

Wednesday, 29 June 2022

(10.00 am)

SIR BRIAN LANGSTAFF: Good morning, Lord Horam.

In a moment or two, Ms Richards will ask you the questions. First, Mary will invite you to take the oath. Let me explain that you're talking not just to those you see in front of you and to your left, but also to an audience which will be watching on YouTube or live stream, it will be numbered in three figures, and they are the larger audience, perhaps, that you will be addressing.

Mary.

LORD JOHN RHODES HORAM (sworn)

Questioned by MS RICHARDS

MS RICHARDS: Lord Horam, good morning.

A. Good morning.

Q. I'm just going to start with an overview of your political career.

A. Right.

Q. You began as an MP in 1970, and you were, at that stage, an MP for the Labour Party?

A. Correct.

Q. You remained an MP until 1983, but from 1981 to 1983 you sat as a member of the SDP?

A. Correct.

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Department of Health.

During the time you were at the Department of Health, John Major was Prime Minister?

A. Right, yes.

Q. Stephen Dorrell was the Secretary of State for Health?

A. That's right.

Q. I think the Minister of State for Health was Gerald Malone?

A. He was.

Q. You had an equivalent in the House of Lords who was Julia Cumberlege?

A. That's right.

Q. Your predecessor in the particular role that you undertook had been Tom Sackville?

A. That's right.

Q. Now, before we look at your time at the Department of Health, there were a couple of errors in your witness statement that I'm just going to correct. They're very minor errors and, just for the sake of the record, if we can have up on screen, please, Lawrence, WITN5294001. If we go to page 21, the paragraph at the bottom of the page, paragraph 2.27, the reference in the last line to a minute of 6 January should be a reference to a minute of 12 January?

A. Yes.

3

Q. You didn't gain re-election in the 1983 election, and you then, however, joined the Conservative Party in 1987, and you were elected as a conservative MP in 1992?

A. That's correct.

Q. You stepped down as an MP in 2010?

A. Mm-hmm.

Q. You were created a life peer and you remain an active member of the House of Lords; is that right?

A. That's correct, yes.

Q. Now, in terms of Governmental roles, you were a Parliamentary Under-Secretary of State in the Department of Transport between 1976 and 1979?

A. That's correct.

Q. You were about a Parliamentary Under-Secretary of State in the Office of Public Service and Science, which was part of the Office of the Duchy of Lancaster, for a few months in 1995?

A. That's right, yes.

Q. Then, and this is obviously the reason why you're giving evidence today, you were a Parliamentary Under-Secretary of State in the Department of Health from 29 November 1995 to the beginning of May 1997?

A. That's correct.

Q. So my questions will focus upon those 17 months at the

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Q. Then if we turn to page 45, paragraph 2.81, at the bottom of the page, the sentence at the very end of the page ends "as they".

A. Yes.

Q. Then at the top of the next page reads "the UK" --

A. Yes.

Q. -- and there were some words missing, I'll just read out those words for the record. So after "as they", the words should be inserted:

"... had been subject to litigation and been found liable, which had not occurred in", and then we pick up the sentence "the UK".

So those were, I think, two minor errors in the statement. There is a handful of documentary references, additional documentary references, but I'm not going to trouble you with them. To the extent that we need to look at the documents, I'll do that as we go along.

A. Yes.

Q. So, in terms of the role of the Parliamentary Under-Secretary of State in the Department of Health, how, in general terms, would you describe your role there?

A. Well, I had three -- 31 different aspects to the Department of Health to cover, which is quite a lot.

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1 I suppose my role was to deal with Parliament quite
 2 a lot. I had to take a bill through in the Community
 3 Health Councils, for example, and to act as the first
 4 port of call for dealing with correspondence from
 5 Members of Parliament, and all that detailed work
 6 responding to the situation as I found it.

7 **Q.** As I understand your statement, you didn't, when you
 8 took up your post, receive any specific briefing or
 9 handover, rather you were briefed by civil servants on
 10 relevant issues as and when they arose?

11 **A.** That's right, because I wasn't part of -- my
 12 appointment wasn't part of a general reshuffle, so
 13 there was no opportunity for people to come and brief
 14 me or brief everybody on their new roles. I simply
 15 was put in there and had to find my way as I went
 16 along.

17 **Q.** Just to get a flavour of the areas of responsibility
 18 that were allocated to you, so to speak, some of them
 19 are set out in your witness statement?

20 **A.** Yes.

21 **Q.** So WITN5294001, again, please, Lawrence, page 8 --

22 **A.** Yes.

23 **Q.** -- and it's paragraph 1.14. You said you had 31 areas
 24 of responsibility.

25 **A.** Yes.

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1 of consumed by this for a period, you're almost
 2 outside your normal work, you had to almost put that
 3 on one side and concentrate on that.

4 Then the PFI, the Private Finance Initiative, was
 5 a difficult responsibility because it was quite clear
 6 that we were at the end of a Parliament, there was
 7 only sort of another year and a half to go maximum,
 8 and we were trying to set up new hospitals funded in
 9 a different way, a way which has been used for
 10 other -- in other sectors, but not in health. And
 11 that meant a lot of time dealing with City people
 12 through were involved in possibly financing these
 13 hospitals. So both those were big tranches of work in
 14 addition to the others 29.

15 **SIR BRIAN LANGSTAFF:** I wonder, Lord Horam, if I can just
 16 ask you to do one thing. You're so keen to tell us
 17 what you have to say that your words are coming out
 18 very, very quickly.

19 **A.** Right.

20 **SIR BRIAN LANGSTAFF:** We do have --

21 **A.** Slow down?

22 **SIR BRIAN LANGSTAFF:** -- somebody -- yes, please.

23 **A.** Okay.

24 **MS RICHARDS:** Now, in terms of the responsibility for the
 25 National Blood Services, that responsibility brought

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1 **Q.** They included acute services, National Blood Services,
 2 Private Finance Initiative, capital investment,
 3 Department of Health management, waiting lists,
 4 Community Health Councils, family planning and NHS
 5 Estates?

6 **A.** Mm.

7 **Q.** In practice, your statement tells us that the Private
 8 Finance Initiative work, and Community Health Council
 9 work occupied the majority of your time, or
 10 a significant part of your time?

11 **A.** Well, they were big items. I wouldn't say the
 12 majority of time, but they were big items. When
 13 you're doing a bill, for example, the reform of the
 14 Community Health Councils that's very important
 15 because Community Health Councils are the ordinary
 16 person's first point of contact with their local
 17 Health Service, so you want to get that right.

18 There was a major change going on here and that --
 19 when you are taking something through Parliament, you,
 20 as it were, go into a tunnel. You spend two or
 21 three days every week in Parliament, discussing --
 22 work working on this bill, answering all of the
 23 questions, and I was the only person on the bill,
 24 there was nobody else on the bill, I was the only
 25 person from the Department of Health, so you're sort

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1 with it the issue of any provision of assistance or
 2 support to those infected from blood or blood
 3 products.

4 **A.** Correct.

5 **Q.** Obviously we'll pick that issue up in some detail.

6 You also had ministerial responsibility for the
 7 look-back exercise, although that was already under
 8 way by the time you took up your post.

9 **A.** Yes.

10 **Q.** In terms of HIV, AIDS and hepatitis more generally,
 11 the policy responsibility for that, as I understand
 12 it, rested with Baroness Cumberlege; is that correct?

13 **A.** That's right, yes.

14 **Q.** Then the responsibility for issues relating to blood
 15 internationally rested with a different parliamentary
 16 under-secretary, John Bowis?

17 **A.** Correct.

18 **Q.** Do you know why that was?

19 **A.** No, I don't.

20 **Q.** And --

21 **A.** Obviously that division of responsibilities pre-dates
 22 my appointment.

23 **Q.** You took over responsibility for BSC and CJD from
 24 Baroness Cumberlege in January 1996. Do you recall
 25 why that happened?

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1 A. No, I don't. I -- no, I don't, frankly.
 2 Q. Now, you were in post for around 17 months --
 3 A. Mm-hmm.
 4 Q. -- and we've seen from other evidence the Inquiry has
 5 heard that there was quite a significant turnover of
 6 junior ministers in the Department of Health. Was
 7 that something which, looking at it now, you think an
 8 advantage or a disadvantage?
 9 A. A disadvantage. Definitely a disadvantage. I mean,
 10 my own feeling, after looking back with hindsight, is
 11 that you need about 18 months to really get into the
 12 feeling of a department, what the issues are, to
 13 get -- to hit your stride, as it were. After that you
 14 can be productive.
 15 I think that a minimum -- really a minimum should
 16 be three years in a department before you can actually
 17 make any effect on policy and so forth. And I only
 18 had 17 months.
 19 Q. Now, given the breadth of your areas of
 20 responsibility, and the fact that there was no formal
 21 training and you yourself didn't have, I think, any
 22 medical or scientific background, would it be fair to
 23 say that you would be heavily reliant upon the
 24 information and advice supplied to you by officials
 25 within the Department of Health?

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1 A. Yes, you would be right about that.
 2 Q. Did you have, as far as you can recall, any particular
 3 knowledge of HIV or AIDS or hepatitis C when you took
 4 up the post?
 5 A. No particular knowledge, no, apart from one family
 6 friend who'd had a road accident and therefore had
 7 a blood transfusion and had contracted hepatitis C,
 8 and I was aware of the effect on her. Secondly,
 9 a constituent, a young man, and I think that was --
 10 I saw him fairly regularly with his mother, and
 11 therefore was aware of the devastating effect it had
 12 on him.
 13 Q. You observe in your statement, as well, that you had
 14 some other sources of information, you had the
 15 Haemophilia Society, and we'll look at some of the
 16 interactions there, you'd have letters from MPs?
 17 A. Yes.
 18 Q. Constituents?
 19 A. Yes, all of that. I thought you mentioned sort of
 20 personal ones rather than sort of official ones.
 21 Officially I had, of course, lots of correspondence
 22 from people. And of course, as I say, parliamentary
 23 secretaries dealt with the correspondence and
 24 therefore I would deal with any correspondence
 25 surrounding this.

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1 Q. In your statement you say, and it's paragraph 1.22,
 2 I think -- yes. So it's page 9, please, Lawrence;
 3 bottom of the page.
 4 You say at the bottom:
 5 "Any new, or significant changes of,
 6 Departmental policy would be agreed by the
 7 Secretary of State for Health."
 8 And then you say:
 9 "There were regular Ministerial meetings."
 10 How regular were the meetings?
 11 A. Very regular. Stephen Dorrell had a very good
 12 practice, I think, of having what he called
 13 "breakfast meetings", where he and all the ministers
 14 would meet up. Sometimes with the top civil servants,
 15 sometimes not, sometimes with the parliamentary
 16 private secretary, who was an MP but not a minister --
 17 I remember Gyles Brendreth was the rather amusing PPS
 18 in our case -- and he would have regular breakfast
 19 meetings, probably three times a week, at which we'd
 20 discuss, informally, political and departmental
 21 matters without any let or hindrance. Anyone could
 22 say anything.
 23 Q. Were those types of meetings minuted?
 24 A. No. At least I don't think so.
 25 Q. In general terms, how easy was it for you coming in as

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1 a relatively junior -- as a junior minister,
 2 relatively junior MP in terms of the length of time
 3 you'd been with the Conservative Party; how easy was
 4 it for you to raise matters or express disagreement
 5 with either the Minister of State or the
 6 Secretary of State?
 7 A. Not difficult really. I think it wasn't a problem
 8 with the Minister of State because the
 9 Minister of State wasn't really part of the chain of
 10 command, if you like. He was a deputy to the
 11 Secretary of State, he would deputise for him on
 12 occasions when the Secretary couldn't handle it for
 13 any reason. But the -- really the line of command was
 14 Secretary of State -- for my issues was Secretary of
 15 State and then me.
 16 And, therefore, I could talk to Stephen, who
 17 I knew well, at our breakfast meetings or otherwise,
 18 and raise issues with him in whatever way I felt.
 19 Obviously, he was much more experienced than me in
 20 parliamentary terms and in conservative political
 21 terms but it wasn't difficult to talk to him. He was
 22 a very open man.
 23 Q. Then again, just at a very general level, do you
 24 recall whether you had any interactions or dealings,
 25 either on an *ad hoc* basis or on a regular basis with

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1 what's been termed the territorial departments; in
 2 other words, Welsh Office, Northern Ireland, Scotland?
 3 **A.** No. No. I don't recall that at all. I don't think
 4 I did, frankly.
 5 **Q.** So I'm going to now pick up the chronology of your
 6 involvement with the question of whether there should
 7 be some form of financial support or compensation for
 8 those infected with hepatitis C?
 9 **A.** Mm.
 10 **Q.** Just to give a couple of -- or a date before we look
 11 at some of the documents, you took up your post at the
 12 end of November 1995. Earlier that year, March 1995,
 13 the Haemophilia Society had launched a campaign which
 14 included a call for financial support.
 15 **A.** Mm-hmm.
 16 **Q.** So that's just to set the background.
 17 Then if we look at a couple of documents that
 18 pre-date your arrival by a few days. The first is
 19 DHSC0042937_057, please. So this is a briefing for
 20 the Prime Minister, 21 November 1995, so just over
 21 a week before you take up your post, and it's really
 22 just to get a sense of what the pre-existing policy or
 23 line was at that point in time. If we have the
 24 heading "Compensation?", please, Lawrence, in the
 25 paragraphs below that. We can see there what's said

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1 Health to a Mr Billinge in the Department of Health,
 2 but it's copied -- sorry if we just go up the page,
 3 sorry, Lawrence -- it's copied to, amongst others,
 4 Marguerite Weatherseed and she was in your
 5 Private Office, I think?
 6 **A.** That's right.
 7 **Q.** Then if we go to the bottom half of the page, we can
 8 see the subject is "Hep C -- Haemophilia Society
 9 Campaign for Compensation":
 10 "This is to alert you to the publication on
 11 Monday, 4 December of a report by The Haemophilia
 12 Society on the impact on its members who have been
 13 infected with Hepatitis C (through blood products).
 14 You will be aware that the Society are campaigning for
 15 compensation for such members similar to that provided
 16 for people infected with HIV through blood/blood
 17 products.
 18 "The report, based on a survey carried out by
 19 the Society looks at health, welfare and financial
 20 implication (eg loss of work) resulting from the
 21 infections. It will no doubt be used as evidence to
 22 support the contention that members are suffering
 23 hardship through no fault of their own and should be
 24 compensated. John Marshall MP has a reachable oral on
 25 Tuesday and he will be armed with a copy. It is

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1 is:
 2 "What the hon member is asking for is
 3 compensation for patients where, tragic though their
 4 circumstances are, no fault and no negligence on the
 5 part of the NHS has been proved.
 6 "The House will understand the significance and
 7 implications of such a move. The principle involved
 8 is not one which can or should be lightly breached.
 9 "My [right honourable friend Secretary of State]
 10 for Health has reiterated the policy of his
 11 predecessors, most recently in evidence to the Health
 12 Select Committee (July 1995), but he does not believe
 13 'no-fault compensation' is a sensible use of NHS
 14 resources."
 15 So that is the policy of the Department of
 16 Health, the policy of the Government, at the time that
 17 you took up your post?
 18 **A.** That's correct.
 19 **Q.** Now, within, I think, only one or two days of you
 20 taking up your post, The Haemophilia Society's interim
 21 report on hepatitis C and its impact was published.
 22 If we go to DHSC0004498_141, we have a message
 23 here, the date at the top of the page is
 24 30 November 1995, so it's your second day in office,
 25 and it's a message from Mr Pudlo in the Department of

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1 likely that the press will run stories the same day.
 2 I am trying to get hold of an advance copy. The line
 3 to take should remain ..."
 4 Then this is what's set out as the line to take:
 5 "'The Government has great sympathy for those
 6 infected with Hepatitis C as a result of NHS
 7 treatment. But as no fault nor negligence on the part
 8 of the NHS has been proved there are no plans to make
 9 special payments."
 10 Then if we then pick it up with your own
 11 involvement, the next day, DHSC0042937_071, this is
 12 again from Mr Pudlo to your Private Office,
 13 1 December 1995, it refers in the heading to
 14 John Marshall and the anticipated oral question. It
 15 says:
 16 "At yesterday's briefing meeting for the above
 17 oral PS(H) ..."
 18 That's you, I think, Lord Horam?
 19 **A.** Yes.
 20 **Q.** "... asked for a note on the expected Haemophilia
 21 Society Report on the Impact of Hep C. This has now
 22 been sent to [the Secretary of State] and I am
 23 simultaneously faxing an advance copy."
 24 Then we'll look in a moment at the note. But it
 25 would appear that one of the very first issues that

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1 you faced when you took up your post was this issue of
2 hepatitis C and financial support?

3 A. That's correct.

4 Q. Do you remember whether this was something that you
5 knew about at all before, from any earlier
6 Parliamentary debates or conversations, or whether
7 this was something that was completely new to you as
8 a topic?

9 A. Well, it wasn't completely new to me because
10 I remember I told you the two personal examples from
11 my own life, I was aware of it. It wasn't completely
12 new but it was very new from a departmental point of
13 view and I really had no awareness of the problem
14 until having to deal with it.

15 Q. We can see there that there is reference to there
16 having been, the previous day, 30 November, a briefing
17 meeting for the oral question. What was the normal
18 process when there was going to be a question that you
19 might need to answer in Parliament?

20 A. I would meet up with one of the civil servants who
21 would run through the suggestions they had about
22 possible answers to the question, and there was
23 a briefing on the background information that was
24 needed to respond to the question.

25 Q. Now, the note that Mr Pudlo refers to in this minute

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1 whereas both the report and officials accept that
2 a proportion of only 10-20% would be expected."

3 Just pausing there, Lord Horam --

4 A. Mm.

5 Q. -- do you know whether the Department, during the time
6 this issue was under consideration, ever considered
7 commissioning its own assessment of the scale of the
8 problem? We see the criticism here of --

9 A. Yes.

10 Q. -- the sample and the methodology --

11 A. Yes.

12 Q. -- but did the Department actually commission any
13 scientific research of its own on this particular
14 issue?

15 A. I'm not aware of it doing so.

16 Q. Then if we just carry with the paragraph:

17 "Some of the criticism seem to be of failings of
18 clinical management by doctors, dentists and others
19 rather than of the Government to provide compensation.
20 There are occasional inaccuracies of fact eg the
21 suggestion in Section 1 (second page) states that
22 clotting factor concentrates were thought to be safe
23 at the time they were used but haemophilia patients
24 nonetheless became infected with 2 life threatening
25 viruses which is true of HIV in earlier years."

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1 is at DHSC0042937_072. You also refer to this in your
2 witness statement, Lord Horam, at paragraph 2.16, in
3 case you need to check that. But I'm just going to
4 look at the note for now.

5 So we can see in the first paragraph it's
6 dealing with the Haemophilia Society's report, and it
7 says:

8 "The report claims that some 3,100 haemophiliacs
9 have been infected with Hep C as a result of treatment
10 with contaminated blood products. The fact of
11 infection is not at issue and if anything the true
12 figure may be slightly higher. The number of infected
13 members included in the survey is not given, but is
14 reasonable to suppose that the published evidence is
15 emotively and selectively used to support the
16 Society's conclusions. Over 18 separate individuals
17 are quoted -- some several times. Overall the effects
18 described of Hep C on people's lives is not in
19 dispute."

20 Then the next paragraph says this:

21 "The sample is not sufficiently large nor the
22 methodology sufficiently scientific to allow valid
23 conclusions that a representative to be drawn. For
24 example the sample is unrepresentative in that well in
25 excess of 20% are suffering from liver damage --

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1 Then this:

2 "This is untrue for Hep C from the early '70s
3 onwards because it was appreciated that Haemophilia
4 patients were at risk and indeed some were becoming
5 jaundiced following treatment. It was an accepted
6 side-effect at that time taking into account the
7 benefit."

8 Now, this obviously is not -- these are not your
9 words, Lord Horam, this is a note being prepared for
10 you by officials. But the phrase "it was an accepted
11 side effect at that time, taking into account the
12 benefit", doesn't tell us who that was accepted by,
13 Government --

14 A. No, no.

15 Q. -- doctors, NHS or, critically, patients?

16 A. No, that's perfectly fair.

17 Q. We'll look and see what's said at later stages about
18 what patients knew, but was it your impression, if you
19 can recall -- or looking at this what you think you
20 might have thought -- that what was being said was
21 that this was a risk that patients knowingly took?

22 A. No, I don't have any recollection of that.

23 Q. Then over the page, we can see the line to take under
24 the heading "General" is about welcoming the report:
25 "... as a contribution to of our understanding of

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the effect that Hepatitis C has on sufferers and their families."

Then in terms of the recommendations -- if we just look at the whole of the page, first of all, please, Lawrence -- we can see there are four headings there, "Financial Help", "Public Education", "Treatment Care" and "Further Research". I'm only going to be asking you, Lord Horam, for present purposes at least, about the financial help and we can see there the line to take that's being given to you is:

"I have enormous sympathy for those inadvertently infected. We have no plans to provide compensation. These patients received the best treatment that was available at the time and we do not accept that there was negligence."

Now, I am going to come back at a later stage, Lord Horam, to this idea of the best available treatment. But I think it's right to say that you were repeatedly told in the documents prepared for you that that was the case, that patients received the best available treatment at the time, were you not?

A. That is right.

Q. The interim report itself on which Mr Pudlo was here commenting is at HSOC0002726_002, and I'm just going

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"Among those not yet seriously ill the damaging impact on their lives is already apparent.

"There are fears of infecting partners, not being able to support dependants and the risks of having a child.

"Income has fallen as the ability to work is restricted.

"Children's education has been disrupted.

"Stress and anxiety has pushed some individuals and families to breaking point.

"Additional expenses are incurred.

"Life insurance premiums have become prohibitive.

"The Government is asked to take immediate action and provide funding for", and then the first bullet point is "Financial support to individuals".

Then if we go over the page we can see the heading "Background to the Research", I don't propose to read through all of that, but the third paragraph explains:

"It is known that hepatitis C, as well as causing chronic liver disease in approximately 80% of those infected can also progress in between 10-20% of those with the chronic condition to cirrhosis of the liver, it can also cause cancer of the liver and

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to look at a little of it, Lord Horam, just to -- so

that we can see the kind of information that

The Haemophilia Society was providing to the Department. So if we go to the second page, "Purpose of the Report", the first paragraph explains that the purpose of the study is:

"... to examine the needs of people with haemophilia and hepatitis C, their partners and families, and to review existing support services."

Then the third paragraph explains that:

"[The] interim report focuses on what the Government can do to help alleviate some of the financial and social consequences faced by those infected and their families. A report on the complete research will be produced early in 1996."

Then if we go to the next page we have the "Executive Summary". If we just look at the bullet points:

"More than 3,000 people with haemophilia have been infected with HCV as a result of their treatment with contaminated blood products.

"All face the possibility of cirrhosis, liver cancer and liver failure. At least 50 people have died from liver failure between 1988 and 1994, fourteen are known to have died in 1994.

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death. This progression can take 20-40 years. Over 50 people with haemophilia are known to have died from liver failure between 1988 and 1994, and 14 in 1994 alone."

Then we can see the next page, it's headed "Health problems facing people with haemophilia and hepatitis C". I'm not going to read through all of it, but if we go to the bottom of the page we can see it says:

"Among people with chronic hepatitis C there were reports of ..."

Then there is a range of serious and debilitating conditions or consequences there set out.

Then if we go on to page 7, please, Lawrence, you'll see, Lord Horam, there is a section on "The Social and Financial Implications for People Infected with Hepatitis C", beginning "Stress and Anxiety".

And if we just go -- just bottom half of the page, please.

So under that last quote from "Mrs F, aged 52", it says that.

"People reported that they are suffering uncertainties and worries about their health and their future, which leads to stress and anxiety. The prognosis for any individual with chronic hepatitis C

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is generally not known but for the group as a whole it is known that 10-20% will develop serious liver damage and some will develop cancer of the liver. This uncertainty and fear for the future adds to the stress of individuals who are concerned not just for the future of their own health but also how to cater for the future of their dependants. Many have young children."

Then if we just go on to the next page, please, it's the fifth paragraph beginning:

"The lack of public knowledge and awareness about haemophilia generally and HCV in particular can lead to social ostracism, as people feel that there is no-one to talk to who will understand their fears."

Then there is a description, for example, of problems in getting dental treatment and so on.

Now, I'm not going to get through the rest of the report but there are sections of impact on family life, employment, education, loss of earnings and so on.

A. Mm.

Q. We know from some documents we'll look at in a few minutes that you were keen to read the report properly and understand it, because you said so in Parliament.

Do you recall what your thoughts were or your

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a result of HCV."

Then the second recommendation:

"An across the board payment to all those infected who are suffering from the uncertainty of not knowing whether HCV will have a severe or even fatal impact on their lives."

A. Yes.

Q. Now, that was, I think, published on 4 December 1995 but an advance copy had been sent to the Department of Health, I think on 1 December.

There was then, if we go to your witness statement --

A. Mm-hmm.

Q. So WITN5294001, page 17, please.

We can see set out in paragraph 2.17 of your statement a parliamentary answer you gave on 5 December 1995. And if we pick it up in the italicised section, the fourth paragraph, you congratulate the Haemophilia Society for its review and Mr Marshall for what you describe as his "relentless questioning over many years, which has already [received] quite staggering results".

Then you say:

"[You] have not yet read the full review, but [you] shall do so as a matter of priority and ...

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reaction was when you did have the opportunity to sit down and read through the report properly?

A. Well, this was the interim report.

Q. Yes.

A. Which was to be followed by the full research report, which I don't think was produced until February.

Q. That's right.

A. Right. Obviously, when I had the opportunity to read this, I mean one is struck by the awful consequences of the condition. And I also knew from my constituent the difficulties he faced. So I just had total sympathy for the people involved.

Q. If we just look at page 16 of this report we'll see the recommendations that were made by The Haemophilia Society.

So, under the heading "Financial help to Individuals", the recommendations were twofold:

"A hardship fund should be set up by the Government immediately to help those who are already ill. These people have suffered major reductions in their income through their illness, but are also experiencing increased costs such as more prescriptions charges, transport charges and food costs. The fund should also provide financial support for the dependants of those who have already died as

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obviously take its conclusions most carefully into account."

Then you are asked whether there would be an early and sympathetic decision to bring some hope to the families, and you say:

"... I assure the [honourable] Gentleman that the problem will always receive sympathy from me."

So that's 5 December. I'm not going to go to the underlying documents in relation to that. What I want to pick up is a debate in Parliament then on 13 December. You refer to this in the next paragraph of your witness statement. We'll go to the original documents.

But before we look at the parliamentary text, if we just look at DHSC0006774_066.

Now, this is a draft of a text for you to speak to in Parliament, as I understand it; is that right?

A. That's right, yes.

Q. Again, is that a normal part of the process, that the officials within the Department will provide a draft for you to speak to in Parliament?

A. Yes.

Q. Now, I'm not going to go through the line by line, because of more interest is what you actually said in Parliament.

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1 A. Mm.
 2 Q. And that is at HSOC0002072.
 3 So we can see from the date at the top of the page
 4 this is 13 December 1995. So I think you've now been
 5 in post for two weeks.
 6 A. Yes.
 7 Q. And we can see that an MP, George Mudie, is giving
 8 a speech. Now, I'm not going to read through what he
 9 says in this first page. He talks about people being
 10 infected with hepatitis C as a result of treatment
 11 with contaminated blood products.
 12 If we go to the second page, please, Lawrence,
 13 I want to pick it up halfway down the left-hand
 14 column, when Mr Mudie asks what can be done:
 15 "What can be done? Those four words represent
 16 the point at which -- unfortunately -- the Government
 17 and those concerned have in the past parted company.
 18 It is agreed that all I have spoken about until
 19 I uttered the four words 'what can be done' is very
 20 sad and deserving of sympathy. Yet, when the matter
 21 was debated briefly in the other place ..."
 22 That's parliamentary terms for the House of
 23 Lords, I think, Lord Horam; is that right?
 24 A. That is correct, yes.
 25 Q. "... what followed was prevarication and an

29

1 column, if we pick it up in the second paragraph:
 2 "When we debated the subject before, the then
 3 Minister talked in global sums and mentioned a figure
 4 of £6 billion, representing the cost of a total
 5 no-fault compensation scheme. That is not what we are
 6 asking for. We ask simply that a relatively discrete
 7 small group of people should receive some assistance
 8 as a mark of the finance hardship and of the physical
 9 and emotional pain that they're suffering.
 10 "Of course someone in the Treasury, or even in
 11 the Department of Health will say that that would
 12 create a precedent. However, the argument about
 13 precedent is the argument of administrative
 14 convenience; it is not the argument of compassion or
 15 of Christmas -- you and I, Mr Deputy Speaker, have
 16 just come from the Christmas carol service. The
 17 precedent was created when the Macfarlane Trust was
 18 set up; the Government rightly decided to make
 19 ex gratia payments to haemophiliacs infected with HIV,
 20 and then to non-haemophiliacs infected with that
 21 virus. The Prime Minister took a major part in both
 22 those decisions, so I hope the report of our debate
 23 will be sent to him so that he can act upon it."
 24 Then just a little further down the page-- no,
 25 sorry, the previous page still. Sorry, I've got hard

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1 unwillingness to make any real contribution to ease
 2 the plight of those infected.
 3 "To be fair and to balance the picture, the
 4 Government were sympathetic and supportive of
 5 haemophiliacs who received contaminated blood and
 6 became infected with HIV. It is beyond argument that
 7 that disease is more severe than hepatitis C, but the
 8 similarities between them are too great to be ignored.
 9 "The circumstances under which individuals
 10 became infected with a second disease are exactly the
 11 same in each case. The test to prevent HIV being
 12 passed on stopped the hepatitis C virus being passed
 13 on. Both illnesses can be -- and are -- debilitating.
 14 All those who suffer face the worry of passing the
 15 disease to a loved one or to an unborn child. All
 16 face difficulties in education and employment. All
 17 face the impossibility of gaining life insurance,
 18 unless it is offered at a totally prohibitive cost."
 19 Then Mr Mudie sets out, and we see a reference
 20 to this family in a number of different parliamentary
 21 reports, I won't read it out, but three brothers, two
 22 infected with HIV, who received some financial
 23 assistance, a third, infected with hepatitis C --
 24 contracted hepatitis C, died, received nothing.
 25 Top of the next page, please. So right-hand

30

1 copies, two copies of the same page. No, that's fine.
 2 So we then get a response from you --
 3 A. Mm-hmm.
 4 Q. -- and if we -- I'm sorry.
 5 Can we go back to the previous page because I've
 6 skipped over something.
 7 So it continues with Mr Mudie's contribution.
 8 What I should have made clear is what I just read from
 9 was Mr John Marshall's contribution. We see that at
 10 the bottom of the page. We can go to the next page.
 11 My apologies, Lawrence.
 12 So if we can go to the next page.
 13 So I'm not going to read through the rest of
 14 what Mr Marshall says, but we then see your response,
 15 Lord Horam.
 16 A. Mm.
 17 Q. I think we can pick it up at the bottom of the page,
 18 last paragraph, where it says:
 19 "I have just come to the Department of Health,
 20 and there is a great deal to read. I would like to
 21 read the Haemophilia Society's report thoroughly, but
 22 I've not yet had the opportunity to do so. I shall
 23 make that a very high priority, but I want to read the
 24 report and not merely a brief. I am aware that the
 25 report graphically describes the problems experienced

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by some sufferers who find that they now have to contend with the effects of hepatitis C infection on top of the effects of haemophilia."

You then in the next paragraph say this, and again I'm going to read it now and come back to it later. You say this:

"The great benefits to patients of medical procedures rarely come without some risk, and I would like to put the matter into that context. It is important to remember that it is not always possible at the time treatment is given to fully appreciate the risk or to avoid suspected or known risks. In the case of each individual patient, a balance must be struck between the benefit to be gained versus any possible risk. The patients we are now discussing received the best treatment available in the light of medical knowledge at the time. I do not think that either the hon Gentleman or my hon Friend will dispute that.

"The factor 8 concentrate -- the cause of the infection -- has brought great benefits to patients with haemophilia. Previously, only about 5 per cent of patients with severe haemophilia reached the age of 40, whereas by 1980 -- as a result of factor 8 concentrate and drugs -- the life expectancy was very

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your speech. You say:

"Most haemophilia patients infected with hepatitis C were so infected before the blood products were treated to destroy viruses in 1985, and well before tests for hepatitis C became available. Before then, the only way to safeguard blood was to limit those from whom blood was taken by a system of self-deferral. This excluded, amongst others, those known to be suffering from hepatitis, or any other liver disease, and drug misusers."

Now, would it be fair to assume, Lord Horam, that that information, about the system for safeguarding blood, would be based upon what officials had told you, rather than your own independent knowledge?

A. Yes, that's correct.

Q. Do you recall whether officials ever talked to you, at this point at least, about how blood products used for the treatment of haemophilia had come from, to a large extent, products collected in the -- blood collected in the United States?

A. That was an issue that I was aware of. Whether officials brought it to my attention, I can't recall.

Q. Do you recall whether anyone ever talked to you about how blood had been taken, to some extent at least in

35

close to that of normal males."

Then you go on to set out what were said to be a number of other advantages of the Factor VIII concentrate.

Now, would it be right to understand, Lord Horam, that that kind of information, in particular about what is said to be the impact on life expectancy, would have been supplied to you by officials within the Department?

A. Yes, it was.

Q. The inference, I think, that is being set out in the first part of that paragraph is to say that this dramatic change in life expectancy was attributable to Factor VIII concentrates. That's what you were saying?

A. That is what was being said.

Q. The Inquiry knows that there is some evidence to suggest that a treatment called cryoprecipitate, which was available before Factor VIII concentrates became more widely available, may have made a major contribution to improved life expectancy. Do you recall whether cryoprecipitate was something that was ever raised with you by your officials?

A. No, it was not.

Q. Then if we just go to the next paragraph, please, in

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the States and in the United Kingdom, from prisons?

A. I was aware of that. I think it was general knowledge. But I don't know whether the officials specifically brought it to my attention.

Q. You refer here to the system of self-deferral, so the idea of trying to exclude those who might be at high risk. Did officials ever talk to you about whether there were -- the adequacy of that system, how well it worked or didn't work in practice?

A. No, I don't recall that being brought up with me.

Q. You then set out some figures. I'm not going to read through those. But if we, I think, then go to the next page -- no, the next column, sorry, same page.

We can see there, the third paragraph, you refer there to The Haemophilia Society's report again. Then Mr Marshall intervened in the debate and said:

"Does my hon Friend agree that, if a relatively small proportion of sufferers will develop cirrhosis of the liver and die prematurely, the cost of helping them will be correspondingly small?"

So Mr Marshall I think here is suggesting, or this is how you understood it, Lord Horam, that you could have a more limited financial support scheme that provided financial support to those who developed cirrhosis of the liver. That was how you understood

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1 it?

2 **A.** That is indeed how I understood it.

3 **Q.** And you said this in response:

4 "Yes. That is a valuable point, which my

5 hon Friend makes for the first time, The

6 Haemophilia Society -- understandably, as it has not

7 completed its study -- has not made full and costed

8 proposals. We have never received such a suggestion

9 to study, and I would be interested to hear details of

10 the relatively modest and restricted proposal which my

11 hon Friend has made during the debate."

12 Then you set out a number of other matters,

13 including some issues that had been raised about

14 treatment with alpha interferon.

15 If we go to the next page, please, and we

16 look -- so it's the left-hand column, the last

17 paragraph, you said this at the end of your speech:

18 "All that I have heard in today's debate

19 suggests that I should read the Haemophilia Society's

20 report extremely closely, and I promise the House that

21 I shall look at the matter afresh in the light of what

22 I said in the report. We have also heard from my

23 hon Friend a sensible suggestion for a more modest and

24 restricted compensation scheme than has been hitherto

25 mentioned. For those reasons, I shall leave the

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1 matter at this stage, although I give my full sympathy

2 to those who have the disease."

3 So, Lord Horam, is it right to understand that

4 you were promising or indicating that you would look

5 at two matters. First, you'd look at the whole matter

6 afresh in light of The Haemophilia Society's report,

7 and, secondly, you wanted to think about the more --

8 the narrower proposal that Mr Marshall had put

9 forward?

10 **A.** Yes, you state that totally accurately.

11 **Q.** And I think I'm right in saying that those promises

12 you gave were effectively -- they were a deviation

13 from the script, in a sense. That was not what

14 officials had primed you to say?

15 **A.** As regards the first one, reading the report extremely

16 closely, I think I would have said that anyway.

17 I don't know whether -- I can't recall whether I would

18 have been briefed to that effect by --

19 **Q.** That may be right. It's more the -- it's the use of

20 the words "I shall look at the matter afresh".

21 **A.** Ah.

22 **Q.** Was this your initiative, if I can put it a different

23 way?

24 **A.** Well, they were my words, and so I take responsibility

25 for those. I don't know whether they were the words

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1 of the civil servants in their briefing or not.

2 **Q.** We can look and see what the response was, I think,

3 perhaps, to what you said, and pick it up in that way.

4 So then we have your speech on 13 December 1995,

5 your words to Parliament.

6 If we just, again taking things in a strictly

7 chronological order, go to DHSC0004060_002.

8 Now, this is a letter sent from you the

9 following day, 14 December 1995, to an MP who had

10 written on behalf of a constituent.

11 And if we can see, I think probably just in

12 the -- it's the second through to the fourth

13 paragraph, you say in this letter:

14 "My predecessor explained the Government's

15 position on those infected with hepatitis C in the

16 Adjournment Debate on 11 July ... We have great

17 sympathy with those patients who may have become

18 infected with hepatitis C through blood transfusions

19 or blood products. However, in the absence of

20 negligence we have no plans to make special payments."

21 The next paragraph then, again, talks about

22 patients receiving the best treatment available in

23 light of medical knowledge at the time.

24 Then the next one says:

25 "The Government has never accepted the case for

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1 a no fault scheme of compensation for medical

2 accidents. It is unfair to others and still requires

3 proof of causation which is often difficult to

4 establish. Every individual case where a medical

5 accident has occurred is a personal tragedy for both

6 the individual concerned and their family. If the NHS

7 is proved negligent in a Court, it accepts its

8 liability to pay damages."

9 And so on, and so the letter continues.

10 What you say about this in your statement,

11 Lord Horam, and perhaps you want -- if you would want

12 to turn that up, WITN5294001, and we can go to

13 page 19, I think. Yes, paragraph 2.20, page 19.

14 What you say is this, and you refer to the

15 letter, and then you say in the third line:

16 "As the Inquiry will be aware, responses such as

17 this would be drafted by officials at first instance

18 and the draft sent to me for approval. This letter

19 would undoubtedly have reflected the Department's

20 established position at the time against a Hepatitis C

21 payments scheme. For example, the reply stated that

22 we had no plans to make special payments and argued

23 that the most effective use of resources was to seek

24 to improve the understanding, management and treatment

25 of the condition. As I address below, I wanted to

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1 soften this standard line in correspondence."
 2 We'll come on to the softening of the standard
 3 line.
 4 But, essentially, although this letter was sent
 5 out the day after you'd said in Parliament you would
 6 look at matters afresh, it had been drafted, no doubt,
 7 before then --
 8 **A.** Correct, that's correct.
 9 **Q.** -- and it reflected --
 10 **A.** The prevailing line --
 11 **Q.** -- the existing policy?
 12 **A.** -- absolutely right.
 13 **Q.** So if we can then pick up on the response within
 14 Government to what you said in Parliament, and I think
 15 we can start at DHSC0042937_036.
 16 This is from a Mr Grice in HM Treasury to
 17 Mr Dobson in the Department of Health, it's dated
 18 18 December 1995, and it says this:
 19 "I was a little concerned to see Mr Horam's
 20 remarks in the debate on haemophiliacs on
 21 13 December ..."
 22 That's what we've just looked at:
 23 "The Government has a firm and agreed policy on
 24 such issues. Consistent with that policy, and for the
 25 avoidance of doubt, I should indicate that the

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1 Treasury would be strongly opposed to what Mr Horam
 2 termed 'the relatively modest and restricted proposal'
 3 made by Mr John Marshall MP."
 4 Now, you tell us in your statement,
 5 Lord Horam -- I don't think we need to put it on
 6 screen, but it's paragraph 2.21 -- that it's highly
 7 unlikely that you would have seen this letter at the
 8 time?
 9 **A.** That's correct.
 10 **Q.** Would it be right to understand that you saw it for
 11 the first time when it was provided to you for the
 12 purposes of making your statement?
 13 **A.** Yes.
 14 **Q.** Having seen it for the first time, what's your
 15 reaction to seeing the Treasury write in these terms
 16 to another senior official within the Department?
 17 **A.** Concern. I mean, I think, in a sense, one could say
 18 the Treasury was doing its job. The Treasury is
 19 looking after the Government -- after the taxpayers it
 20 has to look at all this and, it probably felt that I'd
 21 said something which was not consistent with existing
 22 policy, and they were just stating to their colleagues
 23 in the Department of Health that this was the case.
 24 **Q.** Does it surprise you that this wasn't drawn to your
 25 attention at the time by officials within the

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1 Department of Health?
 2 **A.** Yes.
 3 **Q.** Now, if we pick it up then -- so we see that's the
 4 Treasury response. We can then get a sense of the
 5 internal Department of Health response from
 6 DHSC0004498_051. You refer to this in paragraph 2.22
 7 of your statement, but I think the document is
 8 probably more helpful to look at.
 9 So it's from Ann Towner to Mr Pudlo. This is
 10 also sent to Ms Weatherseed, so sent to your
 11 Private Office 20 December 1995. It says this:
 12 "Correspondence on Compensation for
 13 Haemophiliacs Infected with Hepatitis C."
 14 Now, that's a reference to the kind of
 15 letters --
 16 **A.** Yes.
 17 **Q.** -- that MPs would write raising their concerns or
 18 constituents' concerns?
 19 **A.** That's correct.
 20 **Q.** You say this:
 21 "You [and that, I think, may be Ms Weatherseed
 22 but, in any event, it doesn't matter] rang to advise
 23 that PS(H) [that's you, Lord Horam] would like the
 24 words 'at present' inserted in the statement that 'we
 25 have no plans to make special payments' in our replies

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1 to correspondence on compensation for haemophiliacs
 2 infected with hepatitis C."
 3 Then there is, I think, a reference to
 4 a particular letter where it's suggested that you'd
 5 already made such an amendment.
 6 Then paragraph 2 says:
 7 "In answering recent parliamentary questions and
 8 in adjournment debates PS(H) has said that he wishes
 9 to study the Haemophilia Society's interim report of
 10 its impact study carefully before coming to any
 11 conclusions about its implications. He has also
 12 indicated a willingness to study any new proposals
 13 (eg for schemes limited to those who develop chronic
 14 illness). However we fear that if we were to qualify
 15 the existing line in correspondence as suggested, it
 16 would be taken as indicating a weakening of the
 17 Government's position and imply that compensation is
 18 being considered, and further continued pressure would
 19 lead to concessions.
 20 "In view of the above, PS(H) may wish to discuss
 21 the proposed additional wording with SoS."
 22 That's the Secretary of State.
 23 Now, it might be thought that last sentence has
 24 an air of you being sent off to the headmaster's
 25 study. Is that a fair way of reading it, do you

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1 think?

2 **A.** I wouldn't put it in quite those terms but it was

3 a sort of warning, if you like.

4 **Q.** A gentle rap across the knuckles?

5 **A.** You could put it like that if you wanted to, but

6 a warning that I really ought -- if I'm going to go

7 down this path, I really ought to discuss it with my

8 colleague, the Secretary of State.

9 **Q.** We can see, I think, there is an accurate account in

10 the first part of the paragraph 2 of what you'd said

11 in the recent debates --

12 **A.** Yes.

13 **Q.** -- you wanted to study the report, you wanted to

14 consider any new proposals. I think -- is this

15 right -- it's clear that the Departmental officials

16 don't share your enthusiasm for looking at the matter?

17 **A.** That's right. That is correct.

18 **Q.** Then we can see if we go to DHSC0004498_188, this is

19 a communication to the Permanent Secretary. Would the

20 Permanent Secretary at that point have been

21 Graham Hart, do you know?

22 **A.** Yes.

23 **Q.** If the Secretary of State is the headmaster, I'm not

24 quite sure what that makes the Permanent Secretary

25 but, in any event, it might be said there is an air of

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1 you being reported to the Permanent Secretary here.

2 So the date is still 20 December 1995, there is

3 a reference towards the bottom of what we see on the

4 screen:

5 "Thank you for copying your minute to me. I

6 have copied it on to the Permanent Secretary (and

7 Miss Edwards) -- see the attached note."

8 Then if we go down to the bottom of the page,

9 and this is not, I think, something that you saw at

10 the time -- again your statement sets that out -- but

11 it says this:

12 "The Permanent Secretary may be wish to be aware

13 of the attached minute. I mentioned to him the other

14 day that PS(H) was clearly not happy with the firm

15 line Ministers have taken up to now on compensation

16 for haemophiliacs infected with hepatitis C. It is

17 quite clear that he is trying to change the line,

18 little by little. He has had plenty of briefing

19 (written and oral) on the subject, but his sympathy

20 for those concerned is clearly uppermost in his mind.

21 Cost comes second -- hence his readiness to consider

22 proposals for a scheme limited to those who have

23 actually developed chronic illness, rather than

24 extending to all who had been infected. Secretary of

25 State met a group of haemophiliacs (led by

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1 Roy Hattersley) yesterday, and made no concessions."

2 So if we just go back to the bottom of that

3 previous page, and we just look at the text, those

4 last 10 lines or so. Thank you, Lawrence.

5 Now, I think in your statement you suggest you

6 weren't necessarily trying to change the line, you

7 wanted to explore the position, however, with an open

8 mind; is that a fair summary?

9 **A.** Yes.

10 **Q.** The reference there to "cost coming second", was it

11 your understanding, whether at the time or from

12 looking at the fuller range of documents you've seen

13 for the purposes of your statement, that from the

14 Department's perspective, as well as the Treasury's,

15 cost came first?

16 **A.** I don't think it's a question of cost coming first,

17 it's just that there was clearly a big cost, and the

18 Department had always taken the line that when it came

19 to allocating money, treatment and healthcare was the

20 first consideration and compensation the second

21 consideration.

22 **Q.** Well, were you at this point, or indeed at any point,

23 made aware that in the previous -- well, in the same

24 calendar year but earlier in 1995, Gerald Malone had

25 voiced a similar view and, in the words of

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1 Baroness Bottomley yesterday, had overspoken or got

2 a bit carried away, and again was -- I think as my

3 colleague, Mr Hill, put it -- put back in his box.

4 Were you aware at the time of Mr Malone having raised

5 this issue a number of months previously?

6 **A.** No, I wasn't, no.

7 **Q.** Then we can see at DHSC0004498_045, this is

8 21 December 1995, and it's from Mrs Weatherseed in

9 your Private Office to the Departmental officials. It

10 refers to the first of the 20 December documents we

11 looked at, Ms Towner's minute, rather than the minute

12 to the Permanent Secretary and it says that you:

13 "PS(H) has seen Ann Towner's note of 20 December.

14 Basically, he very much accepts the Department's

15 stance on this issue, but does not want to give the

16 impressions that he is deaf to the concerns of the

17 haemophiliac community. He said at the recent

18 adjournment debate that he wanted to read the

19 Haemophilia Society's report carefully, and would like

20 to reflect that sort of attitude in the standard

21 reply.

22 "However, he has noted your concerns about the

23 wording he suggested and has asked whether you can

24 propose an alternative form of words which would

25 convey this."

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1 Now, can I just explore with you that first
2 paragraph, where what's said is that -- you very much
3 accept the Department's stance but you don't want to
4 "give the impression" of being "deaf to the concerns
5 of the haemophiliac community".
6 Now, it might be said that wording is a bit
7 ambiguous.
8 A. Mm.
9 Q. Was it that you wanted to give the impression that you
10 were listening or was it that you genuinely wanted to
11 consider the concerns of the community?
12 A. I wanted to consider the alternatives, that's why
13 I commissioned the Department to look at the various
14 alternative options.
15 Q. If we pick up your observation on this in your witness
16 statement at WITN5294001, page 21, paragraph 2.25, and
17 it's just below the italicised extract from the
18 document we've looked at. You say:
19 "This minute reflects that while I was very
20 sympathetic to those infected with Hepatitis C through
21 contaminated blood, I was fully aware of the concerns
22 of the Department about cost and precedent. I was,
23 however, fighting to avoid being pinned down to this
24 until I read into the subject more widely and had
25 a chance to consider whether there were any other

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1 options."
2 So that reflects your thinking at the time?
3 A. Indeed, yes.
4 Q. Now, if we then -- I don't think we need to put it up
5 on screen but I'll just read a reference into the
6 transcript, it's HSOC0014333. On 21 December you
7 wrote to the Reverend Tanner, explaining that you
8 wanted to consider the report and you suggested
9 a possible meeting in the New Year. You deal with
10 that in your witness statement, paragraph 2.26, and
11 explain that was essentially a holding reply. So
12 I don't think we need to take time looking at that.
13 But if we go to now early 1996, DHSC0003883_123.
14 This is from your Private Office to Mr Guinness within
15 the Department of Health, and you say this -- or she
16 says this on your behalf, in the first paragraph:
17 "... PS(H) has been giving further thought to
18 the issue of awarding compensation to haemophiliacs
19 who contracted hepatitis C before routine screening of
20 blood products was introduced. He is well aware of
21 our current position on this issue and the reasons for
22 this. However, against a background of mounting
23 political pressure, he would like to explore the
24 options for offering compensation, if only to assure
25 himself that we have done all that is feasible."

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1 The reference there to "mounting political
2 pressure", is that essentially a reference to the
3 views that were being expressed, I think by MPs -- not
4 just in opposition but a number of different MPs -- on
5 this issue?
6 A. Yes.
7 Q. Do you recall whether there were any other sources of
8 pressure at that time. I suppose there was The
9 Haemophilia Society's campaign itself?
10 A. Well, there was The Haemophilia Society's campaign.
11 Q. Then Ms Weatherseed says:
12 "I would be grateful if you could prepare
13 a submission for PS(H) setting out costed options for
14 compensation (which could vary, for example, according
15 to factors such as age, the existence of dependants,
16 hardship factors, limited to those who have actually
17 developed Hep C). This should include an assessment
18 of how far any of these options are likely to be
19 acceptable to the Haemophilia Society.
20 "This should also provide advice on the likely
21 availability of funds and the implications any change
22 in policy might have in terms of triggering off
23 demands from other areas, both from people (whether
24 haemophiliacs or not) who were infected by blood,
25 rather than blood products, and more generally (for

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1 example, if blood or blood products are shown in
2 future to have transmitted as yet unrecognised
3 infectious agent)."
4 So you essentially asked officials to go away
5 and work up a set of options for you to consider?
6 A. That's right.
7 Q. Then if we could look at a document that I think is
8 just a handful of days earlier than the one we just
9 looked at, DHSC0042937_032.
10 This is 8 January 1995, but it's obvious from
11 the context, and I think your statement also make this
12 point, that it should have been -- it's January 1996
13 that's being referred to here. So I think that's just
14 a typo, early in a New Year of not having changed the
15 date.
16 A. Yes.
17 Q. It's from Mr Guinness to Dr Rejman, and it says this:
18 "I had a meeting with the Permanent Secretary on
19 Friday.
20 "He was pleased to note that PS(H) had now
21 agreed a draft with which we were happy [that's the
22 wording of the standard letter and we'll look at that
23 in due course] and that the Secretary of State had
24 recently written in firm terms to the Prime Minister
25 on a constituency case.

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1 "His view ..."

2 I read this, Lord Horam, as referring to the

3 Permanent Secretary:

4 "His view is that, if pressure continues, we

5 shall eventually be forced to concede. It would be

6 nice to do so in an orderly manner, but, in practice,

7 the Treasury would be unlikely to budge until such

8 time as the political situation became so untenable

9 that the Prime Minister decreed that something had to

10 be done. For the time being, therefore, we should

11 continue to hold the line firmly.

12 "No specific action was requested, but it would

13 probably be wise to undertake some contingency work on

14 the sort of scheme favoured by John Marshall so that

15 we can move quickly if necessary."

16 Now, again, there is no indication that you

17 would have seen this minute at the time?

18 A. No, I didn't.

19 Q. Would it be right to understand, again, that you saw

20 this for the first time for the purposes of preparing

21 your statement to the Inquiry?

22 A. That would be correct.

23 Q. Were you surprised to learn that the

24 Permanent Secretary's view was that the Department or

25 the Government would eventually be forced to concede?

53

1 A. Yes.

2 Q. Does it concern you that that's not information that

3 was shared with you at the time?

4 A. Yes.

5 Q. I'm conscious --

6 A. I don't know, just to add to that, it's rather strange

7 thing to have said in the context that we're talking

8 about because, as far as I could see, the line had

9 been maintained for quite a long time by various

10 ministers. It would be odd for him to suddenly say --

11 even for the Permanent Secretary to say to another

12 civil servant that we shall eventually be forced to

13 concede. I mean that, I suppose, is his sort of

14 judgement, which I'm rather surprised at, given the

15 total context.

16 Q. The tipping point that appears to be envisaged by the

17 Permanent Secretary, assuming this to be an accurate

18 representation of his views, is political pressure or

19 an untenable political situation. Does that reflect

20 the way in which decisions were taken within

21 Government at that time, that rather than looking at

22 what might be said to be the case for supporting

23 people in desperate circumstances, what's going to

24 drive the Government to change its position eventually

25 is an untenable political situation?

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1 A. Well, I think -- I think the underlying problem is

2 reflected in the Government's attitude, and I think

3 that -- I mean, there is clearly a difficulty here, in

4 that the case has been conceded for people suffering

5 from HIV and, therefore, by extension, should it be

6 taken on by people suffering from hepatitis C.

7 And I think that it's not really just -- I don't

8 think it's really just matter of the politics or the

9 political situation; I think there was an underlying

10 tension, if you like, between what the real problem

11 was and what the Government's position had been for

12 some time.

13 Clearly, the Treasury would have a role in all of

14 this, and I think it's probably unfair to say it was

15 just the politics of the matter; I think that there

16 was a real problem here which the Government was

17 trying to address, and there will be varying degrees

18 of pressure, which The Haemophilia Society quite

19 sensibly was trying to mount to produce a change

20 because it believed there should be one.

21 And I think if it's perfectly proper for

22 a Government to say, "Well, there is a difficulty

23 here, let's -- we are where we are, let's see how it

24 pans out. We know it's going to be difficult to

25 change the line because the Treasury will have views

55

1 as well as us, but we'd better wait to see how it pans

2 out". Remembering -- I think this is 8 January, and

3 we hadn't yet seen the final report from the

4 Haemophilia Society.

5 So I think there will be an extent to which the

6 Government, any sensible Government, would want to

7 wait to see what impact that had.

8 Q. Looking at it now, you would have wished to have been

9 informed of the Permanent Secretary's views,

10 presumably, because it would potentially impact upon

11 your own thinking?

12 A. Yes, I agree, I would have liked to have been informed

13 because that was something I wasn't fare of. I mean,

14 from my point of view the position of the Government,

15 that is to say the Department of Health and the

16 Treasury, is quite clear, had been so for a long time,

17 and I had been, in effect, as you pointed out, rather

18 warned off from trying to attempt to say "Are there

19 other options, more modest options which we can look

20 at?"

21 Q. Of course, if the Department or the Government waits

22 until it's eventually forced by mounting political

23 pressure to concede, almost inevitably there will have

24 been individuals who will have died in that

25 intervening period?

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1 A. Absolutely, yes.

2 MS RICHARDS: Sir, I note the time, perhaps we could take

3 our break and pick up the chronology afterwards.

4 SIR BRIAN LANGSTAFF: Yes, well, we'll do that.

5 Now, Lord Horam, you're giving evidence under

6 oath. What you must not do is talk to anyone about

7 the evidence you have given, or any evidence which you

8 anticipate you may yet be asked to give, but you can

9 talk about anything else you like.

10 We'll take a break now until 11.50. 11.50.

11 MS RICHARDS: Thank you, Sir Brian.

12 (11.17 am)

13 (A short break)

14 (11.50 am)

15 SIR BRIAN LANGSTAFF: Yes?

16 MS RICHARDS: Lord Horam, we saw before the break that you

17 had wanted to soften the wording in the standard line

18 or standard response that was sent out to MPs. You'd

19 wanted to add the words "at present" --

20 A. Mm-hmm.

21 Q. -- and you'd met with a degree of resistance on the

22 part of the Departmental officials.

23 A. Yes.

24 Q. I think the wording that was ultimately alighted upon

25 we can see from DHSC0004498_025.

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1 So this is a sample letter, this one is to an MP

2 dated 8 January 1996, and you say in the third

3 paragraph that you want to take time to read

4 The Haemophilia Society's report in detail. You set

5 out your belief that it graphically describes the

6 problems experienced by some sufferers and how that

7 will supplement what you'd heard about the plight of

8 those infected during debates, from correspondence and

9 at meetings.

10 You then, in the last paragraph, refer to,

11 again, the standard line to take, "best treatment

12 available in light of medical knowledge", and so on.

13 Then over the page, you say this:

14 "We are always ready to listen to further

15 evidence but I have to say that on the basis of these

16 facts we have no plans to make payment to such

17 patients. This position is consistent with

18 Government's overall policy of not accepting the case

19 for a no fault scheme of compensation for medical

20 accidents."

21 So that, I think, was the slightly amended line,

22 a readiness to listen, but on the basis of current

23 facts, no plans; is that right?

24 A. Well, the addition was, "we are always ready to listen

25 to further evidence".

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1 Q. Yes.

2 A. I think that was the point want I wanted inserted,

3 because, as you can see, I was trying to see whether

4 there was any more modest proposals that could be

5 entertained, alongside the overall position, which the

6 Government had adopted.

7 Q. Now, again, around the same time, this is in

8 January 1996, there is a further departmental minute

9 I just wanted to explore with you, DHSC0042937_035.

10 It's from Ms Towner to Mr Guinness and

11 Ms Marsden, copied to Mr Pudlo, Dr Rejman, dated

12 19 January 1996, so it's not copied to your

13 Private Office, and I don't think there is anything to

14 suggest that you saw or would have seen this at the

15 time. We can see Ms Towner says this:

16 "You asked for information which might help you

17 in responding to Treasury's letter of 18 December,

18 after they read the *Hansard* report of the debate on

19 13 December."

20 That is that letter from Mr Grice to Mr Dobson

21 that we looked at this morning.

22 A. Yes.

23 Q. "The new PS(H) John Horam wishes to appear is

24 sympathetic ..."

25 A. That's "as".

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1 Q. "As" I think it probably is, yes:

2 "... wishes to appear [as] sympathetic to the

3 situation of haemophiliacs who contracted Hepatitis C

4 and open to receiving and considering any information

5 put forward. However no commitment to making any such

6 payments has been made. Officials fully understand

7 the financial and precedent implications or

8 introducing even some form of limited 'compensation

9 scheme' and will continue to make these clear to

10 Minister as opportunity arises, as they did when

11 briefing for the debate in question.

12 "Treasury may find it reassuring to hear of the

13 outcome when PS(H) recently want to amend

14 a private office reply on the subject to insert 'at

15 present' in the phrase 'we have no plans to make

16 payments'. Officials explained their concern that

17 this might lead to expectation of a change in policy.

18 PS(H) said he understood this, and subsequently

19 accepted a revised draft reply (copy attached) which

20 emphasised the sympathy and readiness to study facts

21 arguments but left the original wording to having no

22 plans to make payments intact. Perm Sec was advised

23 of officials' concerns, and has since confirmed that

24 he is content with the approach accepted by PS(H)."

25 Then this:

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1 "Officials will of course continue to keep
2 a watch on relevant correspondence etc. And of course
3 PS(H) cannot alter the Department's policy without the
4 agreement of SoS who -- recent correspondence
5 suggests -- retains a firm line."
6 So this is a communication, it would appear,
7 designed to try and reassure the Treasury --
8 A. A mm.
9 Q. -- that the Department's keeping a watch on you, and
10 the Departmental officials, at least, are keen to
11 maintain the existing policy; is that a fair reading
12 of this, in your view?
13 A. Yes, that's a fair reading of it.
14 Q. But, of course, you didn't see this at time?
15 A. No.
16 Q. Now, we saw before the break you'd asked --
17 Ms Weatherseed had asked on your behalf --
18 Departmental officials to put together a paper setting
19 out options. We can see, if we look at
20 DHSC0002550_064, Mr Guinness wrote to Mr Pudlo on
21 19 January setting out a broad structure for the
22 paper. So the plan was that it would set out
23 options -- and we'll look at those when we look at the
24 actual paper itself -- a section on the
25 Haemophilia Society:

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1 set out the references in your statement, Lord Horam.
2 So we'll go to the paper itself that was sent to
3 you, it's SCGV000166_015, and you'll see this is
4 a minute dated 9 February 1996 from Mr Guinness to
5 your Private Office, Mrs Weatherseed, then if we look
6 at the text:
7 "Purpose of submission.
8 "This submission responds to PS(H)'s request, as
9 set out in your minute of 12 January, for a submission
10 on options for compensating haemophiliacs who
11 contracted hepatitis C ... before routine screening of
12 blood products was introduced."
13 Then there is a summary, I don't think I need to
14 read that because we'll look at the paper itself. If
15 we go over the page, then we can see there is
16 a heading "Options", and it sets out, again, what the
17 submission looked at.
18 So if we pick it up on the next page, we can see
19 the main content of the paper, there is a heading
20 "Natural History of HCV", I'm not going to read that
21 out.
22 A. Sure.
23 Q. Bottom of the page, there is a heading "Number of
24 Haemophiliacs Infected with HCV", and there is
25 a record of there being general agreement that about

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1 "Note the differing views of society and more
2 radical members.
3 "Funding.
4 "Note Treasury line time of HIV scheme and far
5 tighter position now in relation to drawing on the
6 Reserve. Stress that any payments would have to come
7 from less money being available for patient care."
8 Then:
9 "Slippery Slope.
10 "Needs to mention Hepatitis G, CJD, and the
11 rest.
12 "Somewhere ...
13 "Mention that Mr Scofield's submission and
14 subsequent papers are available for perusal if PS(H)
15 wishes."
16 That, I think, is a reference to some
17 documentation put together when the issue had been
18 raised earlier in 1995.
19 So that's the proposed structure of the paper.
20 A. Yes, I would not have seen that.
21 Q. No, you wouldn't have seen that.
22 There is then some minutes going back and forth
23 between officials with a draft, comments from
24 Dr Metters, comments from the Permanent Secretary, I'm
25 not going to take time going through those. You've

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1 1,300 haemophiliacs were infected.
2 Then if we go over the page, we see the first of
3 three options set out. So the first is a scheme based
4 on the lump sum elements of the HIV scheme, and
5 paragraph 8 records what those payments were, and
6 paragraph 9, towards the bottom of the page, sets out
7 what the average payment under the HIV scheme had
8 been, £60,000.
9 So this option, as I understand it, Lord Horam,
10 is costed on the basis of assuming a similar figure,
11 and then you get the costs set out there, it would be
12 180 million if paid to all infected; 90 million if
13 limited to those with chronic hepatitis; 36 million on
14 the John Marshall model, limited to those with
15 cirrhosis. That's a simple calculation based upon
16 multiplying 60,000 by reference to the numbers that
17 might fall within each of those cohorts.
18 If we go over the page, paragraph 10 explains
19 what the figures exclude. So they exclude any
20 extension to infected spouses or children or
21 administration costs.
22 Paragraph 11 deals with the question of payments
23 to the estates of those who had died.
24 Paragraph 12 says different stages of the
25 disease are difficult to define precisely.

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Paragraph 13 explains there could be variants on this option. For example, paid 20,000 on evidence of infection, with higher sums if chronic disease was confirmed.

Paragraph 14 explains the costs would be heavily front loaded if based on infection, but spread over a period of many years if based on chronic disease.

Then paragraph 15:

"A scheme of this kind would be:-

"- simple, but expensive and untargeted if based on infection alone.

"- less simple (some would say impossible to operate), but somewhat better targeted, if it took account of the various stages of the disease."

So that's the first option you were presented with in any event, a scheme based on lump sum elements of the HIV scheme.

If we go over to the next page, we can see the second option was a scheme based on the discretionary elements of the HIV scheme, and paragraph 16 explains that the Macfarlane and Eileen Trusts made payments to those suffering particular hardship. Some details of those payments are then set out. I don't propose to read through that.

If we go to the bottom of the page, paragraph 19

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Then it's explained that some of these costs will be met from the interest earned by the Trust, so it would not all fall to the public purse.

"An alternative approach might be to involve the insurance industry ..."

Then paragraph 21:

"A scheme of this kind would enable needs to be targeted more precisely, but would have the disadvantages associated with means testing, as well as being expensive to administer. It would have to stay in place for many years, unless off-loaded to the insurance industry."

So that's your second option.

Then the third option, "A Scheme Based on the Irish scheme", and this refers to a recent announcement by Irish ministers of extending an existing scheme covering those who had contracted HCV from Anti D to other individuals who had become infected.

Then some details are there set out how it's, administered by a tribunal, the approach of the tribunal. Paragraph 23 explains that:

"So far there have been no awards as the Tribunal has yet to be established.

Paragraph 24 in the absence of hard information

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says:

"Equity would suggest that payments to people infected with HCV should be on the same basis as payments to people infected with HIV. Payments at these levels [those of the modest sum set out above, the modest monthly sums] would be most unlikely to be acceptable on their own, (many would get £70 a month) and would therefore be additional to any lump sum scheme."

Then the next page, please, paragraph 20 discusses some of the difficulties in costing this idea, because detailed knowledge of age, profile and financial circumstances of potential recipients would be needed.

"A rule of thumb would suggest that a scheme for haemophiliacs infected with HCV would cost around £6 million a year, but the true figure is likely to be a bit higher ..."

A suggestion is made of £7 million per year.

There is then a discussion about how total costs would depend on how long people lived:

"People infected with hepatitis C are likely to survive on average considerably longer than those with HIV. An average of 20 years might be assumed, giving a cost ... of around £140 million."

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it's very difficult to assess what sort of payments might arise under such a scheme."

So those are the three options that were set out in the paper for you.

If we go over the page, there is a section on the possible reaction of the Haemophilia Society. I'm not going to read that aloud. But if we go towards the bottom of the page, there is then a section "People Infected through Blood Transfusion". And the paper said:

"PS(H) will have noted that neither the existing HIV scheme in this country, nor the HCV scheme in the Irish Republic is confined to haemophiliacs. In the view of officials, it would be impossible to confine any scheme to haemophiliacs -- the pressure to extend it to people infected through blood transfusion would be irresistible. If anything their case is stronger because some were infected after test were known to exist.

"30. An exercise is currently under way to trace people who were infected with HCV through blood transfusion and who are still alive."

That's the look-back:

"This is expected to identify about 3000 people. At the very least, therefore, we should allow double

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1 the costs quoted above ..."

2 Then the range of figures, depending upon which

3 of the options is under consideration, are then set

4 out.

5 Paragraph 31 sets out what might be some

6 difficulties in administering a scheme for people

7 infected through blood transfusion, essentially

8 because of the need to establish the causal link.

9 We've then got a heading "Unquantifiable Future

10 Claims", and this then gets to some of the policy

11 concerns of the department.

12 Paragraph 32:

13 "The opening of the door to future claims for

14 no-fault compensation has previously been a matter of

15 great concern to Ministers. There are a number of

16 aspects to this."

17 And the first point that's made is that

18 hepatitis C can be transmitted not only through blood

19 and blood products but through any transplanted

20 tissue.

21 The second then is the possibility of other

22 viruses and infectious agents being transmitted by

23 blood or tissue. And reference is made to

24 hepatitis G, a new strain of hepatitis virus just

25 having been identified.

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1 payments which were paid for by the Treasury)."

2 Just in relation to paragraph 37, Lord Horam, we

3 obviously saw the Treasury's opposition expressed in

4 that letter from Mr Grice to Mr Dobson that we looked

5 at this morning, but were you aware of any formal

6 approach being made to the Treasury, setting out what

7 might be the arguments for providing some form of

8 financial support scheme to hepatitis C?

9 A. No, I was not.

10 Q. Do you know why no formal approach was made to the

11 Treasury?

12 A. No.

13 Q. We then get the heading "Policy on

14 No-Fault Compensation Schemes".

15 Paragraph 39 restates the broad opposition to

16 no-fault compensation. And then paragraph 40 sets out

17 what is said to be the arguments against

18 no-fault compensation. The first is why should

19 compensation for victims of medical accidents differ

20 from systems for people harmed in another way. The

21 other talks about the feelings of victims of

22 negligence.

23 Then over the page, paragraph 41 sets out some

24 other reasons for opposing no-fault compensation:

25 difficulties of proof of causation, unfairness, cost,

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1 Then if we go over the page, paragraph 35, it

2 says:

3 "Third, potentially, the whole question of

4 compensation for medical accidents is opened up.

5 Haemophiliacs received the best possible

6 treatment ..."

7 Again, I'll pick up on that in a little while:

8 "... treatment which prolonged their life. If

9 they are to be compensated, who else should be?"

10 And then there are suggestions of other cohorts

11 of patients and it's said no treatment is entirely

12 free of risk.

13 Paragraph 36 then refers to litigation against

14 the Department and the Medical Research Council in

15 respect of patients treated with human growth hormone.

16 Then "Finance", paragraph 37:

17 "The Treasury will not make additional available

18 money to the Department. Any costs will therefore

19 have to come from the resources already available for

20 patient care.

21 "38. The question of who should pay for people

22 infected in Scotland, Wales and Northern Ireland will

23 need further consideration. This Department bore and

24 continues to bear the full cost of the original HIV

25 scheme (apart from the initial 20,000 ex gratia

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1 accountability, amounts payable.

2 Then the summary, in paragraph 42:

3 "In short, any compensation for HCV positive

4 haemophiliacs would be a departure from the policy

5 previously stated by the Secretary of State that

6 payments should not be made when treatment given has

7 been in accordance with the best knowledge and

8 practice of the day."

9 So, again, the assertion is repeated about best

10 treatment, treatment in accordance with best knowledge

11 and practice of the day.

12 There is then a reference to the submissions

13 from the previous year.

14 Then over the page we can see the conclusion,

15 paragraph 45, which I think in fairness I should read:

16 "- A scheme, which would be contrary to general

17 Government policy on no-fault compensation, could not

18 be confined to haemophiliacs.

19 "- The options considered here for compensation

20 for infections with hepatitis C would cost in the

21 order of £72 million to £360 million, with regular

22 payments costing perhaps an additional

23 £280 million over the years (though not all this

24 latter cost would come from the public purse).

25 "- Early indications are that only the most

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1 expensive scheme would be acceptable to the
 2 Haemophilia Society, but we shall know more when our
 3 own proposals are received.
 4 "- A scheme based on infection alone would be
 5 heavily front loaded.
 6 "- There would be incalculable repercussions for
 7 the future. The newly discovered hepatitis G virus
 8 alone could multiply the cost of compensating people
 9 infected through blood transfusion by 10 (giving
 10 a range of £400 million to £2,000 million for the lump
 11 sum options).
 12 "- The costs of this and future schemes would
 13 reduce the amount of money available for patient
 14 care."
 15 Now, I think what you say in your witness
 16 statement about this -- and it's WITN5294001, page 25,
 17 paragraph 2.34 -- you've set out the conclusion that
 18 I've just read, and then you observe, underneath that:
 19 "It is fair to say, therefore, that officials
 20 were giving me strong warnings about the costs and
 21 implications of introducing a Hepatitis payment
 22 scheme."
 23 Now, I'll come back to some of the concerns that
 24 underpinned the conclusions in the paper, Lord Horam,
 25 once we've finished going through the contemporaneous

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1 documents. But that's the submission you received in
 2 February 1996.
 3 Now, I don't know whether you can help us with
 4 this, Lord Horam. The sums there discussed are
 5 obviously not small, but, in the great scheme of
 6 Government spending, they're also not vast. Do you
 7 have any recollection of, leaving aside what the
 8 source of the funding might be, what your reaction was
 9 or your thinking was when you saw the different
 10 costings?
 11 A. Well, I don't have any recollection of what I thought
 12 at the time, but I think one -- in detail. But one
 13 element which puzzled me, and it comes out in my later
 14 request for further analysis of the John Marshall
 15 suggestion, was this had been precipitated -- this
 16 paper had been precipitated by John Marshall's
 17 question and my answer to it in the adjournment debate
 18 in December. And if you recall, that was for a much
 19 more modest scheme, related to people who had
 20 cirrhosis of the liver. I don't exactly recall what
 21 my response to this paper was, but it does seem to me,
 22 with hindsight, that this was overkill. I mean, they
 23 were really restating the entire Government position
 24 both as regards costs and precedent to me, which I was
 25 well aware of, and what they were not doing was

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1 addressing my point, which was: is there a more modest
 2 way forward? That may be -- if I can just continue?
 3 Q. Yes, of course.
 4 A. That may well be because, as sometimes happens in
 5 a Department, there is a misunderstanding of what
 6 I wanted. It may be the civil servants had thought
 7 that I wanted to go through all of the options that
 8 were available, like the Irish option, and an option
 9 based on HIV payments, and so forth, and really what
 10 I was looking for, was there some more modest scheme.
 11 Because I understood the implications of the whole
 12 shooting match of alternatives and didn't really need
 13 that. I wanted something more specific. And that's
 14 when I asked for further information about
 15 the John Marshall approach.
 16 Q. We've seen with earlier witnesses, Lord Horam, how, in
 17 terms of the provision of financial support of one
 18 kind or another, there are various incremental
 19 elements to it --
 20 A. Yes.
 21 Q. -- so there was the initial small payment in 1987 to
 22 The Haemophilia Society. There was then a further
 23 payment in 1989 to the Macfarlane Trust. There was
 24 then the settlement of the HIV Haemophilia Litigation.
 25 There was then the extension of the scheme to those

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1 infected with HIV through blood transfusion.
 2 I don't want to put words into your mouth, but was
 3 it, do you think, part of your thinking that it was
 4 better to get something, albeit something modest that
 5 wouldn't meet the full extent of concerns or the full
 6 plight of those infected, better to get something
 7 than nothing if possible?
 8 A. Yes, that's what I was trying to explore: was there
 9 a more modest scheme, as John Marshall had suggested,
 10 which might meet some of the concerns? I mean,
 11 John Marshall was a man that I knew very well, he was
 12 a good Member of Parliament, he'd taken up this issue
 13 over a long period of time, I respected his concerns.
 14 He was a model MP from that point of view, doing
 15 exactly what an MP should do, and I felt I had a duty
 16 to respond to him in kind and therefore examine this
 17 possibility. I was therefore, in retrospect --
 18 I can't say what my feelings were at the time, we're
 19 talking about 25 years ago, but in retrospect puzzled
 20 by the extent of this document which I received, which
 21 didn't include any discussion of his proposals, but
 22 went through the whole gamut of big proposals.
 23 Q. Now, again, just taking things chronologically,
 24 The Haemophilia Society's final report was sent to
 25 ministers, I think, on 20 February 1996, or

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thereabouts. The reference is HSOC0002726_001.
Now I'm not going to go through this report, because if we go to the next page and just look at the contents, this further report essentially doesn't repeat what was set out in the interim report; the interim report had been focused on the financial compensation or financial assistance recommendation and the reasons for it.

This final report looked at, largely, a range of other issues, important issues, but didn't say anything new on the issue of financial support.

A. Right.

Q. So that's the reason why I'm not going to take you through it now.

But if we go just to DHSC0004469_007, we can just pick up the Department's line to take on the report. So this is Mr Guinness, 20 February 1996. It's copied to a number of people, and we can see that it's copied to the Secretary of State's private office, the Minister of State's private office and to your private office. We see there the reference to Ms Weatherseed.

Then we've got heading "Line to Take". In relation to the financial support, the line to take is from the first bullet point, and it's the pre-existing

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can see paragraph 9 records that you've agreed to meet officials of the Haemophilia Society on 6 March to discuss the report. I think, in fact, the meeting takes place a little later in March, but that's where matters stand as at that point.

And then DHSC0003883_101, this is a minute dated 28 February 1996 from your private office to Mr Guinness. If we look at the text of the minute, we can see paragraph 1 thanks Mr Guinness for the submission, and then paragraphs 2 and 3 set out what you want more information about:

"2. As I explained during our telephone conversation yesterday, PS(H) wants to consider these options carefully. He is meetings the Haemophilia Society on 6 March and would like to hear their suggestions before he starts to form any firm views. He will almost certainly want a meeting with you after that to discuss how to take this forward.

"3. In the meantime, PS(H) would like to explore further the financial implications of John Marshall MP's suggestion that we should restrict payments to those who develop cirrhosis. Mr Marshall claims that the annual cost of such a scheme would not be excessive, since cases would develop over the years, rather than all at once."

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line:

"The Government has great sympathy for those infected with hepatitis C as a result of NHS treatment. But these patients received the best treatment available in the light of medical knowledge at the time. No fault negligence on the part of the NHS has been proved, and we have no plans to make special payments."

And then there is more detail there set out. I think perhaps for present purposes we can just look briefly at page 3. Paragraph 7, I think, probably picks up, in its last sentence, upon what you'd said in that adjournment debate:

"Ministers have said in debates in Parliament that they have great sympathy with those who have contracted Hepatitis C through blood or blood products, but that as no fault nor negligence on the part of the NHS has been proved, they have no plans to make special payments. They have also said that they are willing to consider suggestions for a limited scheme to help those affected, but have given no undertaking to accept any such proposals."

And that, I think, is what you were just referring to, Lord Horam.

Then if we go to the very bottom of the page we

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Then paragraph 4 sets out Ms Weatherseed asking on your behalf for some more costings, even -- we see in the last sentence, "even a rough estimate".

A. Mm. Well, at that point, of course, we were getting more towards the sort of thing that I had in mind.

Aware of the cost and the precedent arguments for the whole Government position over the years, I was nonetheless trying to see if there was any compromise, however small, to help people, along the lines of John Marshall. That may not have been the right way forward but it was the way that he'd suggested and I was very happy to look into it.

Q. Then we can see the next day, DHSC0003883_100, there is a minute from the Permanent Secretary or on behalf of the Permanent Secretary, to your office.

So if we look at the text:

"The Permanent Secretary has seen your minute of 28 February to Mr Guinness and will be interested to see his reply.

"2. He appreciates that it may be possible to devise schemes which cover only restricted groups and are thus more affordable. He does however point out that any move to pay compensation to a restricted group of Hepatitis C sufferers (eg haemophiliacs) is likely to lead to irresistible pressure to extend it

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1 to a much wider group. There is no obvious basis or
2 distinguishing between people infected via blood
3 products and those infected by blood transfusion, for
4 example; and the Government was quite unable to
5 sustain the same distinction in the case of HIV/AIDS
6 sufferers. The unfortunate truth is that this is
7 a very slippery slope. Our present stance is
8 uncomfortable, but any movement, however slight, is
9 likely to start something we won't be able to stop.

10 "3. He, therefore recommends extreme caution in
11 dealing with Mr Marshall's proposal."

12 So a warning shot across the bows from the
13 Permanent Secretary to you?

14 A. Did I see this?

15 Q. It's addressed to Ms Weatherseed, so, yes, certainly
16 your office saw it.

17 A. Oh, right. Mm.

18 Q. And in fact, I think, yes, you did see it.

19 A. I did see?

20 Q. Because if we look at DHSC0003883_099, Ms Weatherseed
21 sends back a response on your behalf and it says that
22 you've seen the minute, you've noted the points made,
23 and you'll certainly bear them in mind.

24 A. Yes, I think that was a calming note to him, that I'll
25 bear his points in mind. It didn't mean I accepted

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1 Then there are some attempts to set out
2 a profile in terms of numbers who might be eligible in
3 relation to haemophiliacs, at paragraphs 4 and 5.

4 Then the next heading is "Blood Transfusion
5 Recipients", and Mr Guinness says:

6 "We have had to make rather more heroic
7 assumptions about blood transfusion recipients. We
8 know that HCV got into the blood supply in the 1960s,
9 and that its prevalence amongst donors increased ...
10 until 1991 ..."

11 Et cetera.

12 And paragraph 7:

13 "The number of transfusion recipients ever
14 infected with hepatitis C in the UK is unknown."

15 Then if we go over the page, at the top, the
16 estimate is:

17 "... an estimate of 40,000 blood transfusion
18 recipients ever infected ... (The figure may be
19 compared with the 3,000 still alive we expect to trace
20 through the lookback exercise ...)."

21 Then paragraph 8 then talks about how many of
22 those recipients would have died within a year of
23 transfusion, many are elderly and won't live long
24 enough to develop cirrhosis if it takes 20 years to
25 develop, and therefore some assumptions are made in

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1 them.

2 Q. Then we can see then the subsequent information you
3 were provided with by Mr Guinness is at
4 SCGV0000166_005. If we go to the second page.

5 So this is a minute from Mr Guinness to
6 Ms Weatherseed, 11 March 1996, again copied to
7 the great and the good, the Secretary of State's
8 office, the Permanent Secretary and Deputy Chief
9 Medical Officer, amongst others.

10 Then if we look at the text, paragraph 1 records
11 Mr Guinness saying that Ms Weatherseed had asked him
12 to explore further the financial implications of
13 John Marshall MP's suggestion.

14 Paragraph 2 says:

15 "In order to be precise, we would need to
16 know ..."

17 Then it sets out a number of factors that you'd
18 need to know, including number of people who will be
19 diagnosed as having cirrhosis, when they were
20 infected, how long it will take each of them to
21 develop cirrhosis, et cetera.

22 The next page, at paragraph 3, says:

23 "Needless to say, much of this information is
24 not available but we can make a reasonable stab at
25 producing an expenditure profile."

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1 relation to that.

2 There is then a heading of "Diagnosis of
3 Cirrhosis". I'm not going to read that out, but it
4 sets out the approach that Mr Guinness has taken to
5 how to ascertain that.

6 "Administrative Arrangements", it explains that
7 in relation to haemophiliacs you can assume that the
8 infections was acquired from blood products.

9 But over the page, paragraph 13, it says it may
10 be more problematic -- more complicated dealing with
11 claims from people who believe they were infected
12 through blood transfusion.

13 And paragraph 14 says there'd need to be
14 essentially an appeal provision in the scheme.

15 Then we get the results, the table:

16 "Putting all this together, and mindful of all
17 the uncertainties, our best estimate, excluding
18 administrative costs, for a scheme based on cirrhosis,
19 is as follows ..."

20 Then we get the figures: the haemophiliacs
21 payable now, 21 million; blood transfusion recipients,
22 20 million; total, 41.

23 Then figures payable each year looking into the
24 future, and the figures there obviously are much more
25 modest: a total of 4 million until 2005; 2 million in

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1 2006 to 2011.
 2 And then there is a "rough guess at
 3 administrative costs" at the bottom of the page:
 4 "... around £300,000 in dealing with the initial
 5 surge of claims ..."
 6 And then 30,000 tailing down to 20,000 a year,
 7 looking forward.
 8 Then, again, for the sake of completeness
 9 I should just go over the page. It says we've only
 10 looked at hepatitis C; hepatitis G has just been
 11 identified.
 12 So that's the response you received to your
 13 request for further information.
 14 **A.** Mm-hmm.
 15 **Q.** Well, obviously we'll trace through the further
 16 documents, but do you have any recollection now of
 17 what your thoughts were when you saw these proposals?
 18 **A.** Well, obviously they were much more possible than the
 19 other options they'd put forward. They were in the
 20 realms of realism, and they were still large amounts
 21 of money, obviously, from the Department's point of
 22 view, but at least they were focusing on one
 23 particular way forward, which may be less costly.
 24 The only problem with it was really that it would
 25 not have properly have satisfied The

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1 Haemophilia Society. That was the difficulty with
 2 them, which I really wasn't aware of until this paper
 3 came my way.
 4 **Q.** Now, you then had a meeting with the
 5 Haemophilia Society on 26 March 1996, and we can just,
 6 I think, look at a handful of documents in relation to
 7 that. There is a Haemophilia Society briefing for the
 8 meeting, HSOC0014417. If we look at paragraph 3,
 9 which is about halfway down the page, we can see this
 10 is The Haemophilia Society's stance:
 11 "Financial recompense.
 12 "We believe there is a clear moral case for
 13 financial recompense. The Government should respond
 14 in a way similar to the HIV settlement.
 15 "We note that some individuals are taking legal
 16 action against the [Department] of Health.
 17 "We note that the Irish Government has already
 18 made a settlement to those with haemophilia infected
 19 with HCV.
 20 "We note that over 260 MPs from all parties have
 21 signed the EDM supporting the Society's Campaign.
 22 "We believe it is now time for the Government to
 23 respond positively."
 24 So that's, in a nutshell, the Society's stance.
 25 **A.** Mm.

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1 **Q.** You obviously received an internal briefly,
 2 a Departmental briefing for this meeting. The
 3 briefing comprises several separate documents I'm not
 4 going to go through all of them. I'll just read the
 5 first reference, we don't need to put it up on screen,
 6 Lawrence.
 7 So there is a covering minute of 20March from
 8 Ms Towner, DHSC0002533_002, and she says she's
 9 attaching a briefing under various heads. I think the
 10 only document that we need to look at from the
 11 different elements -- perhaps the only two documents.
 12 So, first of all, a general line to take. That's
 13 DHSC0002533_004. So the heading is "Handling and Line
 14 to Take -- General". I think we need only look at
 15 paragraphs 5, 6 and 7:
 16 "PS(H) is aware that the Society will focus on
 17 the issue of compensation. From informal contacts, it
 18 is known that the Society will have had difficulty in
 19 identifying a scheme that will be both affordable and
 20 satisfy all their members (who tend to model their
 21 hopes on the HIV scheme). They also recognise that
 22 any scheme is likely to have consequences for
 23 non-haemophiliacs but they can reasonably argue that
 24 this is not their [option]."
 25 **SIR BRIAN LANGSTAFF:** "... not their problem".

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1 **MS RICHARDS:** "... not their problem", sorry:
 2 "The Society are not aware that PS(H) is
 3 currently looking at options prepared by officials.
 4 They have interpreted what they see as a softening of
 5 Ministers' position as placing a responsibility on
 6 them to come up with definite proposals however it is
 7 unlikely, for the reasons in 5 above that they will be
 8 in a position to present anything beyond the rather
 9 vague terms contained in their letter to the
 10 [Secretary of State].
 11 "In the circumstances PS(H) will wish to listen
 12 and offer to consider carefully any proposals."
 13 So the line, or the recommendation to you from
 14 officials essentially was to listen --
 15 **A.** Yes.
 16 **Q.** -- and commit to nothing.
 17 **A.** That's correct.
 18 **Q.** Then --
 19 **A.** And indeed I was in listening mode still.
 20 **Q.** Then the other part of the briefing which is relevant
 21 to this issue is at DHSC0002533_007. So this is
 22 headed "Policy and Compensation", and then we have the
 23 heading, "Line to take", so again it's the
 24 pre-existing policy line:
 25 "[They] received the best treatment available in

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the light of medical knowledge at the time. No fault or negligence on the part of the NHS has been proved, and we have no plans to make special payments."

That's paragraph 1.2. Then paragraph 1.4:

"However, if the Society has specific proposals to put forward, as said in the House we would be prepared to look at these."

Then we have the background, I don't think I need to read all of that, but if we just look at paragraph 1.6, picking it up in the third line, it says:

"They [and that's a reference to the Society] accept that no negligence was involved in infecting their members but are likely to argue that there is no real difference between the HIV cases who received compensation and the HCV cases who did not and that natural justice demands equal treatment."

Then, in square brackets there is this:

"[Secretary of State], in evidence to the Health Committee, whilst rejecting the argument for compensation accepted that the HIV position was illogical -- the Society have so far not used this."

I'm going to come on to that, Lord Horam, but I will just flag it up as it's set out there.

A. Yes.

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read it out, but what's set out is what's said to be what the Society had asked for. Paragraph 4 refers to "as an alternative" and then it says "mentioned at the meeting with PS(H)". So there is one clue at least to what was discussed at the meeting:

"... the Society are attracted by the Irish scheme ..."

Then paragraph 5 says:

"The Society will be expecting a response to their proposals in due course. They recognise this may take some time for Ministers to consider, given the sums involved. They have offered further talks if Ministers think this would be useful. However it is likely that eventually, they will deem failure to announce an intention to establish a scheme as an indication that one is not being contemplated."

Then the last paragraph asks if there is any further work you'd like officials to undertake. I don't think there is any specific further work that the document suggests you requested, Lord Horam?

A. That's correct.

Q. Now, it would appear that at some point over the following weeks you essentially came to the view that there wouldn't be a scheme, and I'm going to pick that up, if I may, by looking at WITN5294010.

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Q. Then paragraph 1.8, bottom of the page:

"At PS(H)'s request, officials have submitted a range of costed options. The Society are not aware of this. That submission emphasises that, although the Society's interest is limited to its own group, in practice it would be difficult to confine any settlement to haemophiliacs."

So that's the line to take, the briefing for the meeting.

Now, we don't, I think, have any minutes of the meeting. You think -- your statement says that ordinarily minutes would be taken of a meeting of that kind.

A. Yes, they would.

Q. Do you have now any recollection of the meeting itself?

A. No.

Q. Now, if we then just pick matters up at DHSC0042289_176. This is a further minute, 4 April 1996, from Mr Pudlo to Ms Weatherseed in your private office, and if we look at the first paragraph we can see there have been further discussions with The Haemophilia Society the previous day, with Mr Barker of the Haemophilia Society.

Then, if we go over the page, I'm not going to

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So this is now 29 May 1996, and it's Mr Pudlo to Mrs Weatherseed, paragraph 1:

"Since PS(H)'s meeting with the Haemophilia Society on 26 March, the Society have been expecting a response to their proposals for a compensation scheme ..."

Then paragraph 2:

"We agreed that I should submit a draft letter for PS(H) to consider once the PM had reaffirmed the Government's opposition to a settlement in his letter to John Marshall ... and this is now attached."

We've explored the Prime Minister's involvement in his evidence on Monday, Lord Horam. The draft letter -- it's not the final letter that was sent, but the draft letter is at WITN5294011, and the draft says, in the third paragraph:

"As I have made clear in the House on a number of occasions I am very touched by the plight of those people and the circumstances in which they became infected. However, having weighed all the factors involved I have concluded that in allocating money provided for health care I cannot justify taking resources away from treating patients in order to provide payments to people who received the best possible treatment available at the time."

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1 Now, the letter that was finally sent was sent
 2 at the beginning of October, rather than at the end of
 3 May --
 4 **A.** That's right.
 5 **Q.** -- but it would seem -- and we'll see when we look at
 6 that final letter -- whatever the precise point in
 7 time at which you decided not to press the matter
 8 further, there certainly came a point in time at which
 9 a decision was taken that there wouldn't be any
 10 scheme, modest or otherwise?
 11 **A.** There came a point in time when there was not going to
 12 be a compensation scheme as such. I don't think
 13 I ever ruled out something more modest. I was still
 14 struggling to get something on that.
 15 **Q.** Well, let's just -- we'll follow through the
 16 documents, I think, for the sake of completeness. So
 17 we can see at DHSC0041255_073, I'm not going to,
 18 I think, read this in any great detail, but this is
 19 12 June 1996, and it refers in the heading to
 20 a meeting with John Marshall, 25 June.
 21 We can see -- we don't need to go to the
 22 documents, but Mr Marshall had had a meeting with the
 23 Secretary of State on 24 April and he was then due to
 24 have a meeting with you on 25 June.
 25 **A.** Yes.

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1 counterproductive if it is seen by some as inadequate
 2 to the point of insult.
 3 "The current line is that Ministers are willing
 4 to consider suggestions but have given no undertaking
 5 to introduce a payment scheme. Such a position is
 6 unlikely to be tenable indefinitely and the
 7 Haemophilia Society are known to be seeking
 8 indications of the basis on which Ministers would be
 9 prepared to settle. Mr Marshall is sympathetic to the
 10 problem of any settlement that impinges on NHS
 11 expenditure and is likely to explore alternative
 12 sources of funding."
 13 Then you had a meeting with Mr Marshall, and we
 14 have the note, that's DHSC0041255_072. Again, I'm not
 15 going to read it out in its entirety. 25 June, the
 16 people present, you, John Marshall MP, another MP,
 17 Sir Geoffrey Johnson-Smith, and then from your
 18 private office Marguerite Weatherseed.
 19 If we go to the bottom of the page, you're
 20 recorded as stressing that:
 21 "... it would be very difficult to justify
 22 payments of this magnitude with so many competing
 23 demands on the health service; this was money which
 24 might otherwise be spent on patient care. Mr Marshall
 25 acknowledged this point and explained that he was keen

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1 **Q.** Paragraph 2 explains that you're "familiar with the
 2 issues and the above material is provided largely for
 3 reference purposes".
 4 If we go over -- so the rest of that page sets
 5 out Mr Marshall's suggested scheme.
 6 If we go over the page, the suggestion in
 7 paragraph 3 at the top of the page is that you could
 8 point to a number of problems with this model. I'm
 9 not going to read them aloud, they're essentially
 10 a repetition of points that we've seen in earlier
 11 documents.
 12 Paragraph 4 suggests that:
 13 "Mr Marshall may also seek to make comparison
 14 with other settlements", and those are then set out.
 15 Then next page, paragraph 4:
 16 "In the absence of a response to their own
 17 proposals (costed at £147 [million] in year one), the
 18 Haemophilia Society are known to have concluded that
 19 Ministers consider this too expensive but that they
 20 remain interested in the prospect of an 'affordable'
 21 settlement. The Society are looking at ways of
 22 reducing their claims but are torn between the
 23 principle that something is better than nothing and
 24 the risk of alienating some of their members. They
 25 recognise that a modest settlement may actually be

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1 to explore alternative sources of finance. For
 2 instance, he wondered whether the costs might be met
 3 through the Government's contingency reserves, as had
 4 been the case with HIV. Mr Horam pointed out that
 5 this was a matter for Treasury, but thought it was
 6 extremely unlikely to receive support."
 7 Now, your pessimism about the Treasury may well
 8 have been well founded, Lord Horam, but I think it's
 9 right that at no point did you, yourself, ask the
 10 Treasury to be approached to --
 11 **A.** No, that's correct, I didn't. At least I don't
 12 remember that I did.
 13 **Q.** No, and there is not documentation that suggests you
 14 did.
 15 **A.** No, no.
 16 **Q.** What would have been, if you can answer this, the
 17 route to approaching the Treasury? Is it something
 18 that would have been done by you as Parliamentary
 19 Under-Secretary or would it have had to be done with
 20 the support of the Secretary of State?
 21 **A.** I think it would probably have had to be done with the
 22 support of the Secretary of State.
 23 **Q.** Then if we go over the page on this document, we just
 24 pick it up on the last paragraph:
 25 "Mr Horam warned Mr Marshall and Sir Geoffrey

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1 that they should not be over optimistic. However, the
2 Haemophilia Society's demands were under
3 consideration, and he was particularly keen to examine
4 their demands and progress in areas such as support,
5 public education and research which, he felt, were
6 more productive areas for expenditure."

7 So is it right to understand from this that the
8 message you were giving to Mr Marshall and his
9 parliamentary colleague was that the Haemophilia
10 Society's proposed scheme in relation to financial
11 support was unlikely to go further?

12 A. That's correct, yes.

13 Q. You hadn't ruled out a more modest scheme but you
14 weren't offering much hope?

15 A. No, I didn't really attach any hope or lack of hope to
16 a more modest scheme, I was simply trying to preserve
17 the option, if you like, for something more modest.

18 Q. I omitted, in going through the documents, to flag up
19 that, in the meantime, not long before your meeting
20 with Mr Marshall, the Reverend Tanner, the chair of
21 The Haemophilia Society had written to you, and that's
22 at HSOC0014319.

23 It's not a letter that says anything different
24 from what The Haemophilia Society had said before.
25 But it's, essentially, I think, chasing for

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1 "PS(H) has now decided that he would like to
2 write to the Haemophilia Society on ... 19 July.
3 Could you provide a suitable draft letter which:
4 "stresses that we have considered their demands
5 very carefully;
6 "explains our decision not to provide
7 compensation;
8 "reiterates our view that funds would be best
9 spent on providing better care etc;
10 "states that we shall look favourably on any
11 future application for [section] 64 funding ...

12 "PS(H) has also asked that the letter should
13 discuss the alternative options for funding suggested
14 by John Marshall MP (National Lottery, Government
15 contingency funds and settlements from drug
16 companies). I am not sure whether these points have
17 ever been raised by the Haemophilia Society itself."

18 Now, it would appear clear from paragraph 2,
19 Lord Horam, is this right, that in terms of a more
20 extensive compensation or financial support scheme,
21 the decision was not -- by this time the decision was
22 not to go with that, was not to do what The
23 Haemophilia Society was asking?

24 A. Yes.

25 Q. Paragraph 3 suggests that the Marshall proposal, if

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1 a response.

2 A. Yes, yes.

3 Q. In the second paragraph, he says he'd like to
4 "re-emphasise the seriousness of the problem". He
5 talks about the numbers who were dying, he refers to
6 the research report and the financial, social and
7 economic problems that those infected and their
8 families faced.

9 Then in the third paragraph he says that:

10 "... we believe that the Government should take
11 immediate action to help address this tragic
12 situation. We therefore call on the Government to set
13 up a £20 [million] Trust Fund to meet the financial
14 needs of those who are suffering and their dependants.
15 In addition, we shall press for a £10,000 ex gratia
16 payment ..."

17 So that's the Reverend Tanner to you in
18 June 1996. What I think, as I understand the
19 documents, then happens is -- it can be picked up from
20 DHSC0041255_070. So it's 9 July, it's from
21 Mrs Weatherseed to Paul Pudlo, paragraph 1 refers to
22 there having been a meeting the previous day:

23 "... we discussed the need to reply to The
24 Haemophilia Society's latest request for a scheme to
25 compensate haemophiliacs ...

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1 I can put it that way, might still be under some form
2 of consideration, but it doesn't tell us, I think,
3 exactly what your thinking was on that issue?

4 A. No, it doesn't, you're quite right. In my own mind,
5 and this -- we may come on to this later, in
6 an adjournment debate which John Marshall had in
7 December of this year, when he proposed some further
8 scheme, in my own mind, this was still a live issue.

9 Q. Well, we will certainly come on to that debate in
10 December 1996.

11 Now, so we can see, in any event, in July
12 Mrs Weatherseed is asking Mr Pudlo to provide a draft
13 letter for you to consider for the
14 Haemophilia Society.

15 The response that Mrs Weatherseed receives is
16 WITN5294012, and it's a response which asks if you can
17 wait a little longer, essentially, because on 19 July
18 the Department will hear the outcome of a negligence
19 action against the Medical Research Council the
20 Department of Health on CJD and human growth hormone.
21 Mr Pudlo -- in fact, Mr Brown says this:

22 "If we lose, there may possibly be implications
23 for other groups."

24 Then we'll come on to the outcome of that
25 litigation and what you were told about it. But did

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1 you have any direct involvement in the course of that
2 litigation, Lord Horam, that you can recall, the human
3 growth hormone litigation?

4 **A.** I don't think so, no.

5 **Q.** So if we then pick it up at DHSC0006348_055.

6 Now, this is Mr Guinness to Mrs Weatherseed,
7 29 July 1996, and we can see from the first paragraph
8 that Mrs Weatherseed has asked about the implications
9 of the judgment in relation to CJD and human growth
10 hormone, and whether that might affect the terms of
11 the reply to The Haemophilia Society. What
12 Mr Guinness says is this:

13 "I have only seen Mr Roberts' summary, and our
14 expert on the history of the hepatitis C issue is ...
15 on annual leave, but my judgement is that, in a narrow
16 sense, there are no problems. The cases are very
17 different in one way, in that with hepatitis, it was
18 known by all (including the patients) that infection
19 was being transmitted, though it was not necessarily
20 thought to have long-term consequences -- the problem
21 was that there was no reliable test available to
22 screen the blood."

23 Now, that's an assertion by a Departmental
24 official that all patients knew that the treatment
25 they were receiving was infecting them with hepatitis.

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1 in effect saying, "Please hold off", for one reason or
2 another, which is why we eventually got to October
3 before I finally replied.

4 **Q.** Yes.

5 And there is just one further document in which
6 I think you were given a little more information about
7 the CJD case. It's sent under cover of a minute dated
8 11 September 1996. We don't need to look at that
9 document itself. I'll just read the reference for the
10 transcript. DHSC0041255_064.

11 That simply shows that Christine Corrigan in the
12 Department wrote to Ms Weatherseed on 11 September,
13 providing what was described as a round-up of the
14 current situation.

15 The round-up itself is at WITN5294013.

16 I just wanted to pick up the heading

17 "CJD judgement":

18 "The judgement found the Department negligent
19 primarily on the grounds that neither treating
20 physicians nor recipients of human growth hormone ...
21 treatment were made aware of the risk of contamination
22 at the earliest opportunity and that action to
23 reappraise the HGH programme was not taken as urgently
24 as it should have been once that risk was known.

25 "The impact of that judgment on the Hep C/blood

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1 Did it occur to you to question how a Departmental
2 official could state that with such confidence?

3 **A.** No, it didn't and it puzzles me that he could know
4 that.

5 **Q.** Then we can see, paragraph 2, there is caution about
6 responding to The Haemophilia Society:

7 "... I do wonder about the wisdom of writing to
8 the Haemophilia Society until media interest in the
9 CJD case has died down. Although the fact that we
10 have been found negligent in one case does not mean
11 that we should suddenly change our policy and decide
12 to pay compensation when no negligence has been
13 demonstrated (nor, indeed, alleged by the
14 Haemophilia Society itself, as distinct from
15 a number of potential individual litigants who are
16 currently seeking Counsel's opinion), a clear
17 statement to the Haemophilia Society at this stage
18 that we are not prepared to pay financial compensation
19 might be presented as the Government having forced one
20 set of unfortunate people to endure the uncertainties
21 of legal action now doing the same again."

22 So you were essentially advised to hold off --

23 **A.** Yes.

24 **Q.** -- sending a reply?

25 **A.** This is one of a series of notices, or memos, to me,

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1 products issue has been fully considered. The case in
2 respect of Hep C is very different in that the risk of
3 infection via blood products was known to all
4 concerned -- including the patients."

5 So there's the repetition of that statement:

6 "The problem was that there was no reliable test
7 available to screen the blood. The Department is
8 satisfied that action to introduce screening of blood
9 for Hep C was taken as quickly as possible once
10 a reliable test had been identified."

11 Now, did the outcome of the CJD judgment, in
12 which the Department had been found to be negligent
13 both in terms of the information provided to doctors
14 and patients, and in terms of a lack of urgency in
15 responding to risk, did that cause you to question
16 whether the advice you were being given about
17 the Department's position as regards hepatitis C,
18 whether you should be perhaps probing more to test the
19 robustness or correctness of what was being said?

20 **A.** Not on this point. Not on this point, about whether
21 people knew or did not know.

22 **Q.** Looking at it now, looking back now, do you think
23 perhaps you should have done, and asked a little more
24 about why the Department was so -- having been found
25 negligent in one respect, was able to state so

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1 confidently what the position was in relation to
 2 hepatitis C and patients' knowledge of that?
 3 **A.** I couldn't really -- it's not an issue I raised at
 4 the time and it hasn't occurred to me in hindsight, to
 5 be honest. I can't really answer that question.
 6 **Q.** The assertion we see in that last sentence in the
 7 second paragraph:
 8 "The Department is satisfied that action to
 9 introduce screening of blood for Hep C was taken as
 10 quickly as possible once a reliable test had been
 11 identified."
 12 Now, that's talking about events that pre-dated
 13 your time in office by a number of years --
 14 **A.** Yes.
 15 **Q.** -- but the Inquiry is aware that, as well as the issue
 16 of a test specifically for hepatitis C, there was
 17 consideration from time to time of something called
 18 surrogate testing. There is no mention of that,
 19 I think, in any of the documents that we've seen that
 20 were provided to you. Do you have any recollection of
 21 the concept of surrogate testing ever having been
 22 explained to you?
 23 **A.** No, I don't.
 24 **SIR BRIAN LANGSTAFF:** To be fair, I think, Ms Richards, it
 25 is hinted at here without using the word "surrogate".

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1 The problem was, as said, "there was no reliable test
 2 available to screen the blood". And then "as quickly
 3 as possible once a reliable test had been identified".
 4 But no further description of what "reliability"
 5 consisted of.
 6 **MS RICHARDS:** No. And whether the author of this note had
 7 in mind the specific introduction of screening for
 8 hepatitis C and what might be said to be the
 9 significance of a period of time between '89 and '91,
 10 or whether the author also had in mind issues relating
 11 to surrogate testing in the '80s is impossible to say.
 12 **SIR BRIAN LANGSTAFF:** Yes.
 13 But one thing which he might also have had in
 14 mind, which you were asked about, I think, by
 15 Ms Richards -- this was as I understood the question,
 16 I think you understood it rather differently -- was
 17 that there are two points which are made in the first
 18 paragraph. One is knowledge, and the other is not
 19 taking action as urgently as it should have been once
 20 the risk was known.
 21 Knowledge, you were told on the assertion of the
 22 Department that everyone knew, and you didn't question
 23 that?
 24 **A.** No.
 25 **SIR BRIAN LANGSTAFF:** But what about action that might

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1 have been taken but wasn't?
 2 **A.** Well, I can't -- there is nothing I have to say on
 3 that. I mean, it was before my time, essentially,
 4 wasn't it?
 5 **SIR BRIAN LANGSTAFF:** So you just accepted that --
 6 **A.** I just accepted it, yes.
 7 **SIR BRIAN LANGSTAFF:** -- that's what the view was?
 8 **A.** Yes, I had no alternative but to accept it, really.
 9 **SIR BRIAN LANGSTAFF:** And you didn't ask, well, what
 10 action might there have been, since everyone -- since
 11 you now know, at least, very clearly, that everyone is
 12 supposed to have known what action there might have
 13 been to reduce the risk that they might have
 14 contracted hepatitis from having the product?
 15 **A.** Well, are we talking about it as a question of
 16 urgency?
 17 **SIR BRIAN LANGSTAFF:** Well, it's action, I think --
 18 **A.** Yes.
 19 **SIR BRIAN LANGSTAFF:** -- amongst which there may be --
 20 it's urgent action. What is the urgent action?
 21 That's a matter of conjecture.
 22 **A.** Yes.
 23 **SIR BRIAN LANGSTAFF:** But it might be thought that if
 24 a serious risk is identified, that some action, at
 25 least, ought to be considered, even if it isn't taken,

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1 and if it's capable of being taken perhaps it should
 2 be.
 3 But that's the proposition, I think, that lay
 4 behind your question; am I right, Ms Richards?
 5 **MS RICHARDS:** Yes.
 6 **A.** That's taking me really beyond my knowledge or
 7 competence. I mean, I simply accepted what
 8 the Department was saying on that, I think. I didn't
 9 question it, certainly.
 10 **SIR BRIAN LANGSTAFF:** Thank you.
 11 **MS RICHARDS:** Sir, I note the time.
 12 **SIR BRIAN LANGSTAFF:** Yes.
 13 **MS RICHARDS:** What I want to look at next is Lord Horam's
 14 letter to the Reverend Tanner, and there are
 15 a number of questions that will follow from that which
 16 will take longer, I think, than a few minutes. So if
 17 we could break for lunch and then come back at 2.
 18 **SIR BRIAN LANGSTAFF:** Yes. Well, we'll do that.
 19 Would it be of assistance, do you think, to
 20 allow a slightly longer lunch hour so that those who
 21 may have questions in formulation, given what
 22 Lord Horam has said thus far, are in a position to
 23 suggest them to you?
 24 **MS RICHARDS:** I don't think, so, sir, because I suspect
 25 those listening might then anticipate what I'm going

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1 to already ask. So I think if we resume at 2, I've
 2 got another half an hour or so of questions.
 3 **SIR BRIAN LANGSTAFF:** Very well.
 4 **MS RICHARDS:** Then we can take our break for
 5 Core Participants to suggest anything.
 6 **SIR BRIAN LANGSTAFF:** Let me just explain to Lord Horam.
 7 There are Core Participants in the Inquiry who
 8 are represented by legal representatives, they are
 9 entitled to ask counsel to put forward questions to
 10 you. Plainly they need an opportunity to do that, and
 11 the opportunity comes, naturally, after the conclusion
 12 of the questions that counsel has asked. Then they
 13 know exactly what she's asked and may know what else
 14 there might be to ask that they want answered.
 15 So there will be a break after your next bit of
 16 evidence, counsel anticipates about half an hour, for
 17 it to be somewhere around there --
 18 **A.** Yes.
 19 **SIR BRIAN LANGSTAFF:** -- and so we'll have -- break for
 20 lunch now for an hour, come back at 2 o'clock, it will
 21 be about half an hour or so then, and then a further
 22 break.
 23 **A.** Fine.
 24 **MS RICHARDS:** Thank you, sir.
 25 **SIR BRIAN LANGSTAFF:** 2 o'clock.

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1 problems that they clearly face and I am committed to
 2 doing what I can to help. In considering whether
 3 compensation is the right way to do this, two points
 4 have been apparent.
 5 "Firstly, we do not accept there has been
 6 negligence on the part of the NHS. Tragic though it
 7 is that the very treatment designed to help those
 8 patients infected should have caused them harm, there
 9 can be no question that they received the best
 10 treatment available at the time. That treatment was
 11 essential for their survival. As you know, we take
 12 a view that compensation is only appropriate where
 13 there has been negligence.
 14 "If we were to provide compensation on the basis
 15 of non-negligent harm, this would very quickly develop
 16 into a general no-fault compensation scheme, which
 17 would be both unworkable and unfair. This is a point
 18 that was considered in relation to the settlement for
 19 HIV cases. On that occasion we were convinced by the
 20 very special nature of the disease and by arguments
 21 that it would not lead to further similar claims for
 22 compensation."
 23 Over the page:
 24 "Second, all the proposals for compensation (and
 25 you will be aware that I have considered a wide range

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1 **(1.01 pm)**
 2 **(Luncheon adjournment)**
 3 **(1.59 pm)**
 4 **SIR BRIAN LANGSTAFF:** Yes.
 5 **MS RICHARDS:** Lord Horam, we're going to look now at your
 6 letter of 1 October 1996 to the Reverend Tanner.
 7 Lawrence, could we have HSOC0023572, please.
 8 So the letter is dated 1 October 1996, and if we
 9 pick it up in the second paragraph:
 10 "I am sorry that it's taken so long for me to
 11 respond formally, but I am sure you will appreciate
 12 that I needed to consider very carefully your
 13 proposals and their implications before deciding
 14 whether it would be right to alter our position on the
 15 question of compensation.
 16 "After much thought, I have concluded that it
 17 would not be appropriate to offer financial
 18 compensation to haemophiliacs who have been infected
 19 with Hepatitis C. I will explain my reasons for this,
 20 but I should first stress that I shall continue to
 21 listen to the arguments and look at other ways in
 22 which we can provide help.
 23 "I hope that I have already made very clear my
 24 deep sympathy all those affected by this inadvertent
 25 tragedy. I have been very touched by the real

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1 of options) involve the expenditure of substantial
 2 sums of public money. I have a duty to consider the
 3 effect of such a sizeable sum on other health service
 4 expenditure. That duty has led me to conclude that
 5 funds that are available to the NHS, from whatever
 6 source, are best used in a direct patient care.
 7 "You will also be aware that suggestions have
 8 been made for funding compensation from sources other
 9 than the NHS budget and I have given these careful
 10 consideration. Although theoretically possible,
 11 funding through the commercial sector or the National
 12 Lottery are not matters in which it would be
 13 appropriate for me to seek to exert influence. The
 14 first would be a matter for any companies involved and
 15 the second for the independent National Lotteries
 16 Board."
 17 Then you go on to deal with a range of other
 18 matters which have been raised by The Haemophilia
 19 Society, including research into hepatitis C, issues
 20 about availability of treatment, such as
 21 Alpha Interferon, and so on, and I'm not proposing to
 22 read those out.
 23 If we can go back to the first page then,
 24 Lord Horam, and just unpick some of the reasoning that
 25 was put forward.

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1 The fourth paragraph, where you talk about your
2 deep sympathy for all those affected, you used the
3 phrase "by this inadvertent tragedy". Now,
4 "inadvertent" might be said to suggest that this was
5 unavoidable, it was bad luck, that it was nobody's
6 fault. Do you recall reflecting on the use of the
7 word "inadvertent" or what you meant by saying it was
8 an "inadvertent tragedy"?

9 A. Well, it was a tragedy, which was not meant to happen
10 but did.

11 Q. If we then pick it up in the next paragraph, you say
12 there what I think are probably two separate things.
13 First of all, you don't accept that there has been
14 negligence on the part of the NHS. "Negligence" is
15 a legal term of art, as it were, and I'm not proposing
16 to ask you specifically in relation to that. But you
17 go on to say this -- and it's reflected in all of the
18 documents that have been provided to you by
19 officials -- you go on to say:

20 "... no question that they received the best
21 treatment available at the time."

22 Now, that's obviously what officials had said to
23 you, as we've seen.

24 A. Mm.

25 Q. Would you expect there to have been a proper

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1 what do you think you might have -- would have done in
2 response? Would you have wanted to know more at
3 least?

4 A. Yes, I would want more information: what were the
5 facts?

6 Q. Presumably, if there had been this rather more nuanced
7 picture, it might have given you a more solid
8 foundation for pushing back against the Departmental
9 and Treasury resistance?

10 A. Indeed, indeed. I mean, it was a bit black and white,
11 wasn't it?

12 Q. Yes. Looking back now, Lord Horam, with the benefit
13 of having seen not just the material that was given to
14 you by officials at the time but some of what was
15 going on behind the scenes, looking back, was it, in
16 your view, appropriate for the Department to be making
17 blanket statements that thousands of individuals
18 treated by different doctors at different hospitals at
19 different times were all given the best treatment?

20 A. Well, it's a big statement, isn't it?

21 Q. Yes.

22 A. Perhaps too big a statement. But I'm not in
23 a position to judge that, I wasn't in a position to
24 judge that.

25 Q. So you would, essentially, as a junior minister, have

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1 evidential basis for that assertion; in other words,
2 that your officials would have investigated the matter
3 and had some factual basis for asserting that everyone
4 was treated with the best treatment available at the
5 time?

6 A. Yes.

7 Q. Did you ever question whether that could be stated so
8 confidently or what the basis for it was?

9 A. No, I didn't. I trusted their judgement.

10 Q. It might be said that the positive assertion that not
11 only was there not negligence but that it was the best
12 treatment available, treatment essential for survival,
13 was painting a very rosy picture a very idyllic
14 picture.

15 If -- and there is a hypothetical, because this
16 isn't something officials ever said to you, but
17 if your officials had said to you -- had given you
18 a more warts-and-all picture, for example saying, "We
19 don't know what patients were told about the risks at
20 the time", or, "There are question marks over whether
21 screening or testing could have been introduced more
22 quickly", or, "There are question marks over whether
23 the procedures for excluding high-risk blood donors
24 were effective", if those kind of more nuanced -- the
25 potential concerns had been drawn to your attention,

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1 taken it on trust?

2 A. Exactly.

3 Q. But you would have expected that, at some stage,
4 officials would have done the work to assure
5 themselves that what they were telling you was
6 correct?

7 A. Yes.

8 Q. You don't know whether that happened?

9 A. No.

10 Q. If we just go back to the top of the next page. The
11 issue, at the top of the page is about expenditure of
12 substantial sums of public money, and you say there,
13 you concluded that:

14 "... funds that are available to the NHS, from
15 whatever source, are best used in direct patient
16 care."

17 Now, you don't expressly here deal with the
18 possibility of the Treasury being approached to allow
19 access to the contingency reserve?

20 A. No, I don't.

21 Q. Do you know why that isn't expressly dealt with here?
22 Was that something still under consideration or do you
23 not know?

24 A. I don't think it was, I don't think it was ever
25 a possibility. I was not aware of it being

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1 a possibility.

2 **Q.** When you say "not aware of it being a possibility", do

3 you mean that you don't think the Treasury would have

4 responded favourably if approached, or you didn't know

5 that you could approach the Treasury?

6 **A.** I don't think that they would have responded

7 favourably, given that there were obviously going to

8 be many calls on the contingency funds.

9 **Q.** Now, obviously, if we go back to the previous page,

10 bottom paragraph, what is set out there is the concern

11 about the slippery slope, that's not phrase you use

12 there, but the risk that there would become a general

13 no-fault compensation scheme.

14 Why was that such a concern, in the sense, why

15 was the Department so convinced, it would appear in

16 what they were saying to you at least, that this might

17 lead to a general no-fault compensation scheme?

18 **A.** Because of the logic of going step-by-step: from going

19 from HIV to hep C, hep C to other conditions, like

20 medicines, like surgical procedures, radiological

21 procedures. You could see if no negligence had

22 occurred but compensation was made, there is a whole

23 variety of health procedures that could be brought

24 into play.

25 **SIR BRIAN LANGSTAFF:** But your question said "might", the

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1 letter says "would develop". So it's rather more

2 bullish upon the possibility of what a lawyer might

3 call the a floodgates argument coming into effect than

4 the question, and your answer, I think, answered the

5 "might".

6 **A.** Yes.

7 **SIR BRIAN LANGSTAFF:** Because you said it could lead to

8 this, it could lead to that. What do you say about

9 the assertion that it would develop?

10 **A.** Well, I agree, that's more problematic, isn't it?

11 I mean, that is speculation. With hindsight, that's

12 probably not been borne out.

13 **SIR BRIAN LANGSTAFF:** Yes, no. Well, I've likened it to

14 the floodgates argument --

15 **A.** Yes.

16 **SIR BRIAN LANGSTAFF:** -- amongst lawyers, and a judge

17 sitting in court quite often hears floodgates

18 arguments as an argument for not accepting

19 a particular case that's been put forward. But

20 sometimes they succeed. But that is probably, and the

21 lawyers here can submit to me if they think I've got

22 this wrong, but in general floodgates arguments are

23 a last refuge of a desperate defendant, and don't

24 quite so often succeed. Sometimes, as I say, they do,

25 but it's not by any means a generality. But there we

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1 are.

2 **A.** With hindsight, that would have been better phrased as

3 "might well very quickly develop", rather than

4 "would".

5 **SIR BRIAN LANGSTAFF:** Yes.

6 **MS RICHARDS:** And I think you say in your statement,

7 Lord Horam, that perhaps in hindsight that assessment

8 was too pessimistic.

9 **A.** Yes.

10 **Q.** It's right to note, I think, that the settlement of

11 the HIV claims had not led to a general

12 no-fault compensation scheme.

13 **A.** No, it hadn't.

14 **Q.** It might be said that the Department's focus was very

15 much on trying to distinguish HIV from hepatitis C and

16 say there were special features of HIV, rather than

17 focusing on what they had in common. Would that be

18 a fair comment?

19 **A.** Yes.

20 **Q.** And the line could, could it not, have been held at,

21 saying, well, this is a scheme -- because of the scale

22 of the tragedy, a scheme where the relevant cohort are

23 those infected through blood and blood products?

24 **A.** Yes.

25 **Q.** The consequences of HIV, obviously, were horrific, but

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1 the Department knew, you, your colleagues knew, that

2 hepatitis C could also be fatal, could it not?

3 **A.** Most definitely.

4 **Q.** And looking at it again now, would you say that the

5 risk of dying of hepatocellular cancer might have been

6 sufficient to make hepatitis C, too, a special case?

7 **A.** I don't know about -- your point on cancer, I'm not

8 sure --

9 **Q.** Well, hepatitis C, as we saw from the

10 Haemophilia Society report, would lead to -- sorry,

11 could lead to --

12 **A.** Oh, I see.

13 **Q.** -- chronic liver disease, cirrhosis and cancer.

14 **A.** Yes.

15 **Q.** Let me put it this way, Lord Horam: if the Department

16 had been more open to the idea of the provision of

17 financial support to those with hepatitis C, there

18 were ways in which it could be said that this is

19 a special case, too?

20 **A.** I take your point.

21 **Q.** Can I then just pick up a handful of further documents

22 with you, not very many more. Not long after you --

23 no, actually, let's pick up Reverend Tanner's response

24 first of all, to your letter.

25 HSOC0014299, please, Lawrence.

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So this was the Reverend Tanner, 3 October 1996, to you, and in the second paragraph he says this:

"While I acknowledge the work that is being undertaken by various agencies to improve understanding of HCV and identify effective treatment, I am deeply disappointed by your response to our request for financial help for people with haemophilia infected with Hepatitis C.

"The Haemophilia Society has never suggested that there has been negligence on the part of the NHS. We asked you to make an ex gratia payment to people with haemophilia who have been infected with HCV through contaminated blood products and to establish a trust fund to meet their financial needs and those of their dependants. We consider this the minimum required to alleviate immediate needs.

"Neither is the Haemophilia Society seeking compensation. We asked for a compassionate approach to the strong moral arguments involved. We do not accept that such an approach would set a precedent for no-fault compensation."

Then the letter goes on to talk about the differences and similarities between HIV and hepatitis C, and to suggest the position -- the example, again, given of the brothers, the position to

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only spent once, and it had to be spent on patient care --

Q. Yes, yes. And you're absolutely right that there are references to: if it comes out of the health budget it has potential implications for direct patient care. You're right that that point emerges in the contemporaneous documentation.

But the primary focus, I would suggest to you, from the documentation we've looked at from the Department, might be said to be twofold: the consequences for Government, and the fiscal implications; would that be fair?

A. Yes, the precedent issue, the slippery slope --

Q. Yes.

A. -- issue, and the financial consequences.

Q. But can I then just ask you to look at HSOC0008602. This is the transcript of a documentary for which I think you were interviewed.

A. Mm-hmm.

Q. Just to put it, I think, in a fair context, what you say in your statement, and I'll just read this out, I don't think we need to put it on screen, but in paragraph 2.69 of your statement:

"I was asked to appear on a World in Action documentary broadcast on 7 October 1996 to set out the

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be morally indefensible.

But what role did compassion, or the moral case for resistance, play in the Department's thinking at the time, if any?

A. Well, I think that their moral case -- the moral case was: this is money spent. Whatever you -- however you describe it, whether it's an ex gratia payment or compensation, it's money spent. How is this money best spent; on treatment and patient care or on compensation? I would say that's the moral element in the Government's position.

Q. And compassion?

A. Same thing.

Q. I think you had said in terms back in the December of the previous year in the parliamentary debates that, having heard what Mr Marshall and others had to say, and having great sympathy, you wanted to look at things in more detail, and we've seen how you sought to do that over the months that followed.

In the options that were mapped out for you by officials, to what extent was a moral case for assistance given any weight by your officials?

A. Not a lot, is the answer to that, I think.

Q. And would it be fair to say, based --

A. Other than what I've stated, that the money can be

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Government's position in relation to treatment for Hepatitis C sufferers. This was my first appearance on a television broadcast as a Health Minister. I was allowed a very short amount of time to answer a small number of questions put to me as part of the wider broadcast."

So that was how it came about.

If we go, please, Lawrence, to page 6. I want to pick it up in the bottom half of the page. You've got the heading "Comm", it says:

"A single dose of factor eight is made by concentrating the clotting agent from thousands of blood donations. In 1975 WIA [that's World in Action] first exposed how American down and outs were contaminating Britain's blood products."

That's a reference to a 1975 documentary by World in Action. Then what we see under the heading "Archive Comm" is an extract from that 1975 documentary which talks about money -- blood being sold, "bought from men who need money ... down on the skid rows of America's big cities", and it talks about paid donors carrying 6 to 13 times the risk of having hepatitis as volunteer donors, and they can pass it on.

If we then go to the bottom of the next page,

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1 please. We can pick up at the very bottom of the
2 page, again under the heading "Comm", and this is now
3 the 1996 documentary again:

4 "Many similarities have been drawn between HIV
5 and hepatitis C. They are both transmitted in blood
6 and blood products like factor 8. In 1990 the full
7 effects of hepatitis C were not yet known, but HIV
8 positive haemophiliacs were dying of AIDS at the rate
9 of one a week. Public opinion forced the government
10 to set-up a multimillion pound compensation fund."

11 Then if we just go down the page a little the
12 documentary then shows John Major in the House in
13 December 1990 making that announcement. Then we get
14 to the heart of the issue in 1996:

15 "The compensation only covered HIV victims
16 infected before 1985. After that all factor 8 was
17 heat treated reducing the risk of viral contamination.
18 Now the 3,000 haemophiliacs who were infected with
19 Hepatitis C from the same contaminated blood products
20 want compensation too. Today the government turned
21 them down."

22 This is where we then get some of your answers:

23 "At the end of the day [and this is you] I have
24 to say it is better to spend money on health care,
25 direct patient care for haemophiliacs, for

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1 "Yes. Remember they are alive first of all,
2 I mean they've had the gift of life from the blood
3 products they received, and in addition some of have
4 indeed got hepatitis C. But first of all they are
5 alive and secondly the onset of hepatitis C, while
6 very severe, in the case of probably one in five,
7 undoubtedly, indeed leading to cirrhosis of the liver
8 and death, in many others it not so severe. So let's
9 look at it in perspective."

10 That reference to having the "gift of life" from
11 blood products suggests that your understanding was
12 that the factor concentrates had been life-saving for
13 the patients who received it. Was that your
14 understanding at the time, do you think?

15 A. Yes.

16 Q. That understanding is something you would have gleaned
17 from officials, rather than your own separate
18 knowledge?

19 A. Yes, indeed.

20 Q. So would it be right then to -- I think you told us
21 previously you weren't aware, for example, of
22 an alternative treatment, cryoprecipitate?

23 A. No, I wasn't.

24 Q. Do you remember officials ever telling you that there
25 were not just severe haemophiliacs who might sometimes

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1 haemophiliacs with hepatitis C, or indeed anybody else
2 who is ill rather than compensation."

3 That, I think, probably reflects the point you
4 made a few moments ago, Lord Horam. Then if we go
5 back to the page, please. There is then an
6 intervention of an individual who was infected with
7 hepatitis C. Then what's said is this:

8 "I think that documentary [that's the 1975
9 documentary] should be shown again and all the
10 government should be made to watch it and see exactly
11 where those blood products came from."

12 Just pausing there, did you ever watch the 1975
13 documentary, Lord Horam, do you know, whether before
14 or after this programme?

15 A. I can't recall.

16 Q. Then someone says:

17 "They should give exactly the same as they did for
18 the haemophiliacs with HIV. Exactly the same.

19 "All the haemophiliacs contracted hepatitis C as
20 a result of receiving factor 8 through the NHS."

21 Then you say:

22 "Yes but ..."

23 Then if we go over the page, I'm not sure what
24 the reference to 30,000 is. But then we see the
25 slightly longer answer from you:

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1 have a life-threatening bleed -- I emphasise
2 "sometimes" but not invariably -- but there were also
3 moderate and mild haemophiliacs who could potentially
4 be treated in different ways. Were those kind of
5 matters ever drawn to your attention, as far as you
6 can recall?

7 A. No, they weren't.

8 Q. Then we can see it continues towards the bottom of the
9 page that:

10 "The Haemophilia Society will continue to fight
11 for compensation. They're now joined by another group
12 of people also infected with Hepatitis C -- patients
13 who've been given contaminated blood transfusions."

14 But I don't think there is anything particular
15 further in your answers that I need to explore with
16 you.

17 Can we then pick up the Parliamentary debate at
18 the end of 1996, which you referred to earlier,
19 Lord Horam. This is at DHSC0041255_130.

20 So this is 11 December 1996, so it's almost
21 exactly a year on from the debate that we looked at
22 this morning. We can see it starts with a speech from
23 Mr Marshall, and if we look at the right-hand column,
24 the third paragraph onwards, we can see Mr Marshall
25 identifying possible areas of fault, so he says:

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"The origin of the problem goes back to the 1970s, when there was a failure to screen imported blood products. My view is that that demonstrated negligence on the part of the Department of Health. It was known at that time that, in the United States, blood donors were paid for giving blood. Those who feel so hard up that they give pints of blood for money include drug addicts and others whose blood may well be infected. The Department of Health must have known of those risks."

Then if we skip over the next paragraph and go to the one after:

"So we are discussing the issue in the 1990s because there was some negligence and complacency in the 1970s."

Then if we go to the next paragraph, please, Lawrence, and this is all from Mr Marshall's speech:

"The justification for giving assistance to haemophiliacs with HIV was that they faced a suspended sentence of death. Indeed, many died fairly quickly a full-blown acquired immune deficiency syndrome. Others have lingered on, and, such are the advances in medical science, some may do so for many years to come. All who have lived have done so not knowing how long they would live. Many found it difficult to get

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be paid. The vast bulk of decent people find the differential unacceptable."

Then if we go further down that column, please. In the second paragraph on the screen, Mr Marshall says this:

"When my [honourable] Friend the Minister was asked earlier this year whether he would provide help, he argued that the Department of Health budget should be used for patient care. Everyone accepts that the Secretary of State and his Ministers should try to protect the Department of Health budget ... but the argument that help should be denied because the health budget must be protected is intellectually threadbare and immoral.

"We all know that when the Macfarlane Trust was set up, for which measure our right [honourable] Friend the Leader of the House was responsible, no one said that the money would have to come out of the Department of Health's budget. There is a thing called the contingency fund that can be used to bail out Departments in such circumstances ..."

Then reference is made to the use of the contingency fund previously.

Then if we go to the same page, please, Lawrence, but the top of the right-hand column --

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a job, and certainly difficult to get a mortgage. Of course, in the case of hepatitis C, there is difference, but it is only of degree.

"Some of those infected with hepatitis C have already died. Others will die prematurely. There has been no official estimate."

Then he goes on to deal with lack of an estimate on the part of the Department of Health or what's said to be a lack of an estimate and his own estimate.

Then if we go to the bottom of the page, Mr Marshall talks about the hardships suffered by those with hepatitis C. I don't think need to read that out.

If we go to the next page, and we pick it up in the left-hand column, fourth paragraph down, so having referred again to the case of the three brothers, Mr Marshall says:

"One would need the intellectual casuistry of a Treasury mandarin to justify such an action. To say that one death is worthy of compensation, but that another is worth nothing at all is heartless and intellectually barren. It is not only grieving relatives who find the differential unacceptable and immoral -- more than 270 Members of Parliament have signed Early Day Motion 4, asking for compensation to

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thank you. Second paragraph, Mr Marshall says:

"Thereafter, we have to look to the future. There will be merit in setting up an inquiry to hear what outside experts say about the number of people who will die and the extent of the hardship created", and so on.

So a passionate speech by Mr Marshall --

A. Indeed.

Q. -- echoed just further down by Alf Morris. And he says this in the second paragraph, third line:

"The achievement of elementary justice for some very needful people is at the heart of our campaign, which, as the hon Member said, is now supported by more than 270 Members of Parliament of all parties. Our campaign is also about the morality. The Government accepted their moral responsibility in the case of HIV infection in the course of national health service treatment. They now have the same responsibility in the hepatitis C cases."

And he asserts:

"It is morally wrong to deny the victims of this appalling further tragedy in the haemophilia community the modest help they seek."

So those are the speeches to which you then responded, Lord Horam.

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We can see that -- just further down the same column, where you observe:

"It is almost exactly a year since we had a similar debate on this subject."

Again, I'm not going to read all of it but if we can go to the next page. You repeat -- and we see it, for example, in the third paragraph, on the left-hand side -- you repeat the information that we've seen set out in the Departmental documents and the letter to the Reverend Tanner, so the "best treatment available in the light of medical knowledge available at the time". And I think you say the same later in the speech.

What I just want to do, finally, in this is if we look on the same page, Lawrence, bottom of the right-hand column. This is, I think, setting out your position, the Department's position, in terms of financial support as at December '96. You say:

"The Haemophilia Society subsequently wrote to me in June asking for the Government to set up a trust fund ..."

And so on:

"I took time to consider these proposals carefully before replying to the Haemophilia Society in October. Most hon Members will by now be aware

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best used in direct patient care."

So that is you, is it not, on the record also saying that the Marshall scheme, the more modest proposal, is also rejected?

A. Yes.

Q. And is it right to understand that was essentially for the same reasons as the reasons set out in your letter to the Reverend Tanner?

A. Yes.

SIR BRIAN LANGSTAFF: Before you leave this, can I just come back to what is said at the top of this column? Thank you.

It's in the second substantive paragraph down on that page, it's:

"First, we do not accept ..."

If you can highlight that, please.

"First, we do not accept ..."

Down to the word "negligence", the whole paragraph, please. The whole paragraph, please. Thank you.

Can we make that any larger, or not?

Thank you.

It's this, that after the best treatment, which counsel has already asked you about, available at time, we see, four lines up from the bottom:

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that I did not accept the society's proposals for payments for those infected with hepatitis C, but I stressed that I remained open to further arguments. I also outlined the support that we are giving to work with those infected, and to research in the area."

Then third paragraph, you reject the suggestion that there has been negligence. You repeat the concern about the development of a general no-fault compensation scheme.

And in the next paragraph you say:

"We are not convinced that hepatitis C falls into the same special category."

And then if I can just read the paragraph beginning "Secondly":

"Secondly, as my hon Friend said, all of the proposals for payment schemes involve the expenditure of substantial sums of public money. I have considered a wide range of options for such schemes -- I really have done that -- including the possibility of a scheme limited to those who go on to develop cirrhosis only. But they all have significant costs. As a Health Minister, I have a duty to consider the effect of such a sizeable sum on other health service expenditure. That duty has led me to conclude that funds available to the NHS from whatever source, are

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"That treatment was essential for their survival."

Now she's dealt with that. But then there are these words:

"There was no alternative."

So that was the information that you were given by your civil servants, that there was no alternative, but that they should be given Factor VIII?

A. That's correct.

SIR BRIAN LANGSTAFF: Thank you.

MS RICHARDS: The final point I wanted to pick up, Lord Horam, about this parliamentary speech is -- it's the bottom of the left-hand column and the top of the right, so if we just pick it up at the bottom of the left-hand, it's the last paragraph:

"It has been suggested -- it was reiterated today by my hon Friend -- that there should be funding compensation sources other than from the national health service budget. Naturally, I am sympathetic to that suggestion. Given that knowledge of how the Government work, hon and right hon Members who have spoken in this debate will understand that those matters are not within the compass of my duties as Health Minister, and they must look to other Ministers to put their case, particularly as regards the

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1 contingency fund ..."

2 And then you refer to the National Lottery. And

3 for reasons I don't need to explore with you, because

4 they're perhaps obvious, the position is that's

5 a matter to pursue through the national lottery if

6 anyone wants to.

7 But it's the suggestion that it would be for

8 "other Ministers to put [a] case ... as regards [to]

9 the contingency fund". Do you know what you meant by

10 that?

11 A. I think probably I got that wrong, to be honest,

12 I think it was really my responsibility, in

13 retrospect. With hindsight, I probably got that

14 wrong. It was probably my responsibility to do that

15 if I was convinced there was a case for the

16 contingency fund. And I don't really know why I said

17 "other Ministers", to be honest.

18 Q. And either yours or yours to persuade Mr Dorrell, and

19 for Mr Dorrell to put the case?

20 A. Yes, exactly, yes.

21 Q. Now, we've seen -- we can take that down, thank you,

22 Lawrence.

23 We've seen what was being said by the Treasury in

24 communications with the Department, we've seen the

25 views of the Permanent Secretary, the resistance, it

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1 might be said, of civil servants within the

2 Department. Do you recall any discussions on this

3 issue with the Secretary of State himself, Mr Dorrell?

4 A. No, I don't, but I would have been surprised if we

5 didn't have discussions, given that I -- I think

6 I mentioned we probably had three meetings a week, the

7 so-called "breakfast meetings" -- that this has not

8 come up. I mean, really, given that it was a big

9 issue and there were real problems in addressing it,

10 it would greatly surprise me if we hadn't discussed it

11 at some stage but I have no evidence to that effect.

12 Q. I'm just going to ask you to look at one document. It

13 pre-dates your time as minister, Lord Horam, so you'll

14 recall in a couple of documents that we've looked

15 there is reference to the Secretary of State having

16 given evidence to a health select committee in July of

17 1995, and I just want to look at an extract of that

18 with you and then just explore a point with you.

19 So it's DHSC0042937_094.

20 And we can see the second paragraph -- actually,

21 I'm sorry, Lawrence, let's just put the first

22 paragraph up, otherwise it doesn't make sense.

23 So this is, I think, potentially Mr Marshall

24 again, and he asks some questions about matters

25 I don't need to trouble with you with, about the

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1 organisation of the Blood Service and purchase of

2 blood bags, and then this question:

3 "Would you like to comment on your views as to

4 whether those who suffer a premature death through

5 contaminated blood products, or contaminated blood

6 should be compensated?"

7 Then Mr Dorrell says:

8 "May I deal with the last question first? My

9 first exchange as a Health Minister some years ago

10 with Mr Marshall was on this subject in an earlier

11 case. I believe that it remains true now as I

12 asserted then that there is a choice to be made about

13 whether the Health Service uses its resources to

14 compensate those who have suffered but through no

15 fault of the Health Service where there has been a

16 breakdown but without fault, whether that is a higher

17 priority than the treatment of today and tomorrow's

18 patients. I said then and I still believe it very

19 strongly to be true that any patient who undertakes

20 a course of medicine must accept that there is a risk

21 attached to modern medicine and in cases where

22 a patient is damaged but without any fault. I do not

23 believe that it is a sensible use of NHS resources to

24 provide compensation in those cases. Of course that

25 is in no sense to undermine the quite proper

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1 obligation that rests when things go wrong through

2 somebody's negligence. Where there is no fault, I am

3 not in favour of compensation as a principle."

4 Then if we go to the next page, bottom half of

5 the page, someone, it may be Mr Marshall again,

6 I don't know, I don't think it matters, says:

7 "Can I back to the first part of the answer?

8 Would you not agree that there is something illogical

9 when those who have suffered an early death through

10 HIV are compensated but sometimes within the same

11 family another haemophiliac suffered an early death

12 through cirrhosis of the liver, through hepatitis C,

13 and has received no compensation at the all. Do you

14 not think that is worthy of re-examination,

15 particularly as there are so few people involved?"

16 Then this was Mr Dorrell's answer:

17 "I cannot deny that there is an illogicality

18 there because the haemophiliac who contracted AIDS as

19 a result of blood transfusion was provided with

20 compensation in contravention of the principle which

21 I enunciated to the Committee. We can only give the

22 guarantee that there will be no illogicality if we

23 extend the same form of compensation more generally

24 that we have done and I am not in favour of doing that

25 for the reason I gave to the committee."

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1 Two matters arising out of that, Lord Horam, and
 2 recognising, as I do, that this pre-dates by a few
 3 months your arrival, but it's still Mr Dorrell who is
 4 Secretary of State when you're there. Mr Dorrell
 5 appears to accept that there was no particularly good
 6 reason for -- or to accept at least there is
 7 an illogicality in treating differently the HIV
 8 sufferer from the hepatitis C sufferer. Do you recall
 9 whether that potential illogicality was something that
 10 was ever discussed with him by you?
 11 **A.** No, I don't recall that, to be honest.
 12 **Q.** Then, secondly, it might be inferred from what he is
 13 saying here that he thought that the Government had
 14 already gone too far in providing what he calls
 15 compensation to those who had contracted AIDS. Was
 16 that something -- a view that you ever recall him
 17 raising with you or discussing with you?
 18 **A.** No.
 19 **Q.** Do you recall whether this issue -- the issue that
 20 we've been exploring today -- was something that was
 21 ever raised by you with Baroness Cumberlege?
 22 **A.** No.
 23 **Q.** No, as in you don't recall it or --
 24 **A.** I don't recall it.
 25 **Q.** We can take that down, thank you, Lawrence.

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1 Can I then just really put a couple of general
 2 propositions to you for your comment, Lord Horam.
 3 It might be said that the Government, in
 4 considering the issue in the way that we've explored
 5 today, focused on attempts to hold the line, avoid the
 6 slippery slope and maintain that distinction between
 7 HIV and hepatitis C, to the extent that it lost sight
 8 of the desperate circumstances of those whose lives
 9 had been devastated by infection; do you have any
 10 comment on that?
 11 **A.** I don't think it lost sight of the desperate
 12 circumstances of those who had been infected, or their
 13 relatives and friends, I don't think it lost sight of
 14 that. But I think that it was concerned about the
 15 slippery slope. That was uppermost in it's mind.
 16 There is a tension between the two, I agree, but
 17 I think the slippery slope argument was uppermost in
 18 its mind.
 19 **Q.** Final area of questioning, Lord Horam, was just about
 20 the possibility of there being some form of inquiry or
 21 investigations, that there was a passing reference to
 22 it, I think, in that last parliamentary debate we
 23 looked at from Mr Marshall, suggesting at least
 24 an inquiry investigating the circumstances of those
 25 affected, not necessarily suggesting a more

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1 far-reaching inquiry.
 2 Your evidence in your statement, as I understand
 3 it, is that you don't remember anyone raising with you
 4 the possibility of having some form of formal inquiry
 5 or investigation into what have gone wrong, what might
 6 have led to the infection of so many people?
 7 **A.** No apart from this mention in his speech, no, no-one
 8 mentioned that to me.
 9 **Q.** Would it be right to understand that it's not
 10 something that occurred to you proactively to raise?
 11 **A.** No, that's correct, it wasn't. I mean, I was more
 12 concerned, all throughout this period, to see if there
 13 was some, as I say, more modest proposal that was
 14 acceptable. Given that we were -- I was tied, as it
 15 were, to the overall position of the Government on
 16 this, I was looking to see if there was some
 17 compromise, however small, which could give some hope
 18 to people that there was a way forward.
 19 **MS RICHARDS:** Sir, those are the questions I'm currently
 20 proposing to ask Lord Horam, a little longer, I'm
 21 afraid, than the half an hour I said before lunch.
 22 Could we take a 30-minute break now and that,
 23 I think, should be enough for Core Participants and
 24 legal representatives to suggest any further
 25 questions.

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1 **SIR BRIAN LANGSTAFF:** Yes, well, if I say not before 3.15,
 2 then that gives the opportunity, should it be longer,
 3 for Lord Horam to be told --
 4 **MS RICHARDS:** Yes.
 5 **SIR BRIAN LANGSTAFF:** -- in his room and for others to be
 6 informed. So not before 3.15.
 7 **MS RICHARDS:** Thank you, sir.
 8 **(2.46 pm)**
 9 **(A short break)**
 10 **(3.14 pm)**
 11 **MS RICHARDS:** Lord Horam, there is just a handful of
 12 additional matters. The first is really by way of
 13 just flagging up something else you said in your
 14 statement, following your appearance on the World in
 15 Action programme and it's really just to draw
 16 attention to a different paragraph in your statement
 17 from the one I identified earlier.
 18 WITN5294001, page 53, and it's paragraph 2.101.
 19 You said this in your statement:
 20 "My comments on that programme, made in response
 21 to questioning on a television broadcast, without
 22 adequate context may appear, in retrospect, rather
 23 blunt. I was not allowed time to set out my thoughts
 24 more extensively, rather as I would do in the House or
 25 in a letter. I think my position, and the

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1 Department's, was phrased better when I said the
 2 following to the House on 11 December 1996 ..."
 3 Then you've set out two passages from your
 4 speech on 11 December. I'm just going to read the
 5 first, which I didn't read when I was going through
 6 the passages earlier. You said:
 7 "Health Ministers have had the opportunity twice
 8 this year to meet with my [honourable] Friend to
 9 discuss these issues. The discussions which I have
 10 had with [honourable] Friend and with representatives
 11 of the Haemophilia Society have brought home to me
 12 very clearly the plight of those who find themselves
 13 infected with hepatitis C, in addition to suffering
 14 haemophilia. Nobody could fail to sympathise with the
 15 distress of people who, already suffering with one
 16 disorder, have found that the treatment for that
 17 disorder has given them another."
 18 So does that reflect your own views at the time?
 19 **A.** Yes.
 20 **Q.** We can take that down, thank you.
 21 Now, can I then ask for a different document to
 22 go on screen, WITN5294013. We looked at this earlier,
 23 and it's just as a reminder. This was the note that
 24 was provided to your office at your request, and we
 25 looked at the first two paragraphs under the heading

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1 **Q.** No. No, I absolutely understand that, Lord Horam.
 2 It's really exploring the extent to which that was
 3 regarded as important by the Department. Because the
 4 moral case might be very different between the
 5 situation of people who are given all information
 6 about the risks of treatment and decide to run that
 7 risk, and the risks --
 8 **A.** Yes.
 9 **Q.** -- develop, as opposed to those who are not given any,
 10 or are not given adequate information about the risk
 11 and are then infected?
 12 **A.** Yes, I accept that.
 13 **Q.** Yes. So it would have been a factor that might have
 14 influenced the thinking of the Department given that
 15 we see it set out here and elsewhere?
 16 **A.** Well, it obviously should have been; yes.
 17 **Q.** Whose job or role was it within the Department to
 18 oversee the submissions, et cetera, the briefings that
 19 were produced by officials to ensure that what was
 20 being said there was accurate?
 21 **A.** I suppose ultimately the Permanent Secretary.
 22 **Q.** And I'm not sure whether you'll be able to answer this
 23 final question, but I'll ask it in any event. Do you
 24 know whether there was any guidance at the time to
 25 civil servants or any kind of code of conduct which

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1 "CJD judgment", and if we can just zoom in on those
 2 again. It's picking up the second paragraph that
 3 reference which I have already asked you about, about
 4 hepatitis C being very different in that:
 5 "... the risk of infection via blood products
 6 was known to all concerned -- including the patients."
 7 Now, would it be right to understand that that
 8 assertion, and we see it elsewhere in the documents as
 9 well, describes a situation in which you're being told
 10 that patients apparently accepted the risk of being
 11 infected?
 12 **A.** Well, I don't really know whether they accepted it or
 13 not, to be honest. I mean, this is not something
 14 I had to consider. I was -- this was the situation
 15 before I took office and, therefore, I don't really
 16 know whether they accepted it or not, whether --
 17 **Q.** Let me explore it in this way. If within the
 18 Department there was a general belief that was being
 19 shared with ministers such as yourself that patients
 20 knew the risk of treatment and decided to run that
 21 risk, that might well have been a very influential
 22 factor in deciding whether or not some form of
 23 financial support might be made available?
 24 **A.** Yes, but I didn't know whether that was the case or
 25 not.

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1 told civil servants they should only include something
 2 in a briefing if they knew it to be correct, or that
 3 they should qualify the extent to which something was
 4 within their own knowledge?
 5 **A.** No I don't think so there was. I'm not aware of it
 6 anyway.
 7 **MS RICHARDS:** Thank you.
 8 **SIR BRIAN LANGSTAFF:** Before you leave this document from
 9 the screen, could I just ask you about this, it's in
 10 the same vein, it's what you were told by the
 11 Department. Here, the Department is saying the risk
 12 of hepatitis C is very different because the risk of
 13 infection was known to all concerned.
 14 Can we just go back to the previous document
 15 that we had on screen? WITN5249 -- whatever it is --
 16 001, a witness statement, page 53. Thank you.
 17 And it's -- the words that were used at the very
 18 end of what you said to the House -- and I imagine
 19 that what you said to the House was effectively
 20 drafted for you by the civil servants?
 21 **A.** Well, with input from me, yes.
 22 **SIR BRIAN LANGSTAFF:** Yes. So it's the last line, last
 23 sentence:
 24 "However, medical procedures rarely come without
 25 risk, are those are not always known about or capable

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1 of being guarded against in time."
 2 It might be said that seems to suggest to
 3 a listener that the risks of Factor VIII causing
 4 hepatitis C were not known about, is the implication,
 5 perhaps, to a listener or a reader, is it?
 6 **A.** Yes, I'm not sure if that necessarily follows. I'm
 7 only stating a general principle here, they "rarely
 8 come without risk".
 9 **SIR BRIAN LANGSTAFF:** That's plain.
 10 **A.** Not a lot was known about --
 11 **SIR BRIAN LANGSTAFF:** It's the clause that follows --
 12 **A.** Mm.
 13 **SIR BRIAN LANGSTAFF:** -- which is said in context.
 14 **A.** Is that -- are you questioning whether that's accurate
 15 or not?
 16 **SIR BRIAN LANGSTAFF:** Well, I'm questioning not whether
 17 that's accurate, if it's a general proposition, but if
 18 it's relating to the proposition that Factor VIII
 19 caused hepatitis C, and this was not known about --
 20 that may be an implication -- then it's inconsistent
 21 with what counsel has just been putting to you, that
 22 everyone knew what the risks were. Do you follow?
 23 So it almost looks as though the Department has
 24 drafted something for you to say which may not have
 25 corresponded with what other people in the Department

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1 or the same officer was actually saying. It's the
 2 inconsistency that's concerning me, that's the point.
 3 Potential inconsistency.
 4 **A.** Well, I concede your point. I concede your point,
 5 yes.
 6 **SIR BRIAN LANGSTAFF:** Yes, thank you.
 7 **MS RICHARDS:** Sir, those are the only questions I'm
 8 proposing to ask Lord Horam from those suggested. Do
 9 you have any questions?
 10 **SIR BRIAN LANGSTAFF:** I think I've just asked it.
 11 **MS RICHARDS:** Lord Horam, is there anything further that
 12 you wish to add?
 13 **A.** Well, I just -- may I say I have profound sympathy for
 14 people who have been infected and affected by all of
 15 this. It's a total tragedy and I'm so sorry that
 16 I personally wasn't able to do more to help during my
 17 short period of office. We're now having an Inquiry.
 18 I have no experience of inquiries of this kind but it
 19 seems to me to be very thorough, and I do hope that,
 20 therefore, it gives some hope to people that there is
 21 some positive outcome to this dreadful period. Thank
 22 you.
 23 **MS RICHARDS:** Thank you.
 24 **SIR BRIAN LANGSTAFF:** Well, thank you very much for coming
 25 and enlightening us about what it was like as a junior

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1 minister in your time and, in particular, the
 2 relations between yourself and the civil servants and
 3 the various tasks that you had to perform. So thank
 4 you very much.
 5 **MS RICHARDS:** Sir, tomorrow we have the evidence of
 6 Baroness Hooper.
 7 **SIR BRIAN LANGSTAFF:** Baroness Hooper, 10 o'clock.
 8 (3.25 pm)
 9 (The Inquiry was adjourned until 10.00 am on
 10 Thursday, 30 June 2022)
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MS RICHARDS: [25] 1/15 7/24 57/2 57/11 57/16 88/1 106/6 108/5 108/11 108/13 108/24 109/4 109/24 110/5 119/6 136/11 143/19 144/4 144/7 144/11 148/7 150/7 150/11 150/23 151/5	070 [1] 98/20 071 [1] 16/11 072 [2] 18/1 95/14 073 [1] 93/17 094 [1] 138/19 099 [1] 81/20	140 million [1] 66/25 141 [1] 14/22 147 [1] 94/17 15 [1] 65/8 16 [2] 26/13 65/20 17 [1] 27/14 17 months [3] 2/25 9/2 9/18 176 [1] 90/19 18 [1] 18/16 18 December [1] 59/17 18 December 1995 [1] 41/18 18 months [1] 9/11 180 million [1] 64/12 188 [1] 45/18 19 [3] 40/13 40/13 65/25 19 January [1] 61/21 19 January 1996 [1] 59/12 19 July [2] 99/2 100/17 1960s [1] 83/8 1970 [1] 1/20 1970s [2] 129/2 129/15 1975 [5] 124/13 124/16 124/18 126/8 126/12 1976 [1] 2/13 1979 [1] 2/13 1980 [1] 33/24 1981 [1] 1/23 1983 [3] 1/23 1/23 2/1 1985 [2] 35/4 125/16 1987 [2] 2/3 75/21 1988 [2] 22/24 24/3 1989 [1] 75/23 1990 [2] 125/6 125/13 1990s [1] 129/13 1991 [1] 83/10 1992 [1] 2/4 1994 [4] 22/24 22/25 24/3 24/3 1995 [21] 2/18 2/23 13/12 13/12 13/20 14/12 14/24 16/13 27/8 27/17 29/4 39/4 39/9 41/18 43/11 46/2 47/24 48/8 52/10 62/18 138/17 1996 [30] 8/24 22/15 50/13 52/12 58/2 59/8 59/12 63/4 74/2 76/25 77/17 79/7 82/6 86/5 90/20 92/1 93/19 98/18 100/10 101/7 103/8 110/6 110/8 121/1 123/25 125/3 125/14 128/18 128/20	145/2 1997 [1] 2/23 2 2 life [1] 19/24 2 million [1] 84/25 2 o'clock [2] 109/20 109/25 2,000 [1] 73/10 2.101 [1] 144/18 2.16 [1] 18/2 2.17 [1] 27/15 2.20 [1] 40/13 2.21 [1] 42/6 2.22 [1] 43/6 2.25 [1] 49/16 2.26 [1] 50/10 2.27 [1] 3/22 2.34 [1] 73/17 2.46 pm [1] 144/8 2.69 [1] 123/23 2.81 [1] 4/1 20 [6] 18/25 19/2 23/23 25/2 66/10 98/13 20 December [2] 48/10 48/13 20 December 1995 [2] 43/11 46/2 20 February 1996 [2] 76/25 77/17 20 million [1] 84/22 20 years [2] 66/24 83/24 20,000 [3] 65/2 70/25 85/6 20-40 [1] 24/1 2005 [1] 84/25 2006 [1] 85/1 2010 [1] 2/6 2011 [1] 85/1 2022 [2] 1/1 151/10 20March [1] 87/7 21 [3] 3/21 49/16 67/6 21 December [1] 50/6 21 December 1995 [1] 48/8 21 million [1] 84/21 21 November 1995 [1] 13/20 23 [1] 67/22 24 [1] 67/25 24 April [1] 93/23 25 [1] 73/16 25 June [3] 93/20 93/24 95/15 25 years [1] 76/19 26 [1] 86/5 26 March [1] 92/4 260 [1] 86/20 270 [2] 130/24 132/14 28 February [1] 80/18	28 February 1996 [1] 79/7 280 million over [1] 72/23 29 [1] 7/14 29 July 1996 [1] 101/7 29 June 2022 [1] 1/1 29 May 1996 [1] 92/1 29 November 1995 [1] 2/23 3 3 October 1996 [1] 121/1 3,000 [3] 22/19 83/19 125/18 3,100 [1] 18/8 3.14 pm [1] 144/10 3.15 [2] 144/1 144/6 3.25 pm [1] 151/8 30 [1] 68/20 30 June 2022 [1] 151/10 30 November [1] 17/16 30 November 1995 [1] 14/24 30,000 [2] 85/6 126/24 300,000 [1] 85/4 3000 [1] 68/24 31 [3] 4/24 5/23 69/5 32 [1] 69/12 35 [1] 70/1 36 [1] 70/13 36 million [1] 64/13 360 million [1] 72/21 37 [2] 70/16 71/2 38 [1] 70/21 39 [1] 71/15 4 4 April 1996 [1] 90/20 4 December [1] 15/11 4 December 1995 [1] 27/8 4 million [1] 84/25 40 [3] 24/1 33/24 71/16 40,000 [1] 83/17 400 million [1] 73/10 41 [2] 71/23 84/22 42 [1] 72/2 45 [2] 4/1 72/15 5 5 December [1] 28/8 5 December 1995 [1] 27/17 5 per cent [1] 33/22 50 [2] 22/23 24/2 52 [1] 24/20	53 [2] 144/18 148/16 6 6 billion [1] 31/4 6 January [1] 3/23 6 March [2] 79/2 79/15 60,000 [2] 64/8 64/16 64 [1] 99/11 7 7 million per [1] 66/19 7 October 1996 [1] 123/25 72 million to [1] 72/21 8 8 January [1] 56/2 8 January 1995 [1] 52/10 8 January 1996 [1] 58/2 80 [1] 23/22 9 9 July [1] 98/20 90 million [1] 64/12 A ability [1] 23/6 able [5] 23/4 81/9 104/25 147/22 150/16 about [91] 2/15 9/11 10/1 17/5 17/21 20/17 20/24 21/9 24/23 25/12 29/9 29/18 31/12 33/22 34/7 35/12 35/18 35/24 36/7 37/13 38/7 39/21 40/10 44/11 48/22 49/22 54/8 57/6 57/9 58/7 63/25 66/20 68/24 71/21 72/9 73/16 73/20 75/14 76/19 79/11 83/7 83/21 86/9 96/7 98/5 100/25 101/8 102/5 102/7 103/6 104/16 104/20 104/24 105/12 106/14 106/25 107/15 109/16 109/21 112/20 113/1 114/19 116/11 117/11 118/8 120/7 121/22 124/7 124/19 124/21 130/11 132/4 132/15 134/8 135/24 136/12 138/24 138/25 139/12 142/14 142/19 146/3 146/3 147/6 147/10 148/9 148/25 149/4 149/10 149/19 150/25
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