

Thursday, 11 March 2021

(10.00 am)

**SIR BRIAN LANGSTAFF:** Good morning, Ms Cohen. Can you hear me?

**THE WITNESS:** Good morning, yes, Sir Brian, thank you.

**SIR BRIAN LANGSTAFF:** And you can see me, I hope?

**THE WITNESS:** Yes, I can.

**SIR BRIAN LANGSTAFF:** I am at the moment in a large room which contains a total of eight people, one of them being me and one of them being Mary, who will ask you in a moment to take the oath. You will hear the name Soumik from time to time. He is here and his job to make sure that you see the right document at the right time if counsel, Ms Richards, wishes to take you to see any document.

But the audience, to whom you are really talking, is beyond this room. It's around about 250 people most days who watch on a mixture of either Zoom or YouTube. They will be at home. Are you at home?

**THE WITNESS:** Yes, I am, Sir Brian.

**SIR BRIAN LANGSTAFF:** Are you there on your own?

**THE WITNESS:** I am. My partner is in the house but I am in the room on my own.

**SIR BRIAN LANGSTAFF:** Right. Well, you can talk to your

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details of it; you've set it out in your witness statement -- but you had had some involvement in administering grants programmes, a small grants programme in relation to the rehabilitation of prisoners and ex-offenders and some grants programmes for a cancer charity; is that right?

**A.** Yes, that is correct.

**Q.** You retired more generally from employment in 2014?

**A.** Yes.

**Q.** How did you come to apply for the position at the Macfarlane Trust?

**A.** I was at that point holding down two part-time posts. I had earlier, some years earlier, had a tumour, which had been successfully removed, but I had had radiotherapy and had been quite ill for a while afterwards. When I felt well enough to re-enter employment I took on a part-time post, and then a bit later I took on a second part-time post, and I'd reached a stage of fitness where I felt able to manage a full-time post again. So I monitored the posts that were coming on-stream and after perhaps a year of that, the Macfarlane Trust post appeared and it looked interesting and useful. So I decided to apply for it.

**Q.** What did you know before you started working at the Macfarlane Trust? What did you know, if anything,

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partner at any break but when we come to a break, let me tell you now, you must not discuss anything which you said in evidence or think you may yet be asked about in evidence, although anything else is absolutely up to you.

**THE WITNESS:** I understand. Thank you.

**SIR BRIAN LANGSTAFF:** Ms Richards. Let Mary swear the witness.

**JUDE COHEN, affirmed**

**Questions by MS RICHARDS**

**MS RICHARDS:** Ms Cohen, you worked at the Macfarlane Trust from around October 2004 to September 2005 -- so around a year or just under a year -- as head of support services; is that correct?

**A.** It is, though I have seen evidence presented by the Inquiry during the course of this that shows that I must actually have left at the end of August, not September. But otherwise yes, it was considerably less than a year.

**Q.** Prior to that, and indeed after that, you've worked in a number of administrative and managerial roles including in the charitable sector?

**A.** Yes, predominantly in the charitable sector.

**Q.** In terms of your experience before you joined the Macfarlane Trust -- I'm not going to go into the

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about the circumstances in which people had been infected with HIV or hepatitis from treatment with blood and blood products?

**A.** I think I knew a little about it, just because it had on occasions been in the press, but I had no idea of the scale or the outcomes.

**Q.** What did you know or what did you find out through the interview and appointment process about the circumstances in which the Macfarlane Trust had been set up?

**A.** Very, very little. I mean, there was obviously some background information, so I knew it had been established with a large payment from the Government, and that it was an independent charity, but I think that was all. I hadn't seen any accounts or the mem & arts or anything of that nature.

**Q.** Once you took up your post -- and we'll look at a job description in a moment to see what it covered -- but once you took it up, what, if any, training or induction did you receive?

**A.** Absolutely none. It was literally I walked into the office on the first day, was introduced to all the members of staff, and was handed a pile of grant requests that had been sitting round for some considerable period of time waiting for someone to

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1 deal with them.

2 **Q.** If we have a look at your job description or a job  
3 description for the post of head of support services,  
4 it's at DHSC0003027\_004, please, Soumik.

5 Whilst we wait for that to come up, Ms Cohen,  
6 is this correct, it was a new post that was created  
7 that you were taking up?

8 **A.** It was, yes.

9 **Q.** We can see here this is a job description for the head  
10 of support services:  
11 "Main Purpose.  
12 "Responsible to the Chief Executive and  
13 National Support Services Committee, through the  
14 Chairman, for the effective day-to-day management of  
15 the Trust's delivery of support services including the  
16 effective and efficient management of a team of  
17 regional support workers (to be appointed) a Benefits  
18 Adviser and liaison with the Trust's Independent  
19 Financial Adviser."

20 We heard yesterday from Ms Daniels, who was the  
21 independent financial adviser. In terms of benefits  
22 adviser is this right, that at the time you joined  
23 there wasn't a benefits adviser any longer in post?

24 **A.** That's correct. I think it was mentioned at a meeting  
25 and minuted that she actually left something like the

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1 that time?

2 **A.** I did, through -- I had had various pieces of  
3 training. I had done a post graduate diploma in  
4 charity management. So I did know quite a lot about  
5 charity law, yes.

6 **Q.** In terms of Trust policy, I am going to come back in  
7 a few moments to what the Trust's policies were. Then  
8 the next responsibility:  
9 "With the Chief Executive, take responsibility  
10 for the delivery of the regular payments and grants  
11 making awards functions of the Trust."

12 Again, we will explore that in more detail but  
13 that was very much, as I understand it, part of your  
14 work?

15 **A.** Yes, though I never actually was involved in regular  
16 payments. The chief executive always did those.

17 **Q.** I will be asking you a handful of questions about  
18 regular payments, Ms Cohen, just so you know, and take  
19 you to a few documentary references about that.  
20 "Contribute to Trust newsletters and ensure  
21 appropriate regional contributions."  
22 Again we will come back to that but newsletters  
23 were something which featured as part of your job from  
24 time to time, I understand?

25 **A.** Yes.

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1 day before or the day that I started. I never  
2 actually met them.

3 **Q.** During the time that you were at the Macfarlane Trust  
4 from the autumn of 2004 to the late summer or early  
5 autumn of 2005, was there ever a benefits adviser in  
6 post?

7 **A.** No.

8 **Q.** And then in terms of the team of regional support  
9 workers -- we'll come back to that, Ms Cohen -- but  
10 that was never set up essentially, that system?

11 **A.** No.

12 **Q.** Then if we look at the "Principal Responsibilities",  
13 the first is in relation to leading the team of  
14 regional support workers. As I say, we will come back  
15 to that. Then we have:  
16 "Provide the secretariat and co-ordinate the  
17 policy work of the National Service Services Committee  
18 and its reports to the Board of Trustees."  
19 And would you agree that that was part and  
20 parcel of your work that you undertook?

21 **A.** Very much so.

22 **Q.** The next is to:  
23 "Ensure that all support activity complies with  
24 charity law and Trust policy."  
25 Did you have any knowledge of charity law at

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1 **Q.** Then there are a number of other matters set out,  
2 perhaps more general in nature: adequate training and  
3 awareness provision, maintenance of external  
4 relationships, line manager of the regional team --  
5 and various other matters relating to the regional  
6 team which was never actually established. And then  
7 we see the next one:  
8 "With the Chief Executive develop support  
9 services consistent with the aims and objectives of  
10 the Long Term Review."  
11 Now that would pre-suppose familiarity with the  
12 long-term review. Do you recall the long-term review  
13 and what its aims and objectives were?

14 **A.** I believe the long-term review was held before I was  
15 appointed and I have no recall at all of ever seeing  
16 any documents relating to it.

17 **Q.** And then --

18 **A.** It was referred to occasionally. Mostly in terms of  
19 the, I suppose, unexpected longevity of registrants,  
20 because medical treatments were so much improved.  
21 I believe there were none when the Trust was set up.  
22 Because of medical treatments available, registrants  
23 were facing, for want of a better expression, average  
24 lifespans, and I believe that underpins the need to  
25 look at what was being provided to support them. But,

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1 as I say, I never saw any documentary evidence of it.  
 2 Q. Then I think:  
 3 "Ensure the Trust's database, in respect of  
 4 information ... is maintained and accurate."  
 5 And then some more general matters.  
 6 If we go over to the third page of this  
 7 document, please, Soumik, and we look at the heading  
 8 "Governance Duties" and just the two paragraphs under  
 9 that:  
 10 "The post-holder will be responsible ..."  
 11 So this is paragraph 3.1:  
 12 "The post-holder will be responsible for the  
 13 preparation of agendas, reports and papers to be  
 14 considered by the ... (NSSC). This will include the  
 15 preparation of reports to the MFT board minutes."  
 16 So was that part and parcel of your work?  
 17 A. Yes.  
 18 Q. Then 3.2:  
 19 "The post-holder, with the Chief Executive,  
 20 will compile a schedule of procedures that reflect the  
 21 new staffing structure and arrangements in respect of  
 22 the delivery of single grants. These will be a matter  
 23 for approval by the NSSC."  
 24 Then there's a reference to a current debate  
 25 about regular payments.

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1 interactions with Mr Stevens through his presence in  
 2 the office would be via the NSSC?  
 3 A. Absolutely, yes.  
 4 Q. Is this correct: you didn't habitually attend the  
 5 board meetings of trustees. I think we see you  
 6 attending the first one, where you are introduced --  
 7 A. Yes. As far as I can remember I was only there for  
 8 part of it as well. It was a very short visit.  
 9 Q. Then you attended some meetings of the Partnership  
 10 Group, and again I'm going to ask you not to name any  
 11 individual participants in the Partnership Group, but  
 12 you've said this in your witness statement.  
 13 If we just go to it, please, it's WITN4565001,  
 14 and if we go to the fifth page, please, Soumik,  
 15 paragraph 6. You say:  
 16 "I know that I attended one or two meetings of  
 17 the Partnership Group ..."  
 18 I think it may have been three or so but  
 19 nothing turns on that:  
 20 "... but have little memory of them, although  
 21 I do recall they were reputed as often being  
 22 acrimonious and appeared to be a cause of considerable  
 23 tension to the Chief Executive and the Chair of the  
 24 MFT."  
 25 Can you just assist with that last comment in

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1 A. Yes.  
 2 Q. Again, we'll look at some relevant documents but  
 3 drawing up procedures and guidelines in relation to  
 4 single grants was a focus of your work, I think, in  
 5 the time that you were there?  
 6 A. Yes, very much.  
 7 Q. To what extent -- we can take that down, thank you.  
 8 You reported to the chief executive, and I'll come  
 9 back later to that, but to what extent did you have  
 10 dealings with trustees?  
 11 A. Peter Stevens, the chair of the trustees, was often in  
 12 the office, so I did see him around, and he always  
 13 attended or virtually always attended the NSSC  
 14 meetings. Elizabeth Boyd was the chair of the NSSC  
 15 and she was a trustee, and we had another -- I think  
 16 he was called a user or a beneficiary trustee.  
 17 Q. And I will ask you, if I may -- sorry, in relation to  
 18 any user or beneficiary trustees, I would just ask you  
 19 not to name them by name?  
 20 A. Yes. I'm trying very hard to skirt around it.  
 21 Then there was another trustee who, I must  
 22 admit, when I saw his name in the minutes,  
 23 I recognised the name but I can't actually recall the  
 24 person or what his circumstances were.  
 25 Q. So your principal dealings with trustees other than

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1 paragraph 6. What can you tell us about what seemed  
 2 to be a cause of tension arising out of the  
 3 Partnership Group meetings?  
 4 A. I know that the chair and the chief exec used to spend  
 5 quite a bit of time before Partnership Group meetings  
 6 in the chief executive's office talking about them and  
 7 preparing for them and there was just a general  
 8 atmosphere. I would have said -- I can't remember  
 9 exactly but I have a sense of there would be comments  
 10 made about "Oh, what a trial we've got", that kind of  
 11 "We're not looking forward to this" attitude towards  
 12 them. They definitely didn't look forward to them.  
 13 Q. If we just go to one set of minutes for the  
 14 Partnership Group, this is the first one you attended,  
 15 1 October 2004, MACF0000019\_130. So we see the date,  
 16 1 October 2004, and we can see that you're there along  
 17 with Mr Harvey, and if we go to the first paragraph,  
 18 just a little further down the page, although your  
 19 name has, I think, inadvertently been redacted there  
 20 but you are welcomed as the new Head of Support  
 21 Services. So this is very early on in post?  
 22 A. It was my first day.  
 23 Q. If we go to the third page, please, there's  
 24 a discussion under the heading "Bulletin Board".  
 25 There's a discussion about the bulletin board and then

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we see this:

"It was of concern to the Chief Executive and Head of Support Services that there was a climate of fear within the registrant community when seeking together approach the Chief Executive or the office in general."

Can you assist with what that referred to or can you recall anything about that discussion?

A. I think it was actually discussed at the meeting because, as I mentioned, that was my first day, so I wouldn't have known about it beforehand and I think it was, as it says, as is minuted, that they collectively expressed the amount of misinformation on the bulletin board, and it must have been discussed to have been minuted. It just must actually have been talked about that people didn't like to approach the chief executive or the office, in general.

That concern was borne out by my later experiences but, at that time, I think it was just recording what was being said at the meeting.

Q. We'll try and pick up on the later experiences as we go through your time at the Macfarlane Trust. I think, as you've already referred to, there was a backlog of cases, as I understand it, of grant applications that hadn't been considered and dealt

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bereaved, et cetera.

"If she is not replaced ... within the next three months then the Trust will effectively collapse, as I cannot keep up this level of work and, without my current levels of involvement, the processing of one-grants, correction of erroneous regular payments and scheduled reviews of fixed-term additional regular payments will cease, causing avoidable errors in and disruption of regular payments to registrants and failure to deal with urgent, one-off needs."

SIR BRIAN LANGSTAFF: Should the "one" be "one-off grants"?

A. Yes.

MS RICHARDS: What, if anything, was done in response to this memo?

A. I think that was the memo that led to one of the office staff being appointed as part-time. She was an assistant to the office manager. She became part-time assistant to me just to help with, literally, the processing of all the applications as they came in, sorting them into which were for office perusal, which was for NSSC, and writing to people once they submitted, there may -- they were a *pro forma* letter with a standard wording. And so she took on some of that very, very important background admin work,

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with when you arrived. Do you have any recollection broadly of the kind of magnitude of backlog that we're talking about?

A. I would have thought it was 20 or 30 but that is really a guess at this stage. It was a long time ago.

Q. As your time at the Macfarlane Trust progressed, there came a point at which you were concerned that there was not sufficient -- that your work load was too great and that there was not sufficient support within the office; is that correct?

A. Yes.

Q. Again, if we go to MACF0000001\_082, please, we can see this is a memo you wrote, so this is by now the following year, May 2005. I'll come back to an issue about home visits later but we can see this is you writing to the chief executive, Mr Harvey. You refer to, in the second paragraph, picking up extra workload due to the absence of Claudette.

Then if we go further down the page, you talk about, in the penultimate paragraph, not coping with the workload, "The pile of not-yet-done-things is growing", and you've not been able to deal with your own core work:

"... including the development of support services such as 'events', better [events] for the

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thereby freeing up some of my time.

Q. Now, if we go back then to the start -- we can take that down, thank you -- if we go back to the start of your time at the Macfarlane Trust, you've told us in your statement and you have referred this morning that you were effectively told to get on with processing grant applications.

A. Yes.

Q. Were you given any training or advice as to how to approach the grant applications?

A. No. All I was given was a document that talked about things that could be processed by the office, and those had to go to the NSSC. Quite a few of them, I think, were for office processing, so I just processed those as per the guidelines, and then started receiving complaints from registrants where they'd been turned down for something and -- actually, I may have jumped a step there because the ones I couldn't say yes to went to the NSSC and they turned some of them down. And I heard from registrants, first of all, they'd ring up and say "Have I got the money?" and I'd say "I'm sorry, it had to go to the NSSC for discussion" and they'd go "Why? I'm always just given it automatically whenever I ask", and that was when I realised that the office guidelines as they

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1 existed weren't being complied with anyway.  
 2 **Q.** I think if we look at one document it's a set of  
 3 office guidelines. It's MACF0000011\_031. So this is  
 4 a document entitled "Grant Guidelines with Effect from  
 5 October 2001". As I understand your witness  
 6 statement, Ms Cohen, you can't recall with confidence  
 7 whether the guidelines you were given to use were  
 8 these guidelines or a different document; is that  
 9 right?  
 10 **A.** That's correct, yes.  
 11 **Q.** You've said in your statement that you began to form  
 12 the view, first of all, that existing guidelines  
 13 hadn't been followed consistently and, secondly, that  
 14 the NSSC's decisions were being made on  
 15 an inconsistent or *ad hoc* basis; is that correct?  
 16 **A.** Yes.  
 17 **Q.** You raised that with Mr Stevens as chair of the Trust.  
 18 What was his response?  
 19 **A.** He said that because they were a charitable Trust they  
 20 couldn't just make blanket payments for a particular  
 21 thing, they had to look at each case individually.  
 22 **Q.** What was your response to that?  
 23 **A.** I didn't think that was the case legally, in terms of  
 24 charity law, but I was aware that the chief executive  
 25 was of that view as well, because he said so, and he

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1 confirmation (or otherwise) that I appreciate the  
 2 basic principles underpinning the Trust's work. I may  
 3 also be raising issues that have already been  
 4 discussed/agreed, or appear to be stating the obvious.  
 5 I will ensure, however, that the decisions reached  
 6 today are codified into procedures and communicated as  
 7 appropriate to staff and registrants, in an attempt to  
 8 ensure a common understanding and consistency of  
 9 approach in the future."  
 10 Then you refer in 1.3 to just being aware that  
 11 discussions will be held over the next few months over  
 12 issues such how to deal with capital assets and where  
 13 means testing should be applied to the process. Then  
 14 you say:  
 15 "It is important, however, that we make the  
 16 current system both more transparent and consistent in  
 17 its administration, during the interim."  
 18 Then in paragraph 1.4 you anticipate  
 19 disagreement over some of the recommendations but  
 20 recognise it's better to have a starting point for  
 21 discussions to focus on.  
 22 Then if we can go to the bottom half of the  
 23 page, you set out under the heading "Underlying  
 24 principles" various matters. I'm going to look at  
 25 them in a moment but how had you formed the view that

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1 said they'd sought legal advice. So I didn't  
 2 challenge it because it didn't seem my position to do  
 3 so.  
 4 **Q.** This, I think, led you to produce a report for the  
 5 NSSC for its 27 October 2004 meeting. This is in the  
 6 first month of your employment. If we look at it,  
 7 it's in two parts, so if we start with the first part  
 8 AHOH0000055, please, Soumik. So we can see it's  
 9 a document, NSSC "One-off grant policies". We don't  
 10 need to go to the bottom of the page now but the  
 11 bottom of the page gives us a date, 27 October 2004,  
 12 that's the date of the NSSC meeting. Then if we look  
 13 at the top half of the page, "Introduction", you write  
 14 this:  
 15 "The purpose of this paper is to facilitate  
 16 discussion on the Trust's one-off grants policy in  
 17 order to:  
 18 "revise and clarify these policies, for the  
 19 guidance of both staff and registrants  
 20 "agree authorisation levels for payment of  
 21 grants  
 22 "agree how 'appeals' against decisions should  
 23 be handled."  
 24 Then you say this:  
 25 "As I am new to the Trust I would appreciate

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1 these were the underlying principles for the Trust's  
 2 decision making?  
 3 **A.** Mostly by, first of all, looking at the guidelines  
 4 that were in existence and just by asking. I'd say to  
 5 people why do you think we do this? It mentions  
 6 support for carers and I had been to -- before  
 7 I actually started in post I'd been invited to  
 8 a bereavement weekend for bereaved carers, so I was  
 9 aware of their situation and of the sort of support we  
 10 were offering them and I knew just from the grants  
 11 that had been approved and what the guidelines said  
 12 a lot general feelings, but I wanted to make  
 13 absolutely sure that I'd got it right, because it was  
 14 just inferring from things I'd seen written or heard  
 15 that this was the underlying principle, and I wanted  
 16 to be absolutely certain that I was right.  
 17 **Q.** Would it be right then to understand from that that  
 18 there was nothing in terms of guidance or policy that  
 19 had been provided to you which articulated what the  
 20 underlying principles were?  
 21 **A.** That's correct, yes. There wasn't.  
 22 **Q.** Then we see you setting out here, under the heading  
 23 "Underlying principles", the following:  
 24 "2.1 That financial support from the Trust is  
 25 NOT compensation as such, but is intended to help

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compensate for some of the results of infection, these results varying between individuals."

Then this:

"2.2 That support is primarily for registrants."

Now, by "registrants" did you mean those who had been infected?

A. Yes, I did.

Q. Did that, as far as you can recall your understanding at the time, include the category that seems to have borne within the Trust the somewhat unfortunate label at times "infected intimates", in other words those into had been infected as a result of relationships?

A. That was my assumption but -- I don't know because no-one else shared it but, yes, it was.

Q. So your understanding of the underlying principle was that support was primarily for those infected. You then go on to deal with the extent to which there might be support for carers or dependants in 2.3 and 2.4. So 2.3:

"... support for carers is aimed to improve the situation of the registrant ..."

So is this right, again, the focus was still on the needs of the registrant?

A. Yes.

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continue to be supported until adulthood/independence."

Then, over the page, if we go to 2.5, you say this:

"That support for carers or children following the registrant's death is not intended to replace the statutory provision they are entitled to as a result of any disability or medical condition, which should be sought instead of Trust support, where possible."

Would it be right to understand, again, that your understanding at the time was that such support was a provision of last resort. If Social Services or the local authority, for example, could provide assistance, carers or children were expected to look to that alternative source of support first?

A. Yes. I mean, my understanding was that we could always top up the statutory provision if we thought it wasn't adequate but that we should never replace statutory provision.

Q. Then we see you flag up in 2.6 some questions about the age at which the support of children might cease and the particular position of children with disabilities.

Then you identify at 3, under the heading "Current difficulties", the point you have already

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Q. Then, in terms of those who are bereaved, we see it picked up at 2.3.ii:

"by reassuring the registrant that their carer will be supported through a period of adjustment and in 'moving on' with their lives, following the registrant's death

"by providing this expected support and extending it for a longer period where the carer cannot be expected to 'move on' fully, due to disability or age."

So would it be right to understand your understanding at the time that support for those who were bereaved was essentially going to be time limited to enable those who were bereaved, effectively, to move on?

A. Yes, that was my understanding.

Q. Then we see the position of child dependants at 2.4. Again, it's:

"... aimed at improving the situation of the registrant:

"i. by helping the registrant to provide the type of care for their children that they would have provided, had they not been infected.

"ii. by reassuring the registrant that, should they die before then, their child(ren) will be

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made, Ms Cohen, in your evidence, that there was a difference between what was written down internally and what was happening. So you refer to the MFT handbook -- and I think I understand from other documents it was a 2003 handbook that was the most recent one; is that right?

A. I actually have no recall of the MFT handbook. It's something that's just escaped my memory entirely.

Q. In any event, you clearly had access to it then. You refer to the MFT handbook, you refer to -- this is at paragraph 3.2 -- the office guidelines, then at 3.3 you say:

"In a number of cases the actual handling of applications is not in line with either [the MFT handbook] or [the office guidelines]."

Then you go on to set that out by way of example. Now I just want take one example and ask you about it. We'll take the next example, which is "Education guidelines and recommendations". You set out what the MFT handbook records, you set out what the office guidelines record, and then you set out the actual practice. And then you make recommendations. Now I'm not going to ask you about specifics of recommendations but more generally, how did you come up with your recommendations? Whether

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1 it's for this or for any of the other items we see in  
2 this document, how did you approach it?

3 A. Again, I'm being asked to remember what I did 15 years  
4 ago and I can only assume now from how I would do now  
5 what I did then. I can't actually recall it but  
6 I would expect that what I looked at was what we were  
7 actually doing and trying to bring some sort of  
8 compromise between what the guidelines said we should  
9 be doing, and what we were doing. And if on a number  
10 of occasions we had done A, then recommending that we  
11 did A, as a matter of policy, for everybody in that  
12 situation. I think that must have been the approach  
13 but the actual detail I couldn't honestly connect to.

14 Q. I'm not going to go through the remainder of the  
15 document but it covers in a similar fashion a number  
16 of different items, and you set out what the handbook  
17 stated, what the office guidelines stated, what the  
18 actual practice was, and made some recommendations.

19 A. Yes. And I think that that comparison between the  
20 three, in showing how they didn't compare often, shows  
21 exactly the sort of mess that was in place when  
22 I arrived, that actually it was completely  
23 inconsistent.

24 Q. If we go to the second part of this paper for the sake  
25 of completeness -- it's at a different reference,

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1 get a request for a grant and go into the records and  
2 see they'd already received funding for it, and refer  
3 it to the chief executive and say "Do you know about  
4 that?" And they'd say, "Mmm, it looks a bit ..."

5 So that was what I meant by questions being  
6 raised, that we were just commenting on them amongst  
7 staff really.

8 Q. So is this right, there was, as is I think said in  
9 terms here, a suspicion that some applicants were  
10 obtaining grants but not using them for the purpose  
11 for which they were given?

12 A. Yes. And I mean it was a suspicion that arose because  
13 people would keep on applying for the same thing.

14 Q. Then if we look at paragraph 10.3 you say there are  
15 two main alternatives to address this: insisting upon  
16 receipts; and paying grants directly to the supplier.  
17 And your recommendation, we can see at 10.5, is to go  
18 down the route of insisting that receipts are  
19 provided. Is that correct?

20 A. Yes.

21 Q. If we then look at -- sorry, actually next page --  
22 section 12, "Recommendation on how to deal with  
23 appeals against grant decisions". I'll ask you about  
24 the appeal process later, Ms Cohen, but I just wanted  
25 to ask you about what you say at 12.1:

27

1 Soumik, it's AHOH0000056 -- we can see this is  
2 a continuation of the previous paper, and it deals  
3 with a number of other specific items in the same way  
4 as you had in the first half of the paper.

5 Can I then ask you to look at -- no, actually,  
6 before we leave this document, so that we don't need  
7 to come back to it, can we go to page 6, please.

8 Having set out various items, you then continue  
9 in this paper, at section 10, as follows:  
10 "Proof of proper use of grants awarded."  
11 And at 10.1 you say this:  
12 "Questions have been raised about whether  
13 applicants are actually using the grants they have  
14 been awarded for the purposes for which they were  
15 given."

16 And then at 10.2 you say:  
17 "This is not least because of repeat requests  
18 for grants for the same thing ..."  
19 And you give an example.  
20 Before we look at how you suggested that issue  
21 be addressed, questions have been raised by whom. Can  
22 you recall?

23 A. I think that that is literally the people in the  
24 office will say, "Oh, so and so has applied for so and  
25 so again", and that, having looked, or -- or I might

26

1 "Where an applicant is unhappy with a decision  
2 taken under *Office guidelines*, they be asked to  
3 explain why their case is exceptional and should be  
4 reconsidered."

5 What was the significance of a criteria of  
6 exceptionality?

7 A. I think it's because office guidelines are, by  
8 necessity, very basic, very simplistic, and somebody  
9 might say "The reason why I'm asking for this is  
10 because ..." and gives some further background  
11 information that actually would change the NSSC's view  
12 of things. It's hard to think of an example now but  
13 if we look at a parent asking for new school uniform,  
14 a grant for a uniform for their child, and the office  
15 guidelines said you could have a grant every two years  
16 or every three years, whatever, and the person comes  
17 and says, "Oh, yes, but because of my ill health we've  
18 moved house and we've gone to live in a bungalow and  
19 the child's had to change school, therefore ...", if  
20 that wasn't obvious in the original application it  
21 would be enough, I would say, for the NSSC to say "Oh,  
22 yes, in these circumstances, they should have another  
23 school uniform."

24 Q. Now these papers were for the NSSC meetings on  
25 27 October 2004, and if we just go to the NSSC meeting

28



of that date.

It's MACF0000014\_038, please, Soumik.

So you'll see the date there, 27 October 2004.

If we go to the bottom of the page we can see the section headed "One-off grant policies":

"The HSS presented her report."

Which I take it to be the report we've just looked at and then it says this:

"There was a discussion on the underlying principles of the Trust's grant-making, as outlined in section 2. Following a wide-ranging discussion it was agreed that the HSS [that's you] should amend this section and circulate it to NSSC members for approval. When this is obtained it will be tabled at the Partnership Group for comment. The ultimate aim is to agree the underlying principles of the Trust's grant-making for inclusion on the website."

Ms Cohen, the minutes don't tell us the respects in which your underlying principles were agreed and the extent to which they needed to be changed. Nor, so far, is the position clear many of the documents that we've looked at. So can you recall anything about which aspect, if any, of the underlying principles you'd articulated were agreed or disagreed?

A. I'm afraid not, no.

29

applicant didn't provide copies of receipts?

A. That -- yes, from reading the minute, that would be my understanding. I cannot recall whether there was already that kind of policy in place and all I was doing was getting it down in writing so we could be certain of it, because that was the thing as you have already mentioned. I'd been in post three weeks when that first report was dated. So I'd obviously paid a lot of attention to that in my first few weeks. Because we just were chasing our tails we so didn't know what was acceptable and what wasn't and I was just trying to codify things.

I thought that that policy was already in place and all I was doing was making sure that it was recorded as being in place but I could be wrong.

Q. Then if we go to the bottom half of the page -- no, actually sorry, can we just go back to the top. My apologies, Soumik, I should just pick something up first.

So we see in terms of process this is paragraph (e) there was then a delegated authority to regional support workers and office manager within office guidelines to decide upon a grant of £250. There was a delegated authority to you within office guidelines to approve grants of up to £2,500 and a delegated

31

Q. Do you recall ever being involved in the creation of an underlying principles document that was placed on the website?

A. I have no recall all that. I'm not saying it didn't happen. I just can't remember whether it did or not.

Q. Then we can see at paragraph (b):

"Office guidelines for one-off grant policies were discussed in detail and approved. It was agreed that [you] should incorporate these decisions in a new guidelines document and circulate it to NSSC members for confirmation."

And we'll look at the new office guidelines you produced in a moment.

Then if we go over the page, towards the top of the page at paragraph (d), so this is dealing with the receipts issue:

"It was agreed that successful applicants be asked to return copies of receipts to enable the Trust to maintain accurate and appropriate records of grants made for the charity's audit. If receipts are not returned the grant will be treated as a loan and recovered by deductions from regular payments."

So is this correct, the NSSC decided upon a policy whereby a grant would be, as it were, translated into a loan and clawed back if the

30

authority to the chief executive to approve grants up to £5,000. Is that correct?

A. Yes.

Q. Then a provision --

A. Always when they were within the office guidelines.

Q. So anything outside the office guidelines would automatically go to the NSSC; is that right?

A. Absolutely, yes.

Q. Then we can see there provision for the NSSC to consider appeals and again I'll come back to the question of appeals.

Then if we look still on the screen a little further down it says:

"Applications and ongoing cases."

Now there's reference to a specific case. I'm not going to ask you about a specific case but it's under the heading:

"Financial assistance with living costs."

"It was agreed that no grant be awarded. The HSS informed Susan Daniels for the reasons for this."

Then this, and it's the general policy I want to ask you about:

"But as a general policy the Trust considers it has no obligations to widows where the registrant died over ten years ago."

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1 Now, that's a statement of policy preceding  
2 your appointment, Ms Cohen, as I read this; is that  
3 correct?  
4 A. Yes.  
5 Q. But what was your understanding of the rationale for  
6 the Trust's general policy that there were no  
7 obligations at all to widows if the registrant had  
8 died over ten years previously?  
9 A. I'm concerned that my answer to this is going to come  
10 as a result of what I've read in the last few weeks  
11 resulting from the Inquiry and may not be what I felt  
12 at the time or thought at the time because I really  
13 can't remember that.  
14 I know there was a strange -- there was a case  
15 that some widows, I think it was from '93 and before,  
16 all the records had been destroyed years before, so  
17 there wasn't even any contact with widows beyond  
18 a certain date, and the policy as laid down earlier  
19 that we should continue support to help people move on  
20 to readjust to life following bereavement I'm sure was  
21 part of it.  
22 But I always thought that the Trust's view  
23 regarding widows and dependants was a little bit  
24 schizophrenic, that sometimes they gave support and  
25 sometimes they didn't, and they seemed again to be as

33

1 27 October 2004, you were tasked with drawing up some  
2 office guidelines in light of the paper and the  
3 discussions by the NSSC. And if we go next to  
4 EILN0000003\_179, do we understand this to be the  
5 office guidelines which you drew up?  
6 A. I believe they are, yes.  
7 Q. We can see they're headed "Office guidelines for  
8 grants", January 2005, "General rules relating to all  
9 grant requests". It says at the top:  
10 "These guidelines are confidential. As far as  
11 registrants are concerned, there are no office  
12 guidelines. There is no automatic entitlement to any  
13 type of grant."  
14 Do we understand from that that these were  
15 internal guidelines and there was no intention to  
16 publish them to registrants?  
17 A. Yes. I always thought they should be published but  
18 the committee was quite adamant that they shouldn't  
19 ever be published and that was an ongoing issue for me  
20 because word gets out, not unsurprisingly, you know,  
21 that a registrant sees another registrant at, say, one  
22 of the Trust weekends and mentions they got a grant  
23 for so and so, and the other one goes, "Oh, I didn't  
24 know you could get grants for that", and that's how  
25 information was spread amongst the registrants.

35

1 inconsistent there as they were with registrants.  
2 I mean, although they say as a general policy  
3 it has no obligations, we've already seen in the  
4 underlying principles the thought that if someone is  
5 disabled or elderly then support should continue for  
6 longer. So there was a deal of -- you could say, if  
7 you were being charitable, that it was a discretionary  
8 policy, whereas I tend to think of it more as one of  
9 the many inconsistencies.  
10 Q. You then produced a further paper. I'll go to it for  
11 the sake of completeness although I don't have  
12 a specific question on it, but we can see if we look  
13 at MACF0000107\_002 it's a paper dated  
14 19 November 2004 -- that's on the second page. We  
15 don't need to go to it -- for an NSSC meeting on  
16 1 December 2004. The date of that appears at the  
17 bottom, and if we look at the top of the page, we can  
18 see from the first two paragraphs, is this right,  
19 there have been some further types of request, types  
20 of matter for which grants might be sought, that  
21 hadn't been included in your first paper and this  
22 identifies those additional matters and makes  
23 recommendations in a similar way; is that correct?  
24 A. Yes.  
25 Q. Now, as we saw from the minutes of the meeting on

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1 So I thought there were principled reasons why  
2 we should publish the guidelines but the committee  
3 were adamant we shouldn't, so we had this attempt to  
4 not publish them, even knowing it wasn't going to  
5 work.  
6 Q. I'll come back to ask you about your own views which  
7 you set out in a later paper towards the end of your  
8 employment on that issue. But can you assist us with  
9 this: what was the reason for the NSSC wanting the  
10 guidelines to be kept confidential and not shared with  
11 the beneficiary community?  
12 A. There was a view expressed that if the registrants  
13 knew what they could apply for they would all apply  
14 for everything and use it almost as a shopping list  
15 as, "Oh, look, we can get one of those and we'll put  
16 in an application."  
17 My paper that you have referred to that  
18 I produced later, I gave my reasons why I didn't think  
19 that was the case but it was a view, and there was  
20 also a concern that if everybody knew what they could  
21 apply for, they'd all apply and we'd have too many  
22 applications and we'd run out of money. Again,  
23 I didn't believe that to be true but it was a view.  
24 Q. If we continue looking at this document, we can then  
25 see the next paragraph starts, "Grants over the

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1 last" -- sorry, it is headed:  
 2 "Grants over the last twelve months and  
 3 referral to trustees.  
 4 "When someone makes an application, first check  
 5 how much they have received in grants over the last  
 6 twelve months -- if it is more than £2,000, the  
 7 application is referred to the trustees. (This is  
 8 literally the last twelve months. If they apply on  
 9 October 1st, how much have they received since  
 10 October 2nd last year?"  
 11 What was the relevance of the fact that there  
 12 had been grants received in the preceding 12 months?  
 13 How was that intended to factor into the  
 14 decision-making process?  
 15 A. I think the view and, again, it's hard to put myself  
 16 in somebody else's head when they decided upon that  
 17 but I think their view was that it was a way, if there  
 18 had been already £2,000 worth of applications, they  
 19 should look and see what they were applying for in  
 20 order to try and determine whether they were applying  
 21 just for things they thought they'd get or get the  
 22 money for, or did they really have a need for it.  
 23 Q. It might be said, Ms Cohen, that these first two  
 24 paragraphs, the confidentiality for the reasons you've  
 25 articulated and this second paragraph, suggested

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1 Q. What was the process, if any, for dealing with urgent  
 2 applications?  
 3 A. If -- there were occasions, and I can't remember how  
 4 we dealt with that later on but I know when I started  
 5 definitely, if somebody came with something  
 6 that seemed to be urgent the chief exec and I would  
 7 discuss it and if we thought the NSSC would approve it  
 8 then we would authorise it.  
 9 I'm thinking there specifically of things like  
 10 if somebody has a plumbing issue at home and they need  
 11 to get someone out quickly or if someone who has the  
 12 need, a clear need for a washing machine to be in use  
 13 once or twice a day, and their washing machine breaks  
 14 down, it's important that we get them a new one  
 15 quickly rather than expecting them to wait until five  
 16 weeks for the committee cycle to consider. So those  
 17 were the kind of things.  
 18 Q. Then we see, the second paragraph under that heading,  
 19 "They should ask first", says:  
 20 "When seeking funding in advance evidence of  
 21 likely cost is required. When large grants are  
 22 sought, eg for building work, central heating, double  
 23 glazing, two written estimates are required on  
 24 business letterheads."  
 25 Would it be correct to understand that to mean

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1 a level of distrust from the NSSC or from the Trust  
 2 towards applicants that applications might be made  
 3 that were not well-founded.  
 4 A. Yes, I think that's true. That was my impression.  
 5 Q. Then we have the heading:  
 6 "Other funding."  
 7 "To try and save the Trust's funds for things  
 8 that no-one else will give grants for, registrants are  
 9 asked to seek other support, where it is available  
 10 from government-funded organisations. This is  
 11 primarily support with home adaptations (via Social  
 12 Services) and help with vehicles (from Motability).  
 13 Registrants may prefer to seek funding from the Trust  
 14 instead, but that will reduce the amount that is  
 15 available for other one-off grants and regular  
 16 payments."  
 17 I'll come back when we talk through the process  
 18 of considering, actually considering a grant  
 19 application, and come back to that issue.  
 20 "They should ask first."  
 21 "Where possible, funding should be sought  
 22 before expenditure takes place."  
 23 So that's, as it were, a discouragement of  
 24 retrospective applications; is that right?  
 25 A. Yes.

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1 that two written estimates should not be required for  
 2 smaller or more mundane items?  
 3 A. Yes, I would have read it that way.  
 4 Q. Then we have the provision:  
 5 "Must send receipts. Cash payments without  
 6 receipts will never be funded."  
 7 Your guidelines or the guidelines you drafted  
 8 say this:  
 9 "To comply with accounting regulations copies  
 10 of receipts must be provided to show that grants have  
 11 been spent as shown in our records. If this is  
 12 questioned, it is not about whether we trust the  
 13 registrants or not. It is about protecting the  
 14 charity from any accusations of fraud or misusing  
 15 funds."  
 16 Ms Cohen, in light of what we've already looked  
 17 at, is that entirely correct because as we traced  
 18 through the receipts issue in the earlier documents  
 19 that you drafted, it would appear that the trigger for  
 20 requiring receipts to be provided had been questions  
 21 about registrants making unmeritorious applications?  
 22 A. Yes. I think that -- I'm thinking -- I've gone off to  
 23 thinking about how sometimes when people applied for  
 24 things they were turned down. I often tried to soften  
 25 the refusal rather than just saying they don't think

40



1 you deserve at all or whatever it might be that had  
2 been said, and this is the same kind of thing.  
3 I didn't want the registrants to feel that they  
4 weren't trusted, even though the reality was I knew  
5 that some of the committee didn't trust some. It  
6 seemed unnecessarily cruel to actually spell it out.

7 **Q.** And then if we look at the third paragraph under the  
8 heading "Must send receipts" it says:

9 "If receipts are not forthcoming within the  
10 deadline, send a standard letter reminding the  
11 registrant that we need the receipts. If receipts are  
12 still not forthcoming within a further month, send  
13 a second standard letter pointing out that, if they  
14 are not received, the grant will be treated as a loan  
15 and recovered from regular payments."

16 Is this correct then, it wasn't spelt out to  
17 registrants at the outset that the failure to send  
18 receipts would result in the grant being treated as  
19 a loan. That was only at a second stage if they had  
20 failed to sent the receipts?

21 **A.** Jogged by seeing papers that have been circulated, and  
22 this matter was actually taken to a Partnership Group,  
23 and I said that people should be told right at the  
24 beginning this is what was going to happen, and the  
25 Partnership Group said not. They said they thought it

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1 make a copy of it.

2 **A.** Yes.

3 **SIR BRIAN LANGSTAFF:** So it was expected that those who  
4 might not have ready access to a copier would have to  
5 find a copier somewhere or someone with a copier to do  
6 it when they --

7 **A.** Yes.

8 **SIR BRIAN LANGSTAFF:** Yes. It doesn't necessarily -- not  
9 a very convenient process for those who might be ill  
10 and suffering, was it?

11 **A.** No, not at all. And I feel as though -- there was no  
12 *de minimis*. I mean, it wasn't like "Oh, if it's more  
13 than £50, we must have a receipt", or if it's more  
14 than £25 or £100, it was that it was something  
15 piffling. You know, if somebody had a taxi fare for  
16 an emergency trip to a hospital, that might be just  
17 a few pounds but we still wanted receipts, which  
18 I thought seemed a little unnecessary. But the chief  
19 executive and the chair were adamant that the auditors  
20 had said we must have receipts, so, again, not really  
21 to be argued with.

22 **SIR BRIAN LANGSTAFF:** And not only would they have to send  
23 a copy, but the reason for that, that something may be  
24 lost in the post, would mean they would have to keep  
25 the original somewhere.

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1 was only if, after a reminder, they still hadn't  
2 produced a receipt then they should be told, and the  
3 chief exec said, "That's what the Partnership Group  
4 wants, that's what we'll do".

5 I thought that was wrong, just -- just because,  
6 if you don't tell somebody they need receipts, they  
7 might not ask for them, and then by the time you have  
8 sent them a letter saying, "Oh, if you don't provide  
9 a receipt then we're going to treat it as a loan", it  
10 might be too late. They might not be able to get the  
11 receipt.

12 So I did think that was wrong, but it was  
13 something the Partnership Group -- and it was the  
14 registrants on the Partnership Group -- didn't want  
15 people telling it right upfront. I didn't understand  
16 why but the chief exec agreed we should go along with  
17 it.

18 **Q.** Again, for the sake of completeness, perhaps we'll  
19 just look at that. It's MACF00000 --

20 **SIR BRIAN LANGSTAFF:** Before we do that, can I just ask  
21 about the middle paragraph under sending receipts:

22 "Always stress that we want copies of receipts  
23 NOT originals ..."

24 That would mean in practical terms that anyone  
25 receiving money would have to get the receipt and then

42

1 **A.** Yes.

2 **SIR BRIAN LANGSTAFF:** Because at any stage you might ask  
3 for it. That's the implication of it.

4 **A.** Yes. I mean, I would have thought you have to keep it  
5 for a period of time but as it does mention that  
6 receipts are often essential for guarantees as well.

7 **SIR BRIAN LANGSTAFF:** It's a very bureaucratic process  
8 isn't it?

9 **A.** Oh, very, very. Yes.

10 **MS RICHARDS:** We'll just complete looking at this document  
11 before I got to the Partnership Group meeting that you  
12 referred to. If we just look at the very bottom of  
13 the page:

14 "Anything not in these guidelines.

15 "Remember -- all requests for grants for things  
16 not covered by the Office Guidelines should be sent to  
17 the trustees for a decision."

18 And then you say in the penultimate -- last two  
19 sentences:

20 "If we are not allowed to say yes, we simply  
21 pass the requests on to the trustees. We do not say  
22 no -- only the trustees can do that."

23 So a rejection of an application, is this  
24 correct, should, ordinarily at least, only ever be  
25 done by the NSSC or in certain cases the Board of

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1 Trustees?

2 A. That's correct.

3 Q. Then if we just go over the page so that we can see

4 what the office guidelines looked like, I'm not going

5 to go to the detail of any of them but they set out

6 a number of different items. They give a maximum --

7 they set out how often, every seven years or every

8 two years or every five/years, the grant will be

9 permitted, and they set out what the applicant needs

10 to send. That was broadly the pattern; is that right?

11 A. Yes.

12 Q. Then just to go to the Partnership Group minutes that

13 you referred to MACF0000014\_041.

14 So we can see these are Partnership Group

15 minutes of 13 December 2004. If we go to page 3, top

16 of the page:

17 "That letters in respect of single grants,

18 where receipts were requested, would no longer contain

19 the paragraph about converting the brand payment into

20 a loan if receipts should not be forthcoming.

21 "The HSS [that's you] explained why it was

22 deemed appropriate to mention the sanction in the

23 first letter as it afforded (audit) protection to the

24 registrant and the Trust and made the point clear from

25 the outset."

45

1 of the NSSC?

2 A. Yes.

3 Q. Then, on an unrelated issue, but whilst we're on the

4 document at the bottom of this page, you will see

5 a heading:

6 "DWP investigations into registrant savings.

7 "The HSS [so that's you] reported that six

8 registrants have now sought help in dealing with DWP

9 investigations, and that all have been satisfactorily

10 dealt with."

11 What can you recall the issue being and how was

12 it dealt with?

13 A. My memory is that the DWP were not allowed to take

14 into account any cash payments that people got from

15 the Macfarlane Trust, but -- when they were claiming

16 benefits, and that for some reason we suddenly had

17 a spate of people where the DWP was asking about their

18 savings levels and saying that their benefits would be

19 affected. It was dealt with because we had documents

20 on file confirming that our payments were not to be

21 taken into account by the DWP. So I simply sent these

22 on to the officers concerned and the matter was

23 resolved quite happily.

24 Q. Now, the Inquiry has heard evidence to suggest that

25 that continued to be a problem in the years that

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1 So that was your view, was it, that the first

2 letter should make this point?

3 Then we see --

4 A. It was.

5 Q. -- reference to a lengthy discussion and the outcome

6 is it was agreed that the sanction about conversion to

7 a loan would be exercised, I think there should be an

8 "in":

9 "... a follow-up letter should that letter

10 prove necessary."

11 A. Yes.

12 Q. So, following your production of the office guidelines

13 of January 2005, we can then see some discussion at

14 a meeting of the NSSC on 5 January 2005, so that's

15 MACF0000014\_069.

16 We can see the date 5 January 2005. If we go

17 to the bottom of the page, under the heading

18 "Newsletter", (ii):

19 "It was agreed that the mailing to registrants

20 regarding grants should not indicate amounts that can

21 be claimed, and that it should clarify that all single

22 grants are discretionary -- there are no automatic

23 grants. The office guidelines should never be

24 publicised."

25 Is it right to understand that was the decision

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1 followed. In the time that you were at the Trust, so

2 the period autumn 2004 to 2005, do you know whether

3 any work was undertaken to try to address that problem

4 at a more senior level to try to avoid it occurring in

5 the future?

6 A. No, I've no knowledge of that.

7 Q. Then if we go next to MACF0000110\_111, please, you

8 have said in your statement that there was

9 effectively, to some extent, an iterative process with

10 the guidelines, they were changed and tweaked from

11 time to time, and we can see here there's a slightly

12 later document, this is dated March 2005, "General

13 rules relating to all grant requests". Again, we see

14 the heading, "These guidelines are confidential".

15 Then it says this:

16 "Because of the various factors that need to be

17 taken into account, as far as registrants are

18 concerned, there are no longer any office guidelines."

19 Now two questions, Ms Cohen, about that

20 sentence. First of all, can you assist us with

21 understanding what the various factors were that

22 needed to be taken into account?

23 A. To be honest, no. No, I don't know. I can't

24 remember.

25 Q. Second question: again, it might be said that this

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1 sentence suggests that registrants would not only not  
2 be provided with the office guidelines but might be  
3 led to believe that there were no office guidelines,  
4 which as a matter of fact would be untrue?

5 A. That's absolutely correct. That was the decision that  
6 was reached at the NSSC on more than one occasion,  
7 that we should not tell people about office  
8 guidelines.

9 I seem to remember seeing a document that was  
10 from not long -- either not long before I finished or  
11 not long after I finished, I forget now, but that it  
12 was stressed even more forcibly that we should never  
13 admit to there being any office guidelines, even  
14 though they did exist.

15 I found it incredibly frustrating that we would  
16 go to things like a partnership meeting and the chair  
17 and the chief exec would assure registrants that they  
18 would get -- they would be sent copies of the  
19 guidelines for grants, and then another meeting would  
20 say: no, we're not going to do it. And we'd keep on  
21 telling the registrants: oh, they will be published in  
22 December, they will be published whenever. And then  
23 we never did it. And that was incredibly frustrating  
24 because the registrants got really upset, saying,  
25 "Look, you told us you were going to publish some",

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1 any evidence."

2 Now, it's a fairly self-explanatory paragraph  
3 in a sense, but is this right, that that's not simply  
4 something that you felt subsequently or felt when  
5 drafting your statement; it was an impression you  
6 received at the time but you're unable to pinpoint the  
7 precise basis for it? Is that correct?

8 A. Yes, I think it was the way that I tried to understand  
9 what I saw as the unfairness and inconsistency. And  
10 if an application was received -- often you could  
11 tell, even though it came with a number attached to  
12 it, you knew who the applicant was. You got to know,  
13 just from the personal circumstances that were  
14 expressed, you'd think: oh, that's so and so. And if  
15 the same person kept coming for more, and more, and  
16 more, then you became aware of what number was  
17 associated with what person. And I did have the  
18 feeling that sometimes one came, "Oh, yes, it's so and  
19 so" and that people would have a much softer view  
20 towards that person and that they should be supported,  
21 and another would come and it was almost like  
22 a tensing of the shoulders and, "Oh, well, that's so  
23 and so, isn't it?" And, "I'm not sure that ..." And  
24 there was just an undercurrent, a feeling, that some  
25 people were favoured and some people weren't.

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1 and yet one -- one hand didn't know what the other  
2 hand was doing, or would just overrule the others and  
3 say, "No, no, we shouldn't publish them."

4 Q. Was there an expectation that you and your colleagues  
5 in the office would, if asked by registrants about  
6 office guidelines, in effect, lie to them?

7 A. Yes, totally.

8 Q. Can we just look at a couple of passages in your  
9 witness statement before we then perhaps take a break.  
10 It's WITN4565001.

11 If we could go to page 19, please, Soumik.

12 Bottom of the page, paragraph 67 of your  
13 statement, you say this:

14 "I cannot say for certain why there was  
15 a reluctance to publicise the help that was available.  
16 It seemed to me that there may have been different  
17 motives involved, not all of which I would consider  
18 exemplary. For example, the lack of explicit guidance  
19 gave the trustees greater discretion, and it may be  
20 that some of the trustees liked the feeling of power  
21 and/or the ability to decide who were the deserving  
22 registrants and who were not. However, I should  
23 emphasise that this was merely my impression at the  
24 time and my feeling since, when trying to understand  
25 their motivations, and not something for which I had

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1 I mean, I had that from the very beginning,  
2 when I discovered that there were some people who  
3 applied for things a number of times a year and  
4 applied for things year after year, after year, and  
5 always got them, when other people didn't, and they  
6 weren't things that were supposed to be given under  
7 office guidelines, and other people it seemed as  
8 though we put them through more hoops. And I couldn't  
9 understand anything other than people's personal  
10 feelings towards a person.

11 Q. Then if we go on in the statement to page 33, bottom  
12 of the page, paragraph 120, I think you allude here,  
13 and you've referred already in your evidence, to what  
14 may have been another factor, so you refer to the  
15 policy to keep grant guidelines a secret, and you say:

16 "When I questioned this, I was told if  
17 registrants knew ..."

18 Top of the next page:

19 "... of the guidelines, they would apply for  
20 more grants."

21 And you set out your disagreement with that and  
22 refer to a report that you produce. Now we will look  
23 at the report after a break because it may take a few  
24 minutes. But would it be right to understand this  
25 paragraph as saying that it was also your impression

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1 or understanding that discouraging grant applications  
 2 was also a possible reason why the guidelines were not  
 3 published?  
 4 **A.** Yes.  
 5 **MS RICHARDS:** Sir, I note the time. I want to take  
 6 Ms Cohen next to the report but that will take more  
 7 than just a minute or two.  
 8 **SIR BRIAN LANGSTAFF:** Yes. So we'll take a break now and  
 9 come back at 11.45. So 11.45, please.  
 10 (11.17 am)  
 11 (A short break)  
 12 (11.45 am)  
 13 **MS RICHARDS:** Ms Cohen, I am going to ask you to look now  
 14 at a report that you produced in August 2005. Soumik,  
 15 it's MACF0000101\_079, please. We'll see from the top  
 16 that it's a policy discussions briefing paper intended  
 17 for the NSSC meeting on 2 September 2005, and if we go  
 18 to the last page of the document to start with, we'll  
 19 see the date of it is 25 August 2005.  
 20 Go back to the first page. You identify in the  
 21 first paragraph that:  
 22 "There are a number of outstanding policy  
 23 issues awaiting discussion and resolution. These are  
 24 summarised below, to help stimulate discussion."  
 25 Then there are various issues relating to

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1 **Q.** If we go back to the document, you then say this:  
 2 "Social workers and consultants who provide  
 3 supporting letters have also expressed unhappiness at  
 4 the change in policy being brought in without prior  
 5 announcement."  
 6 You refer to some attached correspondence from  
 7 a social worker and you say you received "more and  
 8 some much stronger verbal complaints". Then there are  
 9 a number of recommendations. If we go a little  
 10 further down the page, the last paragraph of the  
 11 recommendations are that:  
 12 "The respite policy agreed be circulated to all  
 13 registrants, and to all directors and social workers  
 14 at haemophilia centres, as a priority."  
 15 Now, can you recall, first of all, why it was  
 16 decided that there would be this policy change in  
 17 relation to respite grants?  
 18 **A.** Yes. I think, as far as I can remember, it was  
 19 because it seemed as though some people would ask for  
 20 a respite grant because there had been a medical  
 21 incident and that they really wanted something to help  
 22 them get over it to convalesce. Other people, it was  
 23 just a break, it was a holiday and, in that sense,  
 24 everyone living with HIV could use a break and  
 25 a holiday. Everyone supporting someone living with

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1 grants. I'm not going to ask you about that.  
 2 If we go over the page, I want to ask you,  
 3 first of all, about the position relating to respite  
 4 grants. So we can see you record that at an NSSC  
 5 meeting on 4 May a particular recommendation was  
 6 agreed, and you set out the details of it there. You  
 7 then say that this was agreed at the board meeting on  
 8 18 July 2005 and then you refer to how the matter was  
 9 communicated to registrants.  
 10 Then you say this:  
 11 "There were a number of applications 'in the  
 12 system' at the time of the change. There are also  
 13 registrants still applying for respite grants and are  
 14 surprised and often angry when they receive the reply  
 15 agreed by the NSSC stating:  
 16 "The main reasons for this were that ..."  
 17 Then we look at the italicised bit:  
 18 "... your doctor's recommendation did not refer  
 19 to any specific medical incident or hospitalisation  
 20 leading to a need for convalescence."  
 21 So this was, I think, a change of policy that  
 22 had been determined by the NSSC, that respite grants  
 23 required a medical recommendation along those lines;  
 24 is that right?  
 25 **A.** Yes.

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1 HIV and haemophilia could use that kind of break or  
 2 holiday, and it seemed as though they are actually two  
 3 very different things and that knowing that there are  
 4 some registrants who, as a matter of principle, would  
 5 not apply for grants and support because they found it  
 6 a demeaning process, they just wanted to be left  
 7 alone, it seemed unfair that some people would apply  
 8 and some a couple of times a year for breaks,  
 9 basically, and others weren't applying.  
 10 That was why the NSSC had agreed that they  
 11 would give a summer payment, which -- they wouldn't  
 12 call it a holiday grant but they knew a lot of people  
 13 would use it for that but if somebody would rather  
 14 have something else other than a holiday they could  
 15 use it for that. They felt that would then reduce the  
 16 need for what were essentially convalescent grants and  
 17 that those could be specifically requested where there  
 18 had been a medical incident that led to a greater need  
 19 for a break.  
 20 So I think it was a fairly sound decision but  
 21 the complaint was quite rightly that there just wasn't  
 22 enough notification of the change and, because we had  
 23 this not telling people about what they could apply  
 24 for, that people just did what they'd always done and  
 25 then suddenly were told it wasn't good enough.

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1 Q. You left not long after this and --  
 2 A. I actually left before the meeting. I left after  
 3 writing the report but before the meeting.  
 4 Q. Do you know whether the respite policy was ever  
 5 circulated to registrants and haemophilia centres?  
 6 A. No, I have no idea.  
 7 Q. Now, if we look at the paragraph that's currently at  
 8 the top of the screen, you'll see there the reference  
 9 to unhappiness at the change in policy being brought  
 10 in without prior announcement. Was there ever  
 11 consultation with beneficiaries -- leaving aside for  
 12 a moment the role of the Partnership Group, was there  
 13 ever any consultation with beneficiaries about any of  
 14 these changes or policies or guidelines?  
 15 A. No, not that I'm aware of, unless it went to the  
 16 Partnership Group but not that I'm aware of at all.  
 17 Q. So the only mechanism for hearing the beneficiary's  
 18 voice would either be through the Partnership Group or  
 19 through user trustees' presence?  
 20 A. Yes.  
 21 Q. Did you ever query that or suggest that there should  
 22 be a wider consultation?  
 23 A. I'm sure at some point there was a discussion about  
 24 some sort of a survey but I'm not saying it came from  
 25 me. I can't remember who it came from and I don't

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1 support workers and they visited them, that they would  
 2 be spies and be wanting to cut their benefits and  
 3 those kinds of things. There really was a horrible  
 4 undercurrent of distrust in both directions.  
 5 Q. Would it be right, in light of what you've just said,  
 6 to describe the MfT's approach overall as reactive  
 7 rather than proactive?  
 8 A. Entirely.  
 9 Q. Now I want to come back to the rest of this document  
 10 in a moment but before we do that, again, the  
 11 paragraph I was just drawing your attention to refers  
 12 to correspondence from a social worker regarding the  
 13 issue of the change in policy.  
 14 I think in light of the date you may have been  
 15 referring to a particular letter, but whether it's  
 16 that same letter or not it perhaps doesn't matter.  
 17 It's at MACF0000101\_087.  
 18 This is a letter to Martin Harvey. It's dated  
 19 24 August, so it's the day before your report, and  
 20 it's from Tracey Dunkley, clinical nurse specialist,  
 21 and Mark Simmons, senior social worker, at the  
 22 Haemophilia Centre at the Queen Elizabeth Hospital in  
 23 Birmingham. And we can see it's a complaint about the  
 24 handling of an individual case.  
 25 I'm not going to be asking you about the

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1 think we ever got there. I don't think it occurred.  
 2 But I know it was mentioned that we should do it  
 3 because there was -- in fact, I seem to have seen  
 4 a minute somewhere recently that did mention we should  
 5 have tried to find out what different groups,  
 6 including trustees and staff and beneficiaries, what  
 7 they would like to see being done if the Trust were to  
 8 be established then, rather than so many years in the  
 9 past. So if we were starting again, how would they  
 10 see the Trust as best supporting them. But whether  
 11 that ever went anywhere, I don't know.  
 12 Q. Do you think, as a matter of principle, that there  
 13 should have been greater efforts made to consult with  
 14 the beneficiary community at large rather than simply  
 15 relying upon user trustees or the Partnership Group?  
 16 A. Absolutely, and it's one of those things that I think  
 17 would have had to have been accompanied by other  
 18 efforts to rebuild trust between the beneficiaries and  
 19 the Macfarlane Trust because I do think there were  
 20 a lot of people who had no contact with the MfT or  
 21 wouldn't, on principle, apply for support or help  
 22 because they didn't trust them. And there was this  
 23 fear amongst a lot of people that's been referred to  
 24 at other times I've seen in evidence that if the MfT  
 25 got in touch with them or if we appointed regional

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1 individual case, Ms Cohen, but we can see from the  
 2 letter the broader concerns. There's reference to, in  
 3 the third paragraph, you having said that a letter  
 4 from a consultant was required. That was sent to the  
 5 NSSC. And then it would appear that the NSSC has  
 6 declined the request due to insufficient information,  
 7 a more detailed report was requested. And concerns  
 8 expressed about that.  
 9 Then we see this, bottom of the screen:  
 10 "We cannot craft our letters and requests if  
 11 the Trust are changing the criteria on a weekly basis  
 12 as in this case, without informing us of any changes.  
 13 We are not opposed to change but, feel it would be  
 14 more ethical if criteria changes are not implemented  
 15 until after current applications have been processed  
 16 under the existing guidelines at the NSSC meeting."  
 17 Pausing there, Ms Cohen, would you agree with  
 18 that particular point?  
 19 A. Oh, absolutely. I can remember -- I can actually  
 20 remember this case because I remember asking for  
 21 a consultant's supporting letter, getting it, taking  
 22 it to the meeting with a recommendation that it be  
 23 awarded, and then they asked for further information.  
 24 And I was quite upset by that. I mean, I'm not saying  
 25 I showed it but I did think: why are you asking me now

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1 for something you've never asked for before?  
 2 So then when someone else has obviously written  
 3 in with exactly the same point, I agree entirely.  
 4 That was my feeling. We shouldn't have asked for it.  
 5 Q. Then if we go to the next page, paragraph at the top  
 6 of the page, I think I probably just need to read the  
 7 first sentence:  
 8 "Of late the whole process of making  
 9 applications has become far more bureaucratic and  
 10 complex."  
 11 Do you regard that as a fair comment?  
 12 A. Yes.  
 13 Q. Then if we go towards the bottom of the page,  
 14 penultimate paragraph:  
 15 "It would be helpful if we were kept informed  
 16 of changes in the office guidelines or grant  
 17 application criteria. The only people to suffer as  
 18 a consequence of this lack of communication are the  
 19 registrants themselves."  
 20 Do you agree with that observation?  
 21 A. I do. I think -- but it's no different saying that  
 22 the registrants themselves should have been made  
 23 aware. They all should. Everyone should have known.  
 24 And then you would have had both a fair playing field  
 25 but also you wouldn't have had people applying for

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1 in making an application that they wouldn't otherwise  
 2 have bothered making. Do you sympathise with and  
 3 understand that concern?  
 4 A. Entirely, yes.  
 5 Q. We see, just for the sake of completeness, bottom of  
 6 the page the follow-up email, perhaps picking it up  
 7 halfway down that email:  
 8 "How are any of us supposed to know what is  
 9 available or if it's worth applying? Or is that the  
 10 idea."  
 11 Then there's reference to frustration in not  
 12 knowing what the guidelines are.  
 13 If we then go back to your report at  
 14 MACF0000101\_079, and we go to the second page and pick  
 15 it up now at the bottom of the second page, you will  
 16 see paragraph e "Notification of other grant making  
 17 policies", and then you say this:  
 18 "The Kingston Smith report on the Trust's grant  
 19 making procedures benchmarked us against best practice  
 20 guidelines."  
 21 Then you quote from the report.  
 22 Now, do you recall what the Kingston Smith  
 23 report was, Ms Cohen?  
 24 A. No. I mean, only that it's -- as it says there, it  
 25 was a report on the Trust grant-making procedures

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1 things and then being turned down and being upset and  
 2 therefore not applying for the next thing they needed  
 3 because they thought they'd be turned down. If they  
 4 knew in advance what they could and couldn't apply  
 5 for, what they were likely to get, it would have  
 6 actually reduced the number of applications on one  
 7 side, even though it might have led to more on the  
 8 other.  
 9 Q. I think we may see an example of that, Ms Cohen. If  
 10 we go to MACF0000101\_081, so these are two emails to  
 11 you from a registrant.  
 12 Again, we won't identify the registrant but we  
 13 can see, if we look at the top of the page, the  
 14 registrant saying this, in the second line:  
 15 "I was not aware the Trust 'routinely' awarded  
 16 a specific amount for school trips, this would suggest  
 17 the Trust has formulated the long awaited guidelines  
 18 for single grants and had I received this information  
 19 and realised I had exceeded the amount available  
 20 I would not have wasted my time applying."  
 21 Then he refers to his understanding, or she  
 22 refers to her understanding, that the decision was  
 23 made by a group of trustees.  
 24 So we have there a registrant saying, by not  
 25 knowing the maximum amount, they've wasted their time

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1 benchmarking against best practice. Kingston --  
 2 I have a feeling Kingston Smith -- no, I don't even  
 3 know whose they are.  
 4 Q. For the benefit of those listening and for you, sir,  
 5 it's a report commissioned by the Macfarlane Trust.  
 6 It's dated 18 April 2005 and it was commissioned from  
 7 chartered accountants called Kingston Smith. They  
 8 looked at a number of matters, including issues  
 9 relating to grant-making procedures. It's not  
 10 currently on Relativity but will be shortly, but I'm  
 11 going to give the reference, both for your benefit,  
 12 sir, and for the benefit of those listening if they  
 13 want to consider it at a later stage. It's reference  
 14 will be MACF0000014\_001.  
 15 In any event, it was clearly a report you had  
 16 access to at the time, Ms Cohen, and if we just  
 17 continue with what you say here, you quote from the  
 18 report:  
 19 "Literature and application forms should be  
 20 clear and user friendly and should include the  
 21 following information:  
 22 "What the trust will and will not support ...  
 23 "Any upper or lower limits on grant size."  
 24 Then if we go to the top of the next page, you  
 25 say:

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"It has been agreed more than once at the NSSC that the Office Guidelines should be confidential and staff should not tell registrants that they exist. We are, therefore, clearly not complying with Kingston Smith's recommendations. As well as being a question of best practice, however, the current policy of not informing registrants of grant-making policies is leading to unfairness and causing unhappiness and extra stress for registrants."

Then you refer to correspondence and verbal expressions of concern, and then under the heading "Unfairness":

"The office guidelines are not a complete secret, I have had them commented upon in detail by a registrant who says he has a copy that came via 'the hacker'. Other registrants are finding out how much they can apply for by simple trial and error, applying and seeing how much they get. This kind of information spreads via networks in the website bulletin board.

"There are, therefore, some registrants who know exactly what they can apply for. This puts them in a position of advantage when compared to others who do not and leads to a situation where there is no consistency or fairness in who gets grants and who

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a grant is stressful experience, and it should be as simple and straightforward as possible. The more ill they are, the easier it needs to be."

Then under the heading "Potential difficulties":

"Some members have in the past expressed the view that advertising the office guidelines will lead to a massive call on the Trust's resources as people apply for everything they can. There is not, however, any evidence to support this.

"For example, on three occasions recently people have applied for loans and, when told they could apply for grants instead, have said they do not want grants, they just want a loan. It is also clear that people will not apply for a grant for a washing machine just because it is available, if they do not need a washing machine.

"There will obviously be an increase in demand if the guidelines are published because people who are in need that at present do not apply, will be encouraged to. This does not, however, seem a bad thing, since we are possibly not meeting the needs of some of those registrants most in need: the ones who are relatively isolated and not in contact with others to find out what they can apply for."

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doesn't. Only those who ask get grants, and the fact that they ask is not an accurate measure of need: some people may be in desperate need but not ask because they do not realise they can apply for that type of grant."

Then under the heading "Unhappiness and extra stress":

"In my experience, when people can find out belatedly that they could have asked for assistance in the past but didn't because they didn't know, they become angry. 'Why didn't you tell us we could apply for a ...?'

"If we do not tell people what they can apply for but simply say they should apply, we build expectations and they can be angry when turned down. 'Why didn't you tell me I was wasting my time applying?'

"Similarly, if we tell people what they can apply for but not how much, it can be even worse. 'Why won't you give me enough to afford to buy it? You agree I need it, but won't give me enough for it.'

"If a registrant puts effort into applying for one grant and is turned down, they may not apply again for something that would receive funding.

"For some of our registrants applying for

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Then if I just go over the page to finish it:

"One way of ensuring the Trust does not generate demands it cannot meet, however, is to start small by giving a limited list of grants that can be applied for. Monitoring requests over a period of months will show whether the fears are well founded and, if they are not, enable the committee to add additional things to the list."

Then you make a recommendation:

"That a core list of grants be agreed that will be fully publicised to registrants."

And you say:

"It should contain information, including maximum amounts that can be claimed ..."

And then you set out some suggested core list of grants.

"Demand to be monitored and reviewed by the NSSC after six months."

Now, as I understand the position, you left shortly afterwards. Do you know whether your recommendation was ever implemented?

A. No, I had no contact with the Trust or anyone who worked at or was a beneficiary of the Trust at all after I'd left; so I don't know. But I stand by every word. I still believe everything that I said.

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1 Q. Had you attempted to raise these concerns prior to the  
2 production of this report in August 2005 and if so who  
3 with?

4 A. I believe that I had bit by bit been -- as I was  
5 formulating all those thoughts, I would go -- because  
6 I was in favour of publicising the grants guidelines,  
7 and so almost every meeting I'm sure there would be  
8 something that I would say, "Well, should we be  
9 publicising this, should we be publicising that?" And  
10 it was always turned down.

11 And it was almost as though, having had access  
12 to the Kingston Smith report, which -- I've no  
13 recollection of it being commissioned and I think it  
14 did cover a lot of other things, but, having had  
15 access to it, I thought: here's a document that has  
16 a real credibility that will support what I've been  
17 saying and I need to put it all down in one place as  
18 a proper concerted argument that deals with the  
19 concerns that I kept hearing piecemeal from people.  
20 And I think that was my attempt to just get it all in  
21 together in one place in what I thought was -- for me,  
22 as the person who wrote it, I thought it was quite  
23 a compelling argument and they ought to be doing  
24 things differently.

25 Q. You touched in the course of your evidence so far on

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1 Q. Would it be right to understand your evidence being  
2 that the drive for secrecy, confidentiality,  
3 non-publication then was a trustee-led drive, not  
4 something that emanated from the office?

5 A. Absolutely, entirely trustee.

6 Q. We can take that down, thank you.

7 I just want to ask you a little more now about  
8 the process for considering applications and I want to  
9 start, if I may, with how you would consider an  
10 application that came in and what the various stages  
11 were.

12 First of all, is it right to understand that at  
13 the time we're talking about, 2004/2005, that for  
14 grants there were not application forms, applicants  
15 would apply by letter?

16 A. That's correct.

17 Q. Do you think it would have been of assistance to have  
18 a simple and straightforward application form that  
19 directed applicants to the kind of information they  
20 needed to provide or would that have been --

21 A. So long as it had been very, very simple and that it  
22 wasn't used as an excuse for gathering yet more  
23 information.

24 Q. Now, typically if you had a letter applying for  
25 a grant, what kind of information would you expect to

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1 the NSSC's position and, indeed, we've looked at some  
2 of their decision-making about office guidelines  
3 remaining confidential. You have told us about it  
4 a conversation you had with Peter Stevens at a fairly  
5 early stage. Can you recall any discussions on this  
6 issue about lack of transparency, non-publication of  
7 guidelines and so on with Mr Harvey, who was your line  
8 manager?

9 A. I can't recall any specific conversations but I do  
10 feel I actually had his support, in that I think he  
11 agreed. But Martin was very good at not rocking the  
12 boat, so I may well have had encouragement to actually  
13 put everything down under my name so that he could see  
14 which way the arguments were going and side with the  
15 eventual outcome. But I do believe that he was quite  
16 happy with it because everything I was suggesting was  
17 something that could be measured and monitored and  
18 that would be laid down clearly in writing, and Martin  
19 was happy with forms and, if you like, bureaucracy --  
20 and although this was bureaucracy, I thought it was  
21 a simpler form of bureaucracy than what we had in  
22 position at the time.

23 So I think, you know, my recall is that he did  
24 support it but I can't give you specific examples of  
25 actually discussing it.

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1 see or need to see accompanying that letter?

2 A. I mean, obviously it would depend on what the  
3 application was but, just as an example, I would  
4 expect it would be something like: our washing machine  
5 has broken down, I'm told it's beyond repair, and we  
6 want to buy a such and such and it will cost so much,  
7 from so and so.

8 Literally. As little as that.

9 Q. So you might have washing machine, school uniform, the  
10 letter would suffice, together with some form of  
11 quote, one quote, would that be required?

12 A. It would depend on what it was because, you know, we  
13 had the maximum awards we would make, which were based  
14 on what is a reasonable cost for a bottom of the range  
15 washing machine. If it was £250, that would be the  
16 maximum we would give. So if somebody came in and  
17 said, "I'd like this washing machine at £350", then  
18 I would take it to the NSSC with the recommendation  
19 that we award them £250 and write to them explaining  
20 that they can get an adequate machine from Currys, or  
21 whoever, for that price, if they'd rather have the  
22 more expensive one they will have to pay the  
23 difference themselves. That would be the way I would  
24 expect it to go.

25 Q. Then there would be some types of application for

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1 which, is this right, you or, in due course, the NSSC  
 2 would require to see some form of medical evidence?  
 3 A. Yes. I mean, if somebody wanted a particular piece of  
 4 equipment, say a particular bed -- I'm thinking of  
 5 a particular applicant who was more or less bed-ridden  
 6 and wanted to have a bed, one of these that has  
 7 electric devices that raise different bits at  
 8 different times, so they could use it to sit up  
 9 comfortably working on a laptop or sit comfortably  
 10 watching TV or adapt it to their position. And if he  
 11 had -- I would expect a recommendation there from  
 12 someone medical -- which could have been a medical  
 13 social worker, it didn't have to be a GP -- but  
 14 saying, "Oh, yes, we think this would be beneficial to  
 15 their condition", because they were very expensive.  
 16 Q. Is this right: because of the non-publication of  
 17 office guidelines policies procedures, applicants  
 18 would have no way of knowing in advance what kind of  
 19 applications would require medical or social work  
 20 evidence and what kind of applications would not?  
 21 A. Yes, absolutely.  
 22 Q. So you'd then have to tell them if they needed further  
 23 information -- or, you or one of your colleagues, and  
 24 that, presumably, would inevitably build in a degree  
 25 of delay into the decision-making process?

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1 down on the basis that the individual could afford  
 2 something themselves?  
 3 A. No, not at all.  
 4 Q. How would you then go about deciding if you were going  
 5 to allow the application, allow the grant, or your  
 6 view was it shouldn't be allowed, in which case, as  
 7 I understand it, it would then have to go to the NSSC?  
 8 What would your typical decision-making process be?  
 9 A. Oh, it would be as simple as: oh, they need a washing  
 10 machine, they've asked for £235, they've -- looking at  
 11 their file, they've only had £1,000 of grants over the  
 12 last year, yes, that's it, that's fine, they can have  
 13 them.  
 14 Q. So if it was within the office guidelines and  
 15 something for which the need seemed fairly obvious and  
 16 straightforward, you would be allowing the grant?  
 17 A. Yes.  
 18 Q. What kind of circumstances would lead you to refer the  
 19 matter to the NSSC?  
 20 A. The most common was that they wanted something that  
 21 cost more than the office guidelines, and it seems  
 22 now, on reflection, to have been unnecessarily  
 23 bureaucratic. It might have been easier to get back  
 24 in touch and say: we will make an order of £250 but is  
 25 that okay, are you in a position to pay the rest or do

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1 A. Yes, and a degree of increased administrative costs,  
 2 because it would take up my time or take up another  
 3 member of staff's time.  
 4 Q. Now, we've seen reference in the office guidelines to  
 5 the principle that if something was available from  
 6 a statutory source, Social Services or Motability, the  
 7 applicant would be expected to use that as their first  
 8 port of call. Again, would it be right to understand  
 9 that because of non-publication of the policies,  
 10 applicants, unless they'd made a similar grant  
 11 application previously, would have no way of knowing  
 12 that either. They would have to be told that?  
 13 A. That's correct, yes.  
 14 Q. The census forms. At this point in time, the  
 15 documentation suggests that the census forms were  
 16 completed biannually. Would you, when looking at  
 17 a grant application, look at the census forms for any  
 18 reason?  
 19 A. No, I wouldn't.  
 20 Q. Would you require any information to be provided about  
 21 the applicant's financial position?  
 22 A. No.  
 23 Q. So grants were not at this point in time means tested?  
 24 A. No, they weren't.  
 25 Q. And they would not be or they should not be turned

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1 you want me to take it to the NSSC? But that would  
 2 have given away the fact that we were working to some  
 3 sort of office guidelines, which we weren't supposed  
 4 to admit to.  
 5 Q. What, if any, kind of practical support was available  
 6 to applicants making applications? We have seen some  
 7 might have had the support of a social worker at  
 8 a haemophilia centre but, more generally, was there  
 9 any form of assistance available to them?  
 10 A. The only thing was that if somebody sent something in  
 11 and it was, say, for -- like for the respite grant,  
 12 missing the medical recommendation I would get  
 13 straight back to them and say "Oh, can you get  
 14 a medical recommendation, you'd be more likely to get  
 15 the grant awarded if we have that", or if somebody  
 16 rang me up and said "Oh, this has happened and I don't  
 17 know, is it worth applying for a grant or can I get  
 18 any help", then I would encourage people to put in  
 19 applications that were likely to be successful. But  
 20 it did rely upon the registrant actually contacting me  
 21 in one form or the other.  
 22 Q. In terms of applications that were refused, would it  
 23 be right to understand that a refusal would inevitably  
 24 come from the NSSC, rather than from you, or should  
 25 have come from the NSSC rather than you?

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1 A. Yes, absolutely.  
 2 Q. As a matter of principle, would you agree that it's  
 3 right that applicants should be given the reasons why  
 4 their application was unsuccessful?  
 5 A. Yes. I would have thought so. The reason why  
 6 I hesitate there is that sometimes the reasoning  
 7 wasn't clear to me and I know that there was one  
 8 occasion when the board actually minuted a request  
 9 that in their minutes the NSSC should give the reasons  
 10 why grants are turned down, which I was very pleased  
 11 to see because then that gave me the opportunity to  
 12 say "And how shall I minute this?" --  
 13 Q. We'll come back to that in a few minutes when we look  
 14 at the NSSC in a little more detail. Before we do  
 15 that, in terms of an appeal process, can you outline  
 16 for us what you understood the appeal process to be?  
 17 A. I thought that if somebody was unhappy and when I sent  
 18 the letters of refusal it actually said "If you'd like  
 19 to appeal write to me explaining why", and I would  
 20 take that back to the NSSC. The theory was that if  
 21 the NSSC looked at it and still decided against the  
 22 application, then I would write and tell the person  
 23 and advise they could appeal to the board. It was  
 24 very rare for anybody to appeal and the only real  
 25 occasion I can think of when the appeal went to the

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1 a registrant. It's about a particular issue about gym  
 2 membership and receipts/grants/loans. But if we could  
 3 look at the fourth paragraph, you say this. So it's  
 4 the paragraph beginning "That would be a perfectly  
 5 reasonable assumption". If we pick it up in the  
 6 second sentence:  
 7 "The reality is that we receive far more in the  
 8 way of application than we have funds, and trustees  
 9 often have to make very difficult decisions about  
 10 which of these very important and often compelling  
 11 applications should receive funding."  
 12 That would suggest that applications for grants  
 13 might be turned down, essentially on financial  
 14 grounds, because the Trust didn't have sufficient  
 15 funds to fund all applications; is that correct?  
 16 A. That was my assumption. I can't refer you to  
 17 a document but I know I have seen something in the  
 18 last few days where the NSSC approved the text of the  
 19 refusal letters and did stress something about -- that  
 20 they had to decide between competing applications,  
 21 which has an implication that there are limited funds.  
 22 I didn't know at the time whether there were  
 23 limited funds or not. I kind of assume there were  
 24 because I'm not used to charities having an awful lot  
 25 of money to spend and I was frankly shocked when, as

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1 NSSC they completely reversed their earlier decision  
 2 and made the award.  
 3 Q. Did an applicant who wanted to appeal have to produce  
 4 new evidence in order for the appeal to be considered?  
 5 A. Yes, I mean, I believe -- I don't have access to the  
 6 letters now, they were sort of *pro forma* letters that  
 7 said "If you wish to appeal, please do so". I can't  
 8 remember the wording but I would have thought it would  
 9 say "giving your reasons for the appeal".  
 10 Q. Then if we can look at MACF0000101\_065, please?  
 11 SIR BRIAN LANGSTAFF: Just on that last answer, having  
 12 reasons for the appeal is not necessarily the same as  
 13 providing fresh evidence or further evidence. Did you  
 14 see any distinction between the two?  
 15 A. I think no because it may be that the applicant had  
 16 said in their head, some personal reason why they  
 17 thought they needed something that they hadn't  
 18 expressed very clearly. The one case that I mentioned  
 19 that I can remember, the person concerned did provide  
 20 reasons that were entirely personal, they weren't  
 21 evidential, that were enough to sway the NSSC to  
 22 change its mind.  
 23 SIR BRIAN LANGSTAFF: I see.  
 24 MS RICHARDS: If we go to MACF0000101\_065, this is  
 25 a letter from you dated 7 January 2005 to

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1 a result of the paperwork that came out to the  
 2 Inquiry, I discovered how much the Trust had in  
 3 reserves. At the time, I assumed that one of the  
 4 reasons that they were so picky about making grants  
 5 was that they didn't have much money.  
 6 Q. Can we then go to or turn to the question of the NSSC.  
 7 You would, as I understand your evidence in your  
 8 statement and the documents, prepare for the NSSC  
 9 details of the grant applications that the committee  
 10 needed to consider and you'd include in that a note of  
 11 other grants received by the applicant in the last  
 12 12 months and a recommendation from you as to whether  
 13 the application should be allowed or not; is that  
 14 right?  
 15 A. Yes.  
 16 Q. Now, first of all, what was the purpose of the NSSC  
 17 having this information about other grants received in  
 18 the preceding 12 months?  
 19 A. I believe that if somebody applied for a lot of things  
 20 then they were more critical of the application. If  
 21 somebody hadn't applied for anything in 12 months they  
 22 would be more likely to almost nod it through.  
 23 Q. In terms of your recommendation, to what extent was  
 24 that recommendation something that was then rubber  
 25 stamped by the NSSC or were your recommendations quite

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1 often rejected by the NSSC?

2 A. They were rejected frequently, quite often I'm not

3 sure, but it was usual for four or five

4 recommendations of mine to be disagreed with in every

5 meeting. It wasn't at all unusual for them not to

6 agree.

7 Q. You said in your statement sometimes the NSSC would

8 require further information and we saw an example of

9 that, I think, in that letter about respite provision

10 from the Birmingham social worker and clinical nurse

11 specialist.

12 What kind of information can you remember the

13 NSSC requiring before it would make a decision on

14 an application?

15 A. I am having trouble recalling an example.

16 Q. If we then go to an NSSC meeting, it's actually just

17 before you start work but I think you were probably

18 present at it MACF0000019\_139 so this is a meeting of

19 the NSSC, 23 September 2004. The reason why I think

20 you were in attendance, Ms Cohen, is we see in

21 attendance "Putative Head of Support Services". So it

22 sounds as though a week or so before you formally

23 started your appointment you attended one of the

24 committee meetings; does that sound right?

25 A. Yes, that's right.

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1 minutes of a Trustees Board meeting, 25 April 2005.

2 If we go to page 5, under the heading "National

3 Support Services Committee", it says:

4 "The Chairman of the NSSC introduced the

5 minutes of the meetings held on 5 January, 23 February

6 and 8 April ... The board noted that the information

7 contained in the minutes was helpful but asked if

8 individual minutes could be more informative, in

9 particular, as to why grants were declined."

10 Was that the discussion that you were referring

11 to a few minutes ago?

12 A. That's right, yes.

13 Q. Now, to what extent did you understand from your

14 attendance at various NSSC meetings in the year or so

15 you worked at the Trust how the NSSC went about its

16 decision-making? What kind of criteria or principles

17 did the committee apply, as far as you could tell?

18 A. It did seem -- I mean, to me, it did seem quite *ad hoc*

19 that they would just look at an application and some

20 would be, as I mentioned earlier, almost nodded

21 through, others they'd want to know things. I don't

22 know, as I mentioned earlier, sometimes I'm sure they

23 knew who the applicants were and that may have had

24 a response.

25 I do think that if somebody had made a lot of

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1 Q. Then we can see, if we look at the heading

2 "Applications and cases", we see a number of

3 applications being declined, so there are some

4 reconsideration requests:

5 "Reconsider Assistance towards Personal &

6 Domestic Care.

7 "It was resolved to decline ...

8 "Respite break for Registrant's Mother.

9 "It was resolved to decline."

10 If we go over the page, we can see, if we look

11 at the item or registrant 1888 "Assistance towards

12 a walk-in shower":

13 "... retrospective application ... resolved ...

14 no further retrospective applications would be

15 considered.

16 "... resolved that 50 per cent of the requests

17 be met."

18 Then we see further examples: replacement

19 windows, a contribution; central heating,

20 a contribution; and so on.

21 Now, would you agree that it's largely not

22 possible to tell from these minutes what the reasons

23 are for the committee declining the application?

24 A. Absolutely.

25 Q. If we then go to HSOC0005357, we can see these are the

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1 applications, successful applications, for funding in

2 the past 12 months that that was a serious

3 contributory factor about whether they looked at it in

4 detail. But, again, I sadly can remember one specific

5 case where somebody hadn't applied for things in the

6 past as a matter of principle and they basically

7 worked their way through all their savings and then

8 they put in an application and it was only half of the

9 request was approved and the rest was turned down.

10 That was the case that I mentioned where somebody then

11 appealed and they completely reversed their decision,

12 having had the letter of appeal.

13 I did suspect at the time that one of the

14 reasons that it had been partly turned down in the

15 first place was that it was one of the people who was

16 less in favour, but that was entirely my suspicion

17 from what -- knowing what went on elsewhere in

18 interactions with the registrant. There was no

19 evidence at the actual meeting that that was the case

20 so it was just a feeling I had.

21 Q. We can take the document down, thank you, Soumik.

22 Was it your job to write to the registrant

23 after an NSSC meeting and explain to them that their

24 application had been declined or only a contribution

25 was being allowed?

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1 A. Yes.

2 Q. You would have wanted to include reasons in that

3 letter. Would it be right to understand from the

4 evidence you have given a few moments ago that the

5 reasons wouldn't always be clear to you?

6 A. Yes, and sometimes even when I asked specifically,

7 saying "What reasons should I record in the letter of

8 refusal?" the answers that I'd be given, I would

9 think, if I were the registrant, I wouldn't find it

10 satisfactory. They were too vague.

11 Q. Would you agree that either the absence of clear

12 reasons, or correct reasons, would -- might seem to be

13 the case would make it harder, potentially, for the

14 applicant to appeal the decision because they wouldn't

15 know the full basis upon which it had been rejected?

16 A. Oh, yes, absolutely. But I think it's just

17 a continuation of the fact they didn't know what to

18 apply for in the first place because they had no

19 guidance.

20 Q. I just want to ask you a little next about regular

21 payments.

22 First of all, could we go to MACF0000107\_015.

23 This is a report from you dated

24 25 November 2004 for an NSSC meeting on

25 1 December 2004. If we look at the bottom half of the

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1 got around to. It never happened.

2 Q. If we go --

3 A. Occasionally something would occur, like we might have

4 an application for a grant from someone and then,

5 going through their file, we would find, "Oh, look,

6 they are getting reg pay and they're getting an extra

7 £175 a month", or whatever, and then it would be

8 agreed that that would be reviewed as a one-off but

9 the systematic review never occurred when I was there.

10 Q. So we're going to look at another couple of documents

11 on this theme in a moment but would I be right to

12 understand, you carried out some *ad hoc* reviews of

13 regular pay, the *ad hoc* nature of it being explained

14 by the fact that you might have been undertaking

15 a visit or a review or having some form of interaction

16 for another reason and the opportunity would be taken

17 to review the reg pay at that point; is that correct?

18 A. Exactly.

19 Q. If we just go over the page, I just want to pick up an

20 issue about the census exercise. We can see, top half

21 of the page, under the heading "Census data", it says

22 at 3.2.1, under the heading "Registrants", picking it

23 up at the end of the second line:

24 "... we estimate that only three-quarters of

25 registrants have actually completed a census form --

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1 page, please, we can see a heading "Enhanced reg pay".

2 It refers then in the first paragraph to there being:

3 "... a significant number of cases where

4 registrants and, more particularly widows, are in

5 receipt of enhanced reg pay. While most of these are

6 authorised for a specific period and for a particular

7 reason, they have not been reviewed.

8 "Once the review and introduction of the

9 one-off grants guidelines is complete [and that's what

10 we've just been looking at] I will identify all those

11 widows in receipt of enhanced reg pay and review their

12 cases, followed by the dependents then registrants

13 also in receipt of enhanced payments."

14 So what was your role to be in this review

15 exercise we see described here?

16 A. My understanding was that there were, for reasons

17 unclear, some registrants, particularly widows, who

18 got substantial sums every month above those usually

19 paid out, and it just been the case for some period of

20 time, some number of years in some cases, and they'd

21 never been reviewed. So I think the assumption was

22 I would go through all the records and check what

23 everybody was getting and see where there were

24 anomalies. I say "assumed" because that was one of

25 the things that, because of the workload, I just never

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1 approximately 100 have not. As is clear from the

2 paperwork attached to this month's applications,

3 a number of applicants for one-off grants are amongst

4 those who have not supplied basic information."

5 Now, I think you told us that the census wasn't

6 relevant for the grant exercise. Can you assist us

7 then in understanding the last sentence here?

8 A. Yes. Although I can see that I can't remember it ever

9 happening and I can't remember that estimate. So,

10 though I'm not saying it's wrong, I can't remember the

11 estimate three-quarters. But it must have been that

12 when going through the files it was obvious there

13 wasn't a census and it was just a way of tidying up.

14 Because I believe the census data was what determined

15 the regular pay and, as I mentioned, I wasn't

16 responsible for that. But it's quite possible with --

17 or whilst I was going through the files to look at

18 things, I should check the census and use that as

19 a mechanism to get up-to-date on an *ad hoc* basis in

20 the same way as we were looking at widows' payments.

21 Q. If we look at the next recommendation, so the next

22 paragraph, under the heading "Recommendation", it's:

23 "... where a registrant has not returned their

24 census form, if they apply for funding they be sent

25 another census form and informed that no applications

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1 for one-off grants can be accepted until this has been  
2 completed and returned."

3 So, again, that would tend to suggest that  
4 completion of the census form was a prerequisite to  
5 entertaining an application for a one-off grant?  
6 **A.** Yes. It's -- I mean, that was a recommendation.  
7 I mean, as it says, not all widows had completed or  
8 returned, and so they were looking at it as being an  
9 appropriate time to do it. So I think it was from  
10 there on they wanted it to be used as a mechanism for  
11 ensuring they sent their forms back, but I don't think  
12 it had been until then. But that is something --  
13 I mean, I can't remember that at all.

14 **SIR BRIAN LANGSTAFF:** Can I be clear that, as far as your  
15 evidence thus far goes, it is that the census form was  
16 not relevant to making a grant. However, it was  
17 generally desirable to have census forms for everyone  
18 rather than three-quarters and so if someone applied  
19 for a grant, it was a useful mechanism for ensuring  
20 that they then completed a census form because it was  
21 in their interests to do so, the threat being they  
22 wouldn't get the grant if they didn't?

23 **A.** Yes.

24 **SIR BRIAN LANGSTAFF:** That's what it amounts to, is it?

25 **A.** I believe so. And I think it was just a way of

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1 it clear that continuing financial support from MFT is  
2 dependent upon receiving the forms, as the amount of  
3 reg pay and eligibility for one-off grants is based on  
4 this information."

5 Now, I understandably from your evidence,  
6 Ms Cohen, the relevance potentially of information in  
7 the census form to reg pay, but this would suggest  
8 that eligibility for one-off grants was based upon the  
9 information in the census form. Is that the case just  
10 for widows or for everybody?

11 **A.** I would have thought -- I mean, the earlier minutes,  
12 the 3.2.1, had said much the same about asking for  
13 census forms and informing people that they couldn't  
14 apply for one-off grants until they'd received them.  
15 So it looks like they were intending to bring it in  
16 for everybody.

17 **Q.** But is it still your recollection that when you were  
18 considering the one-off grant applications you did not  
19 take into account the financial means of the  
20 applicant?

21 **A.** Yes, I'm convinced we didn't do any sort of means  
22 testing.

23 **Q.** Then if we just go to MACF0000001\_082, this is your  
24 memo to Mr Harvey from May 2005. We looked at it  
25 earlier in the context of workload, but we can see, if

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1 gathering it without carrying out a major census  
2 operation.

3 **SIR BRIAN LANGSTAFF:** Yes.

4 **A.** Because had they done a full census exercise, which  
5 they intended to do, but I don't think ever did, in --  
6 early in 2005, then that is a major exercise, but if  
7 you have got a steady trickle of things coming  
8 through, doing two or three a month is a lot easier.

9 **MS RICHARDS:** I just want to probe that a little further  
10 if I may, Ms Cohen, by reference to the next  
11 paragraph, headed "Recommendation". So there's the  
12 recommendation:

13 "That a further census exercise be carried a  
14 with widows, early in 2005."

15 Is it your evidence you can't recall if that  
16 was done or is your evidence to the best of your  
17 recollection it was not done?

18 **A.** To the best of my recollection it was not done.

19 **Q.** Then there's reference to:

20 "... the widows census forms [being] adapted to  
21 make them easier to complete and to gather more in the  
22 way of relevant information (eg whether they have  
23 remarried)."

24 Then it says this:

25 "That the letter accompanying the forms makes

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1 we pick up the second paragraph, reference to you  
2 having been conducting a review visit:

3 "[You] have a list of 3 overdue review visits  
4 in the South East (2 of which are widows who are  
5 receiving large payments so should be visited sooner  
6 rather than later) and more will be added to the list  
7 every month.

8 "If were not for lack of personnel to carry  
9 them out, many more review visits would be arranged --  
10 they are often requested by trustees and I end up  
11 doing a telephone review, even though this is not as  
12 satisfactory as a home visit (hence the purpose of the  
13 RSW post ...)."

14 I am going to come on to RSWs. What, as far as  
15 you can recall, would have been the nature of the  
16 review visits that you were undertaking at this time,  
17 whether at the request of trustees or otherwise?

18 **A.** I can only recall one visit that I actually carried  
19 out. I seem to have got a good mental block about  
20 visits. That definitely wasn't a widow and it was  
21 somebody who had an interview that they actually  
22 wanted me to attend with them, if at all possible, so  
23 I conducted a review at the same time as going to this  
24 interview with them to give them support.

25 Other than that, I don't actually recall how

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many visits. I do recall on one instant there was a need for a review visit to a widow and, actually, the chief executive and one of the trustees did it, because it was a fairly serious issue. But, as I say, I really -- I've got a bit of a blank about actually visiting anyone at home.

**Q.** If we then go please to MACF0000014\_052, this is the NSSC meeting on 1 December 2004. If we could go to the third page, if you look at the third item down, which is item 30.04 "Initial discussions on principles of regular payments", there's reference there to there being a review of regular pay:

"... agreed that the basis of reg pay should be to relieve poverty caused by registrants' HIV status and to help reduce the additional stress caused by financial uncertainty.

"It was agreed that, under the terms of the Trust Deed, a flat rate of financial support offered to all is not allowed.

"It was agreed that the Chair ... should contact a number of registrants known to be in 'well-paid' employment, to seek their views on the principle of reducing reg pay for individuals in this group ...

"It was agreed that reg pay should be an agenda

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regular pay so paragraph a.ii:

"Where the partner or carer is disabled at the time of bereavement or takes responsibility for the registrant's dependent children:

"reg pay continues at the same rate ... for ... six months ..."

Then for nine months there's a payment and then the ongoing entitlement to be paid thereafter.

It's not entirely clear what that, in fact, means. Are you able to cast any further light on it?

**A.** No. I mean, although it was discussed at the NSSC the reg pay was dealt with entirely by the chief exec and the finance manager because it was very much an academic exercise. She had on the database what group people fitted into and she was dealing with some hundreds of payments every month. So it was very much an administrative task. It never crossed my desk. I mean, I don't know, is there any specific bits that you'd like --

**Q.** Do you have any recollection of being involved in discussions about what the payments to widows should be?

**A.** Oh no.

**Q.** In that case I won't ask you any further detail about that passage. If we just go over the page, top of the

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item for all meetings until the action to be taken is determined.

"It was agreed that the Board, the staff team, and the Partnership Group should all be asked individually to brainstorm suggestions as to how, if it were being set up today, the Macfarlane Trust should support registrants."

Then the actions there include Head of Support Services, so you, as part of that.

What can you recall about the discussions about reg pay and the principles upon which reg pay should be made available?

**A.** I cannot recall any discussions at all and I can't recall any brainstorms actually taking place either.

**Q.** If we go to MACF0000101\_130, and we go to the next page, we can see this is the NSSC meeting on 23 February 2005. If we go to the bottom of page 2, please, Soumik, bottom half of page 2 -- sorry, page 3. My apologies.

At the bottom of the page we've got the heading "Principles of regular payments", and then there's agreement that:

"... payments to widows following bereavement be amended as follows ..."

What we see is essentially a tailing off of

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page, little (c):

"It was agreed that rates of reg pay should not be reduced, but that further clarification is necessary of the self-contradictory legal advice received relating to this."

Are you able to cast any light on what's referred to there?

**A.** No, I'm afraid not.

**Q.** Then there's reference at (e) to a brainstorming session. That's for trustees but do you recall participating in any brainstorming session relating to any aspect of regular pay?

**A.** No, none at all.

**SIR BRIAN LANGSTAFF:** As a matter of interest, has the Inquiry got any copies of legal advice that this might refer to?

**MS RICHARDS:** We've got copies of various bits of the legal advice. Whether we've got the legal advice referred to here we're not clear at the moment, sir, hence seeing whether there was any clarification that could be sought. We are in the process of trying to gather together all the pieces of legal advice that we've got, that was given to the Macfarlane Trust over the years, in one place.

**SIR BRIAN LANGSTAFF:** Yes, well, I can understand why.

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1 Thank you.

2 **MS RICHARDS:** We can take that down, thank you, Soumik.

3 You've told us in your statement -- if you go back to

4 the statement, please, Soumik, WITN4565001, and if we

5 go to page 22, please, paragraph 77 and 78, bottom

6 half of the page, you say in paragraph 77:

7 "[You were] never at any point during [your]

8 employment at the Trust, given any indication of what

9 the budget was for any or all of the grants."

10 Did you ever ask what the budget was?

11 **A.** No. No, I didn't.

12 **Q.** Then paragraph 78 refers to the chief executive

13 mentioning to you on one occasion that the Department

14 of Health representative had rejected requests for

15 further funding because of an underspend:

16 "... because the MFT had not spent all of the

17 previous year's funding, resulting in a surplus."

18 Can you recall anything further about that

19 issue of there being an underspend?

20 **A.** No, only that I was a bit surprised and a bit,

21 I suppose, put out by it because I was saying to

22 people, you know, "We've got limited funds and we have

23 to be careful how we spend them", and then I find that

24 we had an underspend and that came as a bit of

25 a surprise to me.

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1 support. So if we leave aside one-off grants, we

2 leave aside regular pay, what, if any, other kind of

3 support was available from the Macfarlane Trust during

4 the year or so that you worked there?

5 **A.** The only thing I was particularly aware of was that we

6 had occasional weekends that were for groups or

7 subgroups. Like there was a bereavement weekend,

8 there was a weekend for registrants. I don't know how

9 people were selected to be invited to those weekends,

10 if it was open for people to put themselves forward or

11 what, I don't know. But they had things like

12 workshops and counselling, therapies available for

13 registrants, and were clearly a very good social

14 opportunity for a very isolated group to meet with

15 others.

16 Beyond that, I mean, the idea had always been

17 that the regional support workers would be able to

18 arrange to organise and to network with people in the

19 localities to ensure they received other support that

20 might be available, acting almost, I suppose, as

21 a sort of referral agency, and indeed to recommending

22 things that might be helpful, because they were

23 supposed to be going to get to know the registrants

24 better, whereas we had -- as I already mentioned, we

25 didn't have contact with that many of them. We didn't

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1 I should explain perhaps that the chief

2 executive made it very clear that he was responsible

3 for the finances of the organisation and for

4 discussions with the Department of Health, for

5 business cases, for those kinds of things, and

6 I had -- as you saw from my statement, I had previous

7 experience as a chief executive in a number of

8 charities and I was aware that the chief executive was

9 a little sensitive, should we say, to what might be

10 seen as me stepping on his area of responsibility.

11 So I tried to steer well aware from it. I had

12 more than enough work to do in my own role without

13 wanting to take on any of his responsibilities. But

14 I can remember on more than one occasion he did say to

15 me "Well, you want to be sitting in my chair, don't

16 you?" and we used to all say "No, I don't, I don't

17 want to be the chief executive, it's the last thing

18 I want, I'm very happy being what I am". But he was

19 very sensitive.

20 So I wouldn't have usually gone into something

21 that I saw as being his field of responsibility, just

22 because of that not wanting appear overly interested

23 in something that was actually his role.

24 **Q.** We can take that down, thank you. Can I then just ask

25 you about support or services other than financial

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1 have much contact with them and there was some we had

2 no contact with at all.

3 But it was just another one of those things

4 that, having gone in with a job description that

5 included four of five very interesting things to try

6 and develop and set up, we just got stuck completely

7 on the grants and on the not appointing the RSW

8 network and the trying to keep things under control

9 with insufficient staffing.

10 **Q.** Just on the question still of non-financial support,

11 your May 2005 memo to Mr Harvey that we've looked at

12 on a couple of occasions referred to the absence of

13 Claudette Allen. What was your understanding of what

14 her role was supposed to be?

15 **A.** I mean, her job title was social worker, and I thought

16 that she did do home visits and got people other

17 support, and also potentially organised support

18 through us but if her role -- and I never saw a job

19 description, obviously, the job wasn't going to

20 continue. It had been intended she would become

21 an RSW when the network was established, but the

22 traditional social worker is very much about knowing

23 what other services are available and referring people

24 to them and I always assumed that was her role.

25 **Q.** During her absence, were any arrangements, to your

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1 knowledge, put in place by the Macfarlane Trust to  
 2 provide that kind of social work support?

3 **A.** No, not to my knowledge. Of course, it wasn't my  
 4 background so it wasn't as though I had experience  
 5 myself or could have made particular recommendations.

6 **Q.** Now, I've got probably about 15 minutes more worth of  
 7 questions. If it's acceptable to you, sir, and to  
 8 Ms Cohen, it might be sensible if I complete that, we  
 9 take a slightly later lunch then, and then the lunch  
 10 can be used for RLRs and Core Participants then to  
 11 have the opportunity to suggest further questions.

12 **SIR BRIAN LANGSTAFF:** I think that's very sensible  
 13 suggestion. You're not unhappy with that are you,  
 14 Ms Cohen?

15 **A.** That's fine with me.

16 **SIR BRIAN LANGSTAFF:** Thank you very much.

17 **MS RICHARDS:** So I just want to then pick up on a point  
 18 you made a few moments ago about the extent to which  
 19 you had interaction with beneficiaries. Is this  
 20 right, based upon the evidence you have given in  
 21 writing and your oral evidence so far: you had some  
 22 interaction with beneficiaries through the process of  
 23 dealing with their grant applications; that's correct?

24 **A.** Yes.

25 **Q.** You had interaction with beneficiaries who were on the

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1 that as well. So I did meet some registrants there.  
 2 I'd forgotten that for a moment.

3 **Q.** I think there's a meeting in Birmingham that I'm going  
 4 look at when we come to RSWs as an issue, which  
 5 I think you also attended.

6 So MACF0000101\_112.

7 So these are the minutes of NSSC meeting  
 8 29 July 2005.

9 Can we just go to the bottom of the second  
 10 page, last entry. Again, I'm not asking you about the  
 11 circumstances of the individual who's referred to  
 12 here, but if we just read, we can see there there's  
 13 a recommendation -- an agreement about someone who has  
 14 arrears, outstanding arrears.

15 If we go to the next page, there's then  
 16 a reference to further agreement about outstanding  
 17 arrears in relation, it would appear, to a number of  
 18 registrants. Then it says this:

19 "Within the last two days it has been  
 20 discovered that another registrant has not been  
 21 receiving reg pay for a number of years, but is now  
 22 requesting it. His records imply that he has never  
 23 asked not to receive reg pay. It will take some time  
 24 to calculate his arrears, but these may be in excess  
 25 of is arrears [it doesn't entirely make sense] are

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1 Partnership Group through your attendance at  
 2 Partnership Group meetings?

3 **A.** Yes.

4 **Q.** You've referred to attending one event that you recall  
 5 before you took up your post. Do you recall if you  
 6 attended any or many other events in the course of  
 7 your post?

8 **A.** The one before my post was a bereavement weekend and  
 9 then I did attend one of the registrants' weekends.  
 10 I can remember that.

11 **Q.** Were you given any particular steer, whether by the  
 12 trustees or chief executive, about contact with  
 13 beneficiaries? Was it encouraged that you should try  
 14 and have more contact?

15 **A.** No.

16 **Q.** Was it discouraged?

17 **A.** No, I wouldn't have said so. I would have said it was  
 18 more that everybody was aware that I was very busy and  
 19 so nobody was looking for more work.

20 **Q.** Then there's one specific document I have a question  
 21 about which is at MACF0000101\_112.

22 **A.** Before you go there, could I just go back? There was  
 23 one other occasion -- there was a conference in  
 24 Dublin. It was an HIV conference specifically but  
 25 quite a few registrants went to that and I went to

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1 therefore in excess of £20,000."

2 "It was agreed that once the amount of reg pay  
 3 arrears is calculated JC should visit to inform him of  
 4 the support the Trust offers, try to determine his  
 5 personal situation and an indication of what sum he  
 6 would consider acceptable as a lump sum payment in  
 7 place of his arrears."

8 I just wanted to ask you about that last bit.

9 This could be read as suggesting that this particular  
 10 registrant was effectively going to be bought off with  
 11 something less than the full arrears. Do you have any  
 12 recollection of that discussion?

13 **A.** I mean, that would be my understanding as well,  
 14 that -- I mean, I can't recollect it but, having read  
 15 the minutes, that's how it reads to me, that they were  
 16 trying to minimise the amount they had to pay, to see  
 17 whether he would accept less. I think you said that  
 18 it was the minutes in July?

19 **Q.** It was.

20 **A.** So, I mean, I can't recall the visit, so I suspect it  
 21 didn't happen.

22 **Q.** Yes, I think this may have been the last NSSC meeting  
 23 that you attended, 29 July 2005. You left at the end  
 24 of the following month.

25 Did you have anything at all to do with the

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1 work of the Skipton Fund?

2 A. No, nothing at all.

3 Q. Did you get any sense of whether the operation of the

4 Skipton Fund was having in impact upon the staffing

5 arrangements for the Macfarlane Trust?

6 A. Only -- I know -- I'm fairly convinced that the

7 finance -- finance officer, finance monitor -- I'm not

8 sure of her title -- dealt with their payments as

9 well, and I know she was fairly full on with all of

10 her work. I'm not aware of -- and the chief exec,

11 I believe, is chief exec of that as well, but I don't

12 know that had an impact on his work.

13 Q. Then the penultimate topic I want to ask you about is

14 the issue of regional support workers.

15 So if we pick this up at MACF0000107\_015,

16 minutes of the NSSC meeting 1 December 2004, which we

17 looked at already for a different purpose.

18 If we go to the bottom half of the second page,

19 please, Soumik.

20 We can see there reference to a Birmingham

21 regional meeting, and it refers to attendance by you,

22 because this is your report of 25 November, at

23 a Birmingham regional meeting organised by Mark

24 Simmonds, the social worker, and by Andrew Evans, and

25 you have gone with the chief executive, Mr Harvey.

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1 support workers network doing home visits was about

2 sending in spies. And it's interesting because

3 amongst the papers that were sent to me there was one

4 which was an RSW handbook (which I've no recollection

5 of ever seeing) and I do believe it was somebody

6 else's and was just amended to fit the Macfarlane

7 Trust, because it mentions on occasions to social

8 workers and then there are other occasions to support

9 workers.

10 But it does actually state that the first task

11 of the RSW is to visit all their registrants and do

12 a means assessment, and that they must visit every

13 registrant at least once a year. And that was so

14 contrary to what Martin and the chief exec and the

15 chair were saying publicly and was so in keeping with

16 the fears of the registrants that I did wonder if

17 their fears were totally founded.

18 Q. I'm going to ask you to look with me at that handbook

19 in a moment. If we just go back to this document --

20 A. Sure.

21 Q. -- and we go a little further down the page, we can

22 see under the heading "Conclusion", third paragraph

23 down, you say:

24 "... there will be great difficulty in

25 implementing the RSW network in the current climate of

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1 There's then reference to, towards the bottom

2 of the page, a show of hands. And is this right,

3 without going through this line by line, but was this,

4 what you are recording here in your recollection, that

5 the overwhelming sense of the meeting was that

6 everybody should get the same in terms of regular pay?

7 A. Yes.

8 Q. And then --

9 A. I was a bit surprised by that, but yes.

10 Q. If we go to the top of the next page, we just pick up

11 in the second paragraph the issue of the RSW network.

12 I think it is clear from the job description we

13 looked at first thing this morning that the system of

14 having regional support workers was a decision that

15 had been taken prior to your arrival?

16 A. Yes.

17 Q. But we can see here a lot of antagonism both to the

18 cost and to the principle of regional support workers.

19 Again, can you recall those concerns being

20 expressed and what your reaction was to those concerns

21 at the time?

22 A. Yes. I mean, for me it was part of the growing

23 understanding of some of the hostility between

24 registrants and the Macfarlane Trust and the lack of

25 trust, and that they did see that the concept of

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1 uncertainty and distrust."

2 And you recommended a co-ordinated

3 communication strategy, the details of which are then

4 set out in -- well, in outline, so not details.

5 They're set out in outline below, under the heading

6 "communications strategy", and that included delaying

7 recruitment of RSWs and then using the Spring

8 newsletter to publicise registrants' views and what

9 the Trust wanted to do.

10 What further decisions do you recall being

11 taken about the regional support worker system whilst

12 you were employed?

13 A. I know there was one point -- at some point it was

14 decided we should try and implement -- well, start it,

15 by appointing one regional support worker in the

16 north-west and seeing how it went. But then that

17 didn't happen. I remember at some point, and I'm not

18 sure of the chronology, there was a meeting with

19 somebody from the Terrence Higgins Trust about,

20 instead of having our own regional support worker

21 network, piggy-backing on the back of theirs and

22 paying them to extend their network to cover our

23 registrants.

24 I don't know if any of that actually came to

25 fruition or not.

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1 Q. If we then just briefly look at the handbook that you  
2 have referred to, MACF0000085.  
3 As you rightly observed, this refers to  
4 visiting social workers, but if we go over the page  
5 it's then "Handbook for regional support workers".  
6 Can we go, Soumik, to page 4.  
7 If we pick it up in paragraph 3, this refers to  
8 the policy on visiting regional support workers.  
9 Actually perhaps picking up in paragraph 2, it talks  
10 about:  
11 "In many cases, this assessment calls for  
12 a home visit or consultation."  
13 So that's assessment of need, both financial  
14 and otherwise.  
15 Then we see at 3 reference to a staff review  
16 in 2004 and a recommendation of establishing a network  
17 of regional support workers.  
18 Then 4 says:  
19 "The network of regional support workers will  
20 be under the direct line management of the Trust's  
21 Head of Support Services ... a new senior management  
22 post ..."  
23 Do I understand the answer you gave a few  
24 moments ago to be that this was not a document that  
25 you created?

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1 just left alone because of their experiences.  
2 Of course, what I'm talking about may only have  
3 affected a handful of registrants having their regular  
4 payments reduced and it may well be that they had been  
5 overpaid by some administrative error in the past and  
6 that they should have been reduced, but the word gets  
7 round very quickly that they heard from the Trust and  
8 their pay was reduced, and everybody else immediately  
9 fears it will happen to them.  
10 So I can entirely see why the registrants were  
11 unhappy and that little bit I mentioned about the  
12 first task to visit and do a means assessment, that  
13 just totally fuels any fears they might have.  
14 Q. If we turn on to page 8 and 9 we can see a section  
15 here, it's chapter 3 of this document, and if we go to  
16 the next page, paragraph 12, under the heading "The  
17 Occasions", says:  
18 "It will be necessary to ensure that all  
19 individuals are visited at least once per annum. The  
20 purpose of this is to complete a Case Review Form to  
21 determine Income and Expenditure and any changes from  
22 the previous year."  
23 Then there are other occasions identified where  
24 there might need to be more than an annual visit.  
25 So the focus of this handbook appears to be

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1 A. That's right, it wasn't --  
2 Q. Can you --  
3 A. -- and I've no memory of seeing it, to be fair.  
4 Q. I think that probably answers my next question but,  
5 for the sake of completeness, you don't recall seeing  
6 this at the time?  
7 A. No.  
8 Q. And if we go further down the page, paragraph 6:  
9 "RSWs are employees of the Trust ... They will  
10 be regarded as the Trust's 'eyes and ears' on the  
11 ground ..."  
12 Would you understand why having "eyes and  
13 ears' on the ground" might fuel the concerns and  
14 suspicions of the beneficiary community?  
15 A. I can understand it. I mean, if you looked at it at  
16 face value one way, having people who are in contact  
17 with registrants more regularly and actually being  
18 aware of their needs and being able to communicate  
19 those needs and help meet them, sounds -- at face  
20 value sounds like a really good thing, but the  
21 registrants' experiences all seemed to be that the  
22 Trust got in touch with them and they found their  
23 grant applications were turned down or that they --  
24 their reg pay was reduced. All their experiences  
25 seemed to be quite bad, and they'd much prefer to be

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1 upon assessment of financial means. Is that different  
2 from what you understood the role of the regional  
3 support worker to be?  
4 A. Entirely. Totally different.  
5 Q. Be that as it may, the regional support worker system  
6 never got up and running during your time in post?  
7 A. No, it didn't.  
8 Q. The last area of questioning is about the  
9 circumstances in which you left the Macfarlane Trust,  
10 Ms Cohen. Can we look at a letter you wrote to  
11 Mr Harvey, first of all. It's HSOC0029509\_002. It's  
12 a letter you wrote on 23 August. It refers to  
13 a meeting that you seem to have had with him. You  
14 say:  
15 "Unfortunately our discussion raised nothing  
16 new: you and the board thought the RSW network would  
17 be welcomed by registrants and therefore easy to  
18 set-up, this was simply not the case, leading to staff  
19 shortages and excessive workload."  
20 You then refer to how, due to the lack of RSWs,  
21 your role is going to be:  
22 "... a combination of case work and grants  
23 processing."  
24 You said you look forward to meeting him how to  
25 discuss how to implement your suggestions and any

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1 others he may have for reducing your workload and the  
2 stress to which you had been subject of recent months.

3 Did you have any meeting after this letter with  
4 Mr Harvey to discuss the issues that you raised in the  
5 letter?

6 A. No. No, the next meeting which I thought was to  
7 discuss that was when he called me into the office and  
8 gave me the alternative of either being dismissed or  
9 receiving a termination payment for agreement to  
10 leave.

11 Q. If we go to your second and most recent statement, the  
12 reference for which I don't have to hand but I think,  
13 Soumik, it should be WITN4565002, I'm hoping. Now,  
14 you had been concerned in your first statement about  
15 explaining anything about the circumstances of your  
16 departure because you'd been required to sign, as it  
17 were, some form of confidentiality agreement with the  
18 Macfarlane Trust; is that right?

19 A. It is.

20 Q. You were required, in light of that, to assist the  
21 Inquiry through saying more about the circumstances in  
22 which you left, and you have done so in this recent  
23 statement. If we could go to the next page, please,  
24 you say, bottom half of the page:

25 "[You] do not know why you were dismissed ...

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1 abandonment of the Regional Support Worker network.  
2 Then, so just pausing there, that's your best  
3 understanding, is it, of factors that might have led  
4 to your dismissal?

5 A. Yes. I mean, I could, if you like, expand upon (b)  
6 because I have diabetes, I have for some 60 years, and  
7 I found there were certain aspects of this post that  
8 put me under an emotional stress that I'd never  
9 experienced before. It was because -- you know, you  
10 get to know some of the registrants, maybe not from  
11 meeting them but because of communications with them  
12 or with their carers, and there had been a couple of  
13 deaths that had really quite severely affected me  
14 because they were people I'd worked with, and we  
15 seemed to be really helping to improve people's lives  
16 and then they died. I did find the stress really  
17 quite difficult, and some things I say I'd never  
18 experienced before.

19 I was concerned because it was having impact on  
20 my diabetes and, on reflection -- and it was only on  
21 reflection -- it occurred to me that under the  
22 Disability Discrimination Act, I could have been  
23 entitled to a much enhanced payment of up to 30,000  
24 upon -- if action were not taken to alleviate the  
25 stress, and my health suffered consequently, and that

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1 [You] were not then, or at any other time, given any  
2 written reasons for [your] dismissal ..."

3 You were offered a financial settlement that  
4 you rejected. You were dismissed and then started  
5 a case for unfair dismissal. You were then offered  
6 a larger sum and entered into the agreement which you  
7 understood to require you to keep this confidential.  
8 If we go over the next page, paragraph 7, you say:

9 "Having reflected upon [your] dismissal and  
10 reviewed the documents provided ... there are a number  
11 of factors that may have been relevant to my  
12 departure ..."

13 You have identified three there. You believe  
14 that the chair may have been unhappy with your  
15 persistence in pursuing greater openness about grant  
16 availability, and you refer then to the report from  
17 August that we looked at earlier; you refer in (b) to  
18 Mr Harvey may have been concerned about your requests  
19 for support, because of the stress of work, and that  
20 there might have to be further employment law issues  
21 that the Trust would have to deal with; and then at  
22 (c), you say there may have been a feeling that the  
23 post of Head of Support Services was not necessary and  
24 you refer to the fact that your post, which had been  
25 a new one, was not replaced and also to the

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1 was what I thought was the employment law issues.

2 The way that -- so that -- on reflection,  
3 I look back and I think, well, that's obviously why  
4 they thought it was worth their while to pay me off or  
5 offered me a larger sum, should I say, to go  
6 voluntarily, and so that did appear to me as being  
7 a really major factor.

8 But then, as I say, the fact that the Regional  
9 Support Worker network was abandoned and the post of  
10 Head of Support Services was also abandoned has fairly  
11 major financial consequences. So those could have  
12 been very, very good reasons that they were avoiding  
13 just making the post redundant because if you go  
14 through redundancy processes there are certain things  
15 you have to comply with and by getting a termination  
16 agreement with me before I'd been in post a year, they  
17 didn't have to go through those processes.

18 So I think it was possibly all rolled in  
19 together that were different reasons. This is all  
20 entirely me trying to figure out what was going on  
21 and, although it makes sense to me, I have no evidence  
22 of them.

23 Q. Then in paragraph 8, what you say was not, as far as  
24 you're concerned, a factor in your dismissal -- and  
25 you refer to the evidence Mr Stevens gave -- was any

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passing of information arising from the hacking episode within the MFT, and your statement continues:

"This is completely inaccurate, as I was only ever passed confidential information that was not intended for me after I had been dismissed from the MFT and was bringing the case for unfair dismissal. At that time, I received a selection of documents in the post from an anonymous sender and drew this to the attention of my solicitor. Following receipt of legal advice, I destroyed these documents as they were clearly never intended to be seen by me as they concerned my legal case against the MFT."

Then you say that the hacking episode, paragraph 9, was nothing to do with you. You only discovered about that on reading Inquiry evidence.

Can I just ask you then on this topic, one final question, and then I've just got a couple of general questions for you. If we go to MACF0000014\_124, these are the minutes of a Board meeting, October 2005. So this is after you have left. Just go to page 5, "Chief Executive's Report", top of the page. There's reference to your dismissal, there's reference to the current situation of Claudette Allen, and then there's reference to an anonymous party furnishing you with information

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A. Yes, I do.

Q. Then, finally, if we can go to your witness statement, your main one, WITN4565001, and could we go to page 51, I just want to pick up what you have said in your statement and see if you have anything to add.

Bottom of the page, you were asked by the Inquiry the question:

"Do you consider the MFT was well run?"

Et cetera.

And you say this:

"I do not believe the MFT was well run and I thought this at the time. The main difficulty I observed was that it lacked clarity and consistency in the support it offered to beneficiaries.

"In hindsight, I consider part of its problem was that it did not appear to have a published strategic plan or clear objectives, but it may be that I was simply unaware of these."

Over the page:

"As I said at the time, being unclear about what it was trying to achieve and what support it offered led to beneficiaries not being able to seek the support that they required. The lack of consistency also encouraged the climate of fear amongst some beneficiaries who would not complain or

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that was either legally privileged or confidential, and that's regarded as a serious breach of confidentiality.

That's what you're referring to in your statement, is it? You received some material from the MFT that was concerned with your legal case?

A. Yes.

Q. Did you receive any information passed to you by somebody that concerned any confidential details relating to registrants?

A. No, never.

Q. Then just, as I say, a couple of -- three or four general questions for you, Ms Cohen, finally, from me.

Do you agree, in light of the evidence you have given and the documents we've looked at -- or do you consider that there was a high level of arbitrariness in decision-making at the Macfarlane Trust?

A. Yes.

Q. Do you understand why some beneficiaries at least may have considered there to be a level of mean-spiritedness about the Macfarlane Trust?

A. Oh, yes, entirely.

Q. Do you understand why many beneficiaries may have felt that they were having to approach the Macfarlane Trust with a begging bowl?

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seek further assistance in case they lost the assistance they already received."

And then, in fairness, I should also point to paragraph 200, where you say:

"... there did appear to be concerted efforts by recently appointed staff and the Board of Trustees to improve the situation."

But you don't know how successful they were.

Do you have any further observations, Ms Cohen, on the question of whether the Macfarlane Trust was well-run or achieved its aims and objectives?

A. I think -- I mean, as I've said, I'm not entirely sure what their aims and objectives were, and I do realise everything is all based on a historic fact, and when the Trust was set up in the early 80s it was set up to support what were a very different group of people, because it was people who had been infected with HIV at a time when there was no treatment and their life expectancy was very, very low.

Obviously, by the time I was employed that situation had changed enormously. Those registrants who still lived had got average life expectancy because of medical treatments, although some of those treatments were horrendous. But the support they needed was so, so very different to the support they'd

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needed in the 80s, and it seemed like Macfarlane Trust hadn't kept up with those changes in needs and, because of its inability to meet the registrants' needs in a sympathetic and consistent way, had built this whole climate of distrust.

And I now look back at some of the evidence and I think I'm not sure what anyone could have done at that stage that would have been better. But it seemed as though from that point on, things did actually in many ways get worse.

**MS RICHARDS:** Sir, those are the questions -- it's a bit longer than I said, but those are the questions I have for Ms Cohen. We obviously need to give the RLRs a proper opportunity with their Core Participants to suggest questions.

**SIR BRIAN LANGSTAFF:** We need to take until 2.30, don't we?

**MS RICHARDS:** Perfect, sir, thank you.

**SIR BRIAN LANGSTAFF:** 2.30. I shall say nothing about the length of time but I'm sorry for delaying your lunch a little bit further but at least you know there's not much more to go, possibly, it depends very much upon the Core Participants' representatives and what they ask, what questions they want asked of you. So they are entirely free to ask quite a number but I don't

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- A.** Yes, I do. I can remember specifically applications from bereaved parents on behalf of the bereaved children, their grandchildren.
- Q.** To what extent did you ever see grant applications from children who were now in adulthood and who had lost a parent?
- A.** I can think of one occurrence that, I believe, was -- fitted those criteria, but only the one. But that doesn't mean there weren't more.
- Q.** Were any steps taken during your time at the Macfarlane Trust to try to raise awareness or encourage applications from those who had been bereaved, widows, parents or children?
- A.** Not to the best of my memory, no.
- Q.** In terms of the application process for grants, for the one-off grants, what, if any, consideration was given to the potential difficulties for those who had problems with reading or writing?
- A.** I don't think there was any particular consideration given to that, no.
- Q.** If an applicant had made contact, say, by telephone and expressed difficulties with being able to provide a written application -- well, first of all, do you recall that ever happening?
- A.** I can't recall it ever happening, no.

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think it will be very much longer.

**MS RICHARDS:** Sir, I am going to suggest we then put Mrs Rendle back provisionally to 3 o'clock.

**SIR BRIAN LANGSTAFF:** Yes, not before 3.

If anyone is waiting for Mrs Rendle, then not before 3.

**MS RICHARDS:** Thank you, sir.

**SIR BRIAN LANGSTAFF:** Thank you very much.

(1.28 pm)

(Luncheon Adjournment)

(2.30 pm)

**SIR BRIAN LANGSTAFF:** Yes.

**MS RICHARDS:** Just a few further questions, Ms Cohen. Do you recall whether you ever saw the Macfarlane Trust deed?

**A.** No, I don't think -- I'm fairly sure I never did.

**Q.** Did you ever ask to see it?

**A.** No.

**Q.** Any particular reason why not?

**A.** No. I think from the day I started I was just so bound up in doing my job it never occurred to me to ask for it.

**Q.** I asked you some questions that touch on the position of widows. Do you recall ever receiving applications from bereaved parents or bereaved children?

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- Q.** If it had happened, what do you think the response might have been?
- A.** Oh, I think I would have talked further and actually done the application on their behalf.
- Q.** Was any adjustment made to the application process for those who were in serious deteriorating health?
- A.** No, I can't recall any cases where that was the case either.
- Q.** You confirmed in your evidence that for some applications, depending upon their nature, medical evidence might be required. Were you aware of the NSSC ever questioning that medical evidence or requiring the applicant to provide a second opinion?
- A.** No --
- Q.** Other than the example we've looked at?
- A.** I can't think of any. I'm not saying it didn't happen but nothing springs to mind.
- Q.** Did you ever feel bullied at the Macfarlane Trust, and if so who by?
- A.** I often am uncertain what people mean when they talk about being bullied. I mean, it is fair to say, as I mentioned already, that on occasion I was accused of wanting the chief executive's job and it was made very clear to me what were his sort of areas of responsibility, the Board of Trustees and --

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1 et cetera, but whether that would be constituted  
 2 bullying, I don't know.  
 3 **Q.** I think your statement refers to you being  
 4 "scapegoated". You say in your statement we can put  
 5 it on screen if it would help but you just say in  
 6 relation to Mr Harvey:  
 7 "I ... found that he undermined my work by  
 8 attempting to scapegoat me for his actions and for  
 9 committee decisions ..."  
 10 Can you elaborate upon that at all?  
 11 **A.** Yes. I mean, I know I had this -- I mean, specific  
 12 examples would require talking about beneficiary cases  
 13 but it was that I would ask him something and he'd  
 14 say, "No, definitely we can't do that", and then  
 15 I would get a written complaint from somebody saying,  
 16 "I understand that you turned down my request for",  
 17 whereas it was actually Martin who had turned it down.  
 18 And the converse of that was when I did achieve an  
 19 uplift in regular payments to cover the summer period,  
 20 as a total exception to the rules, Martin wrote to all  
 21 the registrants and them about it straight away rather  
 22 than wait for me to communicate it, which he never  
 23 used to be involved in, any notification of changes in  
 24 grants. So it seemed as though whenever it was bad  
 25 news, it was me, but on this occasion, when the good

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1 **A.** I remember one day a chap arrived in the office with  
 2 a laptop computer, which in those ones were very rare,  
 3 and he spent some time with the chief exec, and after  
 4 he'd gone the chief exec said that he had been  
 5 tightening up security. I remember it because he  
 6 mentioned that the chap had come in, spoken to him for  
 7 5 minutes, disappeared, and come back ten minutes  
 8 later having set in his car in the car park opposite  
 9 and hacked into Martin's emails, and so he was showing  
 10 Martin how easy it was to do it, and that he then  
 11 spent a couple of hours there tightening everything  
 12 up. That was Martin's retelling of what happened.  
 13 **Q.** Do you know whether any steps were taken by the  
 14 Macfarlane Trust to, as it were, self-report to any  
 15 regulatory body or organisation?  
 16 **A.** Not to my knowledge. They may have done.  
 17 **Q.** Leaving aside the process for appealing in relation to  
 18 the rejection of a grant application, what system  
 19 existed within the Macfarlane Trust for the making of  
 20 complaints by registrants?  
 21 **A.** I was never aware of an official complaints procedure.  
 22 Obviously, if people wrote in a complaint, it depended  
 23 on who they wrote to, we all dealt with them on an  
 24 *ad hoc* basis. The complaints that I received were  
 25 usually complaints of not having received a grant, and

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1 news was entirely my responsibility and the result of  
 2 my actions, he took the credit for himself.  
 3 **Q.** I asked you about a little about the respite break  
 4 policy and we looked at what had been said about  
 5 changes to that in your August 2005 report.  
 6 That policy appears to be directed at the  
 7 position of those who are infected with HIV. What  
 8 consideration, if any, was given to the position of  
 9 newly bereaved widows and any need they might have for  
 10 respite?  
 11 **A.** I can't recall any requests for respite breaks and nor  
 12 can I recall any actual discussion of it at  
 13 a committee meeting as a broad policy. Sorry, I know  
 14 it's not very helpful but I just can't remember any.  
 15 **Q.** So you're not aware of their being a specific policy  
 16 on giving or not giving respite break grants to newly  
 17 bereaved widows?  
 18 **A.** No.  
 19 **Q.** Did you have access to the forum for beneficiaries to  
 20 communicate with each other?  
 21 **A.** No.  
 22 **Q.** We looked in passing at the reference to there having  
 23 been personal information hacked. Do you know what,  
 24 if any, steps the Macfarlane Trust took in response to  
 25 that?

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1 that would then go to the NSSC for review to see  
 2 whether they thought it should be made. But I have no  
 3 knowledge of any other complaints.  
 4 **Q.** Would it be right to say there was no formal or  
 5 written complaints policy at that time?  
 6 **A.** I think that's correct, yes.  
 7 **Q.** Was any advice given to registrants about the  
 8 possibility of complaining to the Charities Commission  
 9 about aspects of the MFT's functioning or  
 10 decision-making?  
 11 **A.** Not that I'm aware of, no.  
 12 **MS RICHARDS:** I'll just check. I think those are the  
 13 questions that I'm proposing to ask from the  
 14 suggestions from Core Participants.  
 15 I don't understand there to be any questions  
 16 that have been intimated to us that Ms Cohen's own  
 17 counsel wishes to ask, so, sir, do you have questions  
 18 for Ms Cohen?  
 19 Questions by SIR BRIAN LANGSTAFF  
 20 **SIR BRIAN LANGSTAFF:** I have a handful, yes.  
 21 The first area really relates to the quality of  
 22 your communications with Mr Harvey, as your line  
 23 manager. You were in the office quite a lot  
 24 I imagine, were you?  
 25 **A.** Yes --

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1 Q. Was he?  
 2 A. Yes. Not as much as me but yes, a significant amount  
 3 of the time.  
 4 **SIR BRIAN LANGSTAFF:** How many other people roughly would  
 5 be in the office at any one time?  
 6 A. There would be three full-time members of staff from  
 7 the Trust but there were also three members of staff  
 8 from the other organisation that shared our space,  
 9 which I think was the Skipton Fund.  
 10 **SIR BRIAN LANGSTAFF:** So that's about eight people?  
 11 A. Yes.  
 12 **SIR BRIAN LANGSTAFF:** So a small office, by any standards.  
 13 A. Yes.  
 14 **SIR BRIAN LANGSTAFF:** So very easy to talk to someone  
 15 about anything that might be troubling you?  
 16 A. Yes.  
 17 **SIR BRIAN LANGSTAFF:** From what you said about the way in  
 18 which you learnt of your dismissal, you were called in  
 19 to Martin's office.  
 20 A. Yes.  
 21 **SIR BRIAN LANGSTAFF:** So he had an office, did he?  
 22 A. He did. He had a separate -- with -- the rest were  
 23 all in one open-plan room and he had his own separate  
 24 office.  
 25 **SIR BRIAN LANGSTAFF:** Did he give you any reason why the

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1 A. No, none at all. I mean, as noted in the letter that  
 2 I sent to him about my workload, we had had an earlier  
 3 meeting and he had sent me notes of the meeting, which  
 4 I obviously didn't feel they covered what we'd  
 5 discussed, so I had had meetings with him about that,  
 6 which was about my side of unhappiness but, no, I'd  
 7 never had any meetings at all where he expressed any  
 8 concern at all about my work in any way.  
 9 **SIR BRIAN LANGSTAFF:** Did he say at all that he did not  
 10 think that you were capable?  
 11 A. No.  
 12 **SIR BRIAN LANGSTAFF:** And did he say anything to suggest  
 13 that the post that you occupied might no longer be  
 14 needed?  
 15 A. No.  
 16 **SIR BRIAN LANGSTAFF:** So essentially no reason was given  
 17 to you; am I right?  
 18 A. None at all.  
 19 **SIR BRIAN LANGSTAFF:** Now, this is where the question  
 20 about communication comes in. Did you ask him: why?  
 21 A. To be honest, no. I mean, I think I was -- I was  
 22 shocked and I knew that to be offered a sum of money  
 23 for signing an agreement is not something that  
 24 somebody just thinks up in the morning. They  
 25 obviously would have sought advice, legal advice, that

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1 MFT were parting with you?  
 2 A. No, no. At the time it was simply that the decision  
 3 had been made and the offer of a payment if I chose to  
 4 leave without being dismissed.  
 5 **SIR BRIAN LANGSTAFF:** Whose function was it, in your best  
 6 understanding of how the Macfarlane Trust worked, to  
 7 make a decision about the continued or future  
 8 employment of any member of staff?  
 9 A. I would have expected and I thought it would be the  
 10 chief executive. I would have been surprised if he  
 11 hadn't consulted with the chair, particularly with  
 12 a senior member of staff. We did have two management  
 13 posts within the organisation with people reporting to  
 14 them, so I would imagine that if there had been any  
 15 decision of that nature, the managers of the level  
 16 staff would have been consulted as well and possibly  
 17 even asked to do the dismissal had it occurred. But  
 18 I've no recall of it happening.  
 19 Only one other person left while I was there  
 20 who did report directly to Martin.  
 21 **SIR BRIAN LANGSTAFF:** When he gave you this news, it came  
 22 out of the blue, did it?  
 23 A. Yes, it did.  
 24 **SIR BRIAN LANGSTAFF:** So there had been no discussion with  
 25 you at all about any matter of your conduct?

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1 kind of thing, it obviously wasn't a spur of the  
 2 moment thing. And I was just completely shocked.  
 3 I mean, there's no other word for it.  
 4 **SIR BRIAN LANGSTAFF:** Well, it's a very surprising thing  
 5 to do for a number of reasons, one of them being that  
 6 any such agreement would most probably be  
 7 unenforceable because of the various provisions of the  
 8 Employment Rights Act, without you having access to  
 9 legal advice and the legal advisers notifying, on the  
 10 face of the contract, that that was the case. That  
 11 wasn't made apparent to you?  
 12 A. No, but my understanding was that the Act you referred  
 13 to comes into force when you have been in employment  
 14 for over a year.  
 15 **SIR BRIAN LANGSTAFF:** Yes, I see. That may be right.  
 16 So you didn't ask, then, why. Did you ask him  
 17 at a later time?  
 18 A. No, I never spoke directly to them again.  
 19 **SIR BRIAN LANGSTAFF:** Why not?  
 20 A. I suppose I thought it was, effectively, a done deal,  
 21 and I went straight down the route of seeking my own  
 22 legal advice and taking out a case for unfair  
 23 dismissal.  
 24 **SIR BRIAN LANGSTAFF:** Was any reason that you are aware of  
 25 given to your solicitor as to why you were dismissed?

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1 A. Not that I'm aware of, no.  
 2 **SIR BRIAN LANGSTAFF:** So it moved pretty quickly, did it,  
 3 to a nondisclosure agreement?  
 4 A. Yes, very.  
 5 **SIR BRIAN LANGSTAFF:** The other question, which occurred  
 6 to me early on in your evidence, was when you were  
 7 asked -- it's on the same topic of communication with  
 8 Martin Harvey -- that when you were asked by counsel  
 9 about a document from May 2005, so perhaps not long  
 10 before, but the reference is, if I can find it, it's  
 11 MACF0000001\_082. This is 19 May 2005. It's when you  
 12 complained about having too much work to do and you  
 13 have told us that, as a result of this, perhaps, you  
 14 were assigned some additional help from one of the  
 15 office staff who was assigned to do it.  
 16 But my question, really, is: this is a fairly  
 17 detailed letter which you must have spent some time  
 18 compiling?  
 19 A. No, I don't think so. I mean, I do write quite  
 20 quickly and I think quite clearly and tend to get  
 21 documents -- I mean, as you will have seen from the  
 22 quite exhaustive paper that I did on the grant  
 23 situation when I'd been in post only three weeks,  
 24 writing is one of my skills. I do know, though,  
 25 that -- I can't actually even remember what the EAC

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1 EAC that's saying her post wasn't critical, and  
 2 I would imagine his memo was saying something along  
 3 the lines of she didn't need replacing, and it didn't  
 4 address in any way whatsoever the fact that I was  
 5 picking up that work and there was nothing about  
 6 giving me any support. So I was just trying to make  
 7 sure it was actually in writing that I couldn't cope  
 8 with the workload I'd got.  
 9 **SIR BRIAN LANGSTAFF:** So is the long and the short of it  
 10 that you put this in writing because you felt that it  
 11 needed to be put in writing as a matter of record  
 12 since you did not necessarily trust that the  
 13 recollections down the line would say that this had  
 14 been a matter of discussion between you?  
 15 A. Yes.  
 16 **SIR BRIAN LANGSTAFF:** How far does that characterise the  
 17 sort of relationship and communication that you had  
 18 with Mr Harvey?  
 19 A. I think Martin -- I noticed someone else in their  
 20 evidence referred to Martin as being "avuncular" and  
 21 that's how he was. He was very much the nice,  
 22 friendly, open, good fellow, chat and on your shoulder  
 23 type of personal who had those nice avuncular sort of  
 24 relationships, but didn't actually seem very on top of  
 25 what the needs were and what people needed.

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1 was, because it was about his memo to the EAC. But  
 2 I had had a meeting with Martin earlier to that about  
 3 the problems with my workload, and then this memo went  
 4 to the EAC about Claudette, and I think it was my  
 5 reaction to that was -- you know, him saying her post  
 6 wasn't critical -- and I felt that our discussion was  
 7 being ignored, so I wanted something in writing so  
 8 I had a trail, if you like, just to show that issues  
 9 were being raised.  
 10 **SIR BRIAN LANGSTAFF:** It may perhaps stand for employment  
 11 affairs committee, or something of that sort, the EAC.  
 12 But the question, really, is you had had  
 13 a meeting with Martin Harvey and you'd spoken,  
 14 presumably, to him about your difficulties?  
 15 A. Yes.  
 16 **SIR BRIAN LANGSTAFF:** So what struck me about the letter  
 17 when I saw it, when counsel referred you and us to it,  
 18 was why write to someone when they're there in the  
 19 office, it's a small office, you can bang on the door  
 20 and have a chat. So for some reason you wrote, put  
 21 this in writing, rather than simply going and having  
 22 a word. What was that reason?  
 23 A. Well, as I said, I had met with him beforehand and  
 24 thought we had discussed things and that he was going  
 25 to review the situation, and then I see a memo to the

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1 I never felt -- I mentioned in my evidence,  
 2 I believe, that I never had any regular or irregular  
 3 supervision, which I would have thought was necessary  
 4 because, again, when you have supervision, that's  
 5 recorded and things, you know, are always a matter of  
 6 record that can be referred to later, and that didn't  
 7 happen either. It all seemed very slapdash,  
 8 I suppose, and informal.  
 9 **SIR BRIAN LANGSTAFF:** Thank you.  
 10 Different subject: can we have a look at  
 11 MACF0000019\_139, please. This is to pick up the point  
 12 made -- it's not on this page, it may be on the next  
 13 page, let's have a look. And again.  
 14 Well, what I was looking for, perhaps you can  
 15 help, Ms Richards, is the reference to retrospective  
 16 applications, the policy being against granting  
 17 anything where a grant was made after the event.  
 18 I had noted that it was in this document but I may be  
 19 wrong.  
 20 **MS RICHARDS:** I think there's more than one reference to  
 21 it, sir. If you just give me a moment. I'm not sure  
 22 that this is what you are looking for, sir. There's  
 23 a reference to having to ask first --  
 24 **SIR BRIAN LANGSTAFF:** Yes.  
 25 **MS RICHARDS:** -- in the January 2005 guidelines Ms Cohen

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1 put together, which is EI --

2 **SIR BRIAN LANGSTAFF:** It wasn't the guidelines, it was

3 actually a meeting of either the NSSC or the trustees.

4 **MS RICHARDS:** In that case, let me just check the minutes

5 of the meetings.

6 **SIR BRIAN LANGSTAFF:** The point, at any rate -- let me

7 discuss the point while counsel is seeing if I can

8 find the exact point which inspired this question.

9 At some point it was discussed in committee

10 what the attitude should be to applications which were

11 not made until after the expense had been incurred.

12 **MS RICHARDS:** Sir, it is this one.

13 **SIR BRIAN LANGSTAFF:** It is this one? This is 1888 in the

14 middle:

15 "Assistance towards a walk-in hour."

16 If we can have a look at that for a moment:

17 "The committee noted this was a retrospective

18 application."

19 Then it says this:

20 "As a result, it was resolved, as a matter of

21 policy that following this meeting, no further

22 retrospective applications would be considered."

23 Plainly, that's not just for walking-in

24 showers, that's a general proposition. It says:

25 "This was to be made known in the Christmas

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1 **A.** I can't recall any actually occurring, nor can

2 I actually recall that appearing in the Christmas

3 newsletter but I'm not saying it didn't.

4 **SIR BRIAN LANGSTAFF:** Well, if it didn't, it means that at

5 some stage someone chose not to put it in, which would

6 suggest --

7 **A.** I'm sure that -- I'm sure without being able to

8 obviously go back and find them I'm sure that we had

9 some retrospective applications after -- while I was

10 actually in post. I'm sure there were.

11 **SIR BRIAN LANGSTAFF:** Well, I would have thought for the

12 nature of what tends to be urgent applications, that

13 it would be very strange if you hadn't.

14 **A.** Yes.

15 **SIR BRIAN LANGSTAFF:** The question would then arise as to

16 what the link was between decisions made in firm terms

17 such as this and the policy to actually adopt it and

18 where the authority for doing that lay.

19 **A.** Mmm.

20 **SIR BRIAN LANGSTAFF:** But you have no comment on that?

21 **A.** No, no. I mean, it's not as though we had a sort of

22 policy document that we referred to and you've seen

23 the guidelines which were really what we did refer to

24 on a day-to-day basis, and I don't think they

25 mentioned that.

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1 newsletter and on the website."

2 So that was the policy that was adopted. So

3 help me with this: what would happen as a result of

4 that policy if someone suddenly had a plumbing failure

5 which they needed to call a plumber out for and get

6 dealt with there and then, or electricity failure, or

7 the emergency repair needed to the boiler, something

8 of that sort? Did that mean that they couldn't and

9 wouldn't be paid the money that that cost them?

10 **A.** I think that had that -- I believe this was the

11 meeting that was before I actually started work.

12 **SIR BRIAN LANGSTAFF:** Yes.

13 **A.** But had that happened, I would, ignoring the policy,

14 have taken the request to the NSSC and said they

15 couldn't -- and actually put a case saying they

16 couldn't have got in touch with us in advance, it

17 needed doing.

18 **SIR BRIAN LANGSTAFF:** But if this was publicised, anyone

19 in that position would think that they couldn't get

20 any money in that case.

21 **A.** That's very true but then -- yes, I mean that is true.

22 **SIR BRIAN LANGSTAFF:** So do you recall whether there was

23 anything in the nature of urgent or emergency

24 situations aside retrospective applications won't be

25 considered?

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1 **SIR BRIAN LANGSTAFF:** The next question is this: it may

2 seem at first sight a shade odd but you've told me

3 that reasons were often not given for refusing a grant

4 but you would have to give reasons, you felt, to

5 whoever had had their application turned down and

6 there generally were reasons good or bad for taking

7 that action. Were reasons ever given for making

8 a grant other than it came within the office

9 guidelines? So when the NSSC, for instance, had to

10 look at a grant or, for that matter, the Board of

11 Trustees on appeal, were reasons given for granting

12 something?

13 **A.** No, I can't recall that there were. I think there was

14 just a letter would go out saying "pleased to inform

15 you that you have been successful and a grant of so

16 and so has been awarded". I think the very fact of

17 the award was considered enough.

18 **SIR BRIAN LANGSTAFF:** Well, I can see that might satisfy

19 the individual but, in terms of ensuring fairness and

20 consistency between applicants, might it perhaps have

21 been nice to know and useful for the office to know

22 what sort of applications were granted and on what

23 sort of basis, just as it was plainly useful to know

24 what sort of applications might not be successful?

25 **A.** I think it was just an assumption that somebody

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1 applied for something and it was granted, then it was  
 2 a good application, it's the kind of thing we want to  
 3 support. I don't think --

4 **SIR BRIAN LANGSTAFF:** You have painted a picture in part  
 5 of a system which was *ad hoc*, to the extent of  
 6 favouritism in respect of some applicants. This is  
 7 where perhaps knowing why a grant was made might be of  
 8 particular importance and use, might it not?

9 **A.** I do see what you mean there. But I suppose that my  
 10 question was always why hasn't it been approved,  
 11 rather than why has it. So if somebody got it, well,  
 12 that was good and if then somebody didn't, it's, well,  
 13 why not, because on other occasions you do. So that  
 14 was the more important thing. I was never going to  
 15 rock the boat if somebody was given money. I always  
 16 thought, well, good.

17 **SIR BRIAN LANGSTAFF:** Thank you for that anyway.  
 18 The final question that I've got to ask is:  
 19 reg pay differed as between some individuals and  
 20 others; how, as you recall it, was consistency in  
 21 applying the same principles to individuals, which  
 22 resulted in a difference of consequence, a difference  
 23 of result, achieved?

24 What I have in mind is this. The outcome may  
 25 very much depend upon individual differences between

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1 short periods of time for some reason or other to the  
 2 reg pay they got?

3 **A.** Yes, absolutely.

4 **SIR BRIAN LANGSTAFF:** And can you help as to any principle  
 5 upon which any addition was made?

6 **A.** No, because the ones I came across were all sort of  
 7 historical and it was, "Oh, we ought to stop that",  
 8 rather than, "Oh, here's a case where we ought to give  
 9 it."

10 **SIR BRIAN LANGSTAFF:** Yes, thank you very much. That's  
 11 all that I have to ask.

12 **MS RICHARDS:** Sir, can I just pick up on the issue of  
 13 retrospectivity?

14 **SIR BRIAN LANGSTAFF:** Certainly.  
 15 Further questions by MS RICHARDS

16 **MS RICHARDS:** So we looked at the policy articulated in  
 17 the September 2004 NSSC meeting. If we look then at  
 18 the two sets of office guidelines which you produced  
 19 subsequently, EILN0000003\_179, if we look under "They  
 20 should ask first", this would tend to suggest:  
 21 "Where expenditure has already taken place, if  
 22 the application is for less than £500 or expenditure  
 23 was clearly for an emergency involving essential goods  
 24 ... process as per guidelines. If neither of these  
 25 apply, refer the application to the trustees."

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1 people but it should always, in theory at any rate,  
 2 depend upon a consistent application of principle  
 3 which may result in different outcomes.

4 **A.** Yes. My understanding was that, for example, someone  
 5 who was single didn't receive as much reg pay as  
 6 someone who was married. If they had children they  
 7 received even more, a certain amount sort of per  
 8 child. And I think that where a lot of the  
 9 inconsistencies arose was that historically the things  
 10 that came up to committee were that, historically,  
 11 somebody would have been given an uplift in their reg  
 12 pay for a particular reason and then that reason was  
 13 never followed up, was never reviewed to see if it  
 14 still applied. And a couple of the cases that came  
 15 before the NSSC, which we have noted in looking at the  
 16 evidence, it was that somebody was given an extra so  
 17 much per month for 12 months three years ago and it  
 18 was still carrying on and never been stopped, and  
 19 I think that's where the real inconsistencies came  
 20 between what people got.

21 **SIR BRIAN LANGSTAFF:** So are you describing something  
 22 which says, well, consistency was achieved by bands  
 23 which put people into certain categories, one child,  
 24 two children, single, whatever, but there was an  
 25 inconsistency beyond that in adjustments made for

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1 This would appear to suggest that retrospective  
 2 applications could succeed under the guidelines in  
 3 those circumstances but otherwise the application  
 4 would have to be referred to the NSSC. Is that what  
 5 you understood this to mean?

6 **A.** Yes, that is exactly -- I thought we had somehow  
 7 allowed that. And these guidelines were approved by  
 8 the NSSC. So even though earlier they had established  
 9 a policy, clearly they saw the sense in this, that  
 10 sometimes you just had to do it.

11 **Q.** Then the March guidelines are slightly different,  
 12 which is what I wanted to try to clarify with you.  
 13 MACF0000110\_111.

14 So both sets of documents are called "General  
 15 rules relating to all grant requests". These are  
 16 March 2005. We don't see the same heading "They  
 17 should ask first", but if we go to -- just a little  
 18 further down the page:  
 19 "Step Four.  
 20 "Has the expenditure already taken place? If  
 21 it has, send the application to the NSSC."  
 22 That might tend to suggest that all  
 23 retrospective applications had to go to the NSSC. Do  
 24 you recall that?

25 **A.** I don't recall it but yes you are right, that is what

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1 it would suggest, yes.

2 **Q.** Are you able to assist any further on what the policy

3 was in relation to retrospective applications?

4 **A.** To be honest no. I'm working entirely from these

5 records and not from memory.

6 **MS RICHARDS:** Sir, I have checked the winter newsletter

7 from 2004 and, certainly on a quick reading, there

8 doesn't appear to be anything in it which sought to

9 publicise the kind of policy we see set out in those

10 September records. There is an article from Ms Cohen

11 in it but it doesn't deal with the question of

12 retrospective applications at all.

13 **SIR BRIAN LANGSTAFF:** Yes. Well, it looks like a policy

14 in the process of being formulated, one way or the

15 other.

16 **MS RICHARDS:** Ms Cohen, is there anything further that you

17 would wish to add to your evidence?

18 **A.** No, not at all.

19 **SIR BRIAN LANGSTAFF:** Well, it remains for me to thank

20 you. You have been here slightly longer than you

21 might have anticipated but thank you very much for the

22 evidence you have given. Although you have spoken

23 just about one year, or just a short tad less than one

24 year, it was a very important year, I think, in the

25 development of the Macfarlane Trust. It wasn't long

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1 **SIR BRIAN LANGSTAFF:** Mrs Rendle, I'm sorry for keeping

2 you waiting, my apologies but we're now ready to

3 start. I don't know if you watched any of the Inquiry

4 recently but let me tell you, anyway, that you're

5 talking to a room in which there are a total of nine

6 members of the Inquiry staff, one of whom is Mary, who

7 will ask you to affirm in a moment of two, one of whom

8 is Soumik, who may show you any documents that it is

9 necessary to show you, and one of whom is Ms Richards

10 who will be asking the questions.

11 But the people you are really talking to are

12 those beyond this room who can't, for obvious reasons,

13 be here at the moment, who are watching on YouTube and

14 Zoom, and there may be about some 250, thereabouts, of

15 them. So I'm sorry, if any of them have been kept

16 waiting as well by the evidence before, which went on

17 a little bit longer than we had anticipated it might.

18 Are you at home?

19 **THE WITNESS:** I am.

20 **SIR BRIAN LANGSTAFF:** Are you there on your own?

21 **THE WITNESS:** I'm here with -- downstairs I've got my

22 husband and my little girl.

23 **SIR BRIAN LANGSTAFF:** Right. Well, Mary, do you want to

24 ask Mrs Rendle to take the oath.

25 ///

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1 after that that Peter Stevens went on elsewhere. It

2 hadn't been long before you started that Martin Harvey

3 began his tenure as the CEO and you've given us

4 an insight into how things actually were done and

5 contrasted that with how you have shown, from the

6 documents or counsel has shown from the documents, it

7 was said that they should be done.

8 You have done it in what I see as a measured,

9 careful way, firm in your views, and giving very good

10 and clear reasons for the views which you have held

11 and articulated. You appreciate that, in order to get

12 a picture of the Macfarlane Trust we've come at it as

13 an Inquiry by something like a 360 degrees assessment,

14 I think it might now be called, looking at it from

15 different angles and yours is a very valuable

16 contribution to that.

17 Thank you very much indeed.

18 **A.** Thank you.

19 **MS RICHARDS:** Sir, the evidence of Mrs Rendle next. We

20 need to take a break to set that up, so perhaps we

21 could start again at 20 past or so.

22 **SIR BRIAN LANGSTAFF:** Yes, 3.20.

23 (3.09 pm)

24 (A short break)

25 (3.19 pm)

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1 **KATIE HANNAH RENDLE, affirmed**

2 **Questions by MS RICHARDS**

3 **MS RICHARDS:** Mrs Rendle, you were a trustee of the

4 Macfarlane Trust for around a year between

5 September 2012 and September 2013; is that right?

6 **A.** That's right.

7 **Q.** In the course of that time, you carried out

8 a communications survey and I'll come back to that.

9 Is this correct: you were nominated as a trustee by

10 The Haemophilia Society?

11 **A.** I was, yes.

12 **Q.** How did you come to apply for the position as trustee?

13 **A.** It was originally suggested to me by my brother,

14 Andrew Evans, who put me forward or suggested that it

15 might be something I might apply to. He was quite

16 interested in me being in the role because of his

17 awareness of the dissatisfaction in the beneficiary

18 community and thought that I would be helpful in that

19 role.

20 **Q.** Your brother Andrew, the Inquiry has heard from, was

21 himself co-infected as a result of treatment with

22 contaminated blood products?

23 **A.** Yes, that's right.

24 **Q.** Were you regarded as being in the category of a user

25 trustee, as that term was used, within the Macfarlane

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1 Trust?

2 A. I was. So that term was used, also Haemophilia

3 Society-appointed trustee was used as well.

4 Q. But you were not yourself -- although you were the

5 sister of someone who had been infected, you were not

6 yourself a beneficiary information of the Macfarlane

7 Trust?

8 A. I was not.

9 Q. You attended your first board meeting in

10 September 2012. You had previous experience in

11 relation to a charity, between I think around

12 2004/2005 and 2010, when you were a trustee for

13 a charity working with the siblings of those with

14 life-limiting illnesses or disabilities. Having had

15 that prior experience, what impression did you get of

16 the Board of the Macfarlane Trust and the way in which

17 it operated?

18 A. It was a completely different experience, I have to

19 say. I found the Macfarlane Trust Board to be

20 incredibly bureaucratic by comparison. I wasn't

21 familiar with needing to set up working groups in

22 order to do any work or achieve anything as a Board

23 member, or having to put forward a paper for

24 consideration, things of that nature. The charity

25 that I had previously been a trustee for was very

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1 write their guidance, in fact -- so I was aware that

2 campaigning was a possibility for the charity, even

3 a charity set up and funded by Government, and I was

4 also aware that there was a large or a significant

5 section of the beneficiary community who were in

6 favour of the Macfarlane Trust taking on a campaigning

7 role. So that was my reason for questioning it with

8 the Trustee Board.

9 Q. You said in your statement you provided guidance from

10 the Charity Commission to Board members, which made

11 clear that campaigning against Government was

12 a legitimate approach, even for charities set up and

13 funded by Government but you say that was disregarded

14 by the majority of trustees. Can you remember what

15 the response was and any articulated reasons for their

16 response?

17 A. I don't think there was much response at all. I think

18 one of the other user trustees responded favourably to

19 my email on that subject and related subjects around

20 the Macfarlane Trust's role and purposes. It

21 certainly didn't have the impact that I wanted it to

22 have. I would have liked a discussion to be tabled at

23 a board meeting and that didn't happen.

24 Q. Then you also told us in your statement that there

25 were discussions at board level during the time you

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1 small but I think it was run in a less formal manner

2 and, I believe, actually a more effective manner.

3 Q. When you joined the Macfarlane Trust as a trustee did

4 you receive any training or induction from the Trust?

5 A. I think I received a pack but that was about it.

6 Q. Do you recall if you were read or shown the Trust

7 Deed?

8 A. I don't recall. I think -- I think I would have.

9 I recall reading it myself. I don't recall whether

10 that came as part of the introduction.

11 Q. Then, in the course of the year or so that you were

12 a trustee, was there anything particular about the

13 relationship between the Macfarlane Trust and The

14 Haemophilia Society that you were aware of?

15 A. I wasn't really aware of any relationship between

16 them.

17 Q. The evidence that the Inquiry has heard so far tends

18 to suggest that the Macfarlane Trust took a decision

19 fairly early on in its existence not to campaign and

20 adhered to that position. What did you understand

21 about the Trust's reluctance to campaign?

22 A. I questioned it by email to the other trustees and to

23 Roger Evans, who was the Chairman. I knew from my

24 professional experience -- I had been doing some work

25 with the Charity Commission at that time helping to

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1 were on the board about how the Trust made its

2 decisions on the disbursement of funds, and you recall

3 criteria being cited of charitable need and

4 exceptional circumstances. Can you elaborate upon

5 that and tell us what the understanding was of those

6 concepts.

7 A. I don't think there was great understanding of those

8 concepts. It was something that I questioned,

9 I asked, to be informed what the working definitions

10 were, and I don't believe I ever received an

11 explanation of those.

12 My queries came out of the fact that I didn't

13 understand how the Trust could or trustees or any

14 member of the organisation could be making decisions

15 around disbursing its funds without, sort of, strong

16 criteria and processes for making those decisions.

17 And I think as I say in my statement, the only terms

18 I ever heard were "charitable need" and "exceptional

19 circumstances", which just seemed really inadequate

20 and vague for such important decisions.

21 Q. You've said in your statement that you sought to

22 clarify "charitable need" in particular, and shared

23 the Charity Commission's definition with the trustees,

24 and you say this -- in fact I'll put it on the screen,

25 Mrs Rendle, so others can follow.

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1 WITN3372002, page 3, please, Soumik.  
2 Paragraph 16, bottom half of the page. You  
3 say:

4 "I shared the Charity Commission's definition  
5 with the trustees, as this in conjunction with  
6 the MFT's trust deed seemed to suggest all  
7 beneficiaries automatically qualified for assistance,  
8 and therefore should not need to prove this in order  
9 to obtain funds. My attempts were received but  
10 largely ignored by other board members."

11 Can you assist any further with what the  
12 Charity Commission's definition at that time was that  
13 you shared with trustees?

14 A. I can't -- I couldn't relay to you the exact  
15 definition of it, I don't know if it's changed since  
16 that time, but the relevant part of it was --  
17 particularly referring to primary beneficiaries --  
18 that an example of charitable need would be somebody  
19 suffering illness or disability.

20 Q. Did it seem to you that there was a focus within the  
21 Macfarlane Trust on the presence of a financial need  
22 to the exclusion of other factors?

23 A. Yes, it was -- there was -- it seemed to be an  
24 assessment of means was the most important factor.

25 Q. We can take that down, thank you, Soumik.

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1 shared by all of the trustees, and others felt that we  
2 needed to actually get permission from the Department  
3 of Health to spend those reserves.

4 Q. That brings me on, I think, to the next matter  
5 I wanted to ask you about, which was about the Trust's  
6 relationship with the Department of Health, which you  
7 describe as a source, effectively, of tension within  
8 the Board.

9 What did you glean, from your attendance at  
10 Board meetings and your dealings with your fellow  
11 trustees, was the view of the chair, Mr Evans, and the  
12 chief executive, Ms Barlow, about the relationship  
13 with the Department of Health?

14 A. Well, Roger Evans stated, in fact, that he felt that  
15 the Macfarlane Trust was an arm of Government and  
16 I think this was a statement that came out of  
17 discussions around spending the reserves or, in fact,  
18 pushing the Department of Health firmly to give the  
19 Macfarlane Trust more funding, effectively. It was  
20 something that I felt very strongly about and I'd also  
21 shared Charity Commission guidance with the trustees  
22 around the fact that charities are required to be  
23 independent from state and it actually relates to the  
24 campaigning issue as well. So not only is a charity  
25 required to be independent from the state and cannot

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1 You also touch in your statement upon one of  
2 the other issues that you recall being discussed at  
3 Board meetings throughout your time there, which was  
4 the question of the reserves held by the  
5 Macfarlane Trust.

6 Can you elaborate upon what those discussions  
7 were and what, if any, concerns you had about the  
8 issue?

9 A. So I had understood from conversations with the  
10 beneficiary community that the reserves was a bone of  
11 contention with them, why the reserves had been  
12 allowed to build up for such a long time and hadn't  
13 been put to the need, the very clear and obvious need  
14 that there was within the community. It was an issue  
15 that I think was one of the reasons my brother  
16 actually suggested that I become a Board member if  
17 I could, to elucidate.

18 There was a lot of conversation around the  
19 reserves at Board meetings and I probably won't  
20 remember them all completely but I think the nub of it  
21 was that myself and the other user trustees or  
22 Haemophilia Society-appointed trustees, and some  
23 others, really felt that it was within the Board's  
24 power, the Trust's power, to expend those reserves on  
25 the need that we observed. But that wasn't a view

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1 be an arm of Government but they are also able and, in  
2 some cases, encouraged to campaign, even when that  
3 campaigning may reflect upon the Government department  
4 that set them up.

5 Q. You say in your statement you felt that Mr Evans, some  
6 of the board members and Ms Barlow, when she became  
7 chief executive, were trying to run the charity as if  
8 it were a Government scheme to be managed. Is that  
9 right?

10 A. Yes. I didn't feel, or I came to feel, I suppose,  
11 that both Jan Barlow and Roger Evans were not  
12 interested in rocking the boat with the Department of  
13 Health.

14 Q. You've also said in your statement that the MFT's role  
15 and relationship with Government appeared to be murky.  
16 Can you elaborate upon that a little?

17 A. I think that really relates to the "arm of Government"  
18 statement that Roger made at Board meetings and via  
19 email communications.

20 Q. You attended the Board meeting on 21 January 2013 and  
21 I just want to put the minutes up on screen and then  
22 ask you a little further about that. Soumik, it is  
23 MACF0000024\_002, please. If we go to the fifth  
24 page -- sorry, it's the page after that. My  
25 apologies.

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1 So we can see there it's the meeting of the  
2 Board of Trustees, 21 January 2013, and you're in  
3 attendance there, then as Ms K Evans. If we go to  
4 page 9, Soumik, I think -- yes, "Use of reserves and  
5 budget for 2013/14", so bottom half of the page. We  
6 can see there there's reference to awaiting a decision  
7 from the Department of Health regarding reserves.  
8 Does that reflect the issue you've just mentioned, the  
9 idea that the chair and perhaps some members of the  
10 Board thought that the question of spending the  
11 reserves required permission of the Department of  
12 Health?

13 A. Yes, and I think by this time we had already put in  
14 a business case for that.

15 Q. Then there's consideration of winter fuel payments and  
16 other matters and then if we go over the page, look at  
17 the top half of the page, second paragraph:

18 "RM [that's Russell Mishcon] tabled a draft,  
19 proposed letter to the Minister; this item had not  
20 been advised to the Chair or Chief Executive in  
21 advance.

22 "There was considerable discussion regarding  
23 the draft letter and the pros and cons of sending it  
24 at this stage. JB [that's Ms Barlow] expressed the  
25 view that to send a letter of the nature of the one

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1 Mrs Rendle, I'm not going to go through it in  
2 detail because we have looked at it with a number of  
3 other witnesses but we understand from the evidence  
4 heard so far that the original version of the letter  
5 also included an intimation that trustees might have  
6 to consider their position if there was a negative  
7 outcome from the Department of Health's  
8 decision-making. Do you recall that, some discussion  
9 about whether trustees should resign?

10 A. I do recall discussions around that, yes.

11 Q. What was your view about whether a letter, either in  
12 this form or like this should be sent?

13 A. I think I was probably one of the ones, if not the one  
14 referred to in the minutes as being unsure.

15 I certainly felt that we, as a Board of  
16 Trustees, should be putting a strong case to the  
17 Department of Health. I think my uncertainty was  
18 around the approach that Mr Mishcon had taken to  
19 produce this letter and to sort of present it upon the  
20 Board as a completed piece of work and requesting  
21 signatures without consulting with us or asking for  
22 our input into the drafting of the letter in the first  
23 place.

24 Yeah, so I certainly felt that there was cause  
25 for some of the messaging in this letter to be

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1 tabled to the Minister in advance of any decision  
2 being made would not be constructive, and would also  
3 remove any room for further negotiation if  
4 an unfavourable answer was received. Whilst several  
5 trustees were still in favour of sending the letter  
6 others were either unsure or against, and two trustees  
7 were also not present. RE was not prepared to sign  
8 the letter. AB [that's Mr Burgess] asked it to be  
9 recorded that he was unhappy with RE's decision not to  
10 sign. RE therefore proposed that the letter be  
11 forwarded to JB, together with any amendments  
12 proposed, for her and RE to develop further with  
13 a view to sending to the Minister should we receive  
14 an unfavourable response."

15 Do you recall this issue and the discussion  
16 that took place?

17 A. I do recall the issue. I don't have a strong  
18 recollection of the discussion in the meeting itself.

19 Q. If we just look at the draft that we have of the  
20 letter that's referred to there, it may, I think, be  
21 a slightly later draft from the original version  
22 tabled at the meeting. It's WITN4474004. We can see  
23 there it's a "Dear Minister" letter, and it's  
24 expressing concern and dismay at the prospect of the  
25 annual allocation being reduced.

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1 presented to the Department of Health. I think my  
2 uncertainties were around whether this is the  
3 appropriate time to do that and I think there was some  
4 discussion around this, unfortunately, possibly being  
5 a bit late in the day. And also, as I stated, I think  
6 I would have appreciated being involved earlier in the  
7 process of producing such a letter.

8 Q. Now, on the day after the meeting you sent an email to  
9 Mr Evans.

10 It's WITN1122027. And it's the bottom half of  
11 the page, so we can see the date there,  
12 22 January 2013.

13 You say:

14 "Roger,

15 Further to Russell's email, I have some  
16 concerns after yesterday's meeting which I would like  
17 you to address.

18 "I will refer to the email I sent to you and  
19 other trustees on 15 January regarding Charity  
20 Commission guidance on independence from the state.

21 "You said yesterday that MFT is an arm of  
22 Government 'whether we like it or not'. As Charity  
23 Commission guidance clearly states, we cannot be an  
24 arm of Government/act on its behalf and be a charity.  
25 Our concerns are not the Government's concerns, we do

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not exist to carry out their policies or to consider their overall financial position. I feel that we need clarification from the department on how they intend us to operate independently while restricting our financial position. I also feel that trustees will be at risk of not being able to carry out their duties if funding is restricted and that we need the department to comment on that."

Over the page:

"I think you should give further explanation of why you believe the timing of Russell's letter is wrong. You agreed with the other trustees that any presentations we make after the DH deliver their decision will be useless. As you vetoed sending the letter, I feel you have a duty to explain to trustees your vision for how we can turn around the department's decision after they have delivered it.

"Beneficiaries are pushing for a tougher stance, even if it risks the future of the trust. Trustees' unwilling acceptance of any financial restrictions will not satisfy them.

"I do not like to raise this point, but I feel I must draw your attention to the 'conflicts of interest' section in the aforementioned guidance from Charity Commission. I do not doubt that you have

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issues that you raised in your email?

A. I don't believe I did, in response to the issues that I raised. It was a general response to all of the trustees.

Q. Did you regard Mr Evans' response at the time as answering the points and queries you had raised in your email?

A. No, I think he's -- he only picked up a small part of my email, around the "arm of Government" comment.

Q. Then if we just look at, then, the email that Mr Evans then sent to all trustees.

Soumik, it's WITN1122029, and it's the second page. Very bottom of the page, we can see -- and again, we've looked at this with other witnesses, Mrs Rendle, but 26 January, Roger Evans wrote:

"Dear Trustee ..."

Over the page. And then he sets out a number of matters as to why he did not consider a letter should be sent. There are just a couple of points I wanted to pick up on with you, Mrs Rendle.

In the third paragraph, Mr Evans says:

"Several of you have asked me what influence DH has over the Macfarlane Trust. The answer is - a lot. The Government (through DH) set up MFT in the first place and could close us down at any time if they so

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acted in the best interests of beneficiaries in all your discussions with the department. However, I would like you to consider whether you feel you are able to 'rock the boat' to the extent that the other trustees feel is now necessary, given your position."

Then you say:

"I am sending this email on behalf of myself, Matt and Alan."

And that's two of the other trustees.

If we just go then to look at the first page and just look at Mr Evans' response before I ask you about this.

Mr Evans' response the same afternoon:

"Hi Kate, regarding arm of government DH established MFT to administer its funds. It allocates our funds and appoints 3 (1/3) of the Trustees. I agree with your interpretation and we need to open a dialogue. They won't readily do so if Trustees are sending hostile letters. It was a point I was trying to make yesterday. It's an excellent example of why we need to work with them. We must look beyond a decision on 2013/14 financial allocation and the consequences of any action Trustee(s) take now."

First of all, do you recall whether you received any further response from Mr Evans to the

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wished. DH appoints three of our nine Trustees and they are our sole source of funding. The relationship is bound up in a Trust Deed and an amended version was agreed unanimously by our Board a year ago. A DH appointed Trustee challenging DH in the proposed way would raise a number of questions within DH - about loyalty, for instance."

Do you have any reflections or observations on either the suggestion the Department of Health could close the Macfarlane Trust down at any time or on the suggestion about loyalty?

A. My reflections on that would be I don't believe they could close a charity down on a whim, even if they had set it up. That would be my understanding or my interpretation of charity law.

The question about loyalty I think is a little concerning because actually trustees are required to represent the beneficiaries of the charity, not any organisation which appointed them.

Q. Following the exchange of emails, can you recall whether the question of the MFT as an arm of Government or the issues that are raised here in these communications, were those matters revisited at all in Board meetings as far as you can remember?

A. I don't recall that they ever were.

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1 Q. I want to turn next to the survey which you undertook.  
 2 If we go, first of all, to WITN3372003, and we  
 3 go to the next page.  
 4 This is a document you put together in early  
 5 October 2012 and, as I understand it, this was your  
 6 proposal for the review that should be undertaken; is  
 7 that right?  
 8 A. That's correct.  
 9 Q. You say there the "Task" will be:  
 10 "To thoroughly review the Macfarlane Trust's  
 11 communications, seeking feedback from beneficiaries  
 12 and staff in order to present findings and  
 13 recommendations to the trustee board in January 2013."  
 14 Then you say the "Aim":  
 15 "The general aim is to improve two-way  
 16 communications between the trust and beneficiaries.  
 17 "If the exercise is successful, primary and  
 18 secondary beneficiaries will:  
 19 "have many opportunities to submit their  
 20 feedback to the trust  
 21 "gain a better understanding of the trust's  
 22 processes and decision-making  
 23 "feel the trust is listening to them.  
 24 "If the exercise is successful the Trust Board  
 25 and staff will:

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1 stage of my being in post of such an exercise,  
 2 particularly around gathering insights and feedback  
 3 from the community, in order to review and rework some  
 4 of the ways of working that the Trust had at that  
 5 point.  
 6 Q. What was your understanding at that time, prior to  
 7 starting the information-gathering exercise, of the  
 8 relationships generally between the beneficiary  
 9 community and the Trust?  
 10 A. I understood -- I understood the relationships to be  
 11 very poor. I'd heard through personal contacts,  
 12 including my brother, that the Macfarlane Trust, and  
 13 particularly the Trustee Board, was seen as  
 14 paternalistic and very opaque in terms of its  
 15 decision-making.  
 16 Q. You say also in your witness statement that you felt  
 17 some Board members were detached from the realities of  
 18 what the beneficiary community was experiencing?  
 19 A. That was my assessment having been in post for a short  
 20 time, yes.  
 21 Q. Now, you designed the survey; is that right?  
 22 A. Yes.  
 23 Q. We'll have a look at the report that you then produced  
 24 in light of it, which is at WITN3372004. If we go to  
 25 the second page, we can see it says:

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1 "have a better understanding of the wishes of  
 2 the beneficiaries  
 3 "have a better understanding of the most  
 4 appropriate ways of communicating.  
 5 "The trust will:  
 6 "be responsive to beneficiaries' needs  
 7 "act with confidence in its communications.  
 8 "The beneficiaries will respect the commitments  
 9 and interests of staff."  
 10 Then you set out a proposed process. I won't  
 11 go through the details of that because we will look  
 12 and see what was actually done but, if we just go to  
 13 the last page, we can see that once you had undertaken  
 14 the information gathering exercise and analysed it,  
 15 you then proposed that there be a plan for  
 16 implementing objectives and then a review of progress  
 17 in six months' time and a years' time.  
 18 Can you recall, first of all, how the idea to  
 19 do this came about?  
 20 A. I think it was my idea, originally. My background is  
 21 in communications, particularly digital  
 22 communications. It was one of the things that  
 23 I talked about in my interview with The Haemophilia  
 24 Society for the role on the Trustee Board, and  
 25 I believe I set out the benefits from quite an early

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1 "The questionnaire ran over January and  
 2 February 2013. Beneficiaries were able to choose  
 3 between completing the questionnaire online or by  
 4 post.  
 5 "It consisted of 33 questions covering all  
 6 aspects of Macfarlane Trust communications.  
 7 "The questions and wording were developed in  
 8 consultation with beneficiaries who volunteered via  
 9 the partnership group.  
 10 "263 beneficiaries responded."  
 11 Then I'm not going to go to all of it but  
 12 I want to see if we can look at the structure, first  
 13 of all. So if we go to the next page, by way of  
 14 example, we've got here the heading "Contact  
 15 preferences":  
 16 "How do you prefer to be contacted by the MFT?"  
 17 Then:  
 18 "How do you prefer to contact the MFT?"  
 19 So is it right to understand that you posed  
 20 a series of questions with specific answers, check box  
 21 answers, but then there was provision for those  
 22 completing the survey to add comments; is that  
 23 correct?  
 24 A. Yes. It was a mix of quantitative questions, so yes,  
 25 a closed set of answers, like in this case they would

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1 select a check box or something to indicate phone,  
2 email, letter, a mix of that, and qualitative  
3 responses as well, which would be descriptive  
4 commentary.

5 **Q.** Why did you regard it as important to have both those  
6 elements to the survey?

7 **A.** I think I'd intended to be able to present something  
8 of the voice or voices of the beneficiary community as  
9 part of the report.

10 **Q.** So if we then go on, please, Soumik, to page 5, we can  
11 see there in your analysis at question 4, you've said:

12 "What could be improved about the MFT's phone  
13 communications?"

14 Is this right, you've set out there a sample of  
15 the responses that were provided:

16 "Condescending tone ..."

17 So this is about phone communications:

18 "They could be polite and avoid a dismissive  
19 tone and the implication you are just annoying them.

20 "Every time I contact the trust I feel it  
21 begins a lengthy process ... Nothing seems  
22 straightforward ...

23 "If there are issues [I'm not going to read all  
24 of them] preventing progress be open about it instead  
25 of stalling with inadequate explanations.

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1 a conclusion on this section, in relation to "Phone  
2 communications":

3 "Although 68 per cent rated phone  
4 communications as highly, there is evidence that  
5 standards have dropped recently."

6 Then:

7 "32 per cent gave the trust's phone  
8 communications a score of 3 or lower. The main issues  
9 are ..."

10 Then you set them out:

11 "phones not being answered  
12 "relevant person not being available ...  
13 "poor phone manner  
14 "calls are not returned as promised."

15 So a majority rating phone communications well  
16 but a significant minority, 32 per cent, giving a low  
17 score. Was that correct?

18 **A.** That's correct.

19 **Q.** Then if we go on to the next page, you then, in the  
20 survey, looked at the question of written  
21 communications. So letters, and if we go to the page  
22 after this, please, Soumik, so page 9. Again, in  
23 relation to "Do you have any specific comments  
24 regarding the tone or language used in letters" there  
25 are a number of observations: can seem a little

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1 "Improvement would involve ... someone  
2 answering the call who knew what they were talking  
3 about ...

4 "Recently, the people I speak to seem  
5 uninterested ...

6 "They should be more humane, with the view to  
7 wanting to help not just answer a call and fob the  
8 person off [and so on]."

9 How did you decide what responses you were  
10 going to include in the report that you presented to  
11 the board?

12 **A.** I don't think I had a system, as such. I think  
13 I aimed to be representative, and I aimed to give  
14 a good indication of some of the issues that were  
15 emerging from these comments, and each row that you  
16 can see there represents an individual person's  
17 response, not all of the responses that were received  
18 for that question. There were a lot of these kind of  
19 descriptions that came in, these responses using open  
20 text like this. So it was fairly unscientific but  
21 I was -- my aim was, as I say, to show some of the  
22 issues that were emerging, the breadth of issues that  
23 were emerging.

24 **Q.** There's more samples on the next page but if we go to  
25 the page after that, we can see then you set out

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1 threatening; full of jargon; like to be in plainer  
2 English; some talk about tone and language being  
3 appalling; letters from NSSC refusing grants lack  
4 information as to why a grant is refused; and so on.  
5 Perhaps just the last two: often made to feel like  
6 second class citizens; disrespectful and uncaring;  
7 only 300 of us left; and then a less inflammatory  
8 dictatorial tone. Again, that continues over the  
9 page.

10 Then if we pick it up on the next page, you  
11 also ask the question in the survey:

12 "How could the MFT's postal communication be  
13 improved?"

14 Then there are a number of contributions to the  
15 survey that you then set out as to how improvements  
16 could be made. If we go on to page 13, Soumik,  
17 electronic page 13, again is this the conclusion that  
18 you are drawing from the responses on this topic,  
19 Mrs Rendle?

20 **A.** Yes.

21 **Q.** So we see:

22 "69 per cent of beneficiaries rate the letters  
23 highly ... 31 per cent who rate the letters medium to  
24 poor. The main issues with postal communications  
25 are ..."

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1 Then a number of concerns set out:  
 2 "threatening, uncompassionate, patronising tone  
 3 "long and wordy ...  
 4 "language too formal and unclear  
 5 "lack of explanation [et cetera, et cetera]."  
 6 I'm not going to go through all of it but just  
 7 so that we can see the headings, the next page -- the  
 8 next section of the survey was about the newsletter,  
 9 and I think it follows a similar format. If we go to  
 10 page 19, Soumik, were these your conclusions from the  
 11 survey in relation to the newsletter, Mrs Rendle?  
 12 A. That's correct.  
 13 Q. So you've set out there some of the issues, such as:  
 14 "information being out of date or not giving  
 15 enough notice of events  
 16 "not enough input from beneficiaries  
 17 "topics too inward looking and not useful  
 18 enough to beneficiaries  
 19 "design and layout not optimised for people  
 20 with visual impairments."  
 21 You also make positive suggestions at the  
 22 bottom of the page, or you record the beneficiaries'  
 23 positive suggestions as to things that could be  
 24 included in the newsletter; is that right?  
 25 A. That's right, yes.

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1 "applying for grants  
 2 "how the trust decides on grant applications  
 3 "other sources of income and support."  
 4 That might suggest, Mrs Rendle, that the  
 5 current form of the website didn't include that  
 6 information or didn't include sufficient information  
 7 on those topics. Was that your understanding?  
 8 A. That was my understanding, yes.  
 9 Q. Then, if we go to the next page, you then ask a series  
 10 of questions in the survey about the information  
 11 provided by the Macfarlane Trust. And again we see  
 12 the qualitative -- sorry, the quantitative outcome of  
 13 the questions and, on the next page, some of the  
 14 qualitative responses.  
 15 Then if we go to the next page, just to see,  
 16 again, your conclusion, you said -- there's  
 17 "Information.  
 18 "There is [clearly] an appetite for more  
 19 information about grants, with round two-thirds of  
 20 beneficiaries reporting they don't receive enough.  
 21 This information should include what is available, how  
 22 to apply, what information is required and what  
 23 criteria are used to make decisions. Not providing  
 24 this information is causing confusion and frustration  
 25 among the beneficiaries, and seems to be delaying

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1 Q. Then if we go to the next page, the next topic of the  
 2 survey concerned the website, again a series of  
 3 questions. Sorry, well, it was the forum, in fact,  
 4 I should say, and the conclusions in relation to that  
 5 I think we see on page 23.  
 6 In relation to the forum:  
 7 "Relatively few beneficiaries use [it] ...  
 8 a core of users who find it helpful."  
 9 Some reference to negative or hostile  
 10 conversations and some worried about online privacy  
 11 and confidentiality, others not interested in  
 12 interacting with others that way. That's the forum.  
 13 Then the next page deals with the public  
 14 website and, if we could just look at your conclusions  
 15 here, it's page 26, Soumik. Do we correctly  
 16 understand this is referring to the Macfarlane Trust's  
 17 own publicly accessible website?  
 18 A. Yes, that's correct.  
 19 Q. "... not very well visited. Some beneficiaries were  
 20 unaware the trust had a website, while others seemed  
 21 to confuse it with the forum.  
 22 "Reasons for not using the website included the  
 23 information not being relevant or up to date.  
 24 Beneficiaries responded very positively to the idea of  
 25 the website including information on:

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1 applications."  
 2 Then there are a number of other matters set  
 3 out including, in the last paragraph, a lot of  
 4 mistrust levelled at the Trust's door which seems to  
 5 stem from a tradition of withholding information.  
 6 It would appear, Mrs Rendle, that this was one  
 7 of the issues which seemed to generate the most  
 8 concern from Respondents to the survey. Is that your  
 9 recollection?  
 10 A. I think it was definitely one of the strongest themes  
 11 that I picked out from -- in the survey exercise.  
 12 Q. Then we get as the next topic, on the following page,  
 13 consultation.  
 14 So:  
 15 "Does the [Macfarlane Trust] ask for your ideas  
 16 and feedback enough ..."  
 17 And if we go to page 32, please, Soumik:  
 18 "More than half of respondents said they aren't  
 19 asked enough or at all about the way the trust  
 20 distributes its funds."  
 21 Then the second paragraph:  
 22 "Many beneficiaries commented that they have  
 23 never been properly consulted with by the trust.  
 24 Others reported that they have provided feedback when  
 25 asked but it has been ignored and no lasting changes

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have been made. This has left many beneficiaries feeling they are not being listened to.

"Some people are dissatisfied that there is no proper channel or process to address complaints, for example when they feel their queries haven't been dealt with appropriately."

Again, it would seem from the analysis you conducted in this report, Mrs Rendle, that this issue of consultation was another issue where a significant number of beneficiaries expressed concerns; is that right?

A. That's right.

Q. Then if we go to your recommendations, so page 36. I'm not going to go through them all because we have them set out there, but you set out at "Recommendations" in three categories: quick fixes, medium-term fixes and then in a moment we'll see, on the next page, longer-term considerations.

So a number of quick fixes which included developing customer service standards, setting up a channel for beneficiaries to report. So, in other words, some form of complaints mechanism. A little further down:

"If requesting information, explain why it's needed."

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a case of they would take a little bit more time to deal with.

Q. Then if we just go to the next page, "Longer-term considerations":

"Consider ways of maximising or distributing the current benefits service, to impact more beneficiaries.

"Consider forging links with other organisations in the field, to offer beneficiaries more rounded information and support."

You presented your report to the Board of Trustees and to the chief executive. Can you recall what the response was?

A. Yes. The trustee board in general were very positive in their responses about the report. I think they found it useful and insightful in that moment. Unfortunately, though, as I've said in my statement Roger took the decision -- Roger Evans took the decision, possibly for good reasons, to ask Jan Barlow, as chief executive, to take the next steps in terms of actioning the report, or deciding what to do with it, and to my knowledge nothing was ever actually done with it.

SIR BRIAN LANGSTAFF: When you say to your knowledge, do you mean did you know that nothing was done with it or

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Are these all matters which you thought could be dealt with and implemented quickly and straightforwardly?

A. Yes, that's right.

Q. Then if we go to the right-hand side:

"Medium-term fixes."

Again, I'm not going to go through them all in detail but we can see, about a third of the way down, halfway down:

"Upskill, train or inform staff so that more individuals can deal with beneficiaries' queries.

"Establish more mechanisms to consult with beneficiaries.

"Investigate methods for beneficiaries and trustees to interact.

"Ensure all communications are Disability Discrimination Act-compliant.

"Improve the website offering ...

"Provide more information about grants ...

"Post more information on the website in the interests of transparency."

So did you regard any of these medium-term fixes as things that were difficult to implement?

A. Not necessarily difficult. I don't think I really made a judgment on difficulty. It was probably more

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you don't know if anything was done with it?

A. Certainly nothing was done with it during the time I was a trustee.

SIR BRIAN LANGSTAFF: Thank you.

MS RICHARDS: If we look at the minutes of the April 2013 board meeting.

Soumik, it's MACF0000024\_047.

So we see the date there, 29 April 2013, and you're in attendance there, Ms K Evans.

If we go, please, to the fifth page -- sorry, it's the fourth page, I'm sorry. The last page:

"Communications Strategy.

"The board received a report from KE following the communications survey with beneficiaries. It was remarked that overall the responses were quite evenly spread: whilst a large number had expressed dissatisfaction in certain areas, an equally large number had expressed great satisfaction. JB agreed to look at the proposed recommendations which had been highlighted."

So that's Ms Barlow.

"It was agreed that thought would need to be given as to how a synopsis of the report could be presented at a future PG [that's Partnership Group] meeting, but that it was not appropriate to circulate

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1 the full report. KE was thanked for her work on  
2 this."

3 Do you understand why it was thought  
4 inappropriate to circulate your full report to the  
5 Partnership Group?

6 A. I think it was Jan Barlow who expressed in that  
7 meeting that she thought it would be inflammatory to  
8 surface, particularly the comments in the report from  
9 beneficiaries themselves.

10 Q. Did you have any thoughts on that at the time?

11 A. At the time and now I think that that way of thinking  
12 is wholly against my aims and ambitions to open up and  
13 be more transparent with the beneficiary community.

14 Q. So we see from this, as you've just told us a few  
15 moments ago as well, Ms Barlow agreed to look at the  
16 proposed recommendations which had been highlighted.  
17 Did she ever come back to you to discuss any of the  
18 recommendations at all?

19 A. No, she did not.

20 Q. And you remained on the board until around the  
21 September of that year. Is this right, that during  
22 the remaining period of time that you were on the  
23 board you're not aware of the -- either the quick  
24 fixes or the medium-term fixes, still less the  
25 longer-term considerations, being implemented in

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1 Partnership Group. I don't know if it was shared more  
2 widely than that.

3 Q. Now, in terms of grant-making, we've heard from other  
4 witnesses how grant applications were considered in  
5 some circumstances by the office staff, in others by  
6 the National Service Support Services Committee, which  
7 then became, I think after your time, the Grants  
8 Committee, but in some circumstances there might be  
9 either appeals to the Board or, exceptionally,  
10 applications considered by the board. What, if  
11 anything, can you recall about involvement in grants  
12 applications and decisions on those applications at  
13 Board level.

14 A. I recall that Macfarlane Trust Trustee Board would  
15 receive appeals occasionally and that those were  
16 looked at in a part B of our board meetings which,  
17 I believe, was either not minuted or the minutes were  
18 kept separate from the part A of each meeting.

19 Q. And you've said in your witness statement that you had  
20 heard complaints about a lack of transparency through  
21 your contact with beneficiaries separately. And then  
22 you say this:

23 "I could understand why people were suspicious  
24 because there were no well-defined criteria for making  
25 decisions. It seemed to come down to the views of

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1 practice?

2 A. That's correct. I'm not aware of any of that.

3 Q. Do you think if anything had been done that you would  
4 have been made aware because it would have been  
5 reported back to the Board?

6 A. I would be surprised if steps were taken to implement  
7 my recommendations but that was not reported back to  
8 me.

9 Q. In your first statement, Mrs Rendle, in which you  
10 provided us -- essentially as Andrew's sister, talking  
11 about your experiences growing up with your brother's  
12 illness, you said in that statement that Ms Barlow and  
13 Mr Evans wanted to change your report to reflect the  
14 Macfarlane Trust more positively. Can you recall  
15 anything further about that?

16 A. My recollection of that meeting, the board meeting  
17 where I presented the report, was that Jan wanted to  
18 remove some -- at least some, if not most -- of the  
19 negativity that was coming out in the commentary from  
20 the beneficiaries.

21 Q. You've told us and we've seen in the minutes the full  
22 report wasn't to be shared with the Partnership Group.  
23 This may follow from that but was the report shared  
24 more widely with beneficiaries?

25 A. I shared it privately with the chair of the

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1 individual board members who expressed strong opinions  
2 in meetings, rather than objective criteria."

3 That was your impression of the decision-making  
4 process, was it?

5 A. It was.

6 Q. Did you get any sense -- from your attendance at board  
7 meetings and such materials as you saw or papers that  
8 you saw for board meetings, did you get any sense of  
9 the extent to which those who were the bereaved or  
10 those who were relatives of infected beneficiaries,  
11 were they treated or regarded as second-class  
12 beneficiaries?

13 A. I don't recall anything around that, I'm afraid.

14 Q. You stepped down from the Trust in around  
15 September 2013. You say in your statement in part for  
16 work reasons but also because you had a sense of  
17 frustration with the Board. Can you elaborate upon  
18 that?

19 A. I was frustrated that the ambitions that I had had, in  
20 terms of helping the Trust be more open in its  
21 communications and being more receptive and listen to  
22 its community, were not going anywhere, and it didn't  
23 feel like there was going to be any progress in those  
24 areas. Additionally to that, my brother had made me  
25 aware that there was some criticism at that point

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1 being levelled at the Trust more widely and that, in  
 2 his view, it would be a good time for me to step down.  
 3 **Q.** You said this in your statement, and again I will just  
 4 put it on screen so others can follow.  
 5 WITN3372002, please, Soumik. Page 8.  
 6 Look at paragraph 41. You refer, first of all,  
 7 to disagreement about the MFT challenging Government  
 8 and distribute reserves and Roger suggesting the MFT  
 9 would be shut down. That may reflect the January 2013  
 10 meeting we've looked at. Then you say this in the  
 11 last sentence:  
 12 "I, and my fellow HS-appointed trustees,  
 13 thought that the MFT was a relic that was not fit for  
 14 purpose, and that there would be better ways to serve  
 15 its beneficiaries if MFT were to close down."  
 16 Can you explain your thinking on that issue,  
 17 please?  
 18 **A.** I think I had developed a general sense, both through  
 19 my communications directly with beneficiaries and  
 20 through my observations of how the Trust was run and  
 21 that it was not suitable. It wasn't meeting the needs  
 22 of its community well enough and it wasn't being  
 23 administered in a particularly efficient way.  
 24 **Q.** Were there, in your view, changes that good or should  
 25 have been made to the running of the Macfarlane Trust,

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1 **MS RICHARDS:** Mrs Rendle, just a small number of  
 2 additional questions. Would it be right to understand  
 3 user trustees and Haemophilia Society-nominated  
 4 trustees as the same thing, whether the trustee in  
 5 question was a user of the Trust or not?  
 6 **A.** To my knowledge, the terms were used interchangeably.  
 7 **Q.** You've identified for us in your statement and oral  
 8 evidence a number of concerns you had about the way in  
 9 which the Macfarlane Trust was governed and operated.  
 10 Did you during your position as a trustee make any  
 11 representations to or seek any specific advice from  
 12 the Charity Commission about those matters?  
 13 **A.** I didn't, no.  
 14 **Q.** Why was that?  
 15 **A.** I believe my first point of call for these issues  
 16 would have been the Trustee Board itself. I was  
 17 intending to surface the issues with those people who  
 18 were tasked with governing the charity. I am  
 19 disappointed that I didn't get any -- in some cases,  
 20 no answers, in some cases, very unsatisfactory  
 21 answers. And on certain occasions, I think maybe one  
 22 or two, Roger Evans expressed that it would be a good  
 23 idea to put some of the issues I was raising to the  
 24 Department of Health. I don't know if that ever  
 25 happened, that that -- that is what I was expecting to

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1 short of closing it down?  
 2 **A.** I think, I recall -- I mainly recall that my view was  
 3 that it should be thoroughly reviewed and replaced.  
 4 **MS RICHARDS:** Sir, those are the questions I have for  
 5 Mrs Rendle but, obviously, we need to give  
 6 an opportunity to Core Participants and legal  
 7 representatives to suggest further questions, so  
 8 I wonder if we could take a break at this stage.  
 9 **SIR BRIAN LANGSTAFF:** Yes, certainly. Let us take a break  
 10 how long would you suggest, 20 minutes?  
 11 **MS RICHARDS:** That should be sufficient. If more is  
 12 longer, sir, I can let you know.  
 13 **SIR BRIAN LANGSTAFF:** So not before 25 to 5. Right. Now,  
 14 I tell every witness who is giving evidence that they  
 15 must not discuss the evidence which they have given or  
 16 any question which they think may yet be asked. There  
 17 may be none, there may be a number, I just don't know  
 18 yet, with anyone, whoever they happen to be, so not  
 19 your partner not -- your husband, rather, or your  
 20 daughter nor anyone.  
 21 **A.** Okay, thank you.  
 22 **SIR BRIAN LANGSTAFF:** 25 to, not before.  
 23 (4.17 pm)  
 24 (A short break)  
 25 (4.37 pm)

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1 happen.  
 2 **Q.** Was the term "infected intimates" still in use when  
 3 you were at the Macfarlane Trust to describe the  
 4 partners or spouses who had become infected with HIV?  
 5 **A.** I don't believe I heard that term.  
 6 **Q.** Was the term "dependants" in use to describe family  
 7 members and relatives?  
 8 **A.** I can't recall.  
 9 **Q.** Did the Trustees of the Macfarlane Trust have access  
 10 to the forum that had been set up for beneficiaries to  
 11 communicate with each other?  
 12 **A.** I think the other two user trustees would have but  
 13 I don't believe the rest of the Board did.  
 14 **Q.** If the MFT, the Trust, had taken a different view on  
 15 campaigning, do you have any thoughts as to what the  
 16 most effective ways of lobbying or campaigning might  
 17 have looked like?  
 18 **A.** I don't really. I don't think that's my skill set.  
 19 I think my intention when raising those issues was to  
 20 get the leadership of the Trust to think again about  
 21 its stated purposes and its powers, and if it was  
 22 decided that it would take on a campaigning role then  
 23 my view is it should have sought expertise in those  
 24 areas.  
 25 **Q.** Then last question: did you feel that the involvement

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1 of user trustees, whether they are themselves infected  
 2 or the family members of those who had been infected,  
 3 was of benefit to the Macfarlane Trust generally?  
 4 **A.** I think it was -- it had very limited benefit in fact.  
 5 User trustees or Haemophilia Society-appointed  
 6 trustees, either term you want to use, they weren't  
 7 actually able to vote on anything at the Board that  
 8 would potentially benefit them or affect them as  
 9 a beneficiary, and they were somewhat removed from the  
 10 breadth -- I don't think they could fully represent  
 11 the breadth of experience that existed in the  
 12 beneficiary community.  
 13 **Q.** Do you have any thoughts or views as to how the  
 14 beneficiary community could have been better as a  
 15 more, kind of -- systems could have better represented  
 16 the interests of the beneficiary community and the  
 17 Trust?  
 18 **A.** I think my -- the communications survey and the  
 19 strategy that would -- if my recommendations had been  
 20 implemented, the strategy that would have followed  
 21 that would have included a lot of recommendations for  
 22 the Trust becoming more receptive and listening to its  
 23 community. There are a lot of options there.  
 24 **MS RICHARDS:** Thank you.  
 25 Sir, those are the additional questions I have.

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1 way.  
 2 **SIR BRIAN LANGSTAFF:** Did anyone query your honesty in  
 3 recording the results?  
 4 **A.** Not overtly.  
 5 **SIR BRIAN LANGSTAFF:** Covertly?  
 6 **A.** That was -- I inferred that there was a line of  
 7 questioning from Jan that implied some of that.  
 8 **SIR BRIAN LANGSTAFF:** So she thought you had been, in  
 9 short, overly selective with the comments you had  
 10 chosen?  
 11 **A.** That was my interpretation of her questioning.  
 12 **SIR BRIAN LANGSTAFF:** Apart from that, and that view  
 13 expressed by Jan, did anyone suggest that as, you had  
 14 summarised the results in each section, that there was  
 15 anything in error with your summary?  
 16 **A.** No, there was no response like that.  
 17 **SIR BRIAN LANGSTAFF:** So these comments were made by  
 18 Ms Barlow at the meeting. Whose decision was it that  
 19 she should take matters forward in implementing the  
 20 particular suggestions which you had made as the quick  
 21 fix, the medium-term and the long-term fixes?  
 22 **A.** It was Roger's suggestion that Jan be the one to take  
 23 forward any and all actions arising.  
 24 **SIR BRIAN LANGSTAFF:** The last question which I want to  
 25 ask you is, right at the end of questions which

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1 I understand Mr Snowden, who represents Mrs Rendle,  
 2 doesn't have any questions that he seeks to ask.  
 3 Questions by SIR BRIAN LANGSTAFF  
 4 **SIR BRIAN LANGSTAFF:** I just have a couple of matters to  
 5 ask you about. The first is really about the  
 6 reaction, in particular, I think, of Ms Barlow, to the  
 7 survey you produced for the Board and delivered to the  
 8 Board. At the meeting, the Board meeting which  
 9 discussed that survey, did anyone query the  
 10 methodology that you had used?  
 11 **A.** I think none of the other trustees queried it.  
 12 I think Jan raised a question as to why it was that  
 13 there seemed to be a lot of negative comments, whereas  
 14 the more statistical or quantitative questions mostly  
 15 were leading to an impression of, more or less,  
 16 satisfaction or above.  
 17 Would you like me to talk about --  
 18 **SIR BRIAN LANGSTAFF:** Yes, do.  
 19 **A.** -- response to that? So I responded that that is  
 20 actually fairly common in the nature of these  
 21 questions, in that when asked to give feedback, people  
 22 will tend to give -- will tend to leave commentary of  
 23 a negative nature because they are motivated to do so  
 24 from having a negative experience. So it's actually  
 25 quite a common sort of response to being asked in this

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1 counsel asked you, you suggested that, having left,  
 2 you really felt at that stage that the Macfarlane  
 3 Trust might be replaced -- I think that was almost the  
 4 last word that you used -- by what?  
 5 **A.** I don't feel qualified to answer at. I think that  
 6 would -- it would need to be a decision taken under  
 7 heavy consultation with the community that should be  
 8 served.  
 9 **SIR BRIAN LANGSTAFF:** Well, shall we see if we can  
 10 identify what you think of as being the necessary  
 11 parameters within which something which was  
 12 a replacement would operate. It would have to have  
 13 the support, in the sense of having been discussed  
 14 with consultees, who may have different views, as we  
 15 saw from your survey, but they would want to feel that  
 16 their views had been taken into account. So a need  
 17 for participation in its development. What other  
 18 features might it have, do you think?  
 19 **A.** I think my sense of the time that I was on the Board  
 20 and I was communicating with the beneficiaries was  
 21 that the needs that they have are broader and more  
 22 diverse than the Macfarlane Trust was capable of  
 23 serving, and I would have hoped that any replacement  
 24 would have looked at that in a broad sense, in terms  
 25 of, essentially, the system of trauma that the

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1 beneficiary community suffers.  
 2 **SIR BRIAN LANGSTAFF:** So you'd look for something which  
 3 saw its remit as being wider than purely meeting the  
 4 immediate financial needs of individuals but having  
 5 a wider concern, for instance, for mental health and  
 6 support.  
 7 **A.** That's right.  
 8 **SIR BRIAN LANGSTAFF:** I don't want to trespass too much on  
 9 what you have said, very movingly, if I may say so, in  
 10 your other statement, but that would involve helping  
 11 relatives, siblings, parents, the bereaved, as well,  
 12 would it?  
 13 **A.** It's not something I've given a lot of thought to,  
 14 actually, in terms of the wider remit.  
 15 **SIR BRIAN LANGSTAFF:** Is there any other feature which  
 16 does spring to mind? If there isn't, it doesn't  
 17 matter, but just that you had in mind, because  
 18 obviously if you ask or suggest that something needs  
 19 to be replaced it's because it simply isn't fulfilling  
 20 its function and there must be aspects which, in  
 21 particular, it needs to fulfil which it isn't,  
 22 perhaps, or it may be the way it's doing it.  
 23 **A.** I'm struggling to answer. I think I've not given this  
 24 matter that consideration for many years now and  
 25 I think it wasn't something that I really foresaw as

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1 happening in the immediate future at the time I was  
 2 a trustee.  
 3 **SIR BRIAN LANGSTAFF:** It's unfair of me to press you for  
 4 an answer, I think. But thank you for at least  
 5 considering. But if you haven't given it thought  
 6 then, by all means, let's take it no further now.  
 7 **A.** Thank you.  
 8 **MS RICHARDS:** Mrs Rendle, do you have anything further you  
 9 would like to add?  
 10 **A.** I don't think so, no. I think I've said everything.  
 11 **MS RICHARDS:** Thank you.  
 12 **A.** Thank you.  
 13 **SIR BRIAN LANGSTAFF:** Well, can I, for my part, thank you.  
 14 I'm sorry that you were kept waiting, when you  
 15 might have finished rather longer than you may have  
 16 hoped, but your evidence has had a compelling clarity  
 17 and quality of recollection about it which I am  
 18 delighted, for my part, to see. Can I just thank you  
 19 enormously for that.  
 20 **A.** Thank you.  
 21 **MS RICHARDS:** Sir, tomorrow we start at 10.00 with the  
 22 evidence of Sue Phipps and then we follow with the  
 23 evidence of Neil Bateman.  
 24 **SIR BRIAN LANGSTAFF:** 10.00 tomorrow. So 10.00 tomorrow.  
 25 (4.50 pm)

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(Adjourned until 10.00 am the following day)

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(75) total... - use



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