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Direct Dial: 0115 993 4519

Our ref: 2016-17/1807
Your ref:

Trust Headquarters
The Resource
Duncan Macmillan House
Porchester Road
Mapperley
Nottingham
NG3 6AA

Tel: 0115 9691300

12 July 2017

Ms Megan Ingles
Via email: request-410591-946e8910@whatdotheyknow.com

Dear Ms Ingles,

Re: Decision Notice under Section 17 of the Freedom of Information Act 2000

Thank you for your recent request for information under the Freedom of Information Act.

Duty to confirm or deny

I can confirm that the information requested is held by the Trust.

Response to the information requested

Please see our answers to each of your questions below:

This request for information is an attempt to seek reassurance about the safety of public buildings in the light of the findings revealed in the Inquiry commissioned following the collapse of a school building wall in Edinburgh and subsequent closure of 17 schools.

Please answer the following for each PFI/PPP schemes in your health trust treating each scheme as a separate request.

- 1. Please provide all documents showing how your organisation has responded to the findings contained in the report on Edinburgh Schools Construction by John Cole: including, but not limited to memos, emails, minutes, reports.*

None available due to no reference to the report.

- 2. I would like to understand the expertise and resource committed by your organisation to*

the management and oversight of PFI schemes from procurement through to ongoing contract operation. Please provide documents relating to the PFI Team(s) allocated to each project its makeup and structure of the team during each project phase. This may comprise terms of reference, organisation chart, post titles and role profiles.

The Trust has employed a number of advisors and suppliers of expertise over the course of the project from initial procurement through inception, construction and the operational phase, as well as for contract review. These have included: Project management, construction contract, and operational model expertise and advice during the procurement phase (including drawing up the Project Agreement (PA)) supplied by external contractors Mott Macdonald.

Mott Macdonald also provided construction monitoring and operational contract monitoring during the construction phases and some-time beyond. Where there have been significant project variations over the years since final phase completion Mott Macdonald have been re-employed to provide appropriate advice and to help with process management. They are lead partners in a consortium currently reviewing project management.

Legal advice provided on BaFO by Pinsent Curtis, and Eversheds for the PA and subsequent variation. Review advice has been sought from a consortia including Ward Haddaway as lead legal advisors.

Financial advice provided on the best and final offer (BaFO) by Capita (who also provided some PFI project advice at the time), and Grant Thornton for the PA and subsequent variations. Grant Thornton also provided advice and expertise on the payment mechanism advice on the project, and advice and facilities for achieving interest and swap rates for financial close.

For particular variations, the Trust has sought independent certification variously from Currie and Brown, and Gleeds as joint appointments by the SPV and the Trust. Independent Certification of the original construction project is covered in the response to question 4 below.

Internally, governance of the initial project (i.e. PA through construction) followed normal structures, with a Project Sponsor answerable to the Board, a Project Director (the Director of the Trust specialist Capital Planning Unit) with experience of numerous successful construction projects in both the private and public sectors, and a team including expertise from Estates, Hotel Services, Human Resources and Finance. In addition, time from a pool of Project Managers as well as a dedicated Project Manager, a Quantity Surveyor and (crucially) a Clerk of Works from within the Capital Planning Unit, the latter working closely with (but independently from) the Independent Tester to provide construction quality assurance.

With move to the operational phase, the project sponsorship moved to the Executive Director for the services provided within the PFI premises, and the Capital Planning Unit dropped away in favour of a contract management team sourced from the Estates, Hotel Services and HR departments. Helpdesk arrangements obliged under the PA provide initial notification of issues relating to service provision, but also to building quality,

defects etc. (Note – to date there have been no structural defects reported – see response to question 7 below).

Where there have been variations involving construction works, the Capital Planning Unit have been reengaged, along with advisors (including Mott MacDonald and Gleeds) as appropriate.

3. *Provide the deed of appointment for the Independent Certifier and any other documents setting out the scope of that role. Please confirm the level of indemnity insurance and liability period.*

The Trust, SPV and Senior Debt provider (Royal Bank of Scotland) jointly appointed Currie and Brown as Independent Certifiers for the construction phase. A copy of the Independent Tester Contract for the Project Agreement is attached at Appendix 1.

Currie and Brown carry £5m indemnity Insurance, with a liability period commencing at the date the contract was signed (1st December 2004) and extending to 12 years after completion date of the final phase of construction (see attached HH PFI PA Sch 15, CI 8.1).

For subsequent variations involving construction or other works, independent certification has been provided variously by Currie and Brown, and Gleeds as joint appointments by the SPV and the Trust.

4. *Please confirm whether your organisation employed a member of the Institute of Clerk of Works or an inspector of similar standing and assigned them to each construction site. If someone in this role was employed please confirm their level of qualification, the salary associated with this role and how much time was allocated to per project/site.*

The Trust Capital Planning Unit employed a Clerk of Works at the time of the PFI, qualified as Fellow of Institute Clerk of Works and graded at Agenda for Change Band 6. This was a full time appointment and time was allocated to the full range of major capital development works, unfortunately, there is no record of this time split.

5. *Please provide a list of all enforcement or improvement notices served; investigations carried out and reports commissioned into fire safety (include dates and specify who commissioned or issued these) Please provide copies of all items listed.*

Please see Appendix 2 attached.

6. *Provide details of all attempts to make deductions relating to structural defects for each project. Confirm the amount, what it was for, and when the deduction was made.*

Not applicable

This was a phased construction with unitary payment (UP) uplifts on acceptance of each completed phase, there have been no deductions for structural defects. This reflects the adopted approach of refusing acceptance of each phase and thus denying UP uplifts until the Independent Tester (certifier) and the Trusts employed Clerk of Works were entirely happy with scope and quality of works. (There were in fact a number of weeks of delays to some phases, and as the project end date is inflexible, denial of UP was an absolute cost to the SPV).

Please note – the Trust has another PFI contract: Byron House in Newark. This scheme is very small in capital value (c£1.6m) and operational cost (c.£250k pa), and comprises (essentially) office accommodation in a single storey modular type building. The PFI was arranged back in 2000, pre any Standard Form contracts. Unfortunately, to locate any of the information requested above for this scheme would exceed the £450 cost limit as set out under the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. Accordingly, the provision of the information relating to Byron House is exempt under Section 12(1) of the Freedom of Information Act 2000.

Exemption(s) which apply

- Section 12(1) of the Freedom of Information Act 2000 applies to the release of the information for Byron House for the reason outlined above.

As part of our monitoring process to ensure that we continue to meet your requirements, we would be grateful if you could please take a few moments to complete the attached survey and return it by email to: foi@nottshc.nhs.uk

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If you are unhappy with the handling of your request or the information provided, you may ask the Nottinghamshire Healthcare NHS Foundation Trust to carry out an internal review. Requests for internal reviews should be addressed to the Company Secretary at The Resource, Duncan Macmillan House, Porchester Road, Nottingham NG3 6AA.

If you are still unhappy following an internal review, you may make a complaint to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely,

A handwritten signature in cursive script that reads "Vicky Lee".

Vicky Lee
Assistant Company Secretary