Witness Name: Professor Sir Stephen Powis

Statement No.: 3

Dated: 10 April 2024

THIRLWALL INQUIRY

THIRD WITNESS STATEMENT OF

PROFESSOR SIR STEPHEN POWIS

I, Professor Sir Stephen Powis, will say as follows: -

INTRODUCTION

1. I am the National Medical Director of NHS England and have held this position since 2018. This is my third statement in connection with the Thirlwall Inquiry ("the Inquiry") and it is made by NHS England in response to the request received on 19 March 2024 pursuant to Rule 9 of the Inquiry Rules ("the NHSE/2 Rule 9 Request"). It describes the role that NHS England has had in relation to the application of the fit and proper person test for individuals who were Board members at the Countess of Chester Hospital NHS Foundation Trust ("the Countess of Chester Hospital") and their appointment to senior NHS roles after leaving the Trust.

Approach to the NHSE/2 Rule 9 Request

2. As with our statement in response to NHSE/1, this statement has been drafted on my behalf by the external solicitors acting for NHS England in respect of the Inquiry, with my oversight and input. The questions in the NHSE/2 Rule 9 Request go substantially beyond matters which are within my own personal knowledge. As such, this statement is the product of drafting after communications between those external solicitors and senior individuals in writing, by telephone and video conference. This includes both current and former NHS England employees, and former employees of the legacy regulatory bodies.

3. As well as being the National Medical Director of NHS England, I was previously the Interim NHS Improvement Chief Executive Officer, having been appointed to this role on 3 August 2021. NHS Improvement had already merged operationally with NHS England at this time and was preparing for the formal legal merger which took place on 1 July 2022. I was also a member of the Project Columbus Strategic Oversight Group. Part of the rapid work carried out by that Group was an assessment of where members of the Board of the Countess of Chester Hospital who were in post during the indictment period were as at July 2023 and what action, if any, NHS England should take regarding the three roles subject to specific scrutiny during the trial (i.e. the former Chief Executive Officer, Tony Chambers ("TC"); the former Director of Nursing, Alison Kelly ("AK"); and the former Medical Director, Ian Harvey ("IH")). This work is described in detail in our statement in response to NHSE/1, and below where relevant to this statement. Otherwise, I have had no personal involvement with these individuals.

4. While I do not, therefore, have personal knowledge of all the matters of fact addressed within this statement, given the process here described, I can confirm that all the facts set out in this statement are true to the best of my knowledge and belief.

5. This statement includes evidence from a range of sources, including those relating to the legacy statutory bodies that are now, by virtue of statutory transfer, part of NHS England. As explained in our statement in response to NHSE/1, the evidence overall has been combined to represent the evidence and voice of NHS England. This recognises that the functions, staff and liabilities of the legacy statutory bodies (Monitor and the NHS Trust Development Authority (which came together in 2016 under the operational name NHS Improvement)) have transferred to NHS England. Accordingly, references throughout to 'NHS England' and 'we' represent the voice of the organisation at the present day, unless it is obvious from the context that the statement is describing the actions of NHS England before the legacy bodies merged into it. I have referred to all NHS England employees (including myself) in the third person, by job title.

6. The focus of this statement is on NHS England's role in relation to individuals who were Board members at the Countess of Chester Hospital, during the indictment period June 2015-June 2016 ("the Indictment Period").

7. Specifically, the Inquiry has asked us to confirm what materials NHS England has and what assessments may have been made or advice given in relation to the following:

    a. Board members at the Countess of Chester Hospital during the Indictment Period; and

    b. Any subsequent senior NHS roles applied for or held by those Countess of Chester Hospital Board members.

8. Relevant materials are exhibited to this statement and we note that the NHSE/2 Rule 9 Request specifically asks for "records of any informal discussions by NHSE staff with recruiting Trusts or agencies". I can confirm that the searches carried out for relevant materials has included this aspect. Annexed to this statement at Annex 1 is a list of the key individuals referred to in these documents and whose roles are mentioned below.

9. NHS England's role in relation to appointments and the fit and proper persons test is described in detail in our statement in response to NHSE/1, as are our views on the effectiveness of the current fit and proper persons framework and the regulation of

NHS managers. Key dates during the Overall Relevant Period can be summarised as follows:

Date	Event
1 March 2007	Relevant parts of the National Health Service Act 2006 came into force. Schedule 7 includes requirements around the eligibility for the Board of Directors of an NHS Foundation Trust and, more generally, the composition of that Board.
1 April 2013	Further requirements relating to Directors were introduced into Schedule 7 of the 2006 Act by Part 4 of the Health and Social Care Act 2012 on 1 April 2013. The NHS Trust Development Authority, NHS England and various other statutory bodies become fully operational. The NHS Trust Development Authority takes on delegated responsibility for the appointment of senior roles within NHS Trusts.
27 November 2014	The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 ("the Regulated Activities Regulations") come into force, introducing the statutory Fit and Proper Persons Test. The Care Quality Commission is the statutory regulatory body responsible for overseeing the Regulated Activities Regulations.
2015-2016	NHS England becomes formal host for NHS Interim Management and Support.
1 April 2016	Monitor and the NHS Trust Development Authority start to work together under the operational name NHS Improvement.
February 2019	NHS England and NHS Improvement come together in 'joint working' - NHSEI The Kark review of the fit and proper persons test is published.
June 2022	Health and social care review: leadership for a collaborative and inclusive future ("the Messenger review") is published.

1 July 2022	The Health and Care Act 2022 comes into force, transferring the functions of Monitor and the NHS Trust Development Authority to NHS England (the functions formerly belonging to Health Education England and NHS Digital were later transferred to NHS England in 2023) .
March 2023	Updated NHS Provider Licence published, with new General Condition G3 explicitly incorporating the fit and proper persons test as per the Regulated Activities Regulations.
September 2023	NHS England publishes updated guidance relating to the Fit and Proper Persons Framework (including a new Board Member reference template to ensure greater transparency and consistency) was introduced in 2023, with a further update in January 2024 (described in more detail in NHSE/1). The publication of this guidance was delayed following the Kark review due to the Covid pandemic.

10. NHS England's role in relation to appointments to senior roles within NHS Trusts and NHS Foundation Trusts is described in our statement in response to NHSE/1. The key points to note for the purposes of this statement are as follows:

    a. The Care Quality Commission was (and remains) the regulatory body responsible for overseeing the application of the statutory fit and proper persons test that was introduced in 2014 via the Regulated Activities Regulations.

    b. As a "service provider", each NHS Trust and NHS Foundation Trust is responsible for complying with the Regulated Activities Regulations, which includes applying the fit and proper persons test and assuring the Care Quality Commission as to this.

    c. NHS England considers issues relating to the competence and capability of Boards when exercising its provider regulation functions. It will also carry out the fit and proper person test as part of its process for the appointment of Chairs and non-executive directors of NHS Trusts (not Foundation Trusts) and Integrated Care Boards. As none of the former Board members in post during the Indictment Period have applied for or held a subsequent role as an NHS Trust chair, this process is not described in any further detail in this statement.

d. NHS England does not have a formal statutory role in relation to appointments to any senior roles in NHS Foundation Trusts. The limited exception to this position (which was not the case for the Countess of Chester Hospital) would be where a Foundation Trust was subject to additional Licence Conditions. This reflects the fact that the Chair of a Foundation Trust appoints the Chief Executive, with the Chair being appointed by the of Governors (who are themselves elected or appointed pursuant to the constitution of the relevant Foundation Trust). NHS England may have a non-statutory role in relation to the appointment of Board members under the NHS Oversight Framework if a Foundation Trust has been placed in the Recovery Support Programme (previously known as "Special Measures").

e. Whilst not responsible for appointments, NHS England, as part of its wider role, was often involved at a regional level in the appointments process through which senior appointments to NHS Foundation Trusts were made. This could be when members of Regional teams were invited to join interview panels in an advisory role. In the past, this may have been more likely if a trust had organisational issues (which can sometimes lead to a senior vacancy), and so the informed input of its regulator or commissioner on the type of leader needed to help take it forward was most relevant. Or it could have been involved more informally, for instance by providing insights; supporting talent development, management and retention; and contributing to the shortlisting process. This has been more common in recent years and particularly since NHS Improvement became operational in 2016. Today, it is usual for NHS England Regional teams to be involved in the appointments process in an advisory capacity for senior leaders in both NHS Trusts and NHS Foundation Trusts.

Context around what was known by NHS England about the Countess of Chester Hospital

11. We have explained in section 2 of NHSE/1 what was known about the events at the Countess of Chester Hospital during the Indictment Period and that timeline is not repeated here. It is, however, important to say at the outset of this statement that the developing picture of wider governance and organisational issues at the Countess of Chester Hospital only became fully appreciated as certain evidence came to light during LL's criminal trial commencing on 4 October 2022, along with knowledge of the content of Facere Melius' in-depth report in the Summer of 2023. After becoming aware of the Facere Melius report, NHS England gained information on the scale of

the concerns regarding Board governance, executive decision-making and the duty of candour (amongst other things) at the Countess of Chester Hospital during the Indictment Period; until this point, these concerns were not fully appreciated by NHS England.

Interim appointments and development opportunities

12. Although NHS England's formal statutory role in relation to appointments may be limited, we have always recognised that we have an important role in enabling and supporting a competitive, diverse and efficient appointments process. The process through which appointments to senior roles within the NHS provider sector are made can be time consuming and costly. There is a shared interest across the providers, NHS England and beyond, to facilitate a first-time successful appointments process.

13. It is also worth noting the challenges of recruiting to senior appointments within NHS Trusts and NHS Foundation Trusts, which are well known. It remains the case that the pool of individuals who are willing and able to perform these roles is very limited.

14. There are two bodies accountable to NHS England that help to support this process.

15. First, the NHS Interim Management and Support ("NHS IMAS") provides interim and consultancy support to NHS organisations across England. The purpose of NHS IMAS is to grow and develop local NHS talent and to provide the support that is needed by the NHS, but to do so in a way that builds a sustainable legacy **[SP/0260, INQ0017263]**. NHS IMAS have confirmed that two former board members of the Countess of Chester Hospital (TC and one of the former Non-Executive Directors) applied to be part of the IMAS pool, **[SP/0261, INQ0017186] [SP/0262, INQ0017187] [SP/0263, INQ0017188] [SP/0264, INQ0017189] [SP/0265, INQ0017205] [SP/0266, INQ0017204], [SP/0267, INQ0017203], [SP/0268, INQ0017207], [SP/0269, INQ0017208],[SP/0270, INQ0017252, [SP/00271, INQ0017209]** but neither undertook an assignment.

16. Second, the NHS Leadership Academy is now part of the Workforce, Training and Education Directorate of NHS England. The NHS Leadership Academy runs an Executive Director Pathway which aims to support aspiring executive leaders to progress in their careers through a series of targeted development opportunities. The scheme focuses on preparing participants for any of the following roles, or equivalent in an NHS provider organisation:

a. Executive Director of Nursing

b. Medical Director

c. Chief Operating Officer

d. Executive Director of Finance

e. Director of Workforce/Human Resources.

17. The NHS Leadership Academy has had no known involvement with any Board members from the Countess of Chester Hospital during or after the Indictment Period.

The role of NHS England's Regional teams

18. NHS England's Regional teams support the local systems which they oversee to ensure they are well-led. This may include assisting local systems to avoid periods of extended vacancy in key leadership posts. Sustainable leadership is important to help facilitate efficient, high quality and sustainable operation more generally within the local systems. Consequently, Regional teams often take an interest in the 'leadership pipeline', talent development and management and in supporting the appointment of senior leaders to NHS Trusts and NHS Foundation Trusts. Regional Directors and their teams have the closest day-to-day connection to providers in their Region.

19. The way in which each Regional team does this varies from Region to Region, reflecting the needs of local systems and the dynamics in each Region. However, common ways in which regional teams will support the appointments process include:

a. Through the identification and development of a pool of potential future senior leaders.

b. By suggesting potential candidates for consideration at either long or short-listing stage so that there is good competition with diverse candidates. Regional teams may also encourage appointing trusts to look beyond a preferred internal candidate and test the market through expanding the search, to ensure that there is effective competition through the appointments process (with the aim of facilitating a successful and sustainable conclusion to the appointments process).

c. By providing views on short-listed candidates if they have relevant insight (in the requested format, whether in the form of a reference or informally by conversation).

d. As a member of interview panels or an observer on the panel. Post-interview feedback will also routinely be shared, including within Regional teams.

e. As a referee post interview when the candidate had previously worked in the region.

f. As an interested party by bringing potential candidates to the attention of another NHS England colleague for instance – adding to others' pool of potential.

g. By providing references to NHS IMAS, to support the interim appointments process.

20. Regional teams will also support senior leaders to manage issues that arise, including relationship issues within the senior management team (for instance between the Chair and Chief Executive). This depends on being made aware of those issues and prioritising the most important ones where intervention and support at a regional level may make a difference.

21. Chairs, Chief Executives and Regional Directors will routinely interact informally at national and regional meetings and other events; through national projects and programmes (which might involve the temporary deployment of individuals); and through 'system webinars' (as was common in Covid and during other incidents). They may also reach out for support in responding to issues or events, drawing on this pool for peer support and learning.

22. Individuals exploring opportunities at a senior leader level will often choose to test informally with Regional Directors and other contacts within the NHS system what the role involves; what type of candidate is being sought; and what their odds in terms of likely fit for that role in that geography at that time might be. This helps ensure that candidates who do formally apply are more likely to be an informed and realistic candidate for the role – as many candidates are reluctant to formally apply for roles if they consider that being unsuccessful in obtaining the position will impact on their future career prospects.

23. Regional Directors are overseen by NHS England's Chief Operating Officer, who provides a central role in advising and supporting the Regional Directors individually

and as a group. The Chief Operating Officer will also regularly have informal contact with senior NHS provider leaders and aspiring leaders, including through the opportunities described above. This can result in names of individuals who are open to new role opportunities being shared with Regional Directors, as was the case in relation to TC in May 2021, when the then Chief Operating Officer made Regional Directors aware that he was looking for a role. **[SP/0272, INQ0017202]**. Sharing a name in this way does not mean that an individual is being endorsed; it is simply a way of sharing potential individuals of interest who can then subsequently be formally tested for roles through the routine appointments process. The responses from Regional Directors to the Chief Operating Officer's email in May 2021 illustrates this open sharing of information, experience and potential opportunities.

24. We have addressed in this statement the individuals we have identified as being on the Board of the Countess of Chester Hospital during the Indictment Period, in addition to TC, AK and IH. We have tested this through the process described above in paragraph 2 (along with publicly available sources) to ascertain what involvement (formal and informal) NHS England has had in relation to subsequent appointments held by these individuals. We should emphasise that this may not cover all roles subsequently held by these individuals after they left the Countess of Chester Hospital.

NHS England's role in relation to any assessments that may have been made in relation to Board members at the Countess of Chester Hospital during the Indictment Period

25. NHS England was not involved in any assessments that were carried out during the Indictment Period by the Countess of Chester Hospital in relation to members of the Board. This includes by way of any informal advice or discussions. As summarised above, the Trust was responsible for carrying out appropriately regular reviews of Board member fitness and it did not request any advice as to whether or how it should review this in the Indictment Period.

26. Regulatory oversight of the fit and proper persons test as per the Regulated Activities Regulations was (and remains) the responsibility of the Care Quality Commission, again as summarised above.

27. NHS England understands that the Care Quality Commission carried out a routine inspection of the Countess of Chester Hospital in 2018. In the resulting Inspection report (published May 2019), the Care Quality Commission rated the Hospital as

"Requires Improvement" against the Well Led domain. Changes in the leadership team are noted in the report, with the Care Quality Commission stating that "Changes in senior leadership such as the appointment of the interim chief executive and interim medical director had led to recognition that improvements were required". However, the Care Quality Commission notes that these improvements "were not yet defined or fully embedded". The Care Quality Commission also concluded that the "trust was compliant with the fit and proper person's requirement which ensures that directors of NHS providers are fit and proper to carry out this important role."

NHS England's role in relation to subsequent senior NHS roles applied for or held by members of the Countess of Chester Hospital Board in post in the Indictment Period

28. NHS England's role in relation to subsequent senior NHS roles applied for or held by members of the Countess of Chester Hospital Board who were in post in the Indictment Period is described on an individual-by-individual basis below.

Chairman and Non-Executive Directors

29. We can confirm that to the best of our knowledge, we have had no involvement in relation to the following individuals:

    a. Sir Duncan Nichol ("DN"), Chair (retired in November 2019);

    b. Rachel Hopwood, non-executive director;

    c. Dr Elaine McMahon, non-executive director;

    d. Ed Oliver, non-executive director; or

    e. Ros Fallon, non-executive director.

30. James Wilkie stood down in his role as a Non-Executive Director at the Countess of Chester Hospital in 2017. Mr Wilkie has been a Non-Executive Director at Blackpool Teaching Hospitals NHS Foundation Trust since January 2019 and is currently serving as Interim Chair of that trust following the sudden resignation of its Chair in November 2023. NHS England was aware of this appointment but was not directly involved.

Chief Executive (TC)

31. TC applied for several roles in the NHS since he left the Countess of Chester Hospital. These roles and NHS England's involvement in the application process are set out in the table contained in Annex 1 and are discussed in more detail below.

32. In summary, TC was successful in being appointed to five interim senior appointments in which NHS England (and/or NHS Improvement) had some involvement.

33. TC was also unsuccessful in applying for (or at least formally expressing an interest in) at least 14 other roles of which NHS England is aware. In addition, TC also made informal enquiries about roles at the University Hospitals of Leicester NHS Trust and Shrewsbury and Telford NHS Trust but was told by the NHS England Midlands Regional Director that he was not a suitable candidate for these roles **[SP/0273, INQ0017225], [SP/0274, INQ0017226], [SP/0275, INQ0017227], [SP/0276, INQ0017228], [SP/0277, INQ0017253], [SP/0278, INQ0017184]**.

34. Prior to his departure from the Countess of Chester Hospital, NHS England (the legacy bodies operating at the time as NHS Improvement) worked with TC and the then Chair of the trust (DN), to facilitate a 6-month secondment as the initial step to TC finding a permanent new role. Ultimately TC did not take this option forward. NHS England's role in relation to this is described further below.

35. In relation to the roles taken up by TC, NHS England's regional teams were in summary involved as follows:

    a. acting as a connector to suggest individuals for inclusion in a pool for roles;

    b. supporting the identification of potential candidates, including through formally contributing to the long and short listing of candidates;

    c. providing references, whether informal or formal; and

    d. attending interviews as a member of the panel.

36. Starting with TC's departure from the Countess of Chester Hospital, NHS England's involvement is as follows.

Potential secondment - 2018

37. In September 2018, the Chair of the Board of the Countess of Chester Hospital, DN contacted the NHS Improvement North Executive Regional Managing Director to share concerns about how TC was working with the Board of the Countess of Chester Hospital. DN confirmed that he had already discussed these concerns with TC and that they were mutually agreed TC needed to look for a new role. DN advised the NHS Improvement North Executive Regional Managing Director that there was the potential for a vote of no confidence in TC.

38. The NHS Improvement North Executive Regional Managing Director agreed to work with DN and TC to explore alternatives to enable TC to move on, stabilise the senior leadership team at the Countess of Chester Hospital and avoid, if possible, a vote of no confidence. In her experience, the latter was not helpful for anyone involved and it was preferable to recognise the relationship difficulties that had arisen and work to find a solution. Although the NHS Improvement North Executive Regional Managing Director was aware of the Police involvement at the Countess of Chester Hospital, she did not understand the specific issues raised by DN to be connected with those events. Rather, she understood him to be describing a general breakdown in the relationship.

39. The then NHS Improvement Chief Executive recalls having a similar conversation directly with DN at this time. The then NHS Improvement Chief Executive recalls being assured that there were no misconduct concerns with TC. For context, the then NHS Improvement Chief Executive recalls making it clear to the Kark review that the NHS would never facilitate the movement of senior NHS staff where such misconduct concerns were present.

40. As further context, it is occasionally the case that the relationship between a Chair and Chief Executive (and sometimes more broadly with other non-executive directors/executive directors) will break down irreparably. Often this will be because there is a clash of personalities or leadership styles, for example if the Chair becomes too “operational” and strays into the Chief Executive’s remit. There may also be differences of opinion about strategy or direction and, if these cannot be resolved, there may need to be a change in either the Chair or Chief Executive.

41. We recognise that the reliance placed on the assurance mentioned above at paragraph 40 meant at that time other NHS organisations, including NHS England, would not necessarily have questioned whether more serious issues of governance or

leadership had arisen at the Countess of Chester Hospital (including whether TC had mishandled the concerns we now know had been raised with respect to LL).

42. For completeness, we note that around the same time, TC contacted the then Chief Executive Officer of the Royal Free London NHS Foundation Trust (and subsequent Regional Director for London) to discuss "career tactics and next steps". **[SP/0279, INQ0017254], [SP/0280, INQ0017255], [SP/0281, INQ0017256], [SP/0282, INQ0017257], [SP/0283, INQ0017258], [SP/0284, INQ0017259], [SP/0285, INQ0017260], [SP/0286, INQ0017261], [SP/0287, INQ0017262], [SP/0288, INQ0017191]** It is routine for this to occur within the NHS. It is clear from the text messages that TC was exploring options, including the possibility of moving to a role in London. TC's later appointment to the interim Chief Executive Officer role at Barking, Havering and Redbridge NHS Trust is described at paragraphs 51-53 below.

43. Following her discussion with DN, the NHS Improvement North Executive Regional Managing Director spoke with the then NHS Improvement Chief Executive to update him about the situation and the need to explore alternatives for TC, as well as supporting the Countess of Chester Hospital with recruiting a new Chief Executive Officer. As a result of this and the NHS Improvement Chief Executive's conversation with DN, the NHS Improvement Chief Executive asked the NHS Improvement North Executive Regional Managing Director to work with DN to find a way forward where TC could be supported to find a new role.

44. The NHS Improvement North Executive Regional Managing Director spoke with TC and explained the discussions she had had with DN and the NHS Improvement Chief Executive. She told TC that she did not think he would be able to go straight into another Chief Executive role given DN's desire for a prompt solution. However, she thought it would be possible to support TC into a time-limited project role, as a stepping-stone to him finding himself a new substantive role in due course.

45. In order to explore what options of this nature might be available, the NHS Improvement North Executive Regional Managing Director spoke with the Sustainability and Transformation Partnership leaders in the North region (Sustainability and Transformation Partnerships were non-statutory groupings of health and care organisations established in 2019 and were a precursor to Integrated Care Systems).

46. The discussion with these leaders was around the potential for a 6-month secondment that would be paid for by the Countess of Chester Hospital. TC was named in the discussions (on his agreement). Ultimately TC took over the discussions (as he knew the Sustainability and Transformation Partnership leaders personally) and updated DN on 3 October that a programme officer-type role was being explored, with the potential for this to be in either South Yorkshire and Bassetlaw or Cumbria. TC's preference was Cumbria and so the NHS Improvement North Executive Regional Managing Director spoke with the relevant Sustainability and Transformation Partnership leader to confirm the details. On 17 October 2018 TC met with the team in Cumbria and the steps required to formalise the proposed role were agreed, including arranging for honorary contracts for instance.

47. The NHS Improvement North Executive Regional Managing Director sent a note to DN on 19 November 2018 updating on progress around TC's placement. The NHS Improvement Chief Executive was kept informed of progress throughout, with the understanding that TC would start in the role in early January 2019. However, shortly after this, on or around 22 November 2018, TC told the NHS Improvement North Executive Regional Managing Director that he was exploring alternatives. The NHS Improvement North Executive Regional Managing Director updated DN accordingly, following which NHS Improvement had no further involvement in relation to TC's departure from the Countess of Chester Hospital.

Northern Care Alliance – December 2018-December 2019

48. NHS England understands that TC moved to the Northern Care Alliance on an interim basis in December 2018. The then NHS England and NHS Improvement North West Regional Director was asked whether he had any views about TC in or around April 2019 at the time that the Northern Care Alliance was considering formally extending TC's appointment (which we understand had initially been made on a short-term basis). As he was new in post, and did not have any particular knowledge of TC, he did not have any views to share.

49. The view of the NHS Improvement North Executive Regional Managing Director was that as the Care Quality Commission had not raised any specific concerns regarding TC's appointment, role and subsequent resignation at the Countess of Chester Hospital, there were no "red flags" regarding his appointment to the role at the Northern Care Alliance. On that basis, the NHS Improvement North Executive Regional Managing Director was happy to say that from a regional perspective she

was content for TC to be employed in the role of Chief Improvement Officer on a two-year fixed contract. However, ultimately this was a decision for the trust to take as his employer. **[SP/0289, INQ0017192]**

Barking, Havering and Redbridge NHS Trust – December 2019-July 2021

50. TC applied for the interim Chief Executive Officer at Barking, Havering and Redbridge NHS Trust in or around December 2019. TC was in sporadic contact with the Regional Director for London in the period between February and November 2019 regarding opportunities in the area.

51. The London Region's Director of Strategy and Transformation was part of the interview panel for this role, although as explained above it was for the trust (as the employer) to ultimately make the appointment decision and undertake any fit and proper person assessment.

52. The appointment ended after another candidate was appointed to the substantive role on 9 July 2021.

Royal Cornwall Hospitals NHS Trust – August 2021-January 2022

53. The London Regional Director recommended TC to the South West Regional Director as a potential interim Chief Executive Officer of the Royal Cornwall Hospitals NHS Trust on the basis that he felt TC had done a good job at Barking, Havering and Redbridge NHS Trust during Covid (whilst also noting that he had experienced a breakdown in the relationship with his Chair at the Countess of Chester Hospital). The London Regional Director also provided a formal written reference in support of TC's application **[SP/0290, INQ0017195] [SP/0291, INQ0017194]**.

54. Whilst the recruitment agency I&S informed the trust by email that NHS England's then Chief Operating Officer would be one of his referees, and had said that she would be supportive in finding him his next role, this was not based on any direct contact with the then Chief Operating Officer, whose only involvement was as above when circulating information about his availability. Now the representation in this email has come to light it is a matter of serious concern given the statement is not true. **[SP/0292, INQ0017193]**

55. The South West Regional Director was a member of the interview panel. The panel recommended TC be appointed to the role of interim Chief Executive Officer **[SP/0293,**

INQ0017196]. NHS England understands that the Trust completed a fit and proper person assessment before offering the position to TC.

56. TC then applied in due course for the substantive Chief Executive post at the Royal Cornwall Hospitals NHS Trust but another candidate was offered the position after performing better at the interview stage.

Cheshire Clinical Commissioning Group – February 2022- February 2023

57. In January 2022, TC emailed the then North West Regional Director to discuss his work history and intention to return to work in the region **[SP/0294, INQ0017206]**. In a subsequent informal discussion, the then North West Regional Director spoke with TC about his intention to look for jobs in the region. She informed him that she would not be involved in finding a role for him but generally had no objection to him coming back to work in the North West.

58. TC was subsequently employed as the Director of New Hospital Readiness at Liverpool University Hospitals NHS Foundation Trust between February 2022-February 2023. This role existed as result of a secondment agreement between the Liverpool University Hospitals NHS Trust and TC's substantive employer, Cheshire Clinical Commissioning Group (acting on behalf of Cheshire and Merseyside Integrated Care System). Funding for the secondment came from NHS England's Intensive Support programme budget with month-on-month recharging by the Cheshire Clinical Commissioning Group of salary and associated costs and reasonable expenses.

59. NHS England has been unable to confirm in the short timeframe precisely who made the initial recommendation for TC to be appointed to this role but can confirm that the appointment was reviewed by NHS England's National Director for Intensive Support as part of the budget approval processes required for the role.

60. The then North West Regional Director did not expressly know of or approve the appointment of TC to this role **[SP/0294, INQ0017206]**.

Queen Victoria Hospital NHS Foundation Trust – February 2023-June 2023

61. TC was appointed as interim Chief Executive Officer of the Queen Victoria Hospital NHS Foundation Trust in February 2023. NHS England's South East Locality Director (Kent, Surrey and Sussex) was a member of the interview panel for this appointment. The panel recommended TC be appointed to the role. **[SP/0295, INQ0017214]** The

South East Locality Director did not have any further involvement in the employment process, such as any fit and proper person assessment that would have been undertaken by the trust as part of its usual pre-employment checks.

62. NHS England understands that TC decided to step down from the role of Chief Executive following the conviction of LL. The South East Regional team were informed by the trust that it undertook a review of TC's appointment and this review had been shared with the Inquiry.

Project Columbus

63. As part of the Project Columbus incident management and response work described in Annex 3 of our statement in response to NHSE/1, NHS England did consider whether there was any specific further action that should be taken in relation to TC. This included checking the Nursing and Midwifery Council ("NMC") Register, which confirmed that he was no longer registered.

64. In addition, NHS England had a preliminary discussion with NHS Resolution in relation to whether it was appropriate to issue a Healthcare Professional Alert Notice in respect to TC, IH and AK. A healthcare professional alert notice is issued by NHS Resolution to inform NHS bodies or any other body providing services to the NHS about registered healthcare professionals (i.e. any person who is a member of a profession which is regulated by a regulatory body) who would pose a significant risk of harm to patients, staff or the public by virtue of their conduct, who may continue to work, seek additional or other work in the NHS as a healthcare professional, and where there is a pressing need to issue an alert notice. These notices are issued by NHS Resolution pursuant to the National Health Service Litigation Authority Directions 2013 (as amended by the National Health Service Litigation Authority (Amendment) Directions 2019) ("2013 Directions"). NHS Resolution also maintains a Performers List Regulations and HPAN Web Check Service. When recruiting prospective healthcare professionals, employers must check that no information regarding the individual is held on the alert notice system as part of their pre-employment checks. On the basis of this discussion no further action was taken by NHS Resolution (noting that at this point TC and IH were no longer registered healthcare professionals).

Director of Nursing & Quality (AK)

65. AK left the Countess of Chester Hospital on 30 June 2021 to join the Rochdale Care Organisation, which is part of the Northern Care Alliance NHS Foundation Trust ("Northern Care Alliance"), as Director of Nursing.

66. In June 2023, AK received a letter from the BBC Panorama programme inviting her to respond to allegations made against her concerning the events involving LL at the Countess of Chester Hospital. AK shared this letter with the Northern Care Alliance, who forwarded it to the North West Regional Chief Nurse at NHS England. A meeting was arranged by the Northern Care Alliance with AK, which the North West Regional Chief Nurse also attended to provide additional support to AK and the Northern Care Alliance as necessary **[SP/0296, INQ0017218] [SP/0297, INQ0017219], [SP/0298, INQ0017221]**.

67. As mentioned above in relation to TC, NHS England was separately considering as part of the Project Columbus incident management and response work whether there was any further action that should be taken in relation to TC, AK and IH.

68. As AK remained registered with the NMC, this resulted in the North West Regional Chief Nurse writing to the Interim Chief Nurse of the Northern Care Alliance to clarify what fit and proper person checks had been done at the time AK was appointed to this role. This was on the basis that whilst NHS England does not conduct fit and proper persons assessments, it considered it appropriate to ensure that the Northern Care Alliance properly understood what this assessment required given the anticipated public interest following the outcome of LL's trial.

69. As the NMC had already received a referral regarding AK's fitness to practise at this time, NHS England did not consider it necessary to consider further whether such a referral should be made.

70. The Northern Care Alliance subsequently confirmed that a fit and proper persons assessment had been done at the time of AK's appointment, including by obtaining two references. This included a written reference from the "NHSI Chief Nurse for Cheshire and Merseyside" and there was a note from a conversation with the North West Regional Chief Nurse for NHS England at the time as well. NHS England did not request copies of these documents. **[SP/0299, INQ0017220], [SP/0300, INQ0017229]**

71. Later, on 1 August 2023, the Interim Chief Nurse of the Northern Care Alliance informed NHS England that they had not found any evidence to suggest that anything had changed since AK had been appointed to the role, but that they would keep this under ongoing review pending any further inquiry or investigation. **[SP/0299, INQ0017220]**

72. NHS England understands that the Northern Care Alliance decided to suspend AK on 18 August 2023, following the conviction of LL that same day. This was a decision taken by the Northern Care Alliance, although NHS England's North West Regional Chief Nurse had been discussing the application of the fit and proper persons test to AK in the preceding weeks, as described above.

73. The suspension of an employee is intended as a "neutral act" whilst an employer investigates whether any disciplinary action should be taken. NHS England and the Northern Care Alliance remained in discussions following AK's suspension regarding the appropriate action to take, bearing in mind the likely timeframe before the Inquiry concluded. The Northern Care Alliance agreed to consider what options were available.

74. An options paper was subsequently prepared by the Northern Care Alliance in November 2023, and shared with the North West Regional Chief Nurse. **[SP/0301, INQ0017230]**. As the option paper indicates, the North West Regional Chief Nurse was in agreement with the Northern Care Alliance about the preferred option, namely that for a variety of reasons (including from a public purse point of view for example) it might be appropriate for AK to be brought back from suspension into a role which enabled her to make a contribution to the organisation, but where she was not making decisions that related to the immediate care of patients or leading frontline clinical colleagues, given the ongoing NMC investigation into her fitness to practise **[SP/0302, INQ0017231]**.

75. The content of the options paper was not, however, a document that NHS England formally contributed to or signed-off. It is important to clarify in this regard that whilst the options paper asserts that AK was suspended "on instruction" from NHS England, this is incorrect; as noted above, NHS England's role was limited to providing advice on the application of the fit and proper person test and any employment decision to suspend an employee could only be taken by the Northern Care Alliance as the employer.

76. No further known action has been taken by the Northern Care Alliance since the options paper was prepared and AK remains suspended by her employer. NHS England understands that the Northern Care Alliance is waiting in this regard for the NMC investigation to conclude and what (if any) disciplinary action the NMC decides to take against AK.

77. On 17 January 2024, AK wrote to the Northern Care Alliance, copied to NHS England. In this letter she expressed her disappointment at being suspended from her role and the fact that a public statement has been made in this regard. **[SP/0303, INQ0017222]** NHS England was subsequently copied into correspondence from the Northern Care Alliance suggesting an in-person discussion with AK to discuss her concerns.

78. Further information concerning AK is included in the personal witness statement of NHS England's Chief Nursing Officer, as she was also involved in Project Columbus.

Medical Director

79. IH (the Medical Director at the Countess of Chester Hospital during the indictment period) retired from post in August 2018. Prior to his retirement, NHS England had no material involvement with him while he was at the Countess of Chester Hospital beyond what is described in our statement in response to NHSE/1 and the normal Responsible Officer arrangements, which are also described in that statement.

80. As with TC, NHS England also considered as part of the Project Columbus incident management and response whether there was any specific further action that should be taken in relation to IH. This included checking the General Medical Council Register, which confirmed that he also was no longer registered with them.

Other Directors

81. In April 2016, the then Director of Planning, Partnerships & Development at the Countess of Chester Hospital (Mark Brandreth) left the Countess of Chester Hospital to became Chief Executive at the Robert Jones and Agnes Hunt Orthopaedic Hospital NHS Foundation Trust. It is noted that this appointment came before NHS England or the legacy bodies were aware of any concerns with the neonatal unit at the Countess of Chester Hospital. Mr. Brandreth was seconded to NHS England as the Director of the Nightingale Hospital programme in 2020 as part of NHS England's response to the Covid pandemic. He subsequently returned to his role at the Robert Jones Agnes Hunt

Orthopaedic Hospital NHS Foundation Trust, and before leaving in September 2021 to take up the role of Accountable Officer at Shropshire Clinical Commissioning Group. NHS England is aware of concerns about the behaviour of Mr. Brandreth during his time as Chief Executive Officer at the Robert Jones and Agnes Hunt Orthopaedic Hospital NHS Foundation Trust (which have been reported in the media), but such matters are unrelated to the events at the Countess of Chester Hospital.

82. We can confirm that to the best of our knowledge, we have had no involvement in relation to the following individuals:

a. Sue Hodkinson, Director of Human Resources and Organisational Development;

b. Debbie O'Neill, Chief Finance Officer;

c. Simon Holden, Interim Chief Finance Officer (subsequentially appointed to the role substantively);

d. David Jago, Interim Chief Finance Officer;

e. Lorraine Burnett, Interim Director of Operations (September 2015-May 2016), Chief Operations Officer (May 2016-November 2019);

f. Andrew Higgins, non-executive director, Senior Independent Director, Vice Chair.

NHS England's reflections

83. It is apparent that after TC left his role at the Northern Care Alliance there was no subsequent detailed consideration of what occurred during his previous role as the Chief Executive at the Countess of Chester Hospital as part of his future job applications. This in part reflects the nature of the application process. References provided for someone in connection with a job application in most cases focus on the individual's immediate past role and how they performed in that role. As no concerns were raised about TC's performance or conduct in relation to the Northern Care Alliance, or his subsequent roles, each of the later interim roles he worked in focused on his most recent employment. It followed that any references or contact between NHS England and TC after he left the Northern Care Alliance did not concentrate on his time at the Countess of Chester Hospital. It is also apparent that none of the fit and proper person assessments conducted by the trusts employing TC seemingly flagged

any issues in relation to his time as Chief Executive of the Countess of Chester Hospital.

84. We have recognised this and accordingly strengthened our processes in this regard by publishing a new Board Member reference template to ensure greater transparency and consistency for the appointment of Board positions within the NHS. **[SP/0304**, **INQ0017471]** This requires a greater consideration of all previous roles.

85. As we have said in NHSE/1, in principle NHS England supports reconsideration of regulating senior management and leadership in the NHS. It is, however, difficult to assess the extent to which such further regulation would have had any impact on the appointments of TC and AK to their subsequent roles after leaving the Countess of Chester Hospital, noting in this regard that AK is already the within scope of professional regulation by the NMC and currently subject to investigation. It also remains NHS England's position that, regardless of any further regulation, there needs to be appropriate support, training and investment in our leaders to make sure that they have the skills and expertise to carry out complex roles.

Statement of Truth

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

Signed: Personal Data

Dated: 10 April 2024

Annex 1 – NHS England/NHS Improvement key personnel

Name	Organisation	Role
Sir Ian Dalton	NHS Improvement	Chief Executive (retired 2019)
Lyn Simpson	NHS Improvement	Regional Executive Managing Director (North) (appointed as Chief Executive of North Cumbria Integrated Care NHS Foundation Trust in January 2020)
Richard Barker	NHS England	Regional Director for the North region (2012-April 2019); Regional Director, North East and Yorkshire and North West regions (April 2019-present)
Dale Bywater	NHS England	Midlands Regional Director (2018 to present)
Amanda Doyle	NHS England	North West Regional Director (August 2021-June 2022)
Anne Eden	NHS England	South East Regional Director (October 2017 to present
Tom Edgell	NHSE	Locality Director (Kent, Surrey and Sussex) (June 2019 to present)
Sue Holden	NHS England	National Director for Intensive Support (August 2019 to June 2022)
Bill McCarthy	NHS England	North West Regional Director (2019 to 2021)
Elizabeth O'Mahony	NHS England	South West Regional Director (2018 to present)
Amanda Pritchard	NHS England	Current NHS Chief Executive, and formerly NHS England's Chief Operating Officer and NHS Improvement's Chief Executive (June 2019-July 2021)
Sir David Sloman	NHS England	London Regional Director (2019 to 2021)

Annex 2 – Summary of TC job applications post the Countess of Chester Hospital

TC: subsequent appointments				
Organisation	**Role**	**Dates in post**	**NHS England / legacy body involvement**	**Materials exhibited**
Northern Care Alliance Foundation Trust	Interim Chief Improvement Officer	December 2018- December 2019	Regional Executive Managing Director for NHS Improvement (North) informed NHS Regional Director that there are no red flags over TC's appointment, but ultimately a decision for the trust as the employer.	**[SP/0305, INQ0017192]**
Barking, Havering and Redbridge NHS Trust	Interim Chief Executive Officer	January 2020 – August 2021	Informal contact between TC and Regional Director for London when TC shortlisted for interview. NHS England London regional representative on the interview panel.	**[SP/0279, INQ0017254], [SP/0282, INQ0017257]** No materials relating to the interview panel (including any information provided to the panel in advance) has been located to date.
Royal Cornwall Hospitals NHS Trust	Interim Chief Executive Officer	August 2021 – January 2022	Reference provided by Regional Director for London as part of Reference Pack prepared by **I&S**	**[SP/0290, INQ0017195]** **[SP/0285, INQ0017260]**

			I&S (recruitment agency). NHS England South West Regional Director on the interview panel.	**[SP/0292, INQ0017193]** **[SP/0293, INQ0017196]** **[SP/0306, INQ0017215]**
NHS Cheshire Clinical Commissioning Group – seconded to Liverpool University Hospitals NHS Foundation Trust	Director of New Hospital Readiness	February 2022 – February 2023	Appointment was approved by NHS England's National Director for Intensive Support.	**[SP/0307, INQ0017264]**
Queen Victoria Hospital NHS Foundation Trust	Interim Chief Executive	February 2023 – June 2023	NHS England South East Locality Director sat on interview panel.	**[SP/0308, INQ0017216]** **[SP/0309, INQ0017183]** **[SP/0310, INQ0017250]**
Roles TC expressed an interest in / applied for / was approached in relation to but was either unsuccessful or did not take forward				
Organisation	**Role and outcome**	**Approximate Date**	**NHS England / legacy body involvement**	**Materials exhibited**
York and Scarborough Teaching Hospitals NHS	Shortlisted but no appointment made by the	September 2018	None known.	N/A

Foundation Trust	trust at the time			
West, North and East Cumbria Sustainability and Transformation Partnership.	Secondment opportunities explored and agreed in principle with the STP. Not taken forward by TC.	September 2018	NHS Improvement: Regional Executive Managing Director for NHS Improvement (North) supported Chair of Countess of Chester Hospital and TC to identify potential secondment opportunities.	**[SP/0311, INQ0017185]**
Wrightington, Wigan & Leigh NHS Foundation Trust (the email from TC refers to him applying for the "Wigan" Chief Executive position)	Chief Executive Officer (it is currently unknown whether TC formally applied for this role)	May 2019	Email from TC to Regional Director	**[SP/0312, INQ0017251]**
University Hospitals Sussex	Chief Executive Officer No formal application made by TC	April 2021	Initial conversations between TC and the NHS England South East Regional Director	N/A
Mid Yorkshire Hospitals NHS Trust	Chief Executive Office	May 2021	NHS England North East and Yorkshire Regional Director was on the interview panel.	**[SP/0313, INQ0017197]** **[SP/0284, INQ0017259]**

	Unsuccessful at interview stage.			**[SP/0314, INQ0017190]**
Royal Cornwall Hospitals NHS Trust	Chief Executive Officer Unsuccessful at interview stage	September 2021	Regional Director on the interview panel.	**[SP/0306, INQ0017215]** **[SP/0290, INQ0017195]** **[SP/0315, INQ0017200]**
University Hospitals Dorset	Chief Executive Officer Not shortlisted	October 2021	No material involvement.	**[SP/0316, INQ0017198]**
Calderdale and Huddersfield Foundation Trust	Chief Executive Officer Unsuccessful at interview stage	October 2021	No material involvement	**[SP/0317, INQ0017199]** **[SP/0318, INQ0017249]**
East Kent Hospitals University NHS Foundation Trust	Chief Executive Officer Unsuccessful at interview stage	January 2022	NHS England South East Regional Director on interview panel	**[SP/0286, INQ0017261]** **[SP/0319, INQ0017237]** **[SP/0320, INQ0017201]** **[SP/0321, INQ0017235]**

South East Coast Ambulance NHS Trust	Interim Chief Executive Officer	May 2022	NHS England South East Regional Director contacted TC to ask that he consider the role. Not shortlisted.	**[SP/0322, INQ0017239]** **[SP/0323, INQ0017240]** **[SP/0324, INQ0017211]** **[SP/0325, INQ0017212]**
Medway NHS Foundation Trust	Chief Executive Officer Unsuccessful at interview stage	May 2022 (Interview 28/07/22)	NHS England South East Regional Director on interview panel.	**[SP/0326, INQ0017233]** **[SP/0327, INQ0017241]** **[SP/0318, INQ0017237]** **[SP/0328, INQ0017242]** **[SP/0329, INQ0017243]** **[SP/0330, INQ0017244]** **[SP/0331, INQ0017245]** **[SP/0332, INQ0017246]** **[SP/0333, INQ0017247]**

				[SP/0334, INQ0017248] **[SP/0335, INQ0017210]** **[SP/0336, INQ0017236]** **[SP/0337, INQ0017232]** **[SP/0338, INQ0017234]** **[SP/0339, INQ0017238]**
Chesterfield Royal Hospital NHS Foundation Trust	Chief Executive Officer Unsuccessful at interview stage	May 2022	NHS England Midlands Regional Director on interview panel.	**[SP/0340, INQ0017223]** **[SP/0341, INQ0017224]** **[SP/0342, INQ0017213]**
Dartford and Gravesham NHS Trust	Chief Executive Officer Unsuccessful at interview stage	August 2022	NHS England London Regional Director supported the shortlisting process but was not on the interview panel.	**[SP/0343, INQ0017217]**
Northern Lincolnshire & Goole NHS FT and Hull University	Joint Group CEO Not shortlisted	April 2023	NHS England Regional Director for the North East and Yorkshire and North West regions was on the interview panel.	**[SP/0307, INQ0017264]**

Hospitals NHS Trust				