

1 Thursday, 7 July 2022

2 (10.00 am)

3 **SIR BRIAN LANGSTAFF:** Yes, Ms Barrett.

4 **MS BARRETT:** Good morning. Ms Richards has asked me to

5 correct on her behalf something she said yesterday

6 during the evidence of Lord Waldegrave. When looking at

7 HMTR0000003_043, a minute dated 3 December 1991, from

8 Mr Dickson at the Treasury to Mr Grice, then the Chief

9 Secretary to the Treasury, Ms Richards suggested that

10 the handwriting beginning, "This is a long-standing

11 dilemma", might be that of Mr Mellor but said that she

12 would check.

13 Having checked, the initials indicate that

14 the handwriting is that of Mr Grice and not Mr Mellor.

15 **SIR BRIAN LANGSTAFF:** Thank you.

16 **Presentation by MS BARRETT on the role of the Chief Medical**

17 **Officer in the 1970s and 1980s**

18 **MS BARRETT:** This then is a presentation on the role of the

19 Chief Medical Officer. There is a written note on that

20 topic which has already been disclosed to Core

21 Participants and is published on our website. The

22 presentation today won't cover everything that's

23 contained in that written note.

24 Our focus for today will be on the Chief Medical

25 Officer's role in the response to AIDS over the 1980s.

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1 heavily involved in and the introduction of heat

2 treatment for factor products and a brief look at some

3 documents on Sir Donald Acheson's attitude to

4 compensation for those affected.

5 I will then come back at the end to make some

6 overarching comments about two particular categories of

7 documents. One is what's referred to as "Dear Doctor"

8 letters which were sent by the Chief Medical Officer to

9 the medical profession from time to time and the second

10 category is the Chief Medical Officer's annual reports.

11 Starting then with the overview of the role, the

12 role of the Chief Medical Officer can be traced back to

13 the antecedent post of Medical Officer to the

14 General Board of Health, which was established under the

15 General Board of Health Continuance Act in 1855. By the

16 time frame relevant to this presentation in the 1980s,

17 the role had at least threefold responsibilities, which

18 were: first, providing advice to ministers; second,

19 providing public health information to the medical

20 profession and the wider public; and, third, providing

21 leadership to the medical officers who worked at the

22 Department for Health and Social Security, DHSS.

23 To look at the remit of the role, a helpful

24 description is contained in the BSE Inquiry report

25 published in the year 2000, which is at MHRA0031996.

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1 That will involve considering in some detail the actions

2 taken by the two Chief Medical Officers for England

3 during that period, Sir Henry Yellowlees, who held the

4 role until the end of 1983, and Sir Donald Acheson, who

5 commenced in post in October 1983. So there was

6 a three-month overlap between them.

7 As with other presentations, our intention is to

8 provide a neutral and factual narrative which brings

9 together relevant documents for your attention and for

10 the attention of Core Participants.

11 I should add that the written note itself is not

12 exhaustive either. Core Participants and the Inquiry

13 team may well identify further documents relevant to the

14 role of the Chief Medical Officer as the Inquiry

15 progresses.

16 A road map then for today is to start with a brief

17 overview of the role of Chief Medical Officer and its

18 responsibilities. Then we will go on to a chronological

19 exploration of the documents touching on the Chief

20 Medical Officer's response to AIDS which will include

21 looking at the involvement of Sir Henry Yellowlees until

22 the end of his tenure at the end of 1983 and then

23 Sir Donald Acheson's involvement after his point October

24 of that year, the introduction of antibody testing, the

25 public awareness campaign which Sir Donald Acheson was

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1 We can see this is volume 15 of that report which

2 dealt with Government and public administration. Could

3 we go, please, to page 36 of this volume and focus on

4 the second half of the page under the sub-heading "The

5 Chief Medical Officer (CMO)".

6 We can see at paragraph 4.17, it's set out that:

7 "Although there were CMOs for Wales, Scotland and

8 Northern Ireland, advising their respective Ministers on

9 matters affecting those parts of the United Kingdom, the

10 responsibility for advising the UK Government on matters

11 affecting the United Kingdom as a whole fell to the CMO

12 for England."

13 The written note does touch on the roles of the

14 CMOs for Wales, Scotland and Northern Ireland but today

15 we'll be focusing on the role of the CMO for England and

16 their interactions in relation to AIDS in the 1980s.

17 Going on then to paragraph 4.18, the dates are

18 given and then this quotation from Sir Donald Acheson,

19 who was in post, as we've heard, from 1983 until his

20 retirement in 1991, the observation is set out that:

21 "... 'the sheer scale and personal responsibility

22 of the post seemed to have dimensions which distinguish

23 it even from some of the highest posts of all within

24 Whitehall'. [And he said that] Paper comes into the

25 CMO's office on a scale which normally applies to

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1 Ministers rather than to officials. There was an
 2 abnormally heavy commitment to meetings (both internal
 3 and external) and essential representational functions
 4 and international work [had] to be dealt with. Demands
 5 being made on the CMO in the field of public health were
 6 unusually heavy."

7 The relevance of this is that given the breadth of
 8 the CMO's remit, it would not have been possible for the
 9 CMO to be personally involved in every public health
 10 issue of concern and one aspect that we have found
 11 challenging to investigate in preparing this
 12 presentation is to what extent the CMO was personally
 13 briefed on the issues relevant to the Inquiry's remit.
 14 The Inquiry has heard evidence from Dr Hilary Pickles
 15 who was in the AIDS unit during the 1980s, or the later
 16 1980s, that decisions about whether to escalate
 17 briefings on any given topic were often taken by the
 18 Deputy Chief Medical Officers or DCMOs, so often we see
 19 documents that are circulated at DCMO level and it's
 20 sometimes difficult to ascertain whether the CMO, Chief
 21 Medical Officer, would have had personal sight of that
 22 document or not.

23 Dr Pickles' evidence, I won't cite it here but
 24 it's at paragraph 17 to 18 of the written presentation
 25 for those who want to look at the detail.

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1 [the Department of Health] by its professional staff.
 2 Until 1995 [so throughout the period we're looking at
 3 today], he acted as the ultimate line manager for over
 4 100 medical and around 40 scientific personnel."

5 He was the head of the medical hierarchy in the
 6 Department, which, various witnesses have commented on,
 7 ran parallel to the Civil Service hierarchy.

8 Then just the last place to go to in this report,
 9 could we scroll to 4.24, please, just at the bottom of
 10 the page. It is noted that part of the CMO's
 11 responsibilities was:

12 "To produce an independent Annual Report on the
 13 State of the Public Health [which highlighted] major
 14 issues where health [had] improved, and where there was
 15 concern about health."

16 We will come back to look at some of those
 17 reports.

18 The next document we're going to go to when
 19 considering an overview of the role is Sir Donald
 20 Acheson's autobiography, which we have an extract of at
 21 WITN0771088. This was his autobiography -- sorry, it's
 22 sideways -- "One Doctor's Odyssey", published in 2007.
 23 The internal inserts aren't sideways, just the front
 24 cover.

25 Could we go to page 7 of the document, please, and

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1 Could we scroll down the page to paragraph 4.20
 2 next, please. It's set out here that:

3 "The post had a long history and carried
 4 a 'complex, varied and demanding portfolio of
 5 responsibilities'. Unlike the [Chief Veterinary
 6 Officer], however, the [Chief Medical Officer] did not
 7 have oversight of an executive organisation.
 8 Sir Donald Acheson commented:

9 "While the CMO may offer guidance on medical or
 10 public health matters to all doctors or to Directors of
 11 Public Health, neither he nor his predecessors, at least
 12 since 1919, have had a management line or any power of
 13 direction to doctors outside the Department of Health."

14 That observation of his is relevant to reflect on
 15 when we come back to these "Dear Doctor" letters that he
 16 did circulate to the medical profession, and we consider
 17 the extent to which it was within the CMO's remit to
 18 provide guidance, if not direction, to the medical
 19 profession.

20 Could we scroll down next, please, to
 21 paragraph 4.22.

22 It's also set out in this report that:

23 "As well as having responsibility for medical and
 24 public health advice, the CMO was charged with ensuring
 25 that an adequate quality of advice was provided within

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1 could we focus on the paragraph in the bottom left-hand
 2 column, starting "But at a time when parliamentary
 3 sessions ..."

4 We can see just from the bottom of that paragraph
 5 Sir Donald Acheson stated that although he saw four
 6 Secretaries of State come and go, it was Norman -- Then
 7 if we could go to the top right-hand, thank you --
 8 Fowler with whom he worked for several years who he got
 9 to know best."

10 He says it was a productive partnership which
 11 included not only the largely successful policies, he
 12 says from the perspective of hindsight in 2007:

13 "... for the control of HIV/AIDS, legionellosis
 14 and salmonellosis, but the revival of public health."

15 He praises Lord Fowler's success:

16 "... based on a rare capacity to choose the right
 17 priorities together with the self-discipline to pursue
 18 them single-mindedly to a conclusion."

19 Lord Fowler has also given evidence to this
 20 Inquiry and his evidence really mirrors what Sir Donald
 21 Acheson said in his autobiography. He said that the
 22 post of CMO had pivotal importance and talked about how
 23 much he'd relied on Sir Donald Acheson during the mid-
 24 to late '80s when they were focusing on the AIDS crisis.

25 In relation to the relationship between the CMO

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1 and ministers, we've also heard from Dr Diana Walford,
 2 who was a Deputy Chief Medical Officer, and she has
 3 given evidence that in the context of those parallel
 4 administrative and medical hierarchies in the DHSS,
 5 the CMO had access to ministers whenever he wished. So
 6 there was a bridge at the top of these hierarchies.
 7 The next document we'll go to is Sir Donald
 8 Acheson's witness statement to the BSE Inquiry which is
 9 at MHRA0011433. We've seen the report that was written
 10 in the year 2000. He gave this witness statement in the
 11 October of 1998, before -- well we can see at the top
 12 here was scheduled to give oral evidence in
 13 November 1998.
 14 Can we go to page 4 of that document, please, and
 15 focus on the bottom paragraph from the subheading
 16 "The Role of the Chief Medical Officer". He there set
 17 out his view of the role as at that time. He noted
 18 that:
 19 "The Chief Medical Officer [was] the principal
 20 adviser on medical and public health matters, not only
 21 to Ministers in the Department of Health but to the
 22 Ministers in other government departments and to the
 23 Government as a whole."
 24 He reiterates the observation we've seen already,
 25 that the field over which the CMO is required to provide

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1 DCMOs, has given evidence that she found Dr Gunson to be
 2 accessible and helpful as a consultant adviser and was
 3 pleased that he'd taken over the role.
 4 The relevant evidence on that issue is set out at
 5 paragraph 23 of the written presentation. I don't go to
 6 it now.
 7 I'm just going to go back, please, to MHRA0011433,
 8 which is back to the witness statement of Donald Acheson
 9 for the BSE Inquiry, and could we go to page 5, please,
 10 and focus on paragraph 14 in the middle of the page,
 11 where Sir Donald Acheson said that:
 12 "The term 'Chief Medical Officer' [was] a misnomer
 13 as it implies that the CMO leads a national hierarchy.
 14 While the CMO may offer guidance on medical or public
 15 health matters to all doctors or to Directors of Public
 16 Health, neither he nor his predecessors, at least since
 17 1919, have had a line management or any power of
 18 direction ..."
 19 So this is coming back to the issue of whether
 20 there's a power to direct the medical profession.
 21 He says that:
 22 "... at best CMO may be seen as *primus inter*
 23 *pares*."
 24 I don't have the Latin translation, I'm afraid,
 25 Sir Brian.

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1 advice extends far beyond his own personal professional
 2 experience.
 3 He says:
 4 "It is therefore necessary for him to be supported
 5 by an extensive advisory machinery. In addition to
 6 a number of expert Standing Committees ... he has at his
 7 disposal a panel of upwards of about eighty personal
 8 consultant advisers drawn from the top ranks of the
 9 medical profession and covering all the specialities."
 10 So the role of the consultant adviser is an
 11 interesting one. That was the position as at 1998 when
 12 the panel had developed and enlarged since the period
 13 we're looking at in the 1980s and we can see that if we
 14 go to NHBT0001065, which will be, when it comes up, the
 15 minutes of the consultant advisers meeting on
 16 27 November 1981.
 17 I go here to the first half of the page, please,
 18 just to demonstrate that the specialisms at that time,
 19 including apologies for absence, numbered just seven,
 20 but even at this time, when there were just seven
 21 specialties represented, there was a consultant adviser
 22 for blood transfusion, who was at that time Dr Gunson.
 23 This was his first meeting. He commenced in that role
 24 that year, replacing Dr Geoffrey Tovey.
 25 Dr Walford, who as I mentioned was one of the

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1 **SIR BRIAN LANGSTAFF:** The first amongst equals.
 2 **MS BARRETT:** First amongst equals, I'm grateful.
 3 "They are free to accept or reject his advice."
 4 **SIR BRIAN LANGSTAFF:** The fact that he thinks it is
 5 a misnomer is I think looking at one public view of
 6 looking at the word "chief". My understanding from what
 7 you have told me in the written presentation and from
 8 what I have heard is that he was the Chief Medical
 9 Officer in the sense that he was the Government's Chief
 10 Medical Officer. So as far as the Government's
 11 concerned, he is their chief go to when I did comes to
 12 matters of medicine.
 13 **MS BARRETT:** That's absolutely right. He is not chief in
 14 the sense of the top of the pyramid of the NHS and the
 15 medical profession, but he is top of the hierarchy in
 16 terms of medical advice provided to the Government.
 17 **SIR BRIAN LANGSTAFF:** That's why he had the equivalent role
 18 to a Permanent Secretary, being the top of, if you like,
 19 the medical division.
 20 **MS BARRETT:** Yes, that's quite right, and in the BSE Inquiry
 21 report it's noted that he has the same Civil Service
 22 grading as a Permanent Secretary. So he certainly was
 23 of equivalent status.
 24 **SIR BRIAN LANGSTAFF:** That would explain why he had the
 25 access at the top, not to the administrative division

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1 but direct to ministers.
 2 **MS BARRETT:** That's right, there was that bridge at the top
 3 of the hierarchy just as a permanent --
 4 **SIR BRIAN LANGSTAFF:** Well, it's not really a bridge, is it,
 5 because a bridge will suggest there's a link between the
 6 two, the administrative and the medical, whereas he has
 7 a direct route. So it's more a direct reporting line to
 8 the minister, isn't it?
 9 **MS BARRETT:** Yes, that's right. That's absolutely right.
 10 **SIR BRIAN LANGSTAFF:** So if there's a bridge, it's a bridge
 11 through the minister rather than to the administrative
 12 side.
 13 **MS BARRETT:** Yes, it's more like the point of the triangle
 14 where they meet.
 15 **SIR BRIAN LANGSTAFF:** That's a better way of putting it.
 16 Thank you.
 17 **MS BARRETT:** So that is really the overview of what the
 18 purpose and function of the role was and we'll now go
 19 into some more of the detail as to what firstly
 20 Sir Henry Yellowlees and then Sir Donald Acheson did and
 21 in particular in response to the emerging risk of AIDS.
 22 We'll start, please, at MHBT0001067.
 23 So this is a letter of 9 June 1983 from Dr Gunson
 24 to Sir Henry Yellowlees. We've heard that Dr Gunson was
 25 the consultant adviser for blood transfusion issues at

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1 a period upon which they are reporting is concerned,
 2 because you don't necessarily know whether what is said
 3 effectively bringing things up-to-date or whether it is
 4 actually what was known and what was done during that
 5 particular year.
 6 **MS BARRETT:** That's right, we can't know and it's impossible
 7 to prove a negative. So all we can say is, as at
 8 October 1983 when he signed off his introduction to that
 9 report, he had in mind that over the period of 1982 AIDS
 10 was an issue but we can't know at what stage in 1982 or
 11 1983 he was first personally involved in that issue.
 12 **SIR BRIAN LANGSTAFF:** But at least he had to be aware that
 13 it was an issue during that period.
 14 **MS BARRETT:** Yes.
 15 **SIR BRIAN LANGSTAFF:** If not earlier, given some of the
 16 contents of his report.
 17 **MS BARRETT:** Yes, that is right.
 18 **SIR BRIAN LANGSTAFF:** Yes, and one supposes that a report of
 19 the length it was would be drafted for him, particularly
 20 given what we've heard about Sir Henry from those who
 21 have given oral evidence, and they would have a direct
 22 reporting line probably, because they would be civil
 23 servants of the medical division, up to him.
 24 **MS BARRETT:** Yes, that is right.
 25 **SIR BRIAN LANGSTAFF:** So he might very well have been

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1 this time and this is the first document which the
 2 Inquiry has identified, although that doesn't mean it's
 3 the first document there was, showing
 4 Sir Henry Yellowlees being directly addressed on the
 5 issue of AIDS.
 6 I'll go through and pick up on a few points --
 7 **SIR BRIAN LANGSTAFF:** He had authored, hadn't he, the 1982
 8 report on the nation's health?
 9 **MS BARRETT:** He had.
 10 **SIR BRIAN LANGSTAFF:** Did that not pick up on AIDS?
 11 **MS BARRETT:** I'm just going back to check, but my
 12 understanding is, and I think it's correct, that the
 13 first mention of AIDS in the 1982 annual report was,
 14 yes, published some time after October 1983, because
 15 that's when the introduction by Sir Henry Yellowlees was
 16 signed off, and so in the chronology we think this
 17 letter of 9 June 1983 would have come before he turned
 18 his mind to the content of that report, although we
 19 can't be sure of course exactly when it was drafted.
 20 **SIR BRIAN LANGSTAFF:** The difficult technicality there is he
 21 is reporting not on '83, when he signed it off, but on
 22 '82.
 23 **MS BARRETT:** Yes, that's correct.
 24 **SIR BRIAN LANGSTAFF:** So the question is from -- it's always
 25 a difficulty with reports published some months after

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1 informed, the probability is he may have been, but we
 2 have no direct proof that he was; is that the position?
 3 **MS BARRETT:** That's the position. It's not suggested,
 4 couldn't be suggested, that he was not involved in the
 5 issue.
 6 **SIR BRIAN LANGSTAFF:** No.
 7 **MS BARRETT:** All we can say is the first document we have
 8 identified so far -- and we may identify further
 9 documents as the Inquiry progresses, the first document
 10 we have identified so far where he is in direct
 11 correspondence about the issue is the document on screen
 12 from Dr Gunson.
 13 **SIR BRIAN LANGSTAFF:** And I also imagine that he read the
 14 newspapers.
 15 **MS BARRETT:** I would speculate yes.
 16 **SIR BRIAN LANGSTAFF:** Well, it's the probability, isn't it?
 17 **MS BARRETT:** Yes.
 18 **SIR BRIAN LANGSTAFF:** And the newspapers, speaking
 19 generically, would have alerted any reader to the fact
 20 there was something which was alarming people in the
 21 States and people were worried about it in the UK called
 22 AIDS and that was before '83 dawned.
 23 **MS BARRETT:** Certainly, and this letter refers to the
 24 considerable publicity that had been given in the press
 25 to the condition of AIDS and if we look at the first

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1 paragraph, Dr Gunson is very much addressing Sir Henry
 2 on an issue he expects he knows about. He's not telling
 3 him for the first time or anything like that. It may be
 4 that this is picking up on a conversation that they had
 5 had earlier. But all we can say is this is the first
 6 document that we've identified.

7 **SIR BRIAN LANGSTAFF:** Certainly Sir Henry didn't respond
 8 saying, "Well, I never heard of this, tell me more about
 9 it".

10 **MS BARRETT:** No. Unfortunately, we don't have the response
 11 to this letter but certainly we don't have anything
 12 suggesting he was in any way surprised.

13 **SIR BRIAN LANGSTAFF:** So, subject to submissions to the
 14 contrary and evaluating them, I think I will be bound to
 15 conclude that, just as it appears to have been assumed
 16 by Dr Gunson, that he knew very well there was something
 17 called AIDS some time before June 1983.

18 **MS BARRETT:** Yes, absolutely. We just unfortunately can't
 19 provide you with a better date for that earlier
 20 awareness. We're picking up some way into the story,
 21 but this is the first document that we have.

22 **SIR BRIAN LANGSTAFF:** I may also be bound to conclude, if
 23 that is the case, that he was aware there was something
 24 which might very well be a threat to public health.

25 **MS BARRETT:** Certainly if we look at this letter, that is
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1 point suffering from a condition which fulfilled the USA
 2 definition of AIDS and refers also to one other possible
 3 patient suffering from haemophilia who may have the
 4 syndrome.

5 He goes on to say that:
 6 "Although relatively few cases of AIDS [had], as
 7 yet, been reported in the UK, the significance of the
 8 condition with respect to the transfusion of blood and
 9 blood products [was] two-fold."

10 He talked about the importance of ensuring that
 11 persons in the high risk group with respect to AIDS were
 12 not enrolled as blood donors. He referred to the
 13 pamphlet which was then being given out to prospective
 14 blood donors on AIDS.

15 Then just over the page, at sub-paragraph (2), he
 16 highlights that:
 17 "Approximately half of the Factor VIII concentrate
 18 used in the treatment of haemophilia in England and
 19 Wales at [that time was] derived from plasma imported
 20 from the USA."

21 He said that there was no alternative to the
 22 continuation of that policy in the short term, but he
 23 was flagging up a concern and went on to say that in the
 24 medium term, the Blood Products Laboratory, Elstree, was
 25 being rebuilt so that it would have the capability to
 19

1 something which Dr Gunson is referring to --

2 **SIR BRIAN LANGSTAFF:** Yes.

3 **MS BARRETT:** -- by this point.

4 **SIR BRIAN LANGSTAFF:** I have taken you away from taking us
 5 through the letter, but thank you, that's helped to
 6 clarify my thoughts and put out there something if
 7 anyone wants to come back and argue the contrary they
 8 are very welcome to do so.

9 **MS BARRETT:** Thank you.

10 In this letter then we've looked at the first
 11 paragraph, which refers to recent attention in the
 12 press. If we look then at the second paragraph, we can
 13 see that at that time Dr Gunson was telling Sir Henry
 14 Yellowlees that the aetiology of the disease was not
 15 known but there was a strong possibility that the
 16 syndrome was caused by a transmissible infectious agent,
 17 and in that context it had been implicated in the
 18 transfusion of blood and blood products.

19 He told Sir Henry Yellowlees that in the USA
 20 several patients suffering from haemophilia A had
 21 contracted AIDS and some had died and all of those
 22 patients had received repeated -- it says infections but
 23 I think he means infusions of Factor VIII concentrate
 24 derived from human plasma. He refers to one case in
 25 England of a patient with haemophilia who was at that
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1 make the country self-sufficient. He went on underneath
 2 the sub-paragraphs to say that AIDS was not a major
 3 problem in the country at present and, frankly, he did
 4 not know whether it would be in the future. However, it
 5 was being taken seriously in European Countries.

6 Then, towards the close of the letter, he
 7 mentioned, if we could just scroll down --

8 **SIR BRIAN LANGSTAFF:** Can we just go on in that paragraph,
 9 because I notice it says:
 10 "... it is being taken seriously in European
 11 Countries and the Ministers of the Council of Europe are
 12 to be asked to approve recommendations designed to
 13 minimise the effect of AIDS."

14 Now, we have had reference to that and their
 15 conclusion elsewhere in the Inquiry so far. But it's
 16 the sentence that follows:
 17 "These recommendations are not in general
 18 incompatible with the measures being taken in this
 19 country."

20 It's a question of how one interprets that
 21 sentence, really. Is he saying, effectively, "Those
 22 recommendations are what we ought to be doing, they are
 23 not incompatible with what we want to achieve", or is he
 24 saying, "We're doing what is sufficient to achieve the
 25 recommendations"? Two different ways of reading the
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1 same sentence.
 2 **MS BARRETT:** Yes, it's ambiguous, and for Sir Henry
 3 Yellowlees receiving the letter, he's been told in the
 4 sub-paragraph above about measures which were being
 5 taken, including the blood donor leaflet and working to
 6 build capacity at Elstree and then is being told AIDS is
 7 not a major problem in this country at present. The
 8 overall tone may lead to the interpretation that these
 9 measures are underway, or what we're doing isn't
 10 incompatible, but it's ambiguous. It's not clear which
 11 he is saying.
 12 **SIR BRIAN LANGSTAFF:** By talking about AIDS not being
 13 a major problem in this country he must, I think, be
 14 concentrating upon what was his bailiwick, which is the
 15 supply of blood for transfusion from donors bled in the
 16 UK, because what he's just said above that is: we're
 17 importing half of what we need for those who receive
 18 blood products and importing from a country where there
 19 is a major problem. So he doesn't deal with that, does
 20 he, because he's I suppose concentrating, given his role
 21 distinct from that of Dr Lane in the Blood Products
 22 Laboratory, his role is dealing with blood transfusions.
 23 **MS BARRETT:** Yes, he was the consultant adviser for blood
 24 transfusions, he wasn't the consultant adviser for
 25 infectious diseases or epidemiology --

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1 Could we go to NHBT0001066, please. Could we go
 2 to page 2 of that document. The page on screen is the
 3 reply. Page 2 is the earlier letter of 14 October 1983
 4 and it's from Sir Donald Acheson and, if you look at his
 5 sign-off just at the bottom of the letter, we can see
 6 that at that point he was Chief Medical Officer
 7 Designate. So we're in that three-month cross-over
 8 period where he has started to work at the DHSS and
 9 Sir Henry Yellowlees is still in post. So there was an
 10 extended handover period.
 11 In this letter, Sir Donald Acheson wrote to
 12 Dr Gunson:
 13 "You will remember that at the meeting of the
 14 Consultant Advisers in the summer, Sir Henry Yellowlees
 15 asked whether you would be kind enough to send a brief
 16 account of the advances in your specialty that have
 17 occurred in the past five years and the problems and
 18 opportunities which you can anticipate in the next
 19 five years."
 20 So he is there picking up on this aspect of his
 21 brief and then if we go to -- sorry, I've lost the
 22 reference. We'll come back.
 23 There's a further document which says in terms
 24 that what was discussed at that consultant advisers'
 25 meeting in the summer there was a discussion on AIDS.

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1 **SIR BRIAN LANGSTAFF:** Or blood products. And he deals with
 2 that, does he, in the next paragraph? A bit.
 3 **MS BARRETT:** He does, although you'll see that he refers to
 4 the press publicity, or some of it, being ill-informed
 5 and alarmist, which would tend to re-emphasise what he
 6 said about it not being a major problem. It's perhaps
 7 an issue of tone rather than what he's actually saying.
 8 But he does go on to see that there is going to be this
 9 meeting of consultant advisers on 17 June 1983 and he
 10 asks for it to be added to any other business so he can
 11 talk about the problems of AIDS in relation to the
 12 transfusion of blood and blood products and the measures
 13 being undertaken in respect to this what he calls
 14 potentially fatal syndrome.
 15 He's not saying this is the end of the matter, he
 16 is saying this is an issue which bears further
 17 discussion that he wants to address.
 18 **SIR BRIAN LANGSTAFF:** So what the letter is really doing is
 19 saying: can I please raise something under AOB?
 20 **MS BARRETT:** Yes, that's the function of the letter. That's
 21 what he's asking. As I mentioned, the Inquiry hasn't
 22 identified any reply from the CMO and unfortunately we
 23 haven't identified the minutes of that 17 June meeting,
 24 but we do know that AIDS was discussed at that meeting
 25 because it's referred to in a later letter.

22

1 I've just lost the reference and we'll come to it later
 2 in the course of the presentation. But we can see that
 3 this is a conversation that has been started and is
 4 ongoing.
 5 If we go next, please, to DHSC0002309_123, this is
 6 a document dated 22 June 1983, so it's five days after
 7 the consultant advisers' meeting, and we can see
 8 Dr Oliver, he was one of the Deputy Chief Medical
 9 Officers, circulated a note, with the topic "AIDS",
 10 saying:
 11 "Sir Henry Yellowlees has asked me to provide some
 12 information on AIDS for Lord Glenarthur. I attach
 13 a paper prepared by Dr Walford which gives the
 14 background and up-to-date position. We are at
 15 Lord Glenarthur's service if he would like to discuss
 16 the matter in greater detail."
 17 So we can see that Sir Henry Yellowlees was at
 18 that stage involved in requesting a briefing on AIDS to
 19 go to a minister and the paper that was attached is at
 20 DHSC0002309_124. So this is Dr Walford's paper prepared
 21 at Sir Henry Yellowlees' request. Could we focus on the
 22 bottom paragraph under "Spread of the disease", please.
 23 It was noted that:
 24 "The pattern was [emerging], is of a disease which
 25 appears to be transmitted predominantly by male

24

1 homosexual activity but also by heterosexual ..."
 2 I think it says "means" and then says:
 3 "As a secondary method of spread, contaminated
 4 needles used by drug addicts and the transfusion of
 5 blood and plasma taken from donors carrying the AIDS
 6 agent, account for the occurrence of AIDS in intravenous
 7 drug abusers, haemophiliacs and recipients of blood
 8 transfusion."
 9 So the method of transition was highlighted.
 10 Could we go to page 2, please, and look at the
 11 second paragraph under "AIDS in the UK".
 12 We can see at that time Dr Walford highlighted
 13 that 12 confirmed cases of AIDS had been reported.
 14 There was one case of AIDS in a patient with
 15 haemophilia. He had received the Factor VIII
 16 concentrate made from USA plasma prior to 1981 and after
 17 that had received NHS factor concentrate made from NHS
 18 plasma. But it's noted there was, at that stage,
 19 uncertainty over that patient's diagnosis.
 20 If we could go to page 3, please, and look at the
 21 fourth paragraph of that page, there's a discussion of
 22 FDA regulations governing the selection of plasma donors
 23 to exclude high risk groups and it's noted that:
 24 "The Department's Medicines and Supply Divisions
 25 [were] endeavouring to ensure that there will be
 25

1 At this point I will go to look at the annual
 2 report for 1982, which is at DHSC0007004.
 3 Now, when we look at this document, the caveat is
 4 the discussion we've had, sir, about not knowing exactly
 5 when it was drafted. If we look at page 16, this is the
 6 end of the introduction and we can see that Sir Henry
 7 Yellowlees was signing off after the end of his tenure
 8 as Chief Medical Officer. It's dated October 1983 and
 9 we know that his tenure ended at the end of that
 10 December.
 11 Then the first mention of AIDS in the annual
 12 report is at page 70, and it's just the bottom paragraph
 13 of that page, and then once we've looked at that we'll
 14 go over to the top of the next page as well. The
 15 Inquiry hasn't been able to ascertain which he said or
 16 why the person drafting it said:
 17 "During the past four years a new and frequently
 18 fatal syndrome has been described in the United States."
 19 As of 1982, AIDS had been described during 1981
 20 and 1982, even we take it from the date of the sign off
 21 towards the end of 1983, four years isn't quite right.
 22 **SIR BRIAN LANGSTAFF:** Well, I'm not altogether sure about
 23 that. My thinking is this, that in some of the
 24 documents which the Inquiry has in its database, there
 25 is reference to the CDC in Atlanta having been aware,
 27

1 no 'dumping' of high-risk plasma products on the
 2 UK market and ... seeking ... assurances from the
 3 manufacturers in relation to the quality ..."
 4 There's a note that heat treatment is being
 5 discussed but there was at that stage no evidence that
 6 such material would reduce the risk of transmitting
 7 AIDS.
 8 Could we zoom out again and look at the whole
 9 page? Sorry, it was just the paragraph above that
 10 paragraph that I also wanted to go to.
 11 And it was noted that:
 12 "... the greatest risk to haemophiliacs at present
 13 [was] from the use of Factor VIII concentrate prepared
 14 from American plasma."
 15 And it was noted that at that time, despite the
 16 work being done to redevelop the Blood Products
 17 Laboratory:
 18 "... 50% of the Factor VIII concentrate needed to
 19 treat haemophilia would have to be imported, mainly
 20 [imported] from the USA."
 21 So it was both of those paragraphs that I wanted
 22 to draw to your attention, sir.
 23 That was the state of knowledge in an internal
 24 DHSS briefing in June of 1983 following that consultant
 25 advisers meeting where Dr Gunson had spoken about AIDS.
 26

1 there had been the odd report, there had been no
 2 systematic investigation, of an immune deficiency
 3 striking people in the west and some symptoms which,
 4 looking back, having identified that there was
 5 a syndrome in 1981, might be thought to be the same
 6 thing. That dated back, in one of the documents that
 7 I've read, to 1979.
 8 The trouble with this report is "for that past
 9 four years", is that an estimate? From which time is it
 10 written? Is it from 1983 or 1982? It doesn't report
 11 a particular year period and it's true that in the
 12 medical literature, as far as we know, the first
 13 reference is on 4 June 1981.
 14 **MS BARRETT:** Yes, that's why this had puzzled me, but
 15 I think your suggestion might resolve my puzzlement. If
 16 it's being written as at a perspective of the end of
 17 1983 looking back and including early descriptions which
 18 were not notifications of a syndrome but in retrospect
 19 and with hindsight could be observed to have been
 20 consistent with what was later evaluated to be a new
 21 syndrome, that might explain what I had on first glance
 22 thought was perhaps a mistake or anyway a puzzle.
 23 **SIR BRIAN LANGSTAFF:** It remains a puzzle, because we don't
 24 quite know what the author had in mind, and bear in mind
 25 what Sir Henry says in his introduction, this was
 28

1 compiled and edited by somebody other than him. But
 2 there we are.
 3 There is an earlier reference actually I think in
 4 the report ten pages earlier.
 5 **MS BARRETT:** Could we go back please.
 6 **SIR BRIAN LANGSTAFF:** About ten pages earlier I noticed.
 7 **MS BARRETT:** To page 60.
 8 **SIR BRIAN LANGSTAFF:** Just go back to it. It's -- I'm not
 9 sure if it's -- the problem is the electronic numbering
 10 but I think go back to 51 just to check.
 11 **MS BARRETT:** Go back one page. The electronic numbering is
 12 eight pages on from the internal page numbering.
 13 **SIR BRIAN LANGSTAFF:** And on, I think. Because there is a
 14 description of AIDS. And on. Right could we just take
 15 it through page by page. I think we may come to some
 16 description.
 17 **MS BARRETT:** So we're at the start of the chapter.
 18 **SIR BRIAN LANGSTAFF:** Up the numbering scale towards 100
 19 rather than down.
 20 **MS BARRETT:** So from page -- what page electronically are
 21 you on now.
 22 **SIR BRIAN LANGSTAFF:** 48 internal.
 23 **MS BARRETT:** So are you on 56 electronic? So go back to the
 24 page you were just on a moment ago. Go forwards. Just
 25 go forwards page by page, please.

29

1 than what comes later, isn't it?
 2 **MS BARRETT:** Yes, and thank you for taking us there. It
 3 does show that measures were being taken in terms of
 4 surveillance which were within the purview of the Chief
 5 Medical Officer at least by this stage this report was
 6 compiled.
 7 **SIR BRIAN LANGSTAFF:** So the information he had, as
 8 reflected in this document, was that the information
 9 that was being collected by the regulatory or the
 10 surveillance authority in the UK was not properly
 11 reflective of the full extent of what was actually
 12 happening, and that might be important if one's looking
 13 at the degree of prevalence and, therefore, any supposed
 14 risk.
 15 **MS BARRETT:** Yes and the measures that it would be
 16 proportionate to take in response.
 17 **SIR BRIAN LANGSTAFF:** Absolutely.
 18 **MS BARRETT:** If I just take us back then to electronic page,
 19 we looked at electronic page 70. Could we look next at
 20 electronic page 71 and look at the top paragraph. So
 21 just for context for those following what is happening
 22 on screen we were looking at the section in the
 23 communicable diseases chapter and we're now in the
 24 sexually transmitted diseases chapter, which is why
 25 there are two entries in the same report.

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1 **SIR BRIAN LANGSTAFF:** And on. And on. It's under the
 2 "Communicable diseases" section.
 3 **MS BARRETT:** So the next page is the start of the relevant
 4 chapter, and then in this chapter if we could just go
 5 forwards slowly page by page while we look for the
 6 reference that Sir Brian has in mind.
 7 **SIR BRIAN LANGSTAFF:** And on, please. And on. And on.
 8 That's it, "Kaposi's sarcoma and AIDS", 53.
 9 **MS BARRETT:** Thank you. So that dates 1982 as the beginning
 10 of surveillance.
 11 **SIR BRIAN LANGSTAFF:** That's by the CDSC (so that's the UK
 12 surveillance of what was an American discovery or
 13 realisation) and it then describes how the data was
 14 collected, which is a matter of some interest, and then
 15 the paragraph:
 16 "During 1982 and the early weeks of 1983, case
 17 reports suggestive of the classical type of Kaposi's
 18 Sarcoma were received ..." which suggests that in the UK
 19 there had been a number of reports of something which
 20 might be the syndrome, and:
 21 "It is now believed there is under-reporting of
 22 these conditions, although research is proceeding in
 23 a number of scattered centres."
 24 So you then have what's to be done in terms of
 25 surveillance. It it's a little more informative I think

30

1 Here it is said that -- it's noted that there's
 2 over 1,000 cases reported in the United States, that
 3 there's a death rate of over 40 per cent, that it's
 4 a serious and often fatal syndrome. Where it says
 5 "Cases are now being reported in England and Western
 6 Europe", I think it is helpful, Sir Brian, that you took
 7 us to the earlier point where we could see the context
 8 of the reporting that was being set out in the report in
 9 relation to the UK.

10 But what's interesting here is that the cause of
 11 the serious and often fatal syndrome is unknown, which
 12 was correct at that point, but the information that we
 13 saw in the internal briefings, which was a lot more
 14 detailed, about modes of transmission aren't at this
 15 stage being set out in the public report.

16 This is the last document that we have identified
 17 showing personal involvement from Sir Henry Yellowlees
 18 in response to AIDS and I'll just reiterate that this
 19 may or is likely to be because we haven't yet identified
 20 the documents or because he may have had oral
 21 discussions which are not recorded in documents. To an
 22 extent it may reflect that matters were not escalated to
 23 him personally during this period, but we don't know as
 24 between whether things weren't being escalated or
 25 whether things weren't being recorded or we just don't

32

1 have the records. We don't know. But I do refer back
2 to the early observation about the size of the Chief
3 Medical Officer's brief and the fact that he wouldn't be
4 expected to have been personally involved in every
5 public health concern at all times.

6 There were other issues of which he spearheaded
7 and we know he focused on. So a history of the role of
8 the Chief Medical Officer praises Sir Henry Yellowlees
9 for successfully campaigning to have lead removed from
10 petrol and for working through the World Health
11 Organisation to eradicate smallpox. So insofar as there
12 were particular issues that he was focusing on, he is
13 not known in the way that his successor, Sir Donald
14 Acheson, is known, for focusing on AIDS.

15 I will move then to what we know about Sir Donald
16 Acheson's early response to the risk of AIDS. We've
17 seen the letter that he wrote to Dr Gunson on
18 14 October 1983 asking for advice. It might actually be
19 helpful to put that back on screen if possible? It's
20 NHBT001066 and it's the second page of that document.

21 So Sir Donald Acheson when he was appointed was an
22 outside appointment. While Sir Henry Yellowlees had
23 been a Deputy Chief Medical Officer before being
24 promoted to Chief Medical Officer and that had tended to
25 be the pattern for previous Chief Medical Officers,

33

1 for hepatitis B and the vaccine for that condition. He
2 flags the problem of non-A, non-B hepatitis which
3 remains, and says:

4 "... and there is now the potential transmission
5 of AIDS, about which I spoke at the last Consultant
6 Advisers' Meeting."

7 This is the document which I didn't have
8 immediately to hand which shows that that was
9 specifically discussed as he had requested of Sir Henry
10 Yellowlees.

11 Then could we go to the next page, page 5, and
12 look at the heading under the heading "The next
13 five years". What Dr Gunson told Sir Donald Acheson
14 would be the major advance that could be made, and he
15 underlines it, is "self-sufficiency in blood products
16 for the UK". He noted that approximately 60 per cent of
17 Factor VIII was purchased commercially and was largely
18 imported from the USA.

19 If we go over to page 6, please, so underneath the
20 narrower paragraphs on the first wide paragraph on the
21 page he notes that:

22 "It will be an advantage when all blood products
23 can be derived from the UK donor population."

24 But he notes that:

25 "Nevertheless, the transmission of non-A, non-B

35

1 Sir Donald Acheson was an outsider. He was previously
2 Dean of Medicine at Southampton University Medical
3 School and he spent some time in this three-month
4 crossover period familiarising himself with aspects of
5 his brief.

6 We can see that he -- it says he's very much
7 looking forward to receiving the briefing from Dr Gunson
8 and says kind things about how extraordinarily
9 interesting it is to have colleagues senior colleagues
10 to help him with these matters.

11 Dr Gunson's reply is at page 1 of this document.
12 So a few days later, four days later, he wrote back
13 enclosing an account of the advances in the last
14 five years and those anticipated in the next five years
15 in blood transfusion. That paper is enclosed and it's
16 at page 3 of the document. So we can see this is
17 Dr Gunson's briefing to Sir Donald Acheson five years
18 back and five years forward.

19 Can we flip to the next page, please, page 4, and
20 look at the bottom two paragraphs under the sub-heading
21 "Disease transmission". Dr Gunson is briefing
22 Sir Donald Acheson, as he comes to the role, that:

23 "Certain products have always carried the danger
24 of transmission of hepatitis."

25 And he talks about the introduction of screening

34

1 hepatitis, particularly from the products derived from
2 pooled plasma will still be a problem in groups of
3 patients, such as haemophiliacs, who receive these
4 products regularly."

5 He anticipates a diagnostic test within the next
6 five years, but goes on to say that exposure needs to be
7 minimised as well. Then he goes on to see:

8 "With respect to AIDS, it is too early to
9 anticipate the effects in the UK, but it is important
10 that every opportunity is taken to investigate possible
11 ways in which the ... donor population can be screened."

12 The next document we'll go to, please, is
13 DHSC0003823_173 and this is a briefing dated
14 4 November 1983, so about two weeks, just over
15 two weeks, after the letter and paper from Dr Gunson.
16 We can see that it's a "Briefing on AIDS for CMO",
17 consultant advisers meeting.

18 Now, we don't know, because it doesn't say, which
19 CMO this is for. The pattern of the documents with the
20 preceding correspondence with Dr Gunson and Sir Donald
21 Acheson tends to suggest it might have been for
22 Sir Donald Acheson, but it just says CMO, it doesn't
23 give a name, and, at this point in the chronology, there
24 were two overlapping CMOs. So with that health warning,
25 could we have a look, please, at the second paragraph --

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1 we're there already -- which notes:
 2 "CMO will already be well aware of the general
 3 background to AIDS ..."
 4 Sir Brian, it goes back to your point that this is
 5 also a live issue in the press and it would have been
 6 something that was part of the general fabric of
 7 knowledge and discussion as well as specific briefings.
 8 It says:
 9 "... there is little to report in the way of
 10 scientific developments."
 11 The definition is broadly accepted, although it
 12 has been modified in some countries, and goes on to see
 13 that no specific marker test has been developed. It
 14 says that cases continue to rise with 24 notifications
 15 by then in Britain, including two people with
 16 haemophilia.
 17 If we look at the fourth paragraph, towards the
 18 bottom of what's on screen, we know that there's
 19 intensive research activity in the USA and elsewhere
 20 directed at searching for the causative agent as well as
 21 the basic immunology of the syndrome.
 22 So that was the state of DHSS internal briefing in
 23 early November of 1983.
 24 **SIR BRIAN LANGSTAFF:** It's, what, five lines down:
 25 "Although there is a fairly general acceptance of
 37

1 self-sufficiency in blood products" and essentially what
 2 he was doing was recommending that additional blood
 3 collection should be financed through the CBLA. So it
 4 was a request for financing to increase the collection
 5 of plasma in support of the goal of self-sufficiency.
 6 Then the reply is at DHSC0046942_114, and this is
 7 Dr Harris' reply of 15 February 1984, and we can see in
 8 the big central paragraph he tells Dr Gunson:
 9 "We are taking this matter extremely seriously in
 10 the Department and, following discussions with
 11 Donald Acheson and my DCMO colleagues, we have decided
 12 that a submission to Ministers will be required. This
 13 will state the nature of the problem ..." and so forth.
 14 Now, in fact, you will have heard in other
 15 sessions of this Inquiry that the matter was taken
 16 forward by Dr Harris through the NHS management group
 17 rather than via submission to ministers, but I take you
 18 here just to demonstrate that we know that
 19 Donald Acheson was personally involved at this stage in
 20 discussion. So this was something that the DCMO thought
 21 worthy of escalation to him as of February 1984.
 22 There is then another gap in the evidence that we
 23 have identified to show any personal involvement of
 24 Sir Donald Acheson in matters relating to AIDS between
 25 February and October 1984, but I repeat the same health
 39

1 viral aetiology ..."
 2 **MS BARRETT:** Yes.
 3 **SIR BRIAN LANGSTAFF:** So that's the briefing note which has
 4 been given.
 5 **MS BARRETT:** Yes, absolutely. It's not a definite certainty
 6 at this stage. They are saying the possibility of other
 7 causes has not been dismissed but that is the generally
 8 accepted theory.
 9 **SIR BRIAN LANGSTAFF:** So most people think it's a virus.
 10 **MS BARRETT:** Yes, yes. If we look at the previous sentence
 11 as well, the question is also being asked is whether the
 12 pre-existing immune dysfunction allows infection by an
 13 AIDS virus or whether the agent itself causes the immune
 14 defect. So there was also a question about whether an
 15 inherent susceptibility played part of the causation of
 16 the syndrome, which of course we know later was not the
 17 case but that was still something that was being
 18 considered at the time.
 19 In terms of internal briefings, if we could next
 20 go, please, to DHSC0001966. So this is in
 21 February 1984, we've got another communication from
 22 Dr Gunson. This time he's writing to Dr Harris, who's
 23 one of the Deputy Chief Medical Officers, rather than
 24 directly to the CMO. He appended a report which I don't
 25 think we need to go to entitled "Plasma supply for
 38

1 warning as with respect to Sir Henry Yellowlees: we
 2 don't know what that signifies. It may have been that,
 3 as this letter reflects, he was having verbal
 4 conversations with his DCMOs and other personal in DHSS.
 5 It may be that there are documents we haven't identified
 6 yet or it may be that his focus was elsewhere, but we
 7 can't draw that as a conclusion. There's just a gap in
 8 the documents that we have identified.
 9 So we pick up again in October of 1984. Could we
 10 go to DHSC0002323_009.
 11 What we see on screen here is a briefing minute
 12 from Dr Alison Smithies, principal medical officer in
 13 DHSS, dated 19 October 1984 and we can see that under
 14 the heading "AIDS" it says:
 15 "CMO has requested information about the problem
 16 of AIDS and blood donations."
 17 So this was in response to a specific enquiry by
 18 Sir Donald Acheson and they ask two questions. At (a):
 19 "When can we expect that no blood/plasma will be
 20 donated without prior testing?"
 21 Then if we could scroll down just to see (b) at
 22 the bottom of the page -- thank you -- he also asked:
 23 "What is the position about blood
 24 transfusion/plasma related AIDS in the UK and its
 25 controls?"
 40

1 If we go back up to the answer under (a), please,
2 Dr Smithies responded to the question about, "When can
3 we expect that no blood/plasma will be donated without
4 prior testing", that so far only pilot studies had been
5 carried out into blood donor testing for the HLT V3
6 antibody and that there was a limited supply of test
7 re-agents so that the time-frame for universal testing
8 was uncertain.

9 She said in the second paragraph, in the bit that
10 someone has drawn brackets round, at the end of that
11 paragraph -- could we highlight it -- that:

12 "... it is felt that there is a danger in making
13 this too public in the event of high risk groups using
14 blood donations as a means of finding at their HTLV
15 antibody status."

16 So that was something that was raised as a concern
17 internally at DHSS at that time, that introducing
18 antibody testing for prospective blood donors at blood
19 transfusion centres could create an incentive for people
20 who were at high risk to donate blood in order to access
21 the tests.

22 It's not stated that there was any evidence that
23 that was likely to happen, but it was flagged as
24 a concern.

25 At the bottom of the page, we have the reply to
41

1 something that we see he took on board seriously, that:
2 "The only protection recipients of blood and blood
3 products [had] from contracting AIDS from donors [was]
4 the publicity given to the possibility of transmission
5 from high risk groups."

6 She went on to explain that the risk was higher in
7 large pooled products or products made from large pools,
8 and she mentioned the leaflet that was used to advise
9 donors from high-risk groups to desist from giving blood
10 issued in August 1983 which was at that stage being
11 redrafted.

12 We can see the CMO's reply.

13 Oh, actually, shall we take a break and then we'll
14 see the CMO's reply?

15 **SIR BRIAN LANGSTAFF:** Well, shall we have the reply and then
16 have a break?

17 **MS BARRETT:** Yes. It's at DHSC0000569. It's very short.

18 On 25 October 1984, the reply was sent with his comment:

19 "It is agreed that we should move to the position
20 where HTLV III testing is put on the same basis as
21 Australia antibody ie negativity is a prerequisite for
22 donation of blood or plasma. Also what is the timetable
23 and cost?"

24 **SIR BRIAN LANGSTAFF:** Yes.

25 **MS BARRETT:** So if we pause there for the morning break.
43

1 the second question about what's the position about
2 blood transfusion and plasma related AIDS in the UK and
3 its control. She told the CMO that they had yet no
4 known case of AIDS reliably related to blood
5 transfusion. There were about 40 cases in the
6 United States. Officially there were three cases by
7 this point of haemophiliacs who had contracted AIDS and
8 then just going over to the top of the next page please,
9 one of them had sadly died. She said that in the view
10 of the prevalence of HTLV antibody in haemophiliacs,
11 which was about 35 per cent, that it was likely that
12 there would be more; so likely there would be more cases
13 of AIDS in people with haemophilia.

14 She notes that the two cases which had arisen long
15 enough ago to be well documented had received
16 Factor VIII from the United States and the recipients of
17 the same batches of Factor VIII were being followed up
18 through Dr Craske of the Public Health Laboratory
19 Service. DHSS had allocated research funds to assist
20 Dr Craske in that study.

21 She also noted there was a concern about recent
22 batches known to be associated with AIDS donors, one of
23 which came from the United States and one of which was
24 contaminated by a donor from Wessex.

25 She told the Chief Medical Officer, and this is
42

1 **SIR BRIAN LANGSTAFF:** Yes, we will take a break now until
2 11.45 and then we'll hear the next part of the saga.

3 **MS BARRETT:** Thank you, sir.
4 (11.17 am)

5 (A short break)
6 (11.45 am)

7 **SIR BRIAN LANGSTAFF:** Yes.

8 **MS BARRETT:** There is one correction I need to make. Can
9 I ask that NHBT0001065 be put back up on screen, please.
10 These are the minutes of the consultant advisers meeting
11 on 27 November 1981. It has been drawn to my attention
12 over the break that what I had thought was an attendance
13 list and apologies is in fact just the new attendees and
14 the apologies. So that's five new joiners and three
15 apologies. We don't have a complete list of the
16 advisers who were on the panel and at attendance in that
17 meeting other than the new joiners. So just to correct
18 what I said there and to add that what we do have is
19 evidence, the evidence of Dr Walford, who told
20 the Inquiry in the section of her witness statement
21 dealing with her time as a principal medical officer in
22 the medical SEB division from September 1979 onwards in
23 DHSS, she said:

24 "The CMOs were each advised by an external expert,
25 who was designated the Consultant Adviser in Blood
44

1 Transfusion. Such Consultant Adviser appointments
 2 existed for only a few other specialties."
 3 That evidence is set out in paragraph 22 of the
 4 written presentation for those following at home.
 5 So what we know or what we have is Dr Walford's
 6 evidence that there are few other specialties in
 7 addition to blood transfusion as at the beginning of
 8 the 1980s, and we have the evidence we looked at of
 9 Donald Acheson's statement to the BSE Inquiry in 1998
 10 that, by that time, there were over 80 consultant
 11 advisers. But what we don't have is a complete list of
 12 the specialties as at the early 1980s.
 13 Sir, I apologise for giving that impression of
 14 this document and correct the record in that respect.
 15 **SIR BRIAN LANGSTAFF:** It leads to this question, I think,
 16 which is, do we know if there was any consultant
 17 specifically in public health as you might be thought
 18 such as a communicable disease specialist, or for that
 19 matter a public health specialist?
 20 **MS BARRETT:** That's something I don't know now but we will
 21 look into.
 22 **SIR BRIAN LANGSTAFF:** Thank you.
 23 **MS BARRETT:** Before the break we had looked at a briefing
 24 from Dr Smithies during October of 1984 and the response
 25 from the CMO.

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1 during his term of office and he had helped in the
 2 preparation of the report. This report can be seen to
 3 some extent as a joint production between the two of
 4 them.
 5 Could we go back to page 13 in this document,
 6 please. We can see that within the introduction section
 7 there is a part on communicable diseases and the second
 8 paragraph there on the page refers to AIDS. We can see
 9 that it's being foregrounded as an issue by the
 10 1983 report, which we know the introduction to which was
 11 written in December 1984; the same caveats apply as to
 12 we don't know exactly when all parts of the report were
 13 drafted.
 14 Then if we go to page 54 within the document,
 15 please, we are within the "Communicable diseases"
 16 chapter, so this is the equivalent chapter we went
 17 through for the previous year's report, and we can there
 18 see that there is now a page and a half devoted to AIDS.
 19 Can we look at the penultimate paragraph on that
 20 page, please. It refers to "AIDS and the UK blood
 21 donor" and explains that a leaflet had been distributed
 22 in blood transfusion centres and sexually transmitted
 23 disease clinics.
 24 Then the bottom paragraph on that page is "AIDS
 25 and the general public", and what is said that is:

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1 The next document, going back to that part of the
 2 narrative, is at DHSC0002249_034.
 3 This is a further minute which Dr Smithies
 4 submitted on 20 November 1984 for the attention of
 5 the CMO.
 6 In the first paragraph she updated him that
 7 the Central Blood Laboratory authority had announced the
 8 day before that they planned to heat treat all
 9 Factor VIII manufactured there from April 1985 onwards.
 10 In the last paragraph that's up on screen she noted that
 11 the use of heat-treated Factor VIII -- sorry, if we
 12 could just zoom out -- yes, it is that paragraph, that
 13 the pilot trials had shown that the heat treatment did
 14 not inactivate non-A, non-B hepatitis and that there
 15 would be a programme of intended introduction of
 16 heat-treated Factor VIII in order to make that available
 17 to haemophilic patients in the UK, but there wasn't
 18 a time-frame given at that time.
 19 If we next go then to the annual report for 1983,
 20 which is at DHSC0007005, and could we look at page 16,
 21 please, which is the last page of the introduction
 22 section. You'll see, sir, that it's signed by Donald
 23 Acheson but he acknowledges in the paragraph above that
 24 throughout 1983 Sir Henry Yellowlees was in post and
 25 that the report describes the events that took place

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1 "Expert opinion suggests that there is no risk of
 2 contracting AIDS as a result of casual or social contact
 3 with AIDS patients, eg on public transport, in
 4 restaurants, or in private dwellings. The spread of
 5 AIDS appears to require intimate contact."
 6 The relevance of that thematically, we'll see some
 7 other documents as well, is that Sir Donald Acheson
 8 appears to have seen part of his role as addressing
 9 misinformation and stigma. So as well as providing
 10 information about AIDS there are places in the documents
 11 where he corrects misinformation and so that is an
 12 element of the CMO role which also is developed
 13 thematically through the presentation.
 14 **SIR BRIAN LANGSTAFF:** The purpose of the document, the
 15 report on the health of the nation, who was it intended
 16 should be the readership?
 17 **MS BARRETT:** That's a really good question. It was a public
 18 document, so it wasn't just for doctors. Anybody could
 19 read it.
 20 **SIR BRIAN LANGSTAFF:** The reason I ask is because of the
 21 language. If you look at the very top of that page and
 22 the sentence, "The spread of AIDS appears to require
 23 intimate contact", there may be a number of people who
 24 would understand that to mean sex. Others might have
 25 a different idea about what "intimate contact" might be,

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1 and it may not transmit the meaning which I take to be
 2 sex. Am I right?
 3 **MS BARRETT:** I would assume you are right, looking at the
 4 page, yes.
 5 **SIR BRIAN LANGSTAFF:** But "intimate contact" could be other
 6 contacts. Is kissing intimate contact, for instance?
 7 **MS BARRETT:** I don't know if I'm qualified to opine.
 8 **SIR BRIAN LANGSTAFF:** It's a rhetorical question, really, as
 9 to the quality of the language in transmitting its
 10 information to an audience who will have different
 11 ideas.
 12 **MS BARRETT:** The imprecision of language is something that
 13 comes back later as well. When we're looking at the
 14 later public education campaigns, we'll come to a part
 15 of Sir Donald Acheson's autobiography where he talks
 16 about the difficulty he had in persuading ministers,
 17 including the Prime Minister Margaret Thatcher, to use
 18 blunt enough language that people would know what they
 19 were talking about, because there is a tendency to use
 20 euphemism because it's politer but the problem is if
 21 people don't understand what that really means then the
 22 public health message and in particular people
 23 understanding what they can and cannot do, is lost or
 24 muddled.
 25 I hadn't picked up on that when preparing the
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1 AIDS."
 2 And that:
 3 "His donations of both blood and blood plasma have
 4 been traced, and all possible remedial action taken."
 5 Then if we skip the next two paragraphs and focus
 6 on page 3, top of page 3, please, he goes on to say
 7 that:
 8 "None of the recipients of the blood donations or
 9 the Factor VIII made from this donor's blood plasma has
 10 shown any clinical signs of developing AIDS."
 11 And continues that he would:
 12 "... like to stress that anyone who is advised to
 13 have a blood transfusion, or who has been given
 14 a transfusion, should not worry because the risk of
 15 getting contaminated blood is extremely small. Even if
 16 a person is proved positive in the antibody screening
 17 test it does not mean that he or she will develop AIDS.
 18 Only a very small proportion of people with positive
 19 results go on to show symptoms."
 20 Then under the next three subheadings the press
 21 statement noted measures that were being taken,
 22 including that revised leaflet for high-risk groups, the
 23 development of a screening test, and heat treatment
 24 which it was hoped would be introduced from April
 25 of 1985.
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1 presentation but I think it is also a theme that
 2 gradually develops in that the language used becomes
 3 more specific as that problem is realised and those
 4 conversations are had.
 5 **SIR BRIAN LANGSTAFF:** I mean, it might be thought important
 6 that a public health message, if this is one, is put in
 7 the most obvious and plain language.
 8 **MS BARRETT:** Yes.
 9 **SIR BRIAN LANGSTAFF:** But there we are. That's a comment
 10 rather than anything else.
 11 **MS BARRETT:** In terms of public statements, the next
 12 document we're going to go to is BART0000814, which is
 13 a press release of 20 -- well, this is the front page
 14 enclosing a copy of the Chief Medical Officer's press
 15 release on 20 December 1984 and the context was it
 16 followed media enquiries after a report in the Guardian
 17 newspaper on that date about two cases of suspected or
 18 alleged AIDS transmission through blood donation.
 19 If we could go to the second page of the document,
 20 where the press release is set out, we can see from the
 21 second paragraph onwards there is a quote from
 22 Sir Donald Acheson. He says that:
 23 "Donations of blood and blood plasma have been
 24 given by a person who was subsequently to hospital in
 25 Wessex in October and later diagnosed as suffering from
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1 This is an example of a public statement
 2 portraying a reassuring or somewhat reassuring message
 3 to the general public in relation to media concern about
 4 transmission of AIDS.
 5 **SIR BRIAN LANGSTAFF:** What's fascinating perhaps about this
 6 is that it refers to a case of ordinary blood
 7 transfusion given to three recipients to whom the
 8 disease may have been transmitted, but on the same day
 9 that the article was published in the Guardian to which
 10 this responds, 20 December, there was, was there not,
 11 a publication in the Yorkshire Post and for that matter
 12 elsewhere talking about what people have come to know as
 13 the "Edinburgh cohort", and we've heard evidence that on
 14 19 December there was a meeting held by Professor Ludlam
 15 in order to tell people who had been affected by
 16 transmission of HIV to them that that was the case.
 17 That doesn't feature in this at all.
 18 **MS BARRETT:** No, and I hadn't realised the context. You're
 19 quite right, this is a separate or parallel conversation
 20 that seems to be taking place without any reference to
 21 the Edinburgh cohort.
 22 **SIR BRIAN LANGSTAFF:** Do we have any sense as to whether and
 23 when that knowledge must have reached us as one exposes
 24 it ought to have done to the Chief Medical Officer of
 25 the UK or at least of England, or was it perhaps because
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1 it was Scotland that it didn't feature? But it's still
 2 relevant one would have thought to his expression of how
 3 the risk of getting contaminated blood is extremely
 4 small.
 5 **MS BARRETT:** Yes, I haven't seen a document that briefs him
 6 on that issue. We will check and see if there's
 7 anything else that could help illuminate that point.
 8 **SIR BRIAN LANGSTAFF:** Thank you.
 9 **MS BARRETT:** The next internal briefing document we have is
 10 at DHSC0001693 and it is another briefing from
 11 Dr Smithies dated 31 December 1984, setting out the
 12 current position with regard to AIDS as requested by the
 13 Chief Medical Officer.
 14 At page 2 of the document, we can see the position
 15 paper itself "AIDS and its prevention in the
 16 United Kingdom". She reports that cases in the UK since
 17 1981 to the end of November 1984 had reached 102. Four
 18 people had died. She noted that there were three cases
 19 in people with haemophilia A of whom two had died and
 20 there's an annex setting out the statistics.
 21 Under "Causative Agent", we can see at the bottom
 22 of the screen now:
 23 "It [was] now accepted that the isolates of
 24 retrovirus HTLV III ... [were] probably the causative
 25 agent of AIDS, either singly or in association with
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1 a blood transfusion in the UK there were three
 2 seropositive recipients of blood from a donor in
 3 Wessex ..."
 4 And the donor had AIDS, and that:
 5 "There may well be other donors who are unaware
 6 that they are infected."
 7 Then in the final paragraph of that page, please,
 8 she wrote four lines down that:
 9 "The only way to prevent [further infections] is
 10 to institute screening of all blood donations."
 11 If we could go to the next page, please, page 5,
 12 and look at section 7, we can see that the NBTS Working
 13 Group on AIDS, a panel of expert advisers, had agreed
 14 that a screening test for HTLV-III antibody should be
 15 introduced to all Regional Transfusion Centres as soon
 16 as possible. That was the advice that was being
 17 provided to Sir Donald Acheson as at 31 December 1984.
 18 I'm going to go now back into Sir Donald Acheson's
 19 autobiography to look at his recollection of what he
 20 made of the information that he was being given about
 21 AIDS in late 1984 and early 1985. That's
 22 at WITN0771088. It's the sideways front cover again.
 23 Then could you go to page 13, please.
 24 This is the chapter of Sir Donald Acheson
 25 autobiography touching on the response to AIDS in
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1 other unknown agents."
 2 Could we look at the penultimate paragraph on
 3 the page. It's noted in that indented citation that the
 4 incidence of HTLV III seropositivity in 800
 5 haemophiliacs screened in the UK was about 35 per cent
 6 and in patients with severe haemophilia it was
 7 75 per cent.
 8 Could we go to page 3.
 9 **SIR BRIAN LANGSTAFF:** Where do we get the 75 per cent?
 10 **MS BARRETT:** Yes, I've got it in my note as this page but is
 11 just want to check over at page 3. I might have got
 12 myself out of order.
 13 **SIR BRIAN LANGSTAFF:** It doesn't seem to be there.
 14 **MS BARRETT:** Could we go to page 7, please.
 15 Yes, here we go.
 16 Sorry, I'd mistranscribed the reference. So it's
 17 in the section "AIDS in Blood Products". The case
 18 numbers are given, then about halfway down the paragraph
 19 is the statistic that I cited: 800 haemophiliacs had
 20 been tested and the incidence was 35 per cent, and with
 21 severe haemophilia it was 75 per cent.
 22 Could we go back to page 4, please, and look at
 23 section 6, "Blood Transfusion and AIDS". Dr Smithies
 24 noted that:
 25 "Although no-one has yet contracted AIDS from
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1 the 1980s. He says in the second paragraph on the page
 2 that on his arrival in Whitehall, so that was
 3 October 1983, a handful of cases of a mysterious new
 4 disease had already occurred.
 5 It was probably more than a handful by that stage
 6 but that's what his recollection is of what he knew.
 7 He recalls that these had not been shown to be
 8 due to an infection and their significance was
 9 uncertain, but he remembers two developments striking
 10 him particularly. The first, in 1984, was the discovery
 11 that AIDS was due to a retrovirus and likely to prove
 12 incurable, and the second was that it could be
 13 transmitted by vaginal as well as anal intercourse.
 14 Then over on the next page, please, he says that:
 15 "Perhaps due to wishful thinking [he] did not at
 16 first grasp the full implications of this. But the
 17 defining moment was not long delayed. It occurred early
 18 in the following year and came from a different
 19 continent."
 20 He goes on to describe that hearing about the
 21 situation at that time in Zambia and then in Uganda made
 22 him realise the severity of the situation that could
 23 unfold in the United Kingdom.
 24 He says in the second paragraph there that he was
 25 horrified and that he immediately sought -- or that he
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1 sought rather an urgent appointment with his political
2 boss, who was Lord Fowler, the Secretary of State for
3 Health, whose reaction was one of deep concern. For the
4 rest of his time, Sir Donald Acheson's time in
5 Whitehall, he found Lord Fowler's unfailing
6 encouragement and support enabled him to give the AIDS
7 epidemic a place close to the top of his priorities.

8 So he describes there in around early 1985 coming
9 to a personal realisation as to the severity of the
10 unfolding risk and taking steps to prioritise the issue
11 as amongst we've hearing he had a broad and heavy
12 workload as CMO, but it's at this point that he decides
13 that this is a priority. His recollection in his
14 autobiography is consistent with the contemporaneous
15 documents which do show that increasing prioritisation
16 of the issue in his personal workload from early 1985
17 onwards, and we're going to come to some of those
18 documents.

19 The first one we'll take, please, is DHSC0000562.
20 This is a draft ministerial submission which Dr Smithies
21 sent to the CMO's private office with a covering
22 summary. She says:

23 "CMO wished to consider this submission prepared
24 with administrative colleagues for Ministers to obtain
25 approval in principle for the introduction of

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1 all Chairmen of [Regional Health Authorities] explaining
2 our proposals."

3 Asks about Wellcome who were developing the test.
4 He asked whether the cost would:
5 "... be met from the income now going to the blood
6 transfusion service from the charges introduced for the
7 handling of blood products to private hospitals?"

8 Then he says:
9 "Before we all panic further, it is presumably the
10 case that the ending of the collection of blood from
11 homosexuals greatly reduces the risk from blood
12 collected in this country. Also, as only haemophiliacs
13 have died and they may have had Factor VIII from
14 American blood, is it the case that we have not had one
15 AIDS fatality from blood donated in this country yet?"

16 "Do we need this and heat treatment of the blood?"

17 So those questions went to Sir Donald Acheson
18 regarding his submission that testing should be
19 introduced as well as heat treatment, which we know was
20 underway.

21 His reply is at --

22 **SIR BRIAN LANGSTAFF:** What's the date of this?

23 **MS BARRETT:** This is 22 January.

24 **SIR BRIAN LANGSTAFF:** Thank you.

25 **MS BARRETT:** It's just the handwritten "22nd" above the

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1 a screening test for AIDS antibodies in the National
2 Blood Transfusion Service."

3 She goes on to describe the test and the necessity
4 of scaling up the production of the reagent so that the
5 test can be applied more widely. So there was
6 a submission requesting approval for the introduction of
7 universal testing in national Blood Transfusion
8 Services. We don't have the final submission. We do
9 know that it was sent to -- it was endorsed by
10 Sir Donald Acheson and he put it to ministers on
11 15 January 1985 and, from contextual documents, it's
12 understood final submission was in identical or near
13 identical terms to Dr Smithies draft which we have here.

14 We do have the Minister of Health,
15 Kenneth Clarke's, reply to that submission, which is at
16 DHSC0002482_012. This is Kenneth Clarke, then Minister
17 for Health, replying to that submission on introduction
18 of testing. He says:

19 "Thank you for your submission of 15 January."

20 So we have the date it was sent. This is his
21 reply on 22 January. He says:

22 "This looks inevitable, I suppose.

23 "Could I have drafts please of the proposed public
24 announcement of both points.

25 "Could I also have a draft of a letter to go to

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1 distribution list.

2 We have --

3 **SIR BRIAN LANGSTAFF:** Could I just pick up on what's
4 happening in the background to this. As at 31 December,
5 if you go to that particular part of the memo from
6 Dr Smithies to the CMO, but I think there's
7 a description in it of how it was proposed that Wellcome
8 have access to Porton Down CAMR in order to scale up the
9 production of the reagent, it being necessary to have
10 something to test against. If you are testing something
11 you have to have something to test it against and you
12 have to have enough of it if it's going to be a test
13 around the country.

14 I think it was anticipated that that might be
15 available in the first quarter of 1985. Now, we know
16 that a test was not universally adopted for screening
17 until October 1985 and the delay is a matter of
18 importance to the Inquiry to investigate as thoroughly
19 as it might. So here we have the CMO being told that
20 there is a widespread emergency in Africa early in 1985,
21 it may well be about this time. The profession is
22 calling out for an urgent test and Dr Smithies is
23 writing in that sort of vein to the Minister of State
24 for Health.

25 So it's what then happens might be a matter of

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1 some interest as far as the CMO papers may reveal it.
 2 The CMO's lending his shoulder, is he, to getting
 3 testing done?
 4 **MS BARRETT:** We'll see in his response, which is at
 5 DHSC0002311_051.
 6 Just to answer your question, Sir Brian, we'll
 7 come on in more detail through the documents but he does
 8 push for the introduction of testing. Then we'll come
 9 to a question about the timescale for the introduction
 10 of that testing, and he agrees that the Wellcome
 11 development process should be followed through and there
 12 is a period during which he is supporting submissions
 13 about making sure that the time-frame is sufficient to
 14 allow for the testing to be properly developed before it
 15 is implemented in all of the Regional Transfusion
 16 Centres. So that's a summary but we'll come through via
 17 the documents.
 18 So this is the reply to Sir Kenneth Clarke on
 19 31 January 1985, and he answers the queries raised that
 20 we just looked at, and if we look under "AIDS from UK
 21 Blood and Blood Products", he reiterates his previous
 22 advice in the submission. He says:
 23 "While as [Minister of State for Health] suggests,
 24 it is hoped that the revised leaflet will substantially
 25 reduce the risk, we cannot guarantee that all

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1 it is the best at present we can do for whole blood.
 2 Blood products are made from pools of many thousands of
 3 donations and so the risk of contamination is very much
 4 increased."
 5 He says:
 6 "It is believed that heat treatment will reduce
 7 this risk, and therefore until a specific test is
 8 generally available (and this will take time) [he
 9 advises] that the heat treatment for pooled blood
 10 products will continue to be necessary and should be
 11 provided."
 12 That's his answer to the challenge as to whether
 13 both heat treatment and screening are required.
 14 Then he further proposed at the bottom of that
 15 letter that a press release and a letter to Regional
 16 Health Authorities should be circulated announcing that
 17 funds would be earmarked.
 18 Can we next then go to DHSC0002327_028. In fact
 19 he replies twice to Kenneth Clarke's questions because
 20 after having sent the document we just saw on
 21 31 January, he follows up on 1 February with this
 22 communication entitled "AIDS - The need for heat
 23 treatment as well as an antibody test", and he says:
 24 "1. [Minister of State for Health] asked for
 25 clarification of the need for heat treatment as well as

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1 homosexuals will desist from donating blood even with
 2 the additional publicity alerting them of the dangers.
 3 There may be considerable social pressure on the
 4 individual to continue donation. Additionally,
 5 heterosexual contacts of bisexual men and drug abusers,
 6 and other risks groups may be unaware that they have
 7 been contacts with infected persons. My advice must be
 8 that in view of the fact that 2 million units of blood
 9 are used annually without a test it will be inevitable
 10 that further transmission of the virus will take place
 11 as a result of blood transfusion."
 12 Then you will recall he was asked specifically
 13 whether there was any case of transmission by blood
 14 transfusion in the UK and he says as far as it's known
 15 there are no cases of the actual disease AIDS in the UK
 16 having arisen following blood transfusion and that the
 17 three haemophilic patients with AIDS had received
 18 imported Factor VIII. He says:
 19 "However, there are three the further patients to
 20 whom the infection has been transmitted by blood donated
 21 in the UK who may yet develop the disease."
 22 Then over the page, in the second page of the
 23 document, please, under "Heat Treatment and Screening",
 24 he says that:
 25 "The proposed antibody test is not infallible but

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1 an antibody test.
 2 "2. As the Minister knows, blood for transfusion
 3 once it has been tested for its blood group and for
 4 evidence of infection ... is delivered straight to
 5 hospital blood banks for use."
 6 He says:
 7 "This is the blood which we wish in addition to
 8 screen for AIDS antibody. Heat treatment of blood for
 9 transfusion is not possible because of the damage it
 10 would do to the cells it contains."
 11 So making the point that heat treatment is for
 12 Factor products, but not for whole blood, and goes on to
 13 explain pooling and fractionation to make Factor VIII,
 14 which needs heat treatment and the additional risk
 15 coming from pools.
 16 So he has replied not only once but twice to
 17 Lord Clarke to emphasise the need for the introduction
 18 of the screen tests.
 19 We know that that advice was heeded and
 20 Lord Clarke has provided evidence to the Inquiry. He
 21 says that the process for the introduction of screening
 22 tests was a topic which closely concerned the
 23 medical advisers and in particular the Chief Medical
 24 Officer advised on the strategy for evaluation of
 25 the tests and his advice was accepted. The press

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1 release and letters to Regional Health Authorities that
 2 we saw the CMO asking to be sent were issued on
 3 20 February of 1985.
 4 In around this same time in the chronology,
 5 Sir Donald Acheson established an Expert Advisory Group
 6 on AIDS, and it was this group, which is known by the
 7 acronym EAGA, Expert Advisory Group on AIDS. It was
 8 their advice that he relied on in pressing that
 9 recommendation that we just saw for screening to be
 10 introduced with the minister.
 11 I'm just going to take us back to the
 12 autobiography to see what Sir Donald Acheson recalled
 13 about the establishment of EAGA.
 14 So that's WITN0771088 again, please, and page 15
 15 of the autobiography.
 16 It's the bottom left-hand paragraph where he says:
 17 "As far as HIV/AIDS was concerned, a few cases of
 18 what was already seen as a fatal virus infection
 19 associated with infected blood and sexual intercourse
 20 had already occurred prior to my appointment."
 21 And that he:
 22 "... decided that the implications of the
 23 infection were so serious and our knowledge so limited
 24 that [he needed to] seek expert advice as soon as
 25 possible. The expert advisory groups on AIDS (EAGA) was
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1 minutes sometimes Dr Acheson chairs and sometimes one of
 2 the Deputy Chief Medical Officers chairs. On this
 3 occasion he was an attendee at the top of the right-hand
 4 list. He attended for part of the meeting.
 5 At paragraph 2 on that page we can see that
 6 Dr Abrams:
 7 "... thanked members for responding so quickly to
 8 the CMO's invitation to serve on the Expert Advisory
 9 Group. He emphasised the importance of the subject on
 10 which they were being asked to provide advice, and drew
 11 attention to the fact that papers circulated ... were
 12 not for publication."
 13 The meetings were private and treated in strict
 14 confidence.
 15 Could we turn to the next page, please, and look
 16 at paragraph 4:
 17 "CMO added his personal thanks ... He stressed the
 18 potentially serious epidemiological problem posed by
 19 AIDS."
 20 He noted that:
 21 "The terms of reference drawn up for the Group
 22 were very wide; specific issues on which advice was
 23 sought included measures necessary - in the field of
 24 public health - to control the spread of AIDS. Also,
 25 [Chief Medical Officer] hoped for unequivocal advice
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1 set up and having met seven times in 1985 and regularly
 2 thereafter, it made a series of recommendations which
 3 led to more effective control of HIV/AIDS within the UK,
 4 than in any other country that had links with the
 5 African continent" he says with hindsight.

6 He says that:

7 "The authoritative advice of EAGA led to a secure
 8 understanding of how the retrovirus was and was not
 9 spread which stemmed the risk of mass hysteria.
 10 In DHSS, we found ourselves dealing with a seemingly
 11 endless series of questions not only on those points but
 12 on worries about possible cross infection from butchers,
 13 bakers, waiters and ticket collectors."

14 So that's what he says about how and why he
 15 established the EAGA.

16 If we go to PRSE0002734, we can see the minutes of
 17 the first meeting on 29 January 1985. Now, as we've
 18 just seen in the autobiography, there were seven
 19 meetings in 1985, and further meetings thereafter.
 20 We're not going to go all of the minutes, but we will
 21 just look at the first meeting and in particular what
 22 was said about the introduction of screening.

23 We can see there is an attendance list for this
 24 group. We can see that Dr Abrams chaired. He was one
 25 of the Deputy Chief Medical Officers and in further
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1 from the Group on the question of the introduction of
 2 a screening test into the NBTS."

3 So, for context, this meeting is on 29 January, so
 4 it's two days before the reply he sent to
 5 Sir Kenneth Clarke on the 31st that we've just looked
 6 at.

7 So that group discussed a number of measures but
 8 we're focusing please, at page 4, paragraph 19, on
 9 screening in particular:

10 "The Chairman reminded members that the November
 11 meeting of the BTS Advisory Group on AIDS had concluded
 12 that a screening test for all blood donors should be
 13 made available as soon as possible. He asked whether
 14 the EAGA endorsed this view."

15 Then if we go down to paragraph 20, we can see
 16 that there was general support for the introduction of
 17 a blood donor screening test as soon as practicable.

18 So it was with the support and advice of this
 19 group on 29 January that Sir Donald Acheson made his
 20 recommendation to Kenneth Clarke on 31 January and
 21 reiterated it in the follow-up letter we saw of
 22 1 February.

23 I'm just checking the time. I think there is time
 24 to go on a slight detour and look at three documents
 25 relating to the report of an inquest which show
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1 Sir Donald Acheson's position as at around this time.
 2 So if we could go first, please, to DHSC0000373
 3 and go to page 2 of that document, we can see that in
 4 April 1985 the coroner for Inner North District Greater
 5 London wrote to Sir Donald Acheson describing an inquest
 6 which had been conducted into the death of a child who
 7 had died from AIDS-related pneumonia caused by a blood
 8 transfusion he had received in Washington DC.
 9 The coroner wrote to the CMO stating that the case
 10 fell within the rule concerning reporting on prevention
 11 of future fatalities, so very politely and obliquely
 12 requiring Sir Donald Acheson to reply with a report on
 13 prevention of future deaths. Sir Donald Acheson
 14 received that letter and viewed it, as well as an
 15 internal briefing on the case in DHSS.
 16 Can we go back to page 1 of the document, please.
 17 Here we have a note from the CMO's office to Dr Harris,
 18 who was one of the DCMOs, on 17 April 1985, and it says:
 19 "I agree with everything Mr Arthur says."
 20 I'll take you to the contextual document to make
 21 sense of that in a moment. He goes on to say that:
 22 "... three people have already been infected with
 23 HTLV III as a result of blood transfusion in the
 24 United Kingdom. Almost certainly others have as we know
 25 that several AIDS patients have donated blood in the
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1 of the AIDS virus via blood and blood products."
 2 He says it is an advantage that blood is donated
 3 voluntarily in the UK, unlike in the United States.
 4 He goes on to describe circulating leaflets in
 5 regular regional blood transfusion centres for potential
 6 donors requesting those at high risk do not donate. He
 7 says they are acting as quick as possible to introduce
 8 a screening test.
 9 He adds:
 10 "Unfortunately these tests have not been evaluated
 11 and we have therefore asked the Public Health Laboratory
 12 Service to carry out full evaluation before any test is
 13 approved for use."
 14 So that comes back, sir, to the issue of timing of
 15 introduction of the tests.
 16 He goes on to describe heat treatment, and in the
 17 final paragraph he says he will be sending out to all
 18 doctors in England information on AIDS and advice on how
 19 to counsel patients that either have the disease or have
 20 a positive antibody test, and he refers to the expert
 21 advisory group EAGA constantly reviewing the problem.
 22 The information for doctors that he there refers
 23 to was published on 15 May 1985 and that is
 24 at DHSC0105232. I mentioned in the opening of this
 25 presentation that a part of the function of the Chief
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1 months prior to diagnosis. I shall be very surprised if
 2 'native' cases of AIDS due to blood transfusion do not
 3 appear in the next year."

4 That is Sir Donald Acheson's comment in April
 5 of 1985 and, just for context, when he says he agrees
 6 with everything Mr Arthur says, could we go to
 7 DHSC0000375, please.

8 This is the briefing note on the death of the baby
 9 that was circulated internally in DHSS.

10 If we go to the next page, please, there's a
 11 "Summary of Line[s] to take", and it's signed by
 12 Mr Arthur. So these are the lines to take, which
 13 Sir Donald Acheson is saying he agrees with, but he
 14 added to those lines to take his belief that almost
 15 certainly others who had received donated blood from
 16 patients who had gone on to develop AIDS might go on
 17 themselves to suffer from the illness.

18 Then to round off this episode, the report back to
 19 the coroner is at DHSC0000372 and he replied personally.
 20 It's not from his office, it's a personal letter to the
 21 coroner in response to the request for a report and he
 22 sets out the measures which are being taken. So at
 23 paragraph 2 or the second paragraph he says:

24 "You will be interested to know that we are taking
 25 active steps to try to prevent the possible transmission
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1 Medical Officer was from time to time to circulate what
 2 are referred to colloquially as "Dear Doctor" letters,
 3 and his recollection that it wasn't for him to provide
 4 direction to doctors, but they do provide what could be
 5 described as guidance.

6 This is the first "Dear Doctor" letter that
 7 related to the topic of AIDS, sent on 15 May 1985. It's
 8 sent enclosing a paper, "AIDS - General Information for
 9 Doctors", which sets out information on groups at risk,
 10 presentation, diagnosis, measures taken to control the
 11 spread, and other information which includes
 12 recommendations about counselling.

13 If we go over to the next page, please, at the
 14 sign-off of the covering letter you can see he says:

15 "I take the liberty of sending this information
 16 because AIDS is a new disease (the first UK case was
 17 diagnosed in 1981) about which information has not yet
 18 got into text books but which has been widely discussed
 19 in the media often in an inaccurate and misleading way.
 20 Although at the time of writing only 159 cases have been
 21 reported, AIDS will undoubtedly become substantially
 22 more frequent in the immediate future and cases will
 23 occur more widely throughout the country.

24 "I hope you find the information helpful."

25 Sir, it might be taken from the tone of this that
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1 it's a tone consistent with the role being to provide
2 guidance but not direction. He's not ordering anyone or
3 telling them what to do but he is providing guidance and
4 information.

5 The enclosed paper is at page 3 of the document
6 onwards. So it's "AIDS - General Information for
7 Doctors".

8 Could we go to page 5, please. At the bottom of
9 page 5 you can see there's a sub-heading "The Cause".
10 So the CMO is telling doctors as at May 1985 that it now
11 seems almost certain that the cause of AIDS is the virus
12 which is now known as HTLV-III and that he will use that
13 term.

14 Then could we go to page 6, please. Under the
15 first heading he notes about halfway into that paragraph
16 that:

17 "It is important to point out that the majority of
18 the infected individuals are asymptomatic.
19 Unfortunately there is at present no method of
20 distinguishing those asymptomatic individuals who are
21 infectious, from those who are not."

22 But he also goes on at the end of that section,
23 just what we can see at the bottom of the page, to note
24 that:

25 "The incubation period between infection and
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1 which just caught my eye as we went past, the number of
2 AIDS cases as at 28 February 1985. So the number which
3 had been reported earlier in the hundreds in the States
4 is now in the thousands: 6,293 amongst homosexuals,
5 bisexuals -- 8,697 altogether. You can see there the
6 blood transfusion recipients, 104 in the States,
7 62 haemophiliacs.

8 So that's, if you like, what's the position in the
9 States, who may be thought to be ahead of the UK in the
10 development of infection. Yes. It shows the extent
11 to which what is being considered is set against the
12 growth of an epidemic.

13 **MS BARRETT:** Yes and of course doctors receiving this letter
14 and browsing through the attached leaflet would see the
15 headline points being made but also they are here being
16 provided with the raw data showing the spread and the
17 rate of the spread.

18 **SIR BRIAN LANGSTAFF:** It shows also the risk to female
19 sexual partners, to children of infected mothers. Yes.
20 Yes, thank you.

21 **MS BARRETT:** Thank you.

22 Could we next go, please, to DHSC0002269_054,
23 please. This is a minute dated 31 May 1985 from DCMO
24 Dr Harris. It's copied to the Dr Abrams who's another
25 DCMO and Dr Hunt and it says:

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1 development of AIDS is prolonged and has been found to
2 vary from between 15 and 58 months."

3 At page 7, please, just at the top of the page you
4 can see he says that:

5 "The risk of infection as a result of blood
6 transfusion is extremely low."

7 He goes on to say at page 12, at the top of the
8 page, under "Special Investigations" that:

9 "An HTLV-III antibody test should become more
10 widely available in 1985. It indicates, if the result
11 is positive and confirmed, that the patient has
12 definitely been infected with HTLV-III."

13 He reiterates that:

14 "... this does not imply that the patient
15 concerned will develop AIDS, but on the basis of present
16 knowledge they should be regarded as being capable of
17 transmitting the disease."

18 That was the state of the information being
19 circulated by the CMO to doctors widely in May 1985.

20 The next document in our narrative is at DHSC --

21 **SIR BRIAN LANGSTAFF:** Just before you do that, if you flick
22 back to the page we were looking at before this --

23 **MS BARRETT:** So that was --

24 **SIR BRIAN LANGSTAFF:** And the page before that, and again,
25 and again, and again -- that's it. It was the table
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1 "Resources ..."

2 Sorry, I'm just looking for my reference.

3 (Pause)

4 Do you have WITN0771099? Yes, this is the
5 document. Sorry, apologies, I gave the wrong reference
6 before.

7 This is 31 May 1985 communication, "Resources for
8 HTLV3 antibody tests". We can see that it says:

9 "At CMO's meeting reviewing the AIDS situation
10 yesterday you are able to give assurances that the
11 financial resources needed to cover [Public Health
12 Laboratory Service's] evaluation of the commercial kits
13 has been made available. CMO was questioned later that
14 evening by the [Parliamentary Secretary Health] on the
15 overall position and it is quite clear that Ministers
16 need to know of the timescale for the evaluation of the
17 test and, if satisfactory, for the introduction of the
18 test at every transfusion centre."

19 It goes on to say that the director of PHLS has
20 provided an estimate of the funds required for testing
21 within the Service and has been asked to provide
22 a critical path analysis of the entire exercise.

23 **SIR BRIAN LANGSTAFF:** Who's this from?

24 **MS BARRETT:** So this is from, if we scroll down, Dr Harris,
25 who is a DCMO, to Mr Harris who is in DHSS.

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1 **SIR BRIAN LANGSTAFF:** So this is suggests that the finance
 2 to cover evaluation has only just been made available.
 3 **MS BARRETT:** Yes, and that discussions are ongoing at this
 4 point about evaluation of the testing kits.
 5 **SIR BRIAN LANGSTAFF:** So it hasn't started yet.
 6 **MS BARRETT:** No.
 7 **SIR BRIAN LANGSTAFF:** This is in order to evaluate a test
 8 which it was common ground at the start of the year
 9 needed to be introduced as soon as possible.
 10 **MS BARRETT:** Yes.
 11 The next document also on this topic is
 12 DHSC0002311_021 and this is from Sir Donald Acheson
 13 himself to John Patten, Parliamentary Undersecretary for
 14 Health, on screening of blood donations for HTLV-III,
 15 and the context of this letter, it's about
 16 a recommendation which had been sent on 7 June by
 17 Mr Harris, the recipient of the document we just looked
 18 at, to John Patten, and Mr Harris had recommended that
 19 a test ought not to be selected until after that PHLS
 20 evaluation and field trials had been completed, which
 21 might take five months to implement. The other option
 22 for consideration was proceeding to select a test within
 23 the next two months without undergoing that evaluation
 24 process.

The CMO wrote about that issue to John Patten in

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1 He goes on to say that:
 2 "Ministers should recognise ... that support for
 3 a different view [i.e. in support of earlier
 4 introduction of testing] is likely to appear in the
 5 medical press."
 6 He says:
 7 "... (see Professor Bloom's letter attached) ..."
 8 We'll go there in a minute for context.
 9 He says that:
 10 "... considerable public pressure would develop if
 11 in the meantime a case of AIDS developed in a recipient
 12 of UK blood. Such a case or cases is likely to occur
 13 sooner or later due to infection one or more years prior
 14 to our warnings to people at risk not to donate blood."
 15 So he is here siding with the argument for
 16 evaluation first, but acknowledging that there may be
 17 public pressure on the other side of the argument.
 18 I mentioned for context we'd look at the letter he
 19 enclosed. That's at DHSC00003828_191. You can see it's
 20 a letter in a medical journal signed by Drs Bloom,
 21 Forbes and Rizza on HTLV-III haemophilia and blood
 22 transfusion. If we look towards the bottom of the
 23 middle paragraph -- the screen is perfect at the moment.
 24 So just at the bottom in the middle column, they say:
 25 "All these considerations underline the need

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this document:

"There is a finely balanced decision here but I am
 in favour of the suggested line."

I.e. he agrees with taking the time to evaluate
 first. He says:

"I think, however, that we must do everything
 possible to ensure that PHLS is able to keep to its
 schedule."

He says:

"As far as the option to introduce a partially
 evaluated test forthwith is concerned I think the
 prospect of wasting a relatively small quantity of blood
 from false positive tests is not the major objection.
 The major problem is that scientists concerned at PHLS
 do not yet have confidence that the suppliers could
 produce testing kits which are reliable on a large scale
 and which would continue to be reliable on the shelf."

He takes the view that:

"It would be worse to be in the position of having
 to withdraw a test once introduced than to be in our
 present position of carefully evaluating the tests.
 There could also be ethical problems in refusing to tell
 donors (who are volunteers in this country) the result
 of a test carried out on their blood if they wish to
 have it."

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rapidly to introduce screening for HTLV-III antibody for
 all blood donations."

Notes that three commercial test kits have been
 approved in America by the FDA:

"... and, although there may be a small number of
 false positives, it is unreasonable to delay testing
 until this possibility is eliminated."

So we know that Sir Donald Acheson was alive to
 this argument, but he took a different view.

His recommendation for evaluation first was
 accepted and the announcement was made on 27 June 1985
 that the screening test would be introduced once the
 PHLS evaluation programme had been completed, and then
 in that August it was announced that the screening would
 be introduced on 14 October 1985.

The next place we're going to go to are two
 "Dear Doctor" letters to support the introduction of
 that screening.

So the first is at NHBT0057007_001.

This is a letter of 23 September 1985. It was the
 second "Dear Doctor" letter which Sir Donald Acheson
 sent in relation to AIDS and you can see that he's
 titled it "HTLV III antibody testing outside the
 National Blood Transfusion Service". So this letter
 referred to general testing facilities which he sought

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1 to raise awareness of in advance of the introduction of
2 testing for blood donors. He says, if we go down,
3 please, in the bottom paragraph that:

4 "There is already evidence of widespread public
5 interest in the introduction of the test and how it will
6 be provided. It is important that doctors, particularly
7 general practitioners, are fully aware of the local
8 facilities which have been established when they are
9 approached by patients about the need for a test. May
10 I therefore ask you to consider how your local
11 arrangements can be made known ..."

12 This ties in with the concern that was flagged by
13 Dr Smithies in her internal briefing that an incentive
14 might be created for people in high-risk groups to
15 donate blood if testing facilities were to be introduced
16 widely in Regional Transfusion Centres first before
17 being widely available in sexual health clinics and
18 otherwise in the NHS and that was something which was
19 a factor in the way that testing was rolled out and
20 Dr Acheson publicised first the need for awareness of
21 general testing facilities before, shortly before, the
22 introduction of testing at transfusion centres.

23 Then we can see he sent a further letter at
24 WITN0771110. Sorry, I've taken you to the publicity
25 rather than the letter itself. But what this sets out

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1 **SIR BRIAN LANGSTAFF:** Yes.

2 **MS BARRETT:** As I mentioned before the lunch break, the next
3 topic to explore is the development of a public
4 education campaign around the risks of AIDS.

5 The first document I'd like to go to is at
6 DHSC0002114. This is the front page of a strategic
7 paper circulated by Sir Donald Acheson entitled
8 "HTLV3 infection, the AIDS epidemic and the control of
9 its spread in the UK". It was sent to the Secretary of
10 State, Norman Fowler, for his very urgent attention and
11 it was copied to other DHSS ministers.

12 Could we go to the next page.

13 We can just see the beginning of the paper. Then
14 within that paper could we go to page 12, please, and
15 have a look at paragraph 1 of the summary. Sorry, look
16 at the first paragraph on the page under "Control of
17 spread of infection".

18 We can see that Sir Donald Acheson was warning or
19 flagging that:

20 "In the absence of effective immunisation of
21 susceptibles ..."

22 I'm not sure if that's a reference to the
23 possibility that some people could be immunologically
24 more vulnerable -- he says:

25 "... control of the epidemic must depend upon

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1 is that there is a press notice and a "Dear Doctor"
2 letter sent out on 1 October regarding the introduction
3 of testing at blood donation sites. We can see there
4 that to obtain maximum coverage for the letter and
5 accompanying advice there was a media round and he was
6 invited on television programmes and promoted the
7 introduction of testing for blood donors there.

8 I'll come back then to the "Dear Doctor" letter at
9 the end of the presentation when we look thematically at
10 those as a category.

11 I've gone slightly out of chronological order to
12 follow through to the introduction of testing. The next
13 theme that I'm going to address is the introduction of
14 the public awareness campaign of AIDS and how Sir Donald
15 Acheson was involved in that from mid-1985 and through
16 1986. As that is a new topic in itself, might it be
17 convenient to break a few minutes early for lunch so we
18 can start fresh with a new topic after lunch?

19 **SIR BRIAN LANGSTAFF:** Very well. We will take a break in
20 that case until 2.00. So 2.00 and we start again on our
21 new topic.

22 **MS BARRETT:** Thank you.

23 (12.56 pm)

(Luncheon Adjournment)

24 (2.00 pm)

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1 reducing the frequency of transmission of infection.

2 This will require the urgent development of a properly
3 surveyed and evaluated programme of health education and
4 counselling with the assistance of experts and the
5 active co-operation of the groups at risk."

6 **SIR BRIAN LANGSTAFF:** I think the answer to your question
7 about immunologically more vulnerable must not be the
8 case because there was no immunisation and I think
9 therefore "susceptibles" means those people who are most
10 at risk of contracting it because they are most exposed
11 to transmission.

12 **MS BARRETT:** I see. So high-risk groups makes sense there.

13 **SIR BRIAN LANGSTAFF:** Yes.

14 **MS BARRETT:** Thank you, yes, that makes more sense.

15 Lord Fowler's evidence about this document was
16 that it was around this time that the CMO sought an
17 urgent meeting with him to prioritise the response to
18 the AIDS crisis, and Lord Fowler told the Inquiry that
19 it was the coming together, I think, of Donald and
20 myself that really changed the things.

21 So this is the beginning of a collaboration
22 between them in relation particularly to public
23 education. I'll just pick that up I'm going back into
24 Sir Donald Acheson's autobiography please, which is at
25 WITN0771088 and at page 15 of the document. If we look

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1 at the final paragraph on the right-hand side, beginning
 2 "In 1985", he said that:
 3 "In 1985, it became clear that our current
 4 approach in the Department to deal with each of these
 5 crises as they arose was no longer tenable. Instead
 6 what was needed was to take the bull by the horns and
 7 with the help of expert advice make available to
 8 everyone in the country a frank and full explanation of
 9 the facts - how HIV is and is not spread."
 10 He says:
 11 "[He] was able to advise the public that HIV does
 12 not pass from a close contact as occurs in the tube in
 13 rush hour or in the cinema nor in food or water but that
 14 it did spread or could spread during sexual intercourse
 15 with an infected person without a condom or by infected
 16 blood during a transfusion."
 17 He notes that:
 18 "Although this would inevitably involve
 19 distributing explicit information about sex which some
 20 people might find offensive, that could not be helped."
 21 He says:
 22 "When [he] put this proposal to Norman Fowler,
 23 whatever concerns he may have had privately about the
 24 effect of approving such a campaign might have on his
 25 future political career, he set those aside and subject
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1 at DHSC0007007.
 2 We can see that this is "On the State of The
 3 Public Health for the year 1985". This report was
 4 published in 1986 and Sir Donald Acheson's introduction
 5 is dated July 1986. So the same caveats apply about
 6 when exactly it was drafted we're not sure.
 7 Could we go to page 45, please. Ah, could we try
 8 page 83. I think I've given you the internal page
 9 number rather than the electronic page number. Yes.
 10 So if we look at the bottom of that page there's
 11 a section on "Health education", and we can see that:
 12 "Planning commenced in 1985 for a major national
 13 campaign of public information to begin in the Spring
 14 of 1986. An inter-departmental group has been formed
 15 and an AIDS and Education sub-group set up, jointly with
 16 the Department of Education and Science. The aim of the
 17 campaign ..."
 18 And this is being set out in a public document in
 19 itself was:
 20 "... to provide information to the general public
 21 and to those in at-risk groups in order to increase
 22 understanding about HTLV-III infection, and ways in
 23 which its spread can be controlled."
 24 An additional £2.5 million was set aside for
 25 public health education, in addition to financial
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1 to one condition ..."
 2 I don't propose to go into it but it was that
 3 he had consent from major religious figures, so he had
 4 to go and talk to the Archbishop of Canterbury, I think,
 5 about it. He:
 6 "... gave the 'Don't Die of Ignorance' Campaign
 7 his enthusiastic support."
 8 Then if we could go, please, to page 16 and look
 9 at the middle paragraph on the right-hand side of the
 10 page, beginning "Fortunately for the United Kingdom",
 11 you will see there that Sir Donald Acheson described
 12 facing disapproval from the Prime Minister Margaret
 13 Thatcher regarding the sexually explicit public health
 14 education system that he proposed. So that's what I was
 15 referring to earlier in relation to the concern that
 16 making the specifics public, as was necessary so that
 17 people understood what the risks were, was politically
 18 unattractive.
 19 But he had the support of the Deputy Prime
 20 Minister William Whitelaw and he was able to obtain
 21 approval for a universal leaflet drop, for free time on
 22 radio and TV, and for a set of newspaper and magazine
 23 advertisements.
 24 We can pick that up in terms of what that campaign
 25 looked like in the 1985 annual report, which is
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1 allocations set out on the next page which related to
 2 research and so on.
 3 Then the next document I'd like to go to please is
 4 HMTR0000008_045.
 5 So we've seen that the public document, the
 6 1985 annual report, talks about the successes and the
 7 finances that were allocated to a public health
 8 education campaign in 1985 and particularly 1986, but
 9 internally, on 3 October 1986, Sir Donald Acheson sent
 10 this letter to Sir Kenneth Stowe, who was the Permanent
 11 Secretary at the DHSS. At paragraph 1, if we could
 12 focus in, please, he noted that:
 13 "People who are infected with HIV are in many ways
 14 more important than patients with AIDS ..."
 15 Just pausing there, I don't think he meant in
 16 terms of their human value, but in terms of the risk of
 17 transmission. He went on:
 18 "... because they are unusually unaware they are
 19 infected, but they are infectious in terms of sexual
 20 contacts, unborn babies ... and blood for years,
 21 probably for life. We know that incubation period can
 22 be at least 6 years."
 23 Then could we go to paragraph 2 next. He
 24 estimated that there were at least 50 cases of
 25 HIV infection for every case of AIDS, which in the UK
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1 would equate to 25,000 or more infected carriers.
 2 If we could go next to paragraph 3, please, he
 3 noted that at least 25 per cent of that group would
 4 develop AIDS, and said:
 5 "... it is thought by some that this proportion
 6 will continue to be revised upwards as the years pass."
 7 He warned that:
 8 "Many experts believe that most of those people
 9 (almost all young) will eventually develop AIDS and die.
 10 Unless the rate of spread of infection is curtailed the
 11 social and economic cost will be calamitous."
 12 He advised, and if we could go to the second page
 13 now, please, and look at paragraph 6 and 7, that:
 14 "From the medical point of view, the Government's
 15 response has been inadequate and is now substantially
 16 less to educate the public than some European
 17 countries."
 18 Perhaps there's a word missing, but what was being
 19 done was substantially less to educate the public than
 20 in some other European countries. He said:
 21 "It is increasingly difficult to defend in public.
 22 Pressure will mount as the numbers of cases increases."
 23 He says that he has:
 24 "... advised Ministers that from the public health
 25 point of view the education campaign to reduce the

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1 that he thought that what he was doing in terms of the
 2 public health campaign was not sufficient or big enough
 3 or well funded enough to have the effect that he sought.
 4 **SIR BRIAN LANGSTAFF:** Or hadn't been previously.
 5 **MS BARRETT:** Hadn't been previously. This is dated ...
 6 **SIR BRIAN LANGSTAFF:** This is October '86.
 7 **MS BARRETT:** October '86, and the 1985 report that we went
 8 to, his introduction to that report had been signed off
 9 in July 1986. So as at July 1986 or previously and
 10 leading up to July 1986 we know that some public health
 11 education measures had been taken and those are
 12 detailed, but we know that by October he was saying that
 13 they weren't enough. I don't have a document that sets
 14 out any more specifically what it was that he thought
 15 was inadequate.
 16 **SIR BRIAN LANGSTAFF:** So it may well be a reference to
 17 the lack of or/and the lack of impact of anything which
 18 had been said to the public, to inform the public
 19 previously about what the risks truly were.
 20 **MS BARRETT:** That might be an inference that you could draw,
 21 yes.
 22 **SIR BRIAN LANGSTAFF:** One of the issues for me is to look at
 23 what, for instance, might have been done to combat
 24 stigma, and education is the answer which has been given
 25 by some witnesses. That, of course, depends upon the

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1 spread of infection should take priority over all other
 2 calls on finance. Furthermore, in view of the
 3 multiplying effect of the means of spread it is
 4 desperately urgent that action should be taken
 5 immediately. A proper centrally coordinated programme
 6 involving all the media and together with the
 7 involvement of District Health and Local Authorities and
 8 the voluntary sector is urgently required and the
 9 relatively small amount of money needed should not be
 10 [underlined], spared."
 11 He said:
 12 "There is no time for protracted evaluations."
 13 **SIR BRIAN LANGSTAFF:** Can you help with what it is about the
 14 Government's response thus far that Sir Donald is saying
 15 has been inadequate?
 16 **MS BARRETT:** Could we go back up to the first page. So he
 17 doesn't set there out what measures have been taken,
 18 I don't think. I'm just checking. Could we go down to
 19 paragraph 4 as well. No? What he's setting out is the
 20 rates of spread in infection but not what has been done
 21 and so it's a little difficult to trace what it is he
 22 says is inadequate. We know what was being done from
 23 the annual report which I just cited and there was
 24 a public health campaign already in place at this time,
 25 but it seems, or you may infer from reading this letter,

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1 quality and quantity of the information.
 2 **MS BARRETT:** Yes.
 3 **SIR BRIAN LANGSTAFF:** And its timeliness.
 4 **MS BARRETT:** Yes.
 5 **SIR BRIAN LANGSTAFF:** So it may be something that is
 6 relevant to that, I don't know. But if any further
 7 light can be shed on what he meant by that, I would be
 8 interested.
 9 **MS BARRETT:** We do have what happened next.
 10 We have got at HMTR000008_044, this is a letter
 11 from Sir Kenneth Stowe, discussing the matter with
 12 Cabinet Secretary Sir Robert Armstrong, and you can see
 13 in the first paragraph it says:
 14 "We discussed on Friday evening the issues that
 15 lie behind the troubled minute to me from Sir Donald
 16 Acheson - copy at Annex ..."
 17 That's the letter we just looked at:
 18 "... and concluded that it would be desirable for
 19 you to brief the Prime Minister for next weekend, with
 20 advice on how we should proceed."
 21 Sir Robert Armstrong in turn called a meeting of
 22 permanent secretaries on 8 October 1986. We can see
 23 documents pertaining to that meeting and SHTM0001041.
 24 So the first page of this document shows a note prepared
 25 in advance of the meeting on 8 October and it gives the

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1 context of the meeting, referring to Sir Kenneth Stowe's
 2 letter of 6 October attaching Sir Donald Acheson's
 3 minute that we've looked at expressing a deep concern at
 4 lack of action to prevent the spread of AIDS.
 5 Then the background is set out that Mr Fowler had
 6 minuted the Prime Minister about the AIDS problem in the
 7 September of the previous year, that the ministerial
 8 steering group had been set up, and then other measures
 9 as set out there.
 10 Then at the bottom of the page it says:
 11 "However, as the CMO notes, these measures have
 12 proved insufficient to halt the spread of the disease."
 13 So what the author of this note seems to have
 14 taken from Sir Donald Acheson's minute is that despite
 15 the measures which were being taken, the concern was the
 16 spread of infection and so what it was that was
 17 insufficient is that, despite everything that had been
 18 done, cases were still going up. Whether that is
 19 a correct reading or not of the nature of the concern is
 20 a matter for you.
 21 **SIR BRIAN LANGSTAFF:** Can we just scroll up that page.
 22 Thank you. Just to put it in context, yes, it says what
 23 measures have proved insufficient. Thank you, yes.
 24 **MS BARRETT:** Then if we could just go on to the next page,
 25 please, the author of the note identifies two major

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1 public authority". He notes that:
 2 "Given the scale of the task, the proposed
 3 education council would have to be headed by a steady
 4 and experienced man ..."
 5 He doesn't seem to consider a steady and
 6 experienced woman at that stage, but a sign of the
 7 times.
 8 "... capable of withstanding strong public and
 9 political measures."
 10 He says:
 11 "On the spread of the disease, we have fewer facts
 12 than we would like, and it would be wrong at there is
 13 stage to be over-alarmed."
 14 So you may compare the language used in the minute
 15 and the words expressed or at least recorded to be
 16 expressed in this note of the meeting where he is saying
 17 it would be wrong to be over-alarmed.
 18 He says that:
 19 "[They] know that the virus is spreading very fast
 20 among the drug addict and homosexual population and
 21 their sexual partners, and indeed their sexual partners'
 22 babies."
 23 But he says:
 24 "At this stage, however, the spread to the
 25 population at large was relatively slow."

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1 difficulties by way of obstacles to progress. They are,
 2 firstly:
 3 "identifying measures that will have the effect of
 4 containing the disease ..."
 5 And, secondly:
 6 "persuading Ministers to introduce those measures
 7 which would be effective, but which appear to condone
 8 behaviour normally regarded as unacceptable."
 9 Which you might read as a coded reference to the
 10 issue we have discussed about being explicit about what
 11 poses a sexual risk and what doesn't.
 12 The minutes of the meeting are in this document as
 13 well.
 14 Could we go to page 4, please.
 15 This is the beginning of the note or minute of
 16 the meeting, record of the meeting, and we can see that
 17 those present included Sir Donald Acheson amongst the
 18 Permanent Secretaries who also attended.
 19 Can we go to the next page please, page 5 of the
 20 document.
 21 At paragraph 3, we can see Sir Donald Acheson's
 22 contribution to the meeting. He said that -- so they
 23 are talking about setting up a public body to be
 24 specifically responsible for AIDS education and that's
 25 what he's referring to when he says "a 'stand-off'"

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1 And notes that:
 2 "... of 2.14 million blood donations by
 3 1.5 million donors in the most recent period, only
 4 50 had proved HIV positive ..."
 5 He said that there was not enough evidence to
 6 explain why the disease was spreading much more rapidly
 7 in Africa and that there was a difficult balance to be
 8 drawn between complacency and overreaction.
 9 So that perhaps more balanced or looking at both
 10 sides of the question approach is notable in the meeting
 11 whereas the urgency that was conveyed in his minute
 12 which prompted the meeting perhaps was more on one side
 13 of the issue.
 14 He was successful, we know, in obtaining more
 15 funding for the public education campaign that he
 16 sought, and we can see that in the 1986 annual report
 17 which is at DHSC0007008.
 18 We can see it's "On the State of The Public Health
 19 for the year 1986". This report was published the
 20 following year and Sir Donald Acheson's introduction for
 21 that report was dated September 1987. If we could go,
 22 please, to page 10, this is part of the introduction to
 23 the report and we can see from the third paragraph down
 24 it said that:
 25 "In the absence of an effective vaccine or

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1 treatment, the principal means of reducing the spread of
2 HIV is to educate the public how the virus is
3 transmitted and how to protect themselves and others."

4 That's strikingly similar to what had been said in
5 some internal documents about the importance of public
6 education. It says:

7 "The public information campaign which began in
8 1986 has continued to gather momentum and has attracted
9 much international interest. In the first two weeks of
10 January 1987 an AIDS leaflet was delivered to every
11 household in the country. This was accompanied by
12 television and cinema advertising. The broadcasting
13 authorities gave additional 'air time' to AIDS
14 advertising on all channels and by broadcasting 19 hours
15 of television programmes in an 'AIDS Television Week'.
16 In the same month a two-tier free telephone information
17 and advice service was established ..."

18 It goes on to discuss that advice service.

19 Then at page 65, please, of the report -- so this
20 is within the "Communicable diseases" chapter in the
21 subsection on AIDS -- there's further information about
22 the public education campaign under "Measures taken to
23 prevent the spread of HIV infection", and it's
24 explaining that a campaign was launched in March of 1986
25 and goes on to give details. Then we can see -- so I'm

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1 "b. to explain the current AIDS situation in the
2 UK, and to give further information [and] advice which
3 may be offered to those who think they have been at
4 risk ..."

5 Then it goes on to outline the measures that we've
6 also just seen in the annual report in terms of the
7 modes of communication that were used in that campaign,
8 including sending a leaflet to all households.

9 If we could just flip to page 4 of that document
10 and look under the subheading "National Blood
11 Transfusion Service", so at the same time as raising
12 awareness of the risks, the letter does also talk about
13 misconceptions and emphasises that there's no risk in
14 donating blood and goes on to say that within the UK all
15 blood donations have been screened for HIV antibodies
16 since 14 October 1985.

17 We can see that the leaflet referred to that was
18 sent to every household --

19 **SIR BRIAN LANGSTAFF:** Just before we go there, can we just
20 look at the chronology which is set out in the document
21 you have just taken me to because it talks about the
22 campaign being launched in 1986 -- this is the media
23 campaign, the making available of time on TV -- and in
24 November 1986, widened and intensified. But if the
25 campaign its launched in 1986 and had the features which

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1 now about halfway down the big paragraph in the middle
2 of the page. It says:

3 "In November 1986 the campaign was greatly widened
4 and intensified, newspaper advertising was increased and
5 the campaign aimed at young people started through
6 magazines, cinema and radio advertisements."

7 So it does seem that the concerns flagged resulted
8 in a boost to what had previously been the public
9 education campaign and more resource was put in
10 in late 1986.

11 A "Dear Doctor" letter was sent to complement this
12 acceleration of the public health campaign, and that is
13 at OXUH0002238_007.

14 It was sent on 2 December 1986 and it says that
15 the letter has two objectives. To inform the doctors
16 receiving it. You can see at the top of the screen it
17 is "All doctors in England":

18 "a. to inform [them] about the latest phase of the
19 public education campaign. This emphasises the
20 increasing risk of infection with HIV as a result of
21 vaginal intercourse and is likely to stimulate a number
22 of patients to turn to you for advice."

23 So it's a bit clearer about what it is that causes
24 the risk.

25 And:

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1 are mentioned, what you talk me to earlier was
2 October '86, where the CMO appeared to think that even
3 that response had inadequacy about it.

4 **MS BARRETT:** So the widening of the campaign took place in
5 the November of 1986 and we're now looking at
6 December 1986 and they are preparing for the leaflet
7 drop to all households which took place in the
8 January of 1987.

9 **SIR BRIAN LANGSTAFF:** So that's the big change?

10 **MS BARRETT:** Yes. You are quite right, the measures were
11 already commenced from round about the March of 1986 and
12 they had been in the pipeline since June of 1985.
13 That's where the genesis of the idea came from that we
14 traced through.

15 The public explanation of that campaign in the
16 1985 annual report, which was published in 1986, was
17 quite positive but in the October of 1986 we saw the
18 deep concern being raised in the minute that was
19 circulated internally and discussed by Kenneth Stowe and
20 the Permanent Secretaries, and a month after that there
21 was a boost to the campaign, it was widened, more
22 channels of communication were used, the "Dear Doctor"
23 letter then went out in the December, and what we're
24 just about to come to is the leaflet that went to all
25 households in the January of 1987.

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1 **SIR BRIAN LANGSTAFF:** Thank you.
 2 **MS BARRETT:** So that is at MRCO0000554_005.
 3 This is the leaflet that went to all households.
 4 We can see at the bottom of the page it says "Government
 5 Information 1987". It's quite hard-hitting. Probably
 6 people will be familiar with the slogan "AIDS, don't die
 7 of ignorance". And if we just look at the next page, to
 8 give a flavour:
 9 "Why are you being sent this leaflet?
 10 "This leaflet is being sent to every household in
 11 the country."
 12 And it talks about matters of health and sex. If
 13 we go to the next page, when asked, "How do you become
 14 infected?", it explains, "Because the virus can be
 15 present in semen and vaginal fluid", and talks about the
 16 danger of sexual intercourse, vaginal or anal sex.
 17 So at this point Norman Fowler and Donald Acheson
 18 have won the argument about using clearer terminology in
 19 public health information.
 20 We're looking at the details of a leaflet which
 21 might be thought to be too forensic for a presentation
 22 about the Chief Medical Officer who was responsible for
 23 policy advice but, in fact, we know from Lord Fowler, as
 24 evidence he told the Inquiry, that every advertisement
 25 in this campaign was approved personally by himself and
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1 Then in the final paragraph says he's satisfied
 2 that it's extremely unlikely that any patients with
 3 haemophilia treated in the UK will in future be infected
 4 with HTLV-III virus.
 5 Then it is quite interesting to see that he added
 6 a personal manuscript addition. We know it's him
 7 because in Norman Fowler's evidence he says this was the
 8 manuscript addition from Sir Donald Acheson. He says:
 9 "- but sadly a very high proportion of the
 10 haemophilic population already are infected due to
 11 previous use of non heat treated Factor VIII."
 12 So that was his personal reflection at that time.
 13 The next topic I will deal with similarly by
 14 reference to the written presentation and that's the
 15 topic of consent to testing.
 16 Paragraphs 163 to 172 of the written presentation
 17 deal with the theme of consents to testing and
 18 anonymised testing.
 19 The documents show that Sir Donald Acheson sought
 20 advice and ultimately considered that this was an issue
 21 for ministers to decide, but I won't take us through the
 22 documents now.
 23 I will pick up on a few documents relating to
 24 Sir Donald Acheson's views on compensation for HIV
 25 infection. The Inquiry has heard considerable evidence
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1 the Chief Medical Officer. So his evidence is that
 2 Sir Donald Acheson looked at each of the adverts that
 3 went out, including this leaflet, and approved them.
 4 The next topic in the written presentation is the
 5 introduction of heat treatment. I don't propose to go
 6 in detail through that topic or the documents pertaining
 7 to that topic. They are dealt with at paragraphs 153 to
 8 162 of the written presentation for those who want to
 9 look.
 10 What those documents show is that the Chief
 11 Medical Officer kept abreast of the developments in
 12 relation to heat treated Factor VIII and there's just
 13 one document that I will pick up on which is at
 14 DHSC0000514.
 15 We can see that on 30 July 1985 Sir Donald Acheson
 16 wrote to the Secretary of State, who was Sir Norman
 17 Fowler, about AIDS and the treatment of haemophiliacs.
 18 He says, following their recent conversation he has
 19 checked on the position regarding the treatment of
 20 haemophiliacs with Factor VIII, and he has been advised
 21 that all Factor VIII produced at the Blood Products
 22 Laboratory has been heat-treated since April 1985.
 23 He talks about the importance of avoiding using
 24 any commercial unheat-treated Factor VIII which may
 25 remain from 1984.
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1 about the litigation brought between 1988 and 1991 by
 2 people with haemophilia who had been infected with HIV
 3 as a result of use of blood products.
 4 Sir Donald Acheson met with the Minister of State
 5 for Health to discuss that litigation on 30 August 1989,
 6 but otherwise he doesn't appear to have been heavily
 7 personally involved in the Government's response to that
 8 litigation.
 9 However, there is one letter he wrote which we'll
 10 go to, which is at HSOC0017025_004. We can see that
 11 this is a letter from the Chief Medical Officer to the
 12 Secretary of State, who was by then Sir Kenneth Clarke,
 13 dated 20 July 1980 (sic), and if we could just zoom in
 14 on the paragraph he said that he hoped that the
 15 Secretary of State would take --
 16 **SIR BRIAN LANGSTAFF:** 1980 or?
 17 **MS BARRETT:** Sorry, 1990.
 18 **SIR BRIAN LANGSTAFF:** It was wrongly put down in the
 19 transcript.
 20 **MS BARRETT:** 20 July 1990.
 21 **SIR BRIAN LANGSTAFF:** Thank you.
 22 **MS BARRETT:** Referring to the AIDS litigation, he was
 23 commenting on an intervention of the trial judge,
 24 Mr Justice Ognall, who had urged all sides to consider
 25 a compromise and Sir Donald wrote:
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1 "I hope Secretary of State will take account of my
2 view that the problem of HIV infection in haemophiliacs
3 can in fact be regarded as a unique catastrophe. The
4 key feature which is not brought out particularly well
5 in the memorandum of the Directors of Public Health is
6 that HIV infection in addition to almost inevitably
7 causing a very unpleasant progressive illness and death,
8 results in a substantial proportion of cases in
9 infection of the female sexual partner and also on
10 average one quarter of the subsequently conceived
11 children. In both wife and children the infection will
12 also prove fatal; in the case of the children fatality
13 takes place in infancy. The only remedy which will
14 certainly prevent the transmission by sexual contact is
15 the invariable use of a condom throughout the
16 partnership. Unlike the position in Hepatitis B which
17 can occur as the result of a therapeutic accident, there
18 is no vaccination available to protect the sexual
19 partner. Furthermore, in Hepatitis B the outcome is
20 only rarely fatal and infectiveness is present in
21 a small minority of cases."

22 Then if we could go to page 2, please, he goes on
23 summarise the particular aspects of infection with HIV
24 and says that the tragedy goes beyond anything which has
25 ever been described as a result of a therapeutic

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1 difficult to present this line of argument in a way
2 which does not damage the reputation of the
3 professionals concerned. If there is said to be a risk
4 of losing which is sufficient to justify a settlement,
5 then either the case is weak because there was
6 negligence or the judge and legal system [is] biased,
7 yet neither of these reasons are ones we could/should
8 use."

9 When asked about this letter in her oral evidence,
10 Dr Pickles said that it was very unusual for her to
11 write to a Chief Medical Officer in this format and she
12 said it was obvious that she had had a discussion with
13 him and he said "put that in writing" so he could then
14 put on the record that he felt there had been no
15 negligence.

16 So we only have the letter to him and we don't
17 have any reply from him, but we do have her evidence
18 that he had asked her to put that in writing. So we
19 have on the one hand a letter asking for a settlement to
20 be favourably considered by the Secretary of State and
21 then we have Dr Pickles' evidence that to some extent he
22 supported her concern that that shouldn't result in any
23 implication of negligence or damage to the reputation of
24 clinicians.

25 Then there's a related although slightly different

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1 accident and is very likely indeed never to occur again.

2 Then what he is requesting in this letter he says
3 in the final paragraph:

4 "I hope therefore, that for humanitarian reasons
5 the Government will find some way to make an *ex gratia*
6 settlement to the infected haemophiliacs in relation to
7 this unique tragedy. I cannot personally see how these
8 could be regarded as implying any responsibility for
9 other accidents such as benzodiazepine dependence,
10 cerebral palsy following obstetric misadventure etc."

11 So that was his request to the Secretary of State.

12 We've got one more letter in relation to possible
13 settlement, which is at DHSC0004365_015.

14 This is a letter of 5 December 1990 which
15 Dr Hilary Pickles wrote to CMO. As I mentioned earlier,
16 Dr Hilary Pickles worked at DHSS in the AIDS unit and
17 she wrote to express her concern. She said she:

18 "... spoke to him this morning about my concern at
19 the possible implications of one of the options being
20 considered for our [Secretary of State] to use in
21 tomorrow's discussions with the Chief Secretary."

22 She said that:

23 "... this presents the best arguments for
24 encouraging Treasury to cover settlement costs and could
25 be used for 'ring-fencing' this deal, it may be very

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1 issue where we have documents showing Sir Donald
2 Acheson's view on compensation.

3 Can we go, please, to DHSC0004365_015. Is that
4 a wrong ... let me see. We'll go first then, I think,
5 to DHSC0002862_006.

6 What this is, is a communication setting out
7 Sir Donald Acheson's view on a minute which I will find
8 the reference to and take us to next, if I can. But for
9 context the issue was whether to extend financial
10 support to people who did not have haemophilia but who
11 had been infected with HIV through the use of blood and,
12 in rare cases, blood products.

13 He says that he's seen the minute about that issue
14 and about the cost that would be incurred if the
15 compensation scheme for haemophiliacs were to be
16 extended. He has commented that he thinks that:

17 "... the only tenable argument of
18 a differentiation from haemophilia of any weight is in
19 paragraph 3 of Annex A."

20 And if I can, I will take you there momentarily.
21 He said that:

22 "The number of cases arising from other types of
23 'tissue transplanting' eg organ transplants, and sperm
24 would be unlikely to go beyond the fingers of both
25 hands, maximum. CMO would be concerned with 'spread' to

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1 hepatitis cases of various sorts."
 2 So he's there expressing some dubiousness about
 3 arguments being made to refuse the extension of
 4 compensation to victims of infected blood who did not
 5 have haemophilia, but at the same time noting a concern
 6 was spread to hepatitis cases of various sorts. So he's
 7 not enthusiastically campaigning for widespread
 8 compensation by any means.
 9 Then could we go, please, to DHSC0003560_051.
 10 This is the document with a note on the:
 11 "... present position on compensation for people
 12 infected with HIV through blood transfusion, and on the
 13 costs which would be incurred if we were to extend to
 14 them a compensation scheme for haemophiliacs."
 15 And if we go to annex A, please, which should be
 16 at page 2, and then go through to page 4 and look at
 17 paragraph 3.
 18 So this is paragraph 3 of annex A. The only
 19 argument which Sir Donald Acheson thought might tenably
 20 hold any weight was a distinction between haemophiliacs
 21 and those without haemophilia who were victims of
 22 infected blood, because haemophiliacs were doubly
 23 disadvantaged by the pre-existing haemophilia, which
 24 affected their employment, mortgage and insurance
 25 prospects, and by their HIV infection, and because the

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1 which the Inquiry has so far identified. Sir Henry
 2 Yellowlees sent three on the topic of hepatitis B in the
 3 period from 1981 to 1984. Sir Donald Acheson sent nine
 4 on the topic of AIDS between 1985 and 1990. So there
 5 was an increase in frequency of "Dear Doctor" letters on
 6 infected blood topics. That doesn't mean to say there
 7 was necessarily an increase of "Dear Doctor" letters in
 8 all, because we haven't examined the letters which went
 9 on other issues.
 10 We've looked at two letters so far. One was on
 11 the introduction of HIV testing in general facilities
 12 and one was on the public education campaigner in the
 13 December of 1986 and I'm just going to pick up on two
 14 more -- sorry, we've looked at three so far: one was the
 15 initial information on AIDS, the second was on the
 16 introduction of general testing and the third was on
 17 public education and I'm going to pick up on two more.
 18 The first I want to pick up on is at DHSC0000177,
 19 and could we go to page 2, please. So you will recall
 20 that we looked at a document showing the publicity round
 21 that Sir Donald Acheson engaged in on 1 October 1985
 22 when HTLV-III testing was introduced in blood
 23 transfusion centres and it referred to a "Dear Doctor"
 24 letter of the same date. This is that letter. He
 25 refers back to his letter of 15 May with the "General

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1 hereditary nature of haemophilia can mean that more than
 2 one member of the family might be infected.
 3 So he was there to an extent supporting an
 4 argument for a distinction in disadvantage, but I think
 5 that's as far as I can probably take it from the limited
 6 response that we have from him.
 7 So those are the documents chronologically that
 8 I wanted to take you to. I mentioned that I would come
 9 back towards the end of the presentation to two
 10 particular categories of documents and the first was the
 11 what is referred to as "Dear Doctor" letters. So one of
 12 the functions of the Chief Medical Officer, as we've
 13 heard, is public guidance on health issues and one means
 14 he had of disseminating advice and guidance was in
 15 letters to the medical profession, but we've seen in his
 16 witness statement to the BSE Inquiry that he considered
 17 himself first among equals and that it wasn't his place
 18 to be directive.
 19 We looked at the first letter that was sent out
 20 about AIDS in the May of 1985, which took a fairly
 21 polite and humble tone in encouraging doctors to accept
 22 his advice if it were to be helpful.
 23 Just a note on frequency. Set out at paragraph 31
 24 of the written presentation are all of the "Dear Doctor"
 25 letters pertaining to infected blood issues in the 1980s

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1 Information for Doctors" about AIDS. He also refers
 2 back to the information he'd previously circulated about
 3 alternative facilities for providing antibody tests at
 4 sexual health clinics and through GPs and, just below
 5 the (a) and (b), we can see that he says:
 6 "The synchronous provision of these arrangements
 7 is to ensure that people who believe themselves at risk
 8 of infection do not donate blood in order to be tested.
 9 This is crucial because even a reliable test cannot
 10 detect very early infections to which an antibody
 11 response has not yet been generated."
 12 Goes on to talk about arrangements for counselling
 13 those people.
 14 Now this again relates back to the concern flagged
 15 in internal briefings about the possibility of creating
 16 an incentive for people from high-risk groups to donate
 17 blood in order to get tested and that being a factor in
 18 the way that testing was rolled out. He goes on to say
 19 that:
 20 "It is essential that all individuals who are
 21 found to have positive ... tests receive
 22 counselling ..."
 23 Then over the page he talks about counselling
 24 services, training services for counsellors, and he
 25 concludes by saying:

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1 "The antibody test is an important tool, in the
2 control of the spread of HTLV III infection. If it is
3 to be used effectively, very strict confidentiality must
4 be maintained in respect of positive results ..."
5 You may reflect on the tone of this letter when
6 compared to the very first letter he sent out to doctors
7 regarding AIDS. It is, or it could be inferred to be
8 more directive and more urgent in the way he sets out
9 what must be done rather than saying here is some
10 information for your benefit should you choose to look
11 at it.
12 Then there's just one more "Dear Doctor" letter
13 that it would be interesting to go to.
14 It's at BART0000728.
15 This is on 14 January 1986. So this follows on
16 from the "Dear Doctor" letter that we saw in December --
17 no, it doesn't, I'm sorry. There will be a letter in
18 December of 1986. I've got my chronology confused.
19 This is a stand-alone letter of 14 January 1986 entitled
20 "Children at school and problems related to AIDS", and
21 it mentions that the previous autumn, so in autumn 1985,
22 following publicity about a schoolchild who was found to
23 be infected with HTLV-III, the Government undertook to
24 issue guidance on AIDS as it affects schools and the
25 letter appends an information booklet on that topic.

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1 which that information is placed develops throughout the
2 1980s.
3 So we looked at the 1983 annual report. If we put
4 it back up on screen, it's DHSC0007004, and if we could
5 go, please, to page 61.
6 This was the part, sir, that you took us to in the
7 "Communicable diseases" section, on "Kaposi's sarcoma
8 and AIDS", noting the reporting to the CDSC.
9 So approximately half a page there, and then the
10 brief section that we looked at was at page 70, please,
11 just the paragraph that goes over to the top of the next
12 page noting the appearance of this new and frequently
13 fatal syndrome and saying merely that the cause was
14 unknown.
15 The next year, the 1984 annual report is at
16 DHSC0007005. This was the year that we looked at that
17 Sir Donald Acheson signed off the report but
18 acknowledged that the work had been done during the year
19 of Sir Henry Yellowlees' tenure.
20 At page 54, please, we can see that there is
21 a one-page section on AIDS. It just goes on to the next
22 page as well and it notes the number of cases in the USA
23 and the steps taken in the UK.
24 Then, just over to the next page, "UK research"
25 and the establishment of the MRC AIDS Working Party.

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1 If we look at the third paragraph on the page,
2 please, he says that:
3 "Doctors also have an important role to play in
4 achieving improved health education on the HTLV III
5 infection. Members of the general public who have
6 worries about AIDS and those who are directly involved
7 with infected people need to be told about the nature of
8 the HTLV III infection and reassured about the limited
9 ways it can be spread."
10 So when you are thinking about stigma and
11 combating stigma I've also referred earlier in this
12 presentation to occasions on which it might be inferred
13 that it was part of the CMO's role to address
14 misinformation as well as promote information. This
15 letter is quite interesting because it's really geared
16 at the stigma that might be experienced particularly by
17 children in schools.
18 The other category of document which it would be
19 interesting to look at is that of the annual reports
20 which we have come to bit by bit as they are relevant to
21 the other themes that we have looked at. They are set
22 out from paragraph 45 onwards of the written
23 presentation and what's interesting looking at them
24 collectively in relation to the risk of AIDS is to see
25 how the space devoted to the topic and the prominence in

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1 Then at page 66, in the "Sexually Transmitted
2 Diseases" section, there's a further two paragraphs
3 giving the statistics, noting that in the USA at that
4 point there had been a cumulative total of 3,000 cases
5 to the end of 1983, with a mortality rate of
6 43 per cent. Noting the surveillance of AIDS in the UK
7 by CDSC, to the end of 1983 there had been 31 cases and
8 16 of them had died -- 16 of those patients, sorry, had
9 died -- and that the cause remained unknown, but this
10 year it says:
11 "... [it] is likely to be a viral agent
12 transmitted by sexual contact, transfusion of blood and
13 certain blood products. The incubation period can be as
14 long as three years or more."
15 So the difference between 1982 report and 1983
16 report, bearing in mind they are each published the
17 subsequent year, is that the cause is set out in the
18 1983 report whereas in the 1982 report it was just said
19 to be unknown.
20 Then in 1984 it's at DHSC0007006, please. This
21 annual report was published in 1986. The introduction
22 by Sir Donald Acheson was dated the October of 1985.
23 For the first time, in this report, AIDS is featured in
24 the introduction to the report, so could we go, please,
25 to page 8. We can see there that under the public

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1 health section of the introduction it's noted that there
2 has been a major step forward in identifying the causal
3 agent, that there had been an increase in the number of
4 cases and a reference to the need for the control of the
5 spread of the infection to be regarded as an issue of
6 prime importance to the future of the nation.

7 So by the time Sir Donald Acheson signed off on
8 this introduction in October 1985, it postdates what he
9 said in his autobiography to have been the realisation
10 of the gravity of the issue in early 1985 and in his
11 annual report that was published subsequent to that
12 realisation he is saying in a public document that the
13 need for the control of the spread of infection was to
14 be regarded as an issue of prime importance to the
15 future of the nation.

16 There's also a much longer section in this report
17 in the "Communicable diseases" chapter. That's at
18 page 41, please. It's the bottom two paragraphs in that
19 page and we'll look here, before going on to the next
20 couple of pages.

21 In the 1984 report, it's noted that 77 cases of
22 AIDS had been reported in the UK between 1 January and
23 31 December, that was on top of a previous 31 cases
24 reported up to the end of 1983, and that by the end of
25 1984, 108 cases had been reported to the CDSC. There

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1 Committee on dangerous pathogens and the Health
2 Education Council, and the introduction of -- or the
3 work done on the introduction of screening and the use
4 of the AIDS and blood donors leaflet in transfusion
5 centres, work done on heat treatment, and the work
6 towards self-sufficiency. So outlining the various
7 limbs or measures that were at that point being worked
8 on to address the spread of AIDS. There's a section on
9 international collaboration. Then over on the next
10 page, please -- oh, no, that's the end.

11 So it is two and a half pages in "Communicable
12 diseases" and then the another section under the
13 "Sexually Transmitted Diseases", or the "Sexually
14 Transmitted Diseases" chapter, which is at page 56.
15 It's a brief paragraph but it sets out there the
16 statistics and notes the uncertainty about how many
17 people who are infected with HTLV would develop AIDS.
18 It says at that point it is certain to be at least
19 10 per cent.

20 When it says "AIDS is discussed in more detail",
21 that's the section we just looked at.

22 The 1985 annual report is at DHSC007007. This
23 report was published the following year and Sir Donald
24 Acheson's introduction is dated July of 1986. This
25 report again featured a section on AIDS in the

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1 had been three cases of people with haemophilia and
2 notes a number of patients with Kaposi's sarcoma,
3 pneumocystic carinii pneumonia and other opportunistic
4 infections.

5 If we can go over the page, please. From this
6 report onwards, there are fairly detailed statistics
7 provided in relation to various aspects of the disease.
8 So here we're looking at presentations and, if we could
9 scroll down, please, there's a section on transmission
10 by blood and blood products in the UK and it's noted
11 that:

12 "... three recipients were known to have become
13 HTLV III antibody positive following blood donations
14 from one donor who subsequently developed AIDS. The
15 plasma from one on his donations also contaminated
16 a batch of Factor VIII. During 1984 there were no cases
17 of AIDS arising from this or other blood transfusions."

18 But three haemophiliacs had developed AIDS and two
19 had died after receiving imported commercial
20 Factor VIII.

21 Then the next section is "Measures Taken to
22 Control the Spread of AIDS" and this really picks up on
23 some of the chronology that we have already looked at.
24 There's the establishment of EAGA. Then on the next
25 page leaflets and guidance provided by the Advisory

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1 introduction, which is at page 12.

2 If we just focus, please, on the "Communicable
3 diseases" at the bottom, it's noted that:

4 "The spread of HTLV III ... within the population
5 of the UK, and ... throughout the world, provides one of
6 the greatest challenges in communicable disease control
7 in this century."

8 So the emphasis and tone in this report, as in the
9 previous year's report, is really focused on the gravity
10 of the issue and is consistent with Sir Donald Acheson's
11 autobiography and what he says about the prominence and
12 priority which he accorded to AIDS.

13 He goes on to say that the key feature which makes
14 control of spread difficult is that infection is usually
15 transmitted by sexual intercourse with persons who are
16 often unaware that they are carrying the virus and notes
17 that there is a latent period of up to five years
18 between the date of infection and the development of the
19 illness, but also says that not all carriers of
20 antibodies develop the syndrome.

21 Then at the bottom of the page it says:

22 "In the absence of any antiviral drug or effective
23 vaccine we have limited means at our disposal. The
24 three most important means to control the virus are
25 first informing public on how the infection is and is

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1 not spread, providing a safe supply of blood and blood
 2 products and advising infected persons on how they might
 3 avoid infecting others."
 4 Then it goes on to say:
 5 "Public education is essential. Programmes should
 6 be aimed at the general public as well as persons
 7 actually or possibly at risk. It is essential that
 8 everyone receives accurate information and that myths
 9 are exposed."
 10 So that's consistent with Sir Donald Acheson's
 11 preoccupation during 1986 with the need for effective
 12 and efficient public health information on AIDS.
 13 It goes on to note testing and guidelines being
 14 introduced.
 15 So that was just the introduction. There was then
 16 seven pages on AIDS under the "Communicable diseases"
 17 chapter, which is at page 49. I won't go through all
 18 seven pages but it can be seen that the statistics
 19 provided were broken down in a fairly detailed manner.
 20 So they include, if we go down please, under
 21 "Characteristics of AIDS patients", numbers of people
 22 who are recipients of blood who have contracted AIDS.
 23 If we scroll out again, please, and back out, please,
 24 and then to the next page, please, the control methods
 25 are then set out in a great deal more detail but it's
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1 "Acquired immune deficiency syndrome ... and HIV
 2 infection". He noted the number of cases reported to
 3 CDSC that year in the first six months. So he's talking
 4 about the first six months of 1987 even though this is
 5 the 1986 annual report, just to add to our slight
 6 confusion about where the cut-off date is for the
 7 information in these reports.
 8 He notes that there were 281 cases of AIDS
 9 reported compared to 107 in the comparable period during
 10 1986 and he notes the difficulty which arose because the
 11 nature of the definition of AIDS introduced an arbitrary
 12 element to the dating of diagnosis and the delays of
 13 varying length between the diagnosis and reported of
 14 cases. He estimated that if the date of diagnosis was
 15 taken as the point of reference, the epidemic curve of
 16 cases in the UK was at that time exponential, with
 17 a doubling time of about ten months and he found
 18 a similar curve, so a similar exponential curve, looking
 19 at deaths attributed to AIDS plotted by date of death.
 20 He noted that the future trend of the epidemic
 21 would depend on the number of people currently infected
 22 and the rate of incidence of new infections, and that
 23 there were no reliable estimates of either, but a total
 24 of 5,009 positive tests had been reported from England,
 25 up to June 1987. So again he's looking at the data to
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1 similar information that we saw in the introduction as
 2 expanded in the chapter.
 3 Would that be a convenient moment to take an
 4 afternoon break? I'm aware that we've got a few more
 5 annual reports to go, but we won't take all of this
 6 afternoon's allocated time.
 7 **SIR BRIAN LANGSTAFF:** Yes. We'll take a break now in that
 8 case until 3.40.
 9 **MS BARRETT:** Thank you, sir.
 10 (3.11 pm)
 11 **(A short break)**
 12 (3.39 pm)
 13 **MS BARRETT:** Thank you.
 14 The next document that we'll go to then is the
 15 1986 annual report, which is at DHSC0007008. This
 16 report was published the following year, in 1987, and
 17 Sir Donald Acheson's introduction was dated
 18 September 1987; so it must have been published towards
 19 the end of that year.
 20 In the 1986 annual report, Sir Donald Acheson
 21 addressed AIDS as the first topic in his introduction
 22 and devoted two pages to it in the introduction.
 23 That's at page 9, please.
 24 So we can see after the first introductory remarks
 25 the first sub-heading towards the bottom of that page is
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1 mid-1987 in his 1986 report. He notes that almost all
 2 of those people were believed to be in high-risk groups.
 3 Now, we've looked at what he said already in the
 4 middle of that page about the importance of a public
 5 information campaign. Could we next go, please, to
 6 page 63 of this document.
 7 Here we are in the "Communicable diseases" chapter
 8 of the report and we can see that more detailed
 9 statistics were provided. There is a six-page-section
 10 on AIDS under "Communicable diseases" in the 1986
 11 report.
 12 As a general note, when people are looking for
 13 statistics, these Chief Medical Officer annual reports
 14 are quite interesting because they year on year break
 15 down the reported cases by transmission characteristics,
 16 and so we can trace year by year what happened in
 17 relation to -- and if we look at table 4.3 for
 18 example -- cumulative totals of reports of AIDS cases by
 19 transmission characteristics for people with haemophilia
 20 and recipients of blood both abroad and in the UK.
 21 So we can see that there were, for example,
 22 six cases of transmission by blood transfusion abroad
 23 and three in the UK as at December 1986 and 21 people
 24 with haemophilia.
 25 Could we go to page 64, please, and look at the
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1 top of that page. Similarly, this is HIV positive cases
2 reported in England by transmission characteristics and
3 we can see that there were 405 people with haemophilia
4 who were HIV positive that year and 26 recipients of
5 blood. So that's the 1986 annual report.

6 If we could go next to the 1987 annual report,
7 please, which is at DHSC007009. So the 1987 annual
8 report was published the following year, in 1988, and
9 Sir Donald Acheson's introduction is dated August 1988.
10 In this report he again addressed AIDS in his
11 introduction, and if we could go to page 15, please, we
12 can see that.

13 So it's in the introduction but it's in a slightly
14 less prominent position than the year before, and he
15 devotes one and a half pages towards the end of the
16 section in his introduction. I don't need to zoom in
17 particularly, but if we just flip to the next page,
18 broadly the focus is what's going on internationally at
19 this point.

20 The more detailed information comes in this
21 report. For the first time there's a dedicated chapter
22 titled "AIDS HIV infection and sexually transmitted
23 diseases", with 12 pages devoted to AIDS, and that
24 starts at page 123, please. This is that chapter. It
25 starts by saying that:

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1 So we can see for people with haemophilia there
2 was a cumulative total of 978 cases to the end of 1987
3 and, of that total, 573 had tested positive that year.
4 For recipients of blood transfusions or blood products,
5 that was a cumulative total of 63 and 37 people had
6 tested positive that year.

7 Could we next go to page 129, please.

8 **SIR BRIAN LANGSTAFF:** What's the distinction -- oh, I think
9 I understand it. I was just thinking the recipient of
10 blood and blood products, that could be somebody who's
11 a transfusee, or it could be someone who is given blood
12 products not being a haemophiliac but in the course of
13 their treatment. I see.

14 **MS BARRETT:** Yes, I think that must be right, because
15 otherwise the figures don't make sense. To be
16 completely accurate, all of the people with haemophilia
17 would also fall under the category of people who are
18 recipients of blood products, but it's clear from the
19 figures that that's not the way round that it's
20 organised.

21 **SIR BRIAN LANGSTAFF:** What might be a bit surprising about
22 the figures for the people who have haemophilia is that
23 more than half of the total are said to have been first
24 reported during 1987 when what we have heard about
25 testing being offered to those who were haemophiliac and

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1 "During 1987 the Government devoted much time and
2 effort to the problems caused by the HIV epidemic. The
3 intense public awareness which developed earlier has
4 been maintained."

5 And it talks about four main areas of activity:
6 public education, research, the development of services
7 for care and treatment -- and I missed surveillance,
8 that's why I've only got to three. Four in total.

9 It talks about international co-operation a little
10 bit more.

11 Then if we look at the "Surveillance" section, we
12 can see that reporting continued, then, down at the
13 bottom of the page, that there was a cumulative UK total
14 of 8,017 cases of HIV positive tests.

15 Then if we could go next, please, to page 125
16 within the same chapter and zoom in on the table 6.1,
17 please.

18 Again, this year, detailed information is given,
19 "Cumulative totals of HIV-positive cases" -- this is
20 just in England, not the UK -- "by transmission
21 category", and they've got the cumulative totals then in
22 brackets, the totals for the year.

23 So, for example, could we highlight the rows for
24 "Haemophiliac" and "Recipient of blood/blood products",
25 please. That's really helpful, thank you.

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1 had had blood products, you might have thought they
2 would have shown up earlier.

3 **MS BARRETT:** That's a good point. I don't have any more
4 contextual information for comparison, but I do
5 highlight that this is a helpful source and it might
6 bear more investigation and more weight could be placed
7 on these figures to see how they do fit with the
8 information we have from other sources in terms of
9 testing and when those tests were carried out and when
10 the results were known. It is apparently, on the face
11 of this table, a majority of the cumulative total who
12 had received their results that year.

13 **SIR BRIAN LANGSTAFF:** It may be some evidence of delayed
14 reporting, but that's a question which has to be
15 answered by others and it can't necessarily be inferred.

16 **MS BARRETT:** Yes.

17 **SIR BRIAN LANGSTAFF:** Thank you.

18 **MS BARRETT:** Thank you.

19 So if we could go to page 129, please, we can see
20 that there's a section there on HIV and blood donations,
21 if we could zoom in a little. It's noted that that
22 year:

23 "The NBTS [had] continued to screen all blood
24 donations, and the standard of HIV antibody testing at
25 the regional transfusion centres continues to be

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1 regularly monitored ..."

2 All the would-be donors were given the AIDS
3 leaflet and it notes that by the end of 1987, a large
4 number of donations had been screened for antibodies
5 to HIV. 90 had been confirmed to be positive.

6 The proportion of positives in 1987 was
7 significantly less than it was in 1986, which was
8 considered to confirm that many donors had been screened
9 out and people who tested negative on their first test
10 donated more than once since. So insofar as those
11 statistics go, that was a positive trend.

12 Then if we go to the section below, please,
13 "Public education". We've looked at this, showing that
14 in the autumn of 1986 it decided to expand the campaign.
15 This just gives the finances that I don't think we've
16 brought out so far today. A further 20 million was
17 allocated for the 12 months from November 1986. Between
18 November 1986 and March 1987, 7.5 million were spent on
19 advertising in all the main media and on the
20 distribution to the households of the leaflet that we
21 looked at.

22 So that was the 1987 report. Then just the very
23 last document we'll look at today is the 1988 annual
24 report, which is at DHSC0007010.

25 So this report was published in 1989. Sir Donald
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1 stages of the epidemic. Past behavioural changes in the
2 homosexual community, and current effects of therapeutic
3 advances [were thought to both have probably
4 contributed] to this welcome development. However
5 [Sir Donald Acheson says], it would be a gross error to
6 allow this change to engender complacency ..."

7 He notes the need to maintain and for others to
8 adopt the safer behaviours because otherwise he thinks
9 that improvement will be temporary.

10 It's interesting that he notes that there's
11 a trend downwards in other sexually transmitted diseases
12 noticed in genitourinary medicine clinics, including
13 gonorrhoea, and he suggests that that shows changes in
14 sexual behaviour which have been brought about by the
15 public education campaign aimed at minimising the spread
16 of HIV infection. So it's a knock-on effect but in some
17 ways it could be taken to be a proxy to show the
18 effectiveness of the public education campaign that
19 we've heard so much about today.

20 If we then go to page 120, please, this is the
21 section in the communicable diseases chapter on "AIDS
22 and HIV infection". If we flip to page 121, or scroll,
23 we can see under AIDS cases, please -- sorry, under
24 "The present state of the epidemic", please, just at the
25 bottom of that page -- that:

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1 Acheson's introduction was dated September 1989, so we
2 can infer that it was published towards the end of 1989.

3 If we look at the introduction, again could we go
4 to page 18, please, and look at -- sorry, could we just
5 go to the page before. I might have given you the
6 wrong ... okay, thank you.

7 So we can see at this page there's the beginning
8 of the introductory section on HIV, AIDS and sexually
9 transmitted diseases. It's noted that there's a longer
10 section in chapter 5. It's referred to the statistics
11 which are provided and then towards the end of the page
12 he talks about an expert group working on statistics on
13 the incidence and cases of AIDS and other HIV-associated
14 conditions.

15 Then on the next page if we could focus on the top
16 half -- perfect, thank you -- we can see that:

17 "The group concluded that between 10,000 and
18 30,000 cases of AIDS would have been diagnosed by the
19 end of 1992 in England and Wales, and that over the next
20 10-15 years, at least 16,000 to 40,000 cases of AIDS
21 must be expected among people already infected."

22 But in the next paragraph it's noted that the
23 numbers of new AIDS cases per month were by then, so by
24 1988:

25 "... increasing less rapidly than in earlier
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1 "At the end of 1988, the cumulative total of
2 reports of HIV-infected people in England was 8,156. In
3 1988, 1,630 new reports were received, considerably
4 fewer than in 1987."

5 Again, it was noted that:

6 "It would be rash to assume from this evidence
7 alone that the incidence of new infections is falling."

8 But this was the last annual report where AIDS
9 took such a prominent position and subsequent volumes
10 showed that the flattening of the curve which began this
11 year continued. They continued to refer to public
12 education campaigns at a local and national level, but
13 the degree of prominence and priority that was placed on
14 AIDS began to decline from this report onwards.

15 **SIR BRIAN LANGSTAFF:** Is there a table in this report which
16 corresponds to the table for the routes of transmission
17 in the previous reports?

18 **MS BARRETT:** Could we go back to page 120 and then just flip
19 through that section because I can't remember off the
20 tomorrow of my head, but it will be here if there is
21 become.

22 Yes, so the equivalent table --

23 **SIR BRIAN LANGSTAFF:** That is the cumulative total?

24 **MS BARRETT:** Yes, that is right.

25 If we go forwards, it might be that there may be
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1 more information given the yearly figures.
 2 **SIR BRIAN LANGSTAFF:** That's to 31 December.
 3 Can you just help me with this: Was it in 1988
 4 that the writ was issued in the HIV litigation?
 5 **MS BARRETT:** I can't immediately, but I'm sure we can find
 6 that information.
 7 Yes, I'm being instructed yes.
 8 **SIR BRIAN LANGSTAFF:** And that had over 960 claimants,
 9 plaintiffs, did it not?
 10 **MS BARRETT:** I'm being instructed that the figure changed
 11 during the litigation. We'll investigate and get back
 12 to everybody.
 13 **SIR BRIAN LANGSTAFF:** The other question, in the same vein,
 14 which all goes to the accuracy of reporting and its
 15 reliability, is that when the Macfarlane Trust was
 16 topped up by £24 million, which was in 1988 I think,
 17 maybe 1989, that was in respect of 1,200 people, each of
 18 whom would be given a flat sum of £2,000. Where do you
 19 get the 1,200 from if the total here is 965 in the end
 20 of 1988? It doesn't seem to fit easily if these figures
 21 are actually accurate. It looks as though there may
 22 have been some underreporting. That's the question: has
 23 there been underreporting? Because I'm not altogether
 24 sure how the figures fit.
 25 **MS BARRETT:** That's something that we will do some further

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1 investigation into.
 2 **SIR BRIAN LANGSTAFF:** Thank you.
 3 **MS BARRETT:** Thank you.
 4 So that concludes the presentation on the role of
 5 the Chief Medical Officer. Tomorrow the Inquiry will
 6 hear evidence from Carol Grayson.
 7 **SIR BRIAN LANGSTAFF:** Yes. Well, thank you very much,
 8 Ms Barrett.
 9 Tomorrow, 10.00, Ms Carol Grayson.
 10 (4.02 pm)
 11 (Adjourned until 10.00 am the following day)

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MS BARRETT: [102] 1/4 1/18 12/2 12/13 12/20 13/2 13/9 13/13 13/17 14/9 14/11 14/23 15/6 15/14 15/17 15/24 16/3 16/7 16/15 16/17 16/23 17/10 17/18 17/25 18/3 18/9 21/2 21/23 22/3 22/20 28/14 29/5 29/7 29/11 29/17 29/20 29/23 30/3 30/9 31/2 31/15 31/18 38/2 38/5 38/10 43/17 43/25 44/3 44/8 45/20 45/23 48/17 49/3 49/7 49/12 50/8 50/11 52/18 53/5 53/9 54/10 54/14 59/23 59/25 61/4 74/23 75/13 75/21 76/24 77/3 77/6 77/10 82/22 83/2 84/12 84/14 90/16 91/5 91/7 91/20 92/2 92/4 92/9 93/24 100/4 100/10 101/2 104/17 104/20 104/22 122/9 122/13 127/14 128/3 128/16 128/18 132/18 132/24 133/5 133/10 133/25 134/3 SIR BRIAN LANGSTAFF: [102] 1/3 1/15 12/1 12/4 12/17 12/24 13/4 13/10 13/15 14/7 14/10 14/20 14/24 15/12 15/15 15/18 15/25 16/6 16/13 16/16 16/18 17/7 17/13 17/22 18/2 18/4 20/8 21/12 22/1 22/18 27/22 28/23 29/6 29/8 29/13 29/18 29/22 30/1 30/7 30/11 31/7 31/17 37/24 38/3 38/9 43/15 43/24 44/1 44/7 45/15 45/22 48/14 48/20 49/5 49/8 50/5 50/9 52/5 52/22 53/8	54/9 54/13 59/22 59/24 60/3 74/21 74/24 75/18 76/23 77/1 77/5 77/7 82/19 83/1 84/6 84/13 90/13 91/4 91/6 91/16 91/22 92/3 92/5 93/21 99/19 100/9 101/1 104/16 104/18 104/21 122/7 127/8 127/21 128/13 128/17 132/15 132/23 133/2 133/8 133/13 134/2 134/7 ' '80s [1] 8/24 '82 [1] 14/22 '83 [2] 14/21 16/22 '86 [3] 91/6 91/7 100/2 'AIDS [1] 97/15 'air [1] 97/13 'Chief [1] 11/12 'Chief Medical [1] 11/12 'complex [1] 6/4 'Don't [1] 86/6 'dumping' [1] 26/1 'native' [1] 70/2 'ring [1] 106/25 'ring-fencing' [1] 106/25 'spread' [1] 108/25 'stand [1] 94/25 'stand-off' [1] 94/25 'the [1] 4/21 'tissue [1] 108/23 [9] 10/6 36/11 64/4 88/18 88/20 89/24 95/8 108/4 130/6 ... advised [1] 89/24 ... because [1] 88/18 ... capable [1] 95/8 0 001 [1] 80/19 004 [1] 104/10 005 [1] 101/2 006 [1] 108/5 007 [1] 98/13	009 [1] 40/10 012 [1] 58/16 015 [2] 106/13 108/3 021 [1] 77/12 028 [1] 63/18 034 [1] 46/2 043 [1] 1/7 044 [1] 92/10 045 [1] 88/4 051 [2] 61/5 109/9 054 [1] 75/22 1 1 February [2] 63/21 68/22 1 January [1] 117/22 1 October [1] 82/2 1 October 1985 [1] 111/21 1,000 [1] 32/2 1,200 [2] 133/17 133/19 1,630 [1] 132/3 1.5 million [1] 96/3 10 [1] 96/22 10 per cent [1] 119/19 10,000 [1] 130/17 10-15 years [1] 130/20 10.00 [3] 1/2 134/9 134/11 100 [2] 7/4 29/18 102 [1] 53/17 104 [1] 75/6 107 [1] 123/9 108 [1] 117/25 11.17 [1] 44/4 11.45 [2] 44/2 44/6 114 [1] 39/6 12 [4] 25/13 74/7 83/14 120/1 12 months [1] 129/17 12 pages [1] 125/23 12.56 pm [1] 82/23 120 [2] 131/20 132/18 121 [1] 131/22 123 [2] 24/5 125/24 124 [1] 24/20 125 [1] 126/15 129 [2] 127/7 128/19 13 [2] 47/5 55/23	14 [1] 11/10 14 January 1986 [2] 113/15 113/19 14 October 1983 [2] 23/3 33/18 14 October 1985 [2] 80/15 99/16 15 [5] 4/1 65/14 74/2 84/25 125/11 15 February 1984 [1] 39/7 15 January [1] 58/19 15 January 1985 [1] 58/11 15 May [1] 111/25 15 May 1985 [2] 71/23 72/7 153 [1] 102/7 159 [1] 72/20 16 [5] 27/5 46/20 86/8 116/8 116/8 16,000 [1] 130/20 162 [1] 102/8 163 [1] 103/16 17 [1] 5/24 17 April 1985 [1] 69/18 17 June [1] 22/23 17 June 1983 [1] 22/9 172 [1] 103/16 173 [1] 36/13 18 [2] 5/24 130/4 1855 [1] 3/15 19 [1] 68/8 19 December [1] 52/14 19 hours [1] 97/14 19 October 1984 [1] 40/13 191 [1] 79/19 1919 [2] 6/12 11/17 1970s [1] 1/17 1979 [2] 28/7 44/22 1980 [2] 104/13 104/16 1980s [12] 1/17 1/25 3/16 4/16 5/15 5/16 10/13 45/8 45/12 56/1 110/25 115/2 1981 [9] 10/16 25/16 27/19 28/5 28/13 44/11 53/17 72/17	111/3 1982 [12] 14/7 14/13 15/9 15/10 27/2 27/19 27/20 28/10 30/9 30/16 116/15 116/18 1983 [32] 2/4 2/5 2/22 4/19 13/23 14/14 14/17 15/8 15/11 17/17 22/9 23/3 24/6 26/24 27/8 27/21 28/10 28/17 30/16 33/18 36/14 37/23 43/10 46/19 46/24 56/3 115/3 116/5 116/7 116/15 116/18 117/24 1983 report [1] 47/10 1984 [23] 38/21 39/7 39/21 39/25 40/9 40/13 43/18 45/24 46/4 47/11 50/15 53/11 53/17 55/17 55/21 56/10 102/25 111/3 115/15 116/20 117/21 117/25 118/16 1985 [49] 46/9 51/25 55/21 57/8 57/16 58/11 60/15 60/17 60/20 61/19 65/3 66/1 66/17 66/19 69/4 69/18 70/5 71/23 72/7 73/10 74/10 74/19 75/2 75/23 76/7 80/11 80/15 80/20 82/15 85/2 85/3 86/25 87/3 87/12 88/8 91/7 99/16 100/12 100/16 102/15 102/22 110/20 111/4 111/21 113/21 116/22 117/8 117/10 119/22 1985 annual [1] 88/6 1986 [43] 82/16 87/4 87/5 87/14 88/8 88/9 91/9 91/9 91/10 92/22 96/16 96/19 97/8 97/24 98/3 98/10 98/14 99/22 99/24 99/25 100/5 100/6 100/11 100/16 100/17 111/13 113/15 113/18 113/19 116/21 119/24 121/11 122/20 123/5
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1 1986... [9] 123/10 124/1 124/10 124/23 125/5 129/7 129/14 129/17 129/18 1986 annual [1] 122/15 1987 [20] 96/21 97/10 100/8 100/25 101/5 122/16 122/18 123/4 123/25 124/1 125/6 125/7 126/1 127/2 127/24 129/3 129/6 129/18 129/22 132/4 1988 [10] 104/1 125/8 125/9 129/23 130/24 132/1 132/3 133/3 133/16 133/20 1989 [5] 104/5 129/25 130/1 130/2 133/17 1990 [4] 104/17 104/20 106/14 111/4 1991 [3] 1/7 4/20 104/1 1992 [1] 130/19 1995 [1] 7/2 1998 [4] 9/11 9/13 10/11 45/9	2007 [2] 7/22 8/12 2022 [1] 1/1 21 [1] 124/23 22 [1] 45/3 22 January [2] 58/21 59/23 22 June 1983 [1] 24/6 22nd [1] 59/25 23 [1] 11/5 23 September 1985 [1] 80/20 24 [2] 37/14 133/16 25 October [1] 43/18 25 per cent [1] 89/3 25,000 [1] 89/1 26 [1] 125/4 27 June 1985 [1] 80/11 27 November 1981 [2] 10/16 44/11 28 February 1985 [1] 75/2 281 [1] 123/8 29 January [2] 68/3 68/19 29 January 1985 [1] 66/17	31st [1] 68/5 35 per cent [3] 42/11 54/5 54/20 36 [1] 4/3 37 [1] 127/5 4 4 June 1981 [1] 28/13 4 November 1983 [1] 36/14 4.02 pm [1] 134/10 4.17 [1] 4/6 4.18 [1] 4/17 4.20 [1] 6/1 4.22 [1] 6/21 4.24 [1] 7/9 4.3 [1] 124/17 40 [2] 7/4 42/5 40 per cent [1] 32/3 40,000 [1] 130/20 405 [1] 125/3 41 [1] 117/18 43 per cent [1] 116/6 45 [2] 87/7 114/22 48 [1] 29/22 49 [1] 121/17 5 5 December 1990 [1] 106/14 5,009 [1] 123/24 50 [2] 26/18 88/24 50 had [1] 96/4 51 [1] 29/10 53 [1] 30/8 54 [2] 47/14 115/20 56 [2] 29/23 119/14 573 [1] 127/3 58 months [1] 74/2 6 6 October [1] 93/2 6,293 [1] 75/4 6.1 [1] 126/16 60 [1] 29/7 60 per cent [1] 35/16 61 [1] 115/5 62 haemophiliacs [1] 75/7 63 [2] 124/6 127/5 64 [1] 124/25 65 [1] 97/19	66 [1] 116/1 7 7 July 2022 [1] 1/1 7 June [1] 77/16 7.5 [1] 129/18 70 [3] 27/12 31/19 115/10 71 [1] 31/20 75 per cent [3] 54/7 54/9 54/21 77 cases [1] 117/21 8 8 October [1] 92/25 8 October 1986 [1] 92/22 8,017 [1] 126/14 8,156 [1] 132/2 8,697 [1] 75/5 80 consultant [1] 45/10 800 [2] 54/4 54/19 83 [1] 87/8 9 9 June 1983 [2] 13/23 14/17 90 [1] 129/5 960 [1] 133/8 965 [1] 133/19 978 [1] 127/2 A able [5] 27/15 76/10 78/7 85/11 86/20 abnormally [1] 5/2 about [122] 3/6 5/16 7/15 8/22 10/7 15/20 16/11 16/21 17/2 17/8 19/10 21/4 21/12 22/6 22/11 26/25 27/4 27/22 29/6 32/14 33/2 33/15 34/8 34/25 35/5 36/14 38/14 40/15 40/23 41/2 42/1 42/1 42/5 42/11 42/21 48/10 48/25 49/16 49/19 50/17 52/3 52/5 52/12 54/5 54/18 55/20 56/20 59/3 60/21 61/9 61/13 65/13 66/12 66/14	66/22 72/12 72/17 73/15 77/4 77/15 77/25 81/9 84/7 84/15 85/19 85/23 86/5 87/5 87/22 88/6 90/13 91/19 93/6 94/10 94/10 94/23 97/5 97/21 98/1 98/18 98/23 99/12 99/21 100/3 100/11 100/24 101/12 101/15 101/18 101/22 102/17 102/23 104/1 106/18 107/9 108/13 108/14 109/2 110/20 112/1 112/2 112/12 112/15 112/23 113/22 114/6 114/7 114/8 114/10 119/16 120/11 123/4 123/6 123/17 124/4 126/5 126/9 127/21 127/24 130/12 131/14 131/19 above [5] 21/4 21/16 26/9 46/23 59/25 Abrams [3] 66/24 67/6 75/24 abreast [1] 102/11 abroad [2] 124/20 124/22 absence [4] 10/19 83/20 96/25 120/22 absolutely [5] 12/13 13/9 17/18 31/17 38/5 abusers [2] 25/7 62/5 acceleration [1] 98/12 accept [2] 12/3 110/21 acceptance [1] 37/25 accepted [5] 37/11 38/8 53/23 64/25 80/11 access [4] 9/5 12/25 41/20 60/8 accessible [1] 11/2 accident [2] 105/17 106/1 accidents [1] 106/9 accompanied [1] 97/11 accompanying [1] 82/5
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(51) Kaposi's sarcoma - major

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