reviewed urgently.

Minister for Urology 23/11/20

- Irrelevant information redacted by the USI
- clear statement – neurology
- need to identify a chair
formal request to consult chair on TOR (per Inquiries Act 2005)

Headline figure needed for statement – different to engage MLAs etc via reading out a list of numbers.

Irrelevant information redacted by the USI

Draft statement this afternoon

- Shane out later as possible tomorrow
- we should still be working on it in the morning to give the Minister a sound alibi for being late to release to the speaker.

Urology Assurance Group 18/12/20

Professor Sethia (from England) agreed to be involved

IS management plans received and reviewed by external consultant

8 January next meeting

Urology Assurance 8/1/21

SAIs on track for completion by end Jan (9+1 overarching)

Non destruction

Staff Engagement – to come back to me

IS – letter 24/11

LPP Information redacted by the USI

I emphasised we need to go after this aggressively.

Next meeting – 2 weeks

Urology update 22/1/21

SAI

- on target for end Jan
- update received mid Dec
- draft will be shared with families

Private patients –

LPP Information redacted by the USI

Discussed with GMS

Private patients letter to SEHSCT – have we seen?

SJR - process for Department clearing?

Southern patients?

Shane Devlin 5/2/21

Urology

SAI report

- delay of about 4 weeks
- apologised
- PHA and SHSCT agreed different date
- Embarrassing

SHSCT Urology 5/3/21

LPP Information redacted by the USI

Michael – question of whether SAIs reflect criminal negligence, given how bad they are.

Agreed we would write to doc today saying it was happening on Monday (but case summaries would not be shared for overarching report as they could break confidentiality.

?Minister?

Internal audit – timeline is Jan 19 to June 20.

I put a marker down about recovery costs for doc for inappropriate additions to NHS list.