

Friday, 23 July 2021

(10.00 am)

**SIMON MARK, LORD GLENARTHUR (continued)**

**Questions by MS RICHARDS**

**MS RICHARDS:** Lord Glenarthur, we referred yesterday, but didn't look at, your Parliamentary answer on 14 July, so I want to start this morning with that.

Soumik, it's DHSC0002229\_085. We can see the date is 14 July 1983. There's a question posed by Baroness Dudley, top left-hand side, and then we see you answering as follows:

"My Lords, 14 confirmed cases of AIDS have been reported to the Communicable Disease Surveillance Centre at Colindale, and a further two cases are under investigation. On the basis of the information available to us there are some 60 cases within other member states of the Council of Europe.

"The Medical Research Council has established a working party and co-ordinate reach into the disease. The Communicable Disease Surveillance Centre is operating a national surveillance system which includes making available a summary of information for doctors about the incidence, identification and methods of control of the disease. Although there is no conclusive evidence that AIDS is transmitted by

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see there, the formula "no conclusive evidence". I'm going to come back to that in just a moment. But if we look at what's said then thereafter, Baroness Dudley asks whether there's a cure on the way, you say:

"... up to the moment it has not proved possible to identify exactly what is causing the disease. Until that has happened, I am afraid I could not say that we can produce a cure."

There's then a question from Baroness Gardner:

"... whether any special action is being taken to inform dental and medical practitioners of precautions that they should take?"

And she raises a concern about the possibility of dentists, doctors or other patients becoming infected.

You then answer that by saying:

"I do not know the answer concerning dental surgeons specifically, but the mechanisms by which the disease is transmitted and the causative agent ... are not known. Although promiscuous male homosexual activity and intravenous drug abuse are risk factors, there is no evidence that the disease can be transmitted through non-physical contact."

Then Baroness Masham poses this question:

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blood or blood products, the department is considering the publication of a leaflet indicating the circumstances in which blood donations should be avoided."

Pausing there before we look at the rest of the short session, the first sentence of the second paragraph, referring to the Medical Research Council Working Party, as I understand it, and if I'm wrong we'll look at the documents but I am hoping I can just take this quite shortly because your statement deals with it, is it right that it transpired that, as at 14th July, what you'd said there was inaccurate, because it hadn't been established at that point in time but it was established in the course of the second half of 1983, that working party?

**A.** I believe that is correct, because I've seen other papers to indicate that that is the case, but that sentence was, in brief, the approved answer, and so I had no reason to disbelieve that what was written there was incorrect.

**Q.** I think you put the precise date in your statement, we can check it if need be, but it was later, in fact, in the year that that working party was actually established.

Then the last sentence of that paragraph you'll

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"My Lords, may I ask the noble Lord why we import blood compounds from America; and is there not a fear that this condition could be transmitted through anti-haemophilic cryo precipitate, which is a blood compound?"

I draw attention to that because I think that's what I think triggers you writing to Baroness Masham, that particular question.

**A.** Yes, that's correct.

**SIR BRIAN LANGSTAFF:** I think it must be "anti-haemophilic".

**MS RICHARDS:** Yes.

**SIR BRIAN LANGSTAFF:** But it is actually spelt as "anti-haemophilic".

**MS RICHARDS:** Yes.

**SIR BRIAN LANGSTAFF:** Which is obviously completely wrong.

**MS RICHARDS:** Yes.

**THE WITNESS:** Spelling mistake.

**MS RICHARDS:** Yes.

Then, top of the next page, you say:

"My Lords, I do not know the answer concerning the chemical to which the noble Baroness referred. I shall find out and let her know."

She'd talked about cryoprecipitate and you didn't know what the position was in relation to that

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1 at this point in time?  
 2 **A.** I certainly couldn't recall it when I was answering  
 3 the question.  
 4 **Q.** You say:  
 5 "I shall find out and let her know."  
 6 Then you refer to Factor VIII:  
 7 "We have to import Factor VIII, which is an  
 8 agent used in the cure for haemophiliacs. We shall  
 9 need to continue to do that until we're  
 10 self-sufficient ourselves."  
 11 Then Baroness Gardner asks this:  
 12 "... may I ask him whether it is now believed  
 13 that this disease is transmissible in many more ways  
 14 than originally believed? Will the Minister issue  
 15 instructions to practitioners, or ask his department  
 16 to look into the need to do so?"  
 17 And the answer you give is:  
 18 "Yes, my Lords, I will do that."  
 19 So the question of issuing information or  
 20 instructions to practitioners is expressly raised, and  
 21 you say that you'll consider that.  
 22 Then the questions posed by Baroness Masham:  
 23 "... why do we have to import blood compounds  
 24 from America and why we cannot manufacture our own?"  
 25 You reply:

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1 **A.** He was the -- yes, he was the House of Lords  
 2 minister -- he was the joint parliamentary secretary  
 3 immediately preceding me.  
 4 **Q.** Is this correct: that letter of 7th July from  
 5 Mr Jenkins to Lord Trefgarne is another one of the  
 6 documents that can't be located?  
 7 **A.** I understand that to be the case.  
 8 **Q.** Yes. As I understand it, the Government Legal  
 9 Department hasn't found it and the Inquiry hasn't  
 10 found it.  
 11 **A.** Right.  
 12 **Q.** Then you say this:  
 13 "I think that I should emphasise, firstly, that  
 14 there is no conclusive evidence that AIDS is  
 15 transmitted through blood products. Nevertheless we  
 16 are taking all practicable measures to reduce any  
 17 possible risks to recipients of blood and blood  
 18 products. Our scope for action in this is limited, as  
 19 there is no means of testing for the presence of AIDS  
 20 in blood donors or in blood products."  
 21 Then you go on to deal with a number of other  
 22 matters and, again, I'm going to come back to this  
 23 letter, I just want to look at the formula of "no  
 24 conclusive evidence" first of all.  
 25 So that's 26 August. If we then look at the

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1 "... we need to import it because we have not  
 2 got enough ourselves. We are trying to build up our  
 3 own stocks. The noble Baroness might like to know  
 4 that last year the Blood Products Laboratory  
 5 manufactured 22 million international units of  
 6 Factor VIII. At the same time, we imported 35 million  
 7 international units in 1981 at a cost of between £3  
 8 million and £4 million."  
 9 Those are the questions and answers that took  
 10 place on 14 July. I'll come back to the response to  
 11 Baroness Masham and the written letter in a moment.  
 12 I just want to look at another couple of occasions  
 13 over the next few months when the words "no conclusive  
 14 evidence" or "no conclusive proof" were used.  
 15 **A.** Yes.  
 16 **Q.** I think that's the first time you use it.  
 17 We then have DHSC0002231\_036. This is a letter  
 18 written by you, 26 August 1983, to Clive Jenkins, who  
 19 was the general secretary of a major trade union, the  
 20 Association of Scientific Technical and Managerial  
 21 Staffs, ASTMS.  
 22 You're responding, as we can see from the first  
 23 paragraph, to a letter Mr Jenkins had written to  
 24 Lord Trefgarne, who was, is this right, a minister  
 25 prior to you in the House of Lords?

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1 letter to Baroness Masham, DHSC0002231\_037 -- next  
 2 page -- sorry, actually, we'll just pick it up on this  
 3 page first of all. We can see someone in your private  
 4 office writing to Mr Winstanley, saying:  
 5 "Lord Glenarthur has seen your minute of  
 6 26 August and has written as drafted.  
 7 "I attach a copy of the final reply."  
 8 That would tend to suggest that you had  
 9 essentially signed and sent off the draft that had  
 10 been sent by Mr Winstanley?  
 11 **A.** That's correct.  
 12 **Q.** Then if we go to the next page, this is 30 August 1983  
 13 to Baroness Masham. Again, we'll come back to it in  
 14 more detail, but if we go slightly further down --  
 15 thank you.  
 16 So if we look at the third paragraph, you say:  
 17 "There is, in fact, no conclusive proof that  
 18 AIDS can be transmitted by blood, cryoprecipitate, or  
 19 factor concentrates."  
 20 Then you go on to talk about dependency on  
 21 imports from the USA for Factor VIII, and the Food and  
 22 Drug Administration issue and so on. So, again, we'll  
 23 come back to that.  
 24 So that's the third time I think you use the  
 25 phrase of "no conclusive evidence", "no conclusive

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1 proof".

2 **SIR BRIAN LANGSTAFF:** In case it matters, this is

3 a slightly different formulation:

4 "There is ... no conclusive proof that AIDS can

5 be transmitted by blood ..."

6 As opposed to the previous one, which is "AIDS is

7 transmitted by blood".

8 **MS RICHARDS:** Yes.

9 **SIR BRIAN LANGSTAFF:** It may be necessary to come back to

10 that, I don't know.

11 **MS RICHARDS:** Yes, possibly. We'll look at the issue of

12 that in line in more detail in a few minutes.

13 That's 30 August. If we then go to

14 DHSC0006401\_006, please. This is a press release and

15 it's setting out a statement that was coming from

16 Kenneth Clarke rather than from you. But this is,

17 I think, a document you'd have seen in advance. We

18 looked at the history of the leaflet yesterday.

19 **A.** Yes.

20 **Q.** And this I announcing the first leaflet, on

21 1 September 1983. So although you're not saying these

22 words, so to speak, Mr Clarke is, it's a document that

23 came across your desk and we can see in the second

24 paragraph, it says:

25 "Announcing publication, Kenneth Clarke,

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1 of all like to put matters into perspective: the cause

2 of AIDS is as yet unknown and there is no conclusive

3 proof that the disease has been transmitted by

4 American blood products."

5 Then you say:

6 "Nevertheless, I would like to assure you

7 constituent that the Government is committed to making

8 this country self-sufficient in blood products."

9 You go on to give more details about various

10 matters including the redevelopment of BPL.

11 So those are five occasions in the second half

12 of 1983, from July through to December, when this

13 phrase is used, in slightly different ways, as the

14 chair observes. Four of these occasions the words are

15 written by or spoken by you, on one of them, the press

16 statement, it's Mr Clarke.

17 Now what I want to start with, then, is look at

18 the drafting process in relation to the first

19 matter -- sorry, the letter to Baroness Masham.

20 Sir, I don't think we have a detailed

21 understanding of the drafting process in relation to

22 the other communications.

23 In relation to the 14 July Parliamentary

24 answer -- I think as we touched on yesterday, and as

25 your statement says -- we don't have the briefing

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1 Minister for Health, said:

2 "It has been suggested that AIDS may be

3 transmitted in blood or blood products. There is no

4 conclusive proof that this is so. Nevertheless I can

5 well appreciate the concern that this suggestion may

6 cause", et cetera, et cetera.

7 It goes on then to talk about the issue of the

8 leaflet.

9 Then the fifth document is at ARCH0000679,

10 please. This is a letter that was written by you on

11 16 December 1983, and it's to John Maples MP, and

12 you're responding to a letter which had been written

13 to Mr Clarke:

14 "Thank you for your letter of 2 November

15 addressed to Kenneth Clarke about ... (AIDS) and the

16 supply of blood products in this country."

17 I don't think we've got the letter of 2 November

18 in the materials available today, but this is a letter

19 written, as you would expect, on behalf of

20 a constituent, by Mr Maples, raising an issue, and

21 you're responding.

22 Then you say this in the second paragraph:

23 "I can well appreciate the anxiety, particularly

24 amongst haemophiliacs and their families, which recent

25 press reports on AIDS may have caused and would first

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1 material or the drafts which show the origin of the

2 Parliamentary answer.

3 **A.** No, we don't.

4 **Q.** So we only know what words you spoke, and you told us

5 yesterday that would have been a draft provided to you

6 through your office?

7 **A.** Yes, it would.

8 **Q.** But we do have a little bit of information about the

9 process of drafting of the letter to Baroness Masham.

10 So if we start with DHSC0002229\_096, please.

11 Sir, we can see this is -- thank you -- if we

12 look at the whole letter, it's a minute dated

13 19 July 1983 it's from Mr Joyce, your private

14 secretary, to Mr Parker, and it refers to the

15 Parliamentary question and answer on 14 July and says

16 this:

17 "You will see from the attached Hansard extract

18 that Lord Glenarthur undertook to write to

19 Baroness Masham about possible transmission through

20 Factor VIII.

21 "I do not know that there is much more we can

22 say than to refer to the balance of risk to

23 haemophiliacs and the development of production at the

24 new Elstree lab, but Lord Glenarthur is concerned to

25 allay Lady Masham's anxieties so far as possible. She

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1 is an energetic lobbyist.  
 2 "I have asked Miss Edwards to prepare a reply to  
 3 bar Gardner's second supplementary."  
 4 We'll come back to the second supplementary in  
 5 a moment but that's the question about the issuing of  
 6 instructions or information to clinicians?  
 7 **A.** Yes.  
 8 **Q.** We can see, if we just go back to the whole page, it's  
 9 copied to Miss Edwards, Dr Walford, Dr Sibellas, and  
 10 then someone has written on it "Mr Green, Please let  
 11 me have a draft", dated 20 July.  
 12 Then we have further handwriting:  
 13 "Mr Parker,  
 14 "Draft contribution and background note  
 15 [attached]."  
 16 If we then look at DHSC0002491\_013. This is  
 17 a minute from Dr Walford, dated 20 July 1983 to  
 18 Mr Parker:  
 19 "Herewith some wording for the reply by Lord  
 20 Glenarthur to Baroness Masham about the possibility of  
 21 transmission of AIDS from anti-haemophiliac (sic) [so  
 22 Dr Walford, it would appear, picked up the point that  
 23 the Chair made] cryoprecipitate."  
 24 **A.** Yes.  
 25 **Q.** Then there are two paragraphs. The first is about

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1 servants don't come to your private office?  
 2 **A.** No, that draft certainly didn't.  
 3 **Q.** If we then look at DHSC0002309\_032, this a minute  
 4 dated 26 July 1983, from Mr Parker to Mr Joyce in your  
 5 private office. We can see, if we just go further  
 6 down the page, it's copied to Miss Edwards,  
 7 Dr Walford, Dr Sibellas and Mr Green, if we go to the  
 8 text, it says this:  
 9 "We spoke about your minute of 14 July [sic]  
 10 when you asked for a fairly full draft letter to  
 11 Baroness Masham. I understand Miss Edwards is  
 12 replying separately about Baroness Gardner's  
 13 supplementary question and you may wish to use her  
 14 material to expand on my draft, attached. I have not  
 15 made reference to the AIDS leaflet since this was  
 16 covered in Lord Glenarthur's reply to Baroness Dudley;  
 17 and since I suggest we say no more until Ministers  
 18 have had an opportunity to comment on the second  
 19 submission which I am aiming to get to you by the end  
 20 of the week.  
 21 "I am also enclosing a background note, prepared  
 22 by Dr Walford on cryoprecipitate."  
 23 If we go over the page, we can see there it's  
 24 headed "Contribution to reply to Baroness Masham" and  
 25 it's only, I think, the first paragraph that I need to

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1 cryoprecipitate:  
 2 "Cryoprecipitate is a crude extract of  
 3 Factor VIII and other proteins which is made by  
 4 freezing human plasma followed by thawing. After the  
 5 plasma is thawed, a precipitate is left which contains  
 6 much of the Factor VIII activity of the original  
 7 plasma ..." et cetera, et cetera.  
 8 So a definition and explanation about what  
 9 cryoprecipitate is. Then the second paragraph drafted  
 10 by Dr Walford reads as follows:  
 11 "There is no conclusive proof that AIDS can be  
 12 transmitted by blood, cryoprecipitate or Factor VIII  
 13 concentrates. But the assumption is that such  
 14 transmission may be possible. No cryoprecipitate for  
 15 therapeutic use is imported into this country'.  
 16 So we can see from this that Dr Walford in her  
 17 draft included that sentence we see in the final  
 18 letter "No conclusive proof that AIDS can be  
 19 transmitted by blood, cryoprecipitate or Factor VIII  
 20 concentrates", but she added the words "but the  
 21 assumption is that such transmission may be possible"?  
 22 **A.** She did.  
 23 **Q.** You don't, I think, see this minute.  
 24 **A.** No, I don't --  
 25 **Q.** So the drafting process and exchanges between civil

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1 ask you to look at:  
 2 "I should emphasise that there is no conclusive  
 3 proof that AIDS can be transmitted by blood,  
 4 cryoprecipitate or Factor VIII concentrates."  
 5 Then it goes on to talk about the  
 6 non-importation of cryoprecipitate but the dependency  
 7 upon importation of factor concentrates.  
 8 So that -- the rest of the qualification to the  
 9 sentence that Dr Walford had drafted has been omitted  
 10 from this draft; is that right?  
 11 **A.** So it appears.  
 12 **Q.** So, doing the best we can, reconstructing things from  
 13 the documents, because I appreciate -- I don't think  
 14 you have an independent recollection of this detail  
 15 now -- for reasons we don't know, the version that  
 16 goes to Mr Joyce and thus to you, simply has the bald  
 17 sentence "I should emphasise there is no conclusive  
 18 proof".  
 19 **A.** Yes.  
 20 **Q.** Is this right: you don't know why the other part of  
 21 Dr Walford's draft was left out?  
 22 **A.** I have no idea. I suppose it is possible that it was  
 23 considered by officials to be an extension of the  
 24 standard line "no conclusive proof", which had first  
 25 been generated as far as I know in the PQ for the

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1 Prime Minister.

2 **Q.** Yes.

3 **A.** That's when it first emerged as a term. I do remember

4 the letter that I had to write to Lady Masham very

5 well, because I knew her very well, saw a lot of her

6 in the House of Lords, and I wanted to ensure that

7 that letter was as full and covered all the necessary

8 elements of her original answer as possible. That's

9 why I asked for it to be (unclear) and I think there

10 may have been an earlier draft but I don't know if it

11 ever appeared, which I didn't feel was full enough.

12 That's when we went back to the case.

13 **Q.** Then if we just go back to the next page, we then see

14 separately what's described as the "BACKGROUND --

15 Prepared by Dr Walford", which is the description of

16 cryoprecipitate.

17 **A.** Yes.

18 **Q.** If we look, then, at DHSC0001406\_001, we can see again

19 your private office writing to Mr Winstanley, this

20 time on 23 August --

21 **A.** Yes.

22 **Q.** -- referring to Mr Parker's minute, and saying this:

23 "Lord Glenarthur has asked for the draft

24 attached to be updated to incorporate the new

25 information on the working party and about

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1 cryoprecipitate.

2 "Lord Glenarthur would like to send the letter

3 off this week and I would be grateful for a new draft

4 by 26 August."

5 That's a reference to what I think you just

6 mentioned, you wanted some more information on the

7 matter.

8 **A.** Exactly, it didn't cover all the points she'd asked

9 about.

10 **Q.** You didn't, I think, raise any questions or ask for

11 any further information about the "no conclusive

12 proof" line?

13 **A.** No, I didn't, because that was the standard line and

14 I was not aware that there was another element which

15 had been added by Dr Walford and removed by somebody

16 else.

17 **Q.** If we go, we might have the draft or a draft letter.

18 DHSC0001405, 26 August, Mr Winstanley is writing

19 back to your private office:

20 "I attach a revision of the draft you sent,

21 expanded to include more detail on Factor VIII and

22 cryoprecipitate, and to give the up-to-date picture on

23 the publications of the Communicable Disease

24 Surveillance Centre and the position on research.

25 "I have also expanded on the position regarding

18

1 Factor VIII from the USA."

2 If we go over the page, we can see then that the

3 draft -- and if we go further down again, we see the

4 sentence:

5 "There is, in fact, no conclusive proof that

6 AIDS can be transmitted by blood, cryoprecipitate or

7 Factor VIII concentrates."

8 Again, it's in what's now become the version of

9 the letter still without Dr Walford's qualification.

10 **A.** That's correct.

11 **Q.** I want to ask you --

12 **SIR BRIAN LANGSTAFF:** Just before we leave this, are you

13 going to come back to the last five or six lines on

14 this draft?

15 **MS RICHARDS:** I'm certainly going to be coming back to the

16 issue, sir, in relation to the FDA recommendations.

17 **SIR BRIAN LANGSTAFF:** Then I shan't ask any questions

18 about it now, thank you.

19 **MS RICHARDS:** -- pre and post March, yes.

20 Looking at that material now, does it concern or

21 trouble you that that additional explanation by

22 Dr Walford, that the assumption was transmission was

23 a possibility, has been omitted from the version that

24 was sent to your office?

25 **A.** Yes, it does. Because I'm sure that, during the

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1 discussions that I had with officials, who would

2 almost certainly be Dr Walford, I explored with her

3 the reasons for the line that had been generated, the

4 "no conclusive proof", and talked about that. And

5 clearly, here, as the expert in this field, she was

6 trying to expand on no conclusive proof with the

7 additional words, which made, in retrospect, a lot of

8 sense to me. But Mr Winstanley, or somebody else in

9 the Department, took it upon themselves to remove

10 that, I don't know why they never referred it back to

11 Dr Walford to say no -- so that she could say, "No, I

12 really think it ought to go in, and if necessary,

13 ministers have got to be consulted about whether it

14 should go in". It wasn't added.

15 And I was not aware of it when it -- when the

16 final draft came to me for signature, it -- (unclear)

17 it covered exactly the same point that had been

18 covered before, so I wasn't aware, and yes, in

19 retrospect, it does trouble me.

20 **Q.** Now, before we go on to look at the letter to

21 Mr Jenkins and the similar but not identical wording

22 in the letter to that, I just want to then pick up

23 what was being drafted for you as the response to

24 Baroness Gardner's second supplementary question.

25 **A.** Yes.

20

1 Q. If we go to DHSC0002229\_095 we can see on 19 July  
2 a minute goes from Mr Joyce to Miss Edwards. Do you  
3 know who Miss Edwards is or was?

4 A. No, I'm afraid I don't.

5 Q. It says:

6 "You will see from the attached Hansard extract  
7 that Lord Glenarthur replied to Baroness Gardner of  
8 Parkes' second supplementary that he would 'ask his  
9 Department to look into the need to (issue  
10 instructions to practitioners'.

11 "Lord Glenarthur feels that a written reply is  
12 implicit in this. I would therefore be grateful if  
13 you could let me have -- by 25 July -- a draft which  
14 tells Lady Gardner what the Department is doing to  
15 promote practitioners' awareness and diagnosis of  
16 AIDS.

17 "I am asking Mr Parker in HS to provide a draft  
18 in respect of Baroness Masham's point about  
19 transmission through Factor VIII."

20 That's the material we have just looked at. So  
21 Mr Joyce, it would appear, is asking Miss Edwards to  
22 look into, and then provide, a draft response for you  
23 on this question of guidance to practitioners.

24 A. Yes.

25 Q. Now, unfortunately, we cannot yet find --

21

1 Baroness Masham, DHSC0002231\_036, and we go to the  
2 second page -- oh no, sorry, I've given you the wrong  
3 letter. That's the Jenkins letter.

4 Sorry, Soumik, DHSC0002231\_037, and if we go to  
5 the next page, there's the letter to Baroness Masham  
6 and if we go to the second page, can we look in more  
7 closely at that. So the second paragraph says this,  
8 and this appears to be the answer to  
9 Baroness Gardner's question albeit, as you say, it's  
10 going in a letter to Baroness Masham rather than  
11 Baroness Gardner.

12 A. Mm-hm.

13 Q. It says -- sorry, if we look at the first paragraph,  
14 first, sorry, Soumik:

15 "I know that you are concerned about the  
16 problems of AIDS generally and I thought you might  
17 find it useful and reassuring if I elaborated on the  
18 points I was able to make during Questions."

19 Then, would you accept, Lord Glenarthur, that  
20 what we're looking at in the next paragraph is  
21 effectively addressing the question posed by  
22 Baroness Gardner?

23 A. It appears to be that, yes.

24 Q. It says this:

25 "We have been looking very carefully at our

23

1 A. No.

2 Q. -- Miss Edwards' response. So we don't know what  
3 information was provided directly by Miss Edwards, or  
4 if there were any qualifications, any further  
5 explanations or anything of the kind. We only know  
6 the text that then appears in the draft letter sent to  
7 you at the end of August, and your final version. So  
8 if we go back to Baroness Masham's letter --

9 A. Can I just say, in relation to the letter to Lady  
10 Gardner, I am absolutely certain that, had I not  
11 replied to the point that she raised in the House of  
12 Lords, she would have pursued me and asked me why  
13 I hadn't replied again. She was someone I saw  
14 regularly and, being a dentist, she had medical  
15 credentials, but I don't recall her ever coming back  
16 to me and asking why not.

17 Q. Well, there was -- this issue was covered in the  
18 letter to Baroness Masham.

19 A. Yes.

20 Q. Your point, I think, is why is there no separate  
21 letter to Baroness Gardner?

22 A. Correct.

23 Q. I understand, yes. I think you're right: there  
24 doesn't appear to be a separate letter to  
25 Baroness Gardner. If we go then back to the letter to

22

1 position on this matter and our medical advisers  
2 consider that the publications which have already  
3 appeared in the medical press provide sufficient and  
4 adequate guidance and information about this disease  
5 for practitioners, given the present state of  
6 knowledge. As I indicated on 14 July, information  
7 about the incidence, identification and methods of  
8 control of the disease is available on request from  
9 the Communicable Disease Surveillance Centre at  
10 Colindale. The Centre has published in the  
11 Communicable Disease Report (which is issued to all  
12 Medical Officers for Environmental Health), and in the  
13 British Medical Journal of 29 July, further  
14 information under the title 'Surveillance of Acquired  
15 Immune Deficiency Syndrome in the United Kingdom from  
16 January 1980 to July 1983'.

17 Then you go on to refer to the MRC Working Party  
18 to co-ordinate research into AIDS. Then in the final  
19 paragraph, you say:

20 "We shall, however, be keeping the matter  
21 understanding close review to see whether any further  
22 Departmental action might be appropriate in due course  
23 and I will let you know of any developments."

24 So, Soumik, could we have two documents on  
25 screen: that page and also DHSC0002229\_085. Sorry,

24

1 DHSC0002229\_085. It's the Parliamentary question and  
2 answer.

3 So if we look at the question, first of all,  
4 from Baroness Gardner:

5 "Will the Minister issue instructions to  
6 practitioners, or ask his department to look into the  
7 need to do so?" is the question.

8 Then if we look at the answer, in the form of  
9 the letter to Baroness Masham, which is as close  
10 an answer as we get, would it be right to understand  
11 that, essentially, the response to the first part of  
12 Baroness Gardner's question, which is "Will the  
13 department issue instructions to practitioners",  
14 although it doesn't say so in terms, is really no?  
15 You decide -- the Department decides not to issue any  
16 instructions or information to practitioners, because  
17 what's set out here: our medical advisers consider  
18 that there is already sufficient and adequate guidance  
19 and information available.

20 **A.** Yes, but whether or not that particular letter was  
21 shared with Lady Gardner, or whether or not, as is  
22 certainly the case now, that letters to members of the  
23 House of Lords who have shown an interest in  
24 a particular topic are copied to the library, so  
25 everyone can have access the correspondence, I do not

25

1 As far as you are aware, was anything done to  
2 look into that question any more than the request to  
3 Miss Edwards to provide an answer that we don't have,  
4 and then your answer to Baroness Masham?

5 **A.** Not that I'm aware of now, but the procedure was that  
6 any requests that had been made in a Parliamentary  
7 question by those who had taken part, would have been  
8 looked at by my private secretary and by the  
9 respective part of the Department that was dealing  
10 with it, and would have acted upon it, or should have  
11 done.

12 Whether or not they took that as the -- "will  
13 the Minister issue instructions", that particular  
14 phrase would have -- and I said, "Yes ... I will do  
15 that" -- would have gone into the Department for them  
16 to handle that particular statement that I'd made, or  
17 ought to have done anyway.

18 **Q.** Then if we go back to the letter on the left-hand side  
19 and if we can just go back and look more closely,  
20 Soumik, at that paragraph beginning "We have been  
21 looking very carefully".

22 There are three sources of information there  
23 identified in this paragraph. The first is that  
24 information is available on request from the  
25 Communicable Disease Surveillance Centre, so would it

27

1 know. But --

2 **Q.** If we go back to the question and answers I'm asked to  
3 invite attention to Baroness Gardner's first question,  
4 which is on the left-hand side of the column on the  
5 right-hand side of the screen, which was:

6 "... whether any special action [was] taken to  
7 inform dental and medical practitioners of the  
8 precautions that they should take?"

9 **SIR BRIAN LANGSTAFF:** You weren't looking at the screen  
10 and the wrong portion was highlighted, I think.

11 **MS RICHARDS:** No, no, I've been asked by Lord Glenarthur's  
12 legal representatives to point out the first question  
13 from Baroness Gardner, although my understanding is  
14 that what was said -- was being asked to respond to  
15 was the second question, but in any event, the  
16 questions posed there about special action to inform  
17 dental and medical practitioners of precautions they  
18 should take, so there we are, it's there.

19 Then the second question posed by Baroness  
20 Gardner, we look at again:

21 "... may I ask him whether it is now believed  
22 that there is disease is transmissible in many more  
23 ways than originally believed? Will the Minister issue  
24 instructions to practitioners, or ask the department to  
25 look into the need to do so?"

26

1 be right to understand, and I know this is a draft  
2 prepared for you that you then sent out, but it's sent  
3 out in your name, Lord Glenarthur, so there isn't  
4 anyone else I think I can ask about what's being  
5 referred to here.

6 **A.** Yes.

7 **Q.** Would you accept that the first bit of information  
8 that's being referred to is something that could  
9 potentially be obtained on request? So that's to say,  
10 if people want to get information, they can ask the  
11 Communicable Disease Surveillance Centre?

12 **A.** That's what it says and that's what I assumed to be  
13 accurate.

14 **Q.** The second, then, is something referred to as the  
15 communicable disease report and what's said there is  
16 that's issued to all medical officers for  
17 environmental health. So, again, that's not something  
18 that goes to all clinicians, for example. It goes  
19 specifically to environmental health doctors?

20 **A.** Apparently, yes.

21 **Q.** Then the third is reference to a British Medical  
22 Journal article, a relatively recent one, 29 July.  
23 I don't know whether you can answer this or not,  
24 Lord Glenarthur, but when Miss Edwards' missing draft  
25 came back to Mr Joyce, with this -- assuming it had

28

1 this kind of detail in, which is the assumption one is  
2 making, would you expect to have had provided to you  
3 samples of the material which is being referred to?  
4 So would you have expected Miss Edwards to provide to  
5 Mr Joyce a copy of the medical journal article or  
6 a sample of the communicable disease report so that  
7 you could satisfy yourself that this was a proper and  
8 adequate answer to the issues raised by Baroness  
9 Gardner?

10 **A.** Not necessarily, no. I was relying on the number of  
11 experts in that particular field to provide a fully  
12 accurate and complete -- or as completely as could be  
13 incorporated in one letter -- set of information in  
14 order to pass that on to my correspondent.

15 **Q.** So you wouldn't routinely check for yourself, as  
16 Minister, the content of this type of material that's  
17 being referred to? You would assume that that had  
18 been done for you, would you, by those who were  
19 putting together the draft reply?

20 **A.** Yes, the same could be true of, you know, probably 20,  
21 30, 40, 50 letters a day which had to be replied, on  
22 a whole mix of subjects. So one couldn't dissect in  
23 every, you know -- completely dissect the draft letter  
24 that had come up unless there was something pretty  
25 obvious in it that you needed to refer back to

29

1 **Q.** Would you accept that, in this letter, it's being --  
2 the line is being put emphatically, is it not? You  
3 say:

4 "I think that I should emphasise, firstly, that  
5 there is no conclusive evidence that AIDS is  
6 transmitted through blood products."

7 **A.** Yes.

8 **Q.** If we pick up the thread, then, of the communications  
9 between you and Mr Jenkins -- I'm not going to go to  
10 all of them because they continue, I think, well into  
11 the next year, we'll just look at two further letters.

12 DHSC0002235\_041. This the Mr Jenkins' response  
13 to you of 27 October 1983. He says in the first  
14 paragraph, last three lines of it:

15 "... I would like to put on record my  
16 disagreement with a number of the statements made in  
17 your letter."

18 Sorry, I should read that whole sentence:

19 "I have been making a number of detailed  
20 enquiries among ASTMS experts on this issue and  
21 I would like to put on record my disagreement with a  
22 number of the statements made in your letter."

23 The first that he puts on record is the issue  
24 about no conclusive proof, and he says this:

25 "You say that there is no conclusive evidence

31

1 officials about. So, yes, I'd have taken this on  
2 trust from people whom I trusted.

3 **Q.** We can take those down, thank you.

4 So if we now come on to the use of "no  
5 conclusive evidence" in the letter to Mr Jenkins,  
6 DHSC0002231\_036, by way of reminder. If we go back to  
7 that second paragraph, beginning, "I think I should  
8 emphasise firstly".

9 Now, the chair has pointed out that there's  
10 a difference of wording between some of the documents  
11 which -- some talk about "no conclusive evidence/proof  
12 that AIDS can be transmitted", and some say "no  
13 conclusive evidence that AIDS is transmitted".

14 **SIR BRIAN LANGSTAFF:** Some say "may be transmitted" and  
15 some say "has been transmitted".

16 **MS RICHARDS:** Do you recall noting that or thinking about  
17 it, or considering that at the time?

18 **A.** No, I don't. I think it was taken as meaning the same  
19 thing, and there were -- exactly the same thing, and  
20 there was just a different style in the way that it  
21 was written, and perhaps these letters were drafted by  
22 individuals who used language slightly more loosely,  
23 but stuck to the main point that there was no  
24 conclusive either evidence or proof, and "is" or  
25 "was", you know, I don't know how that arose.

30

1 that AIDS is transmitted through blood products.

2 I would argue that the evidence is very strong. There  
3 are now about 20 American haemophiliacs with AIDS, and  
4 this figure is likely to underestimate the risk  
5 because of the apparently long incubation period.  
6 Haemophiliacs in Europe (using US derived products)  
7 are contracting AIDS in locations where the disease  
8 has not previously existed. I also draw your  
9 attention to a paper prepared jointly by DHSS staff  
10 and the HSE [the Health and Safety Executive, I think]  
11 which was submitted to a recent meeting of the  
12 Advisory Committee on Dangerous Pathogens. This paper  
13 states quite specifically that 'there is now strong  
14 circumstance substantial evidence that AIDS may be  
15 transmitted by blood and blood products'. I am  
16 tempted to ask you what you would consider to be  
17 conclusive evidence, particularly in the circumstances  
18 where the agent or agents for AIDS are as yet  
19 unidentified?"

20 Now I think in your statement -- and again, it  
21 goes on to address the Food and Drug Administration  
22 recommendations, which I'll come back to, but you'll  
23 say in your statement that you don't think you saw  
24 this letter until early January, when you were given  
25 the letter along with a draft reply.

32



1 **A.** Could you give me the paragraph and page number,  
 2 please?  
 3 **Q.** Yes, of course. Let me just find it.  
 4 You deal with your correspondence with  
 5 Mr Jenkins from paragraph 27, page 43 onwards.  
 6 And if we go to page 44 -- let's put that up on  
 7 screen, Soumik. It's Lord Glenarthur's statement  
 8 WITN5282001.  
 9 You say in paragraph 27.2:  
 10 "I have been asked about Mr Jenkins's letter of  
 11 27 October, in particular the second paragraph. I am  
 12 asked when I first became aware of the evidence  
 13 referenced therein and whether it caused me to  
 14 question or qualify the 'no conclusive proof' phrase.  
 15 I would not have seen the letter itself until it was  
 16 sent with the suggested reply, presumably in early  
 17 January 1985 since my reply was sent out on  
 18 5 January 1985."  
 19 **A.** Can I just come in there?  
 20 **Q.** Yes, of course.  
 21 **A.** I think it probably should have said, "January '84"  
 22 and -- rather than "January '85".  
 23 **Q.** Yes, you're right, a typographical error.  
 24 **A.** A typo, yes.  
 25 **Q.** Thank you for correcting that. Then you say:

33

1 Mr Jenkins, which is at WITN5282009. We can see the  
 2 reference in the top right-hand corner, and then we  
 3 can see:  
 4 "Advisory Committee on Dangerous Pathogens"  
 5 So that's what the ACDP stands for.  
 6 "Acquired Immune Deficiency ...  
 7 "Background  
 8 "Members will be well aware of the considerable  
 9 publicity and the degree of public concern that has  
 10 arisen since AIDS was first recognised as an  
 11 apparently new clinical condition ..."  
 12 Then if we go further down there's then  
 13 reference to some of the information from the States  
 14 and the CDSC, and then:  
 15 "The assumption to date has been that AIDS  
 16 results from an infection which is most likely to be  
 17 viral."  
 18 Then if we go to the next paragraph, and this is  
 19 the passage I think that Mr Jenkins refers to:  
 20 "There is now strong circumstantial evidence  
 21 that AIDS may be transmitted by blood and blood  
 22 products."  
 23 Then the report goes on to refer to  
 24 haemophiliacs in the States, confirmed case in  
 25 Britain, three cases in Spain and "single cases have

35

1 "I do not recall being made aware of the  
 2 detailed situation in Europe, nor of the paper to the  
 3 meeting of the Advisory Committee on Dangerous  
 4 Pathogens ..."  
 5 Then, just before we look at your letter in  
 6 reply, you say at 27.3:  
 7 "I have been asked what steps I took to verify  
 8 the evidence for the statements made. The draft reply  
 9 to Mr Jenkins's letter was provided by officials for  
 10 me to consider and sign. Whatever was the detail of  
 11 [and that's the reference to the report to the  
 12 Advisory Committee on Dangerous Pathogens] which is  
 13 not referred to in my reply, the 'strong  
 14 circumstantial evidence ...' indicates to me that it  
 15 paralleled the term 'no conclusive proof/evidence'.  
 16 You go on, a couple of lines down, to say:  
 17 "I do not recall taking any action personally,  
 18 but I would have expected officials to examine the  
 19 different terms used and the findings of [the] ACDP  
 20 ... and to advise me if there was evidence of a real  
 21 conflict or cause for concern. This was the normal  
 22 process within Government."  
 23 Just so we can follow that through, before we  
 24 look at your response to Mr Jenkins, let's just  
 25 briefly look at the report that's referred to by

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1 been reported in haemophiliacs in Germany, Austria and  
 2 Canada".  
 3 Then it says:  
 4 "Perhaps the most significant case in relation  
 5 to blood transfusion concerns a baby who developed  
 6 AIDS several months after receiving blood transfusions  
 7 of blood and platelet concentrates."  
 8 Lord Glenarthur, just pausing there, that's  
 9 a case the Inquiry has examined on a number of  
 10 occasions, it's a case in the States that I think is  
 11 being referred to here. It's quite often referred to  
 12 as the "San Francisco baby" case, known about since  
 13 December of 1982. Do you recall your officials ever  
 14 telling you about that case?  
 15 **A.** No, I don't.  
 16 **Q.** Then it continues, this report:  
 17 "One of the platelet donors was subsequently  
 18 discovered to have developed AIDS, although he had  
 19 been apparently well at the time of donation. Some  
 20 other less well defined instances of AIDS developing  
 21 at long by variable periods after transfusion have  
 22 been recorded. Although in these cases no other  
 23 predisposing factor has been implicated, neither has  
 24 a direct link been established with a donor suffering  
 25 from AIDS."

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1 Then, if we go down, the third paragraph refers  
2 to guidance being issued for blood donors in the UK.  
3 So that's the leaflet. And then the next paragraph:  
4 "In view of the circumstantial evidence for  
5 infectivity, in particular in relation to admission by  
6 blood or body fluids, there is concern amongst health  
7 care staff about the possibility of contracting AIDS  
8 from patients or from contaminated materials and  
9 clinical samples for investigation."

10 Then if we go down a further few lines but in  
11 the same paragraph:

12 "Guidance for the conduct of laboratory work and  
13 for patient care and general preventative measures,  
14 has been issued by the US Department of Health via  
15 Centers for Disease Control and this was published  
16 initially in two editions of the Mortality and  
17 Morbidity Weekly Report. This is now available from  
18 the Communicable Disease Surveillance Centre at  
19 Colindale in a combined form."

20 Then:

21 "Referral to ACDP

22 "Although an infective aetiology for AIDS  
23 remains unproven, it would seem prudent at this time  
24 for ACDP to consider the need to provide guidance for  
25 the safe handling of clinical and other material from

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1 what we ought to at least be aware of, even if there  
2 was nothing we could do about it, so that we were  
3 alerted. And that never happened. So yes, I mean,  
4 I think if it had been drawn to my attention, I would  
5 have asked questions about it.

6 **Q.** And then, having looked at Mr Jenkins' reply to you,  
7 if we then just look at your letter back to him, which  
8 is PRSE0001727. This is 5 January 1984 --

9 **A.** Yes.

10 **Q.** -- from you back to Mr Jenkins. You say:

11 "Thank you for your letter of 27 October in  
12 which you record number of areas of disagreement with  
13 points which I made in my earlier letter. Let me deal  
14 with your paragraphs in numerical order.

15 "... It remains the case that there is no  
16 underlying conclusive evidence of the transmission of  
17 AIDS through blood products, although the  
18 circumstantial evidence is strong."

19 It looks like that formulation may have been  
20 influenced by the ACDP report that we have just  
21 looked at.

22 **A.** It looks like it.

23 **Q.** But essentially this is the draft that was given to  
24 you --

25 **A.** Yes.

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1 patients who either have AIDS or are at risk from the  
2 disease."

3 So the context of this report, Lord Glenarthur,  
4 just so that it is clear, but I think it's probably  
5 apparent here, the question being considered  
6 was: should guidance be issued for the safety --

7 **A.** Safety, yes.

8 **Q.** -- of staff, laboratory clinical staff, who might  
9 become infected? So that's the context.

10 So you didn't look at this yourself?

11 **A.** No, that paper, I had not seen. It was not drawn to  
12 my attention.

13 **Q.** Looking at it now, and seeing what is set out there,  
14 strong circumstantial evidence, reference to a number  
15 of cases, reference to the most significant case in  
16 relation to blood transfusion, the baby transfused, do  
17 you think if you had seen it, it might have, at the  
18 very least, given you pause for thought as to whether  
19 it was right to emphasise the absence of conclusive  
20 proof?

21 **A.** Yes, I think it would and that's why, as I think  
22 I said yesterday, a lot of things were beginning to  
23 come together, and no sort of all-embracing note for  
24 ministers was produced to describe the totality of all  
25 this, and the mix of evidence that was emerging and

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1 **Q.** -- and is it right to understand you would have read  
2 it, thought it looks all right, and signed it,  
3 essentially?

4 **A.** Yes.

5 **Q.** Are you able to assist us with why it's taken until  
6 the early January for a response to be drafted to  
7 Mr Jenkins' letter?

8 **A.** I --

9 **Q.** His letter --

10 **A.** What was the date of his letter to me?

11 **Q.** 27 October.

12 **A.** So that's three months. So -- no, I've no idea why  
13 right took so long.

14 **Q.** Then, just going back to this passage, it continues:

15 "These two statements in no way contradict  
16 one another as you will readily appreciate from an  
17 analysis of a similar argument used in paragraph 7.  
18 While there is strong evidence to suppose that the  
19 hepatitis vaccine will not transmit AIDS, the evidence  
20 is not conclusive and cannot be so until a means of  
21 testing for AIDS has been devised. In both cases, the  
22 conclusive evidence awaits the development of a test  
23 which can identify the AIDS agent ..."

24 So it would appear from this that the line of  
25 thinking within the Department, to which you were, as

40

1 it were, putting your name, in this letter, was that  
 2 by "conclusive evidence", they meant a test?  
 3 **A.** Yes, they couldn't -- they couldn't be certain until  
 4 they knew what AIDS was, effectively, and could be  
 5 found yeah.  
 6 **Q.** So it's right to understand, isn't it, from this  
 7 letter, that as at 5 January the Department, on this  
 8 occasion through you, is still maintaining that  
 9 it's -- the "no conclusive evidence" is an appropriate  
 10 line to take?  
 11 **A.** That seems to be case.  
 12 **Q.** Albeit that there is a recognition in this in response  
 13 to Mr Jenkins that the circumstantial evidence --  
 14 **A.** Yeah.  
 15 **Q.** -- is strong.  
 16 If we go back to, then, the letter to John  
 17 Maples MP, ARCH000679 -- sorry, Soumik, ARCH0000679,  
 18 I omitted a zero.  
 19 You will have been aware, when you're writing  
 20 this letter, towards the end of 1983, that you're  
 21 engaging with Mr Maples because he has raised issues  
 22 on behalf of a constituent?  
 23 **A.** Yes.  
 24 **Q.** So this is something that may well get passed on to  
 25 the constituent? That would be a normal course?

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1 though it is designed to provide a degree of  
 2 reassurance?  
 3 **A.** It sounds like it, yes.  
 4 **Q.** Would you accept that although this is now  
 5 mid-December, and although I didn't take you to the  
 6 date of the Advisory Committee on Dangerous Pathogens'  
 7 report, we know it was available by 27 October because  
 8 Mr Jenkins had referred to it in his letter?  
 9 **A.** Yeah.  
 10 **Q.** So it's clearly available by the time this letter is  
 11 being drafted. There is nothing in here which  
 12 contains that recognition in your response to  
 13 Mr Jenkins, is there --  
 14 **A.** No.  
 15 **Q.** -- that there's a strong circumstantial evidence or  
 16 anything along those lines?  
 17 **A.** No, it's not contained within it, no.  
 18 **Q.** Before I ask you a little bit why you think this line  
 19 of "no conclusive proof/evidence" was adopted, can we  
 20 just look at how the line seems to have come to an  
 21 end.  
 22 PRSE0001580, please, Soumik.  
 23 This is an article in the Sunday Times, dated  
 24 25 March 1984, "New Aids alarm over blood link". It's  
 25 from a journalist based in the States, it would

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1 **A.** I would assume, yes.  
 2 **Q.** Then, if we look again at that second paragraph where  
 3 you say, "I can well appreciate the anxiety", you say  
 4 this:  
 5 "... would first of all like to put matters into  
 6 perspective: the cause of AIDS is as yet unknown and  
 7 there is no conclusive proof that the disease has been  
 8 transmitted by American blood products."  
 9 And the sentence begins by referring to anxiety.  
 10 This was expressly intended to reassure, wasn't  
 11 it, this sentence?  
 12 **A.** It appears so, but I don't think that I have seen the  
 13 letter that Mr Maples wrote to Kenneth Clarke.  
 14 **Q.** No, I think that's right. You haven't seen it, and  
 15 I don't know without checking, whether we have it.  
 16 But you refer further down to -- sorry, the next  
 17 sentence:  
 18 "Nevertheless I would like to assure your  
 19 constituent ..."  
 20 So we know at least --  
 21 **A.** Yes.  
 22 **Q.** -- it's arisen in the context of a constituent's  
 23 letter and it starts, that paragraph, by talking about  
 24 anxiety, and then uses the words "would first of all  
 25 like to put matters into perspective". That sounds as

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1 appear, this is by John Barnes, Los Angeles:  
 2 "Doctors now have conclusive proof that the  
 3 mysterious and generally fatal ailment known as Aids  
 4 has been passed to a hospital patient through a blood  
 5 transfusion. American health officials fear that this  
 6 news will heighten the already widespread alarm about  
 7 the risk of Aids-tainted blood banks.  
 8 "The proof has come through a feat of medical  
 9 detection. It began with a man suffering from Aids --  
 10 acquired immune deficiency syndrome -- being admitted  
 11 to a Los Angeles university medical centre. He told  
 12 health officials that before he knew he was an Aids  
 13 victim, he had given blood at one of the city's  
 14 leading hospitals, Cedars-Sinai medical centre. There  
 15 they learned that his blood had been given to two  
 16 women patients.  
 17 "That was more than a year ago. Tests on the  
 18 women showed that the dangerous abnormality that is  
 19 evidence of AIDS: a failing of certain white blood  
 20 cells that trigger the body's fight against infection.  
 21 The women had to be told that they were living with  
 22 a time-bomb."  
 23 Next paragraph says:  
 24 "In December, one of the two, a 38-year-old  
 25 Los Angeles woman who was given the blood during

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1 a hysterectomy operation, went down with pneumonia.  
 2 Doctors managed to save her, but her outlook is grim.  
 3 The other woman is still waiting for the first  
 4 onslaught."  
 5 Next paragraph:  
 6 "Most of the victims are homosexual men who  
 7 contracted Aids through sexual contact. But at least  
 8 79 are people who had blood transfusions - either  
 9 haemophiliacs or hospital patients, some of them  
 10 babies. The suspicion that blood was to blame has now  
 11 become proof."  
 12 And the proof that's being referred to in  
 13 this -- and this is by a journalist, it's not  
 14 a scientific paper, but the proof that's being  
 15 referred to is the fact of a patient with AIDS having  
 16 given blood and two people receiving the blood  
 17 becoming infected.  
 18 **A.** Yes, that's correct.  
 19 **Q.** That seems to be what's being termed --  
 20 **A.** It's logic, yes.  
 21 **Q.** -- "conclusive proof" here.  
 22 If we go to DHSC0002239\_89, what we see here is  
 23 a minute dated 26 March, and it's addressed to  
 24 Mr Williams, Dr Smithies, who, as we established  
 25 yesterday, was Dr Walford's successor, and Mrs Creagh,

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1 I think it says.  
 2 **A.** Yes.  
 3 **Q.** And it says this:  
 4 "We dropped 'there is no conclusive proof that  
 5 AIDS is transmitted through blood or blood products'  
 6 from our standard line some time ago."  
 7 And I think the author of this is Green --  
 8 Mr Green, but it's a signature rather than a printed  
 9 name so we can't be certain.  
 10 So, 26 March, here is an internal departmental  
 11 note:  
 12 "We dropped 'there is no conclusive proof ...'  
 13 ... some time ago."  
 14 Now that's the best evidence we have I think so  
 15 far that the line was dropped, and by when, dropped by  
 16 26 March. It doesn't, I'm afraid, help us in knowing  
 17 when it was dropped. Did you receive any briefing or  
 18 information or have any discussion about this that you  
 19 can recall?  
 20 **A.** I don't recall any at all about it, no. It was  
 21 internal, it was between officials, and no doubt that  
 22 change would have been reflected in any other comments  
 23 that I was to make, either in Parliament or in  
 24 correspondence, so -- but I don't recall it, hearing  
 25 about it or being asked about it.

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1 **Q.** So is it right to understand, then, as far as you  
 2 know -- and I appreciate the evidential picture is far  
 3 from complete -- that this line to take, as it's  
 4 called in internal Departmental parlance, has its  
 5 origins back in May of 1983 with the suggested draft  
 6 for the Prime Minister -- not in fact used by the  
 7 Prime Minister on that occasion --  
 8 **A.** No.  
 9 **Q.** So it has its origins within administrative or medical  
 10 staff of the Department, we don't know who. It's then  
 11 a line which you -- and I'll look with other  
 12 ministers --  
 13 **A.** Yes.  
 14 **Q.** -- how they use it, but it's certainly a line that you  
 15 use --  
 16 **A.** Yes.  
 17 **Q.** -- in the way, in which we've seen, on a number of  
 18 occasions, in some different fora, Parliament and in  
 19 correspondence with other Members of Parliament, union  
 20 official, MP on behalf of constituent.  
 21 Then the decision to stop using that line is  
 22 again a Civil Service decision, is it, rather than  
 23 a decision that it goes to ministers? At least, it  
 24 doesn't go to you for a decision?  
 25 **A.** I think I said yesterday that when it was first

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1 mentioned to me, and that would be during the  
 2 June '83 briefing for the Parliamentary question on  
 3 14 July -- or, indeed, with Dr Walford's briefing  
 4 letter -- that it would have been discussed. "Why are  
 5 we saying this?" I would have asked and, you know,  
 6 "What do you mean by conclusive?" et cetera, et  
 7 cetera.  
 8 But -- and I can't recall the detail and none of  
 9 it is on the record, but it was -- as is very often  
 10 the case with certainly Parliamentary staff, there is  
 11 a line to take. The sort of "hallowed words" that are  
 12 used so that there's some consistency about what is  
 13 said. And I'm sure that this particular phrase was  
 14 the one that was considered to be the correct line to  
 15 be used, which ministers had accepted, albeit with  
 16 a degree of qualification which varied from one case  
 17 to another.  
 18 But I do not recall the change and I don't  
 19 recall anyone suggesting to me on any occasion that it  
 20 ought to be changed, and it's only now, looking back,  
 21 that I -- seeing minutes within the Department which  
 22 removed an additional qualifying comment, which is the  
 23 letter to Lady Masham. So I -- no one ever came to me  
 24 and said, "We're going to have to change the line  
 25 because of X, Y and Z". I don't recall it at all.

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1 And I don't -- well, I can't speak for my colleagues,  
2 but ...

3 **Q.** Although in that reply to Mr Jenkins on 5 January 1984  
4 your response had tied the concept of conclusive proof  
5 to the availability of testing --

6 **A.** Yes.

7 **Q.** -- it would appear from this material that, actually,  
8 the line is then abandoned, despite the fact that  
9 testing is still not available?

10 **A.** So it would appear, yes.

11 **Q.** Why do you think it was thought appropriate to use  
12 this formula of no conclusive proof, no conclusive  
13 evidence, that AIDS is or can be transmitted through  
14 blood or blood products?

15 **A.** I believe that it was considered a measure of  
16 reassurance that -- if that's the right phrase to  
17 use -- that we didn't know, the experts didn't know,  
18 quite what was going to happen. AIDS was not  
19 understood. The causative agent of AIDS and how AIDS  
20 might progress was at that stage unknown. We were  
21 importing Factor VIII for the reasons that we  
22 discussed yesterday: there was insufficient here.  
23 A measure of reassurance, for right or for wrong, was  
24 thought wise to be addressed to the community who  
25 required the necessary agents to treat their

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1 community because of an underlying concern that they  
2 might otherwise not accept treatment with  
3 concentrates, which you had been led to believe was  
4 a worse outcome for them?

5 **A.** Yes, I think that interpretation can be put on it,  
6 yes.

7 **Q.** Dr Walford told us that by, certainly the beginning of  
8 1983, in her own mind she thought it was likely that  
9 AIDS --

10 **A.** Yes.

11 **Q.** -- was transmitted by blood, blood products. Although  
12 in fairness, I should say, she also told us that she  
13 thought that -- again rightly or wrongly will be  
14 a matter for the chair in due course -- thought that  
15 the risk in terms of the numbers who would be infected  
16 was small. But she said she thought it was likely and  
17 she told us that, certainly by the time we're talking  
18 about, July 1983, it was mainstream acceptance within  
19 the Department that it was likely. And I think you,  
20 in your statement -- if I can find the reference --  
21 I think it's paragraph 20.4 of your statement.

22 **A.** 20.4.

23 **Q.** Yes, 20.4. Can we put it on screen, Soumik, so it's  
24 Lord Glenarthur's again, WITN528001, page 33,  
25 paragraph 20.4. Just to put it in a chronological

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1 haemophilia and, until there was proof that that  
2 product did contain AIDS and could be transmitted,  
3 there was a need to provide an element of reassurance.

4 And that reassurance became weaker as more and  
5 more evidence emerged in due course, that actually,  
6 yes, it could be that there was this risk that it was  
7 likely that it could be done, but the risk, even if it  
8 had been in material that had been used, which it was,  
9 was considered very small. So if you stitch the whole  
10 lot together as a package of an element of  
11 reassurance, but against -- set against that, there  
12 was of the alternative that if people were not able to  
13 have the Factor VIII, to which it was attached, it is  
14 alleged, a very small risk, the risk of those  
15 haemophiliacs who were unable to get it was going to  
16 be infinitely greater.

17 So we go back to the discussion we had yesterday  
18 about risk, and I dare say that was a point that  
19 I raised in discussion with officials at the time.

20 **Q.** So would this be right: that, in part at least, the  
21 purpose of saying publicly and in various  
22 communications that there's "no conclusive proof",  
23 sometimes prefaced with words like "I would like to  
24 emphasise" or "I should first of all say", and so on,  
25 in part was aimed reassuring the haemophiliac

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1 context, you are here answering questions about the  
2 leaflet, the first leaflet, and so we're talking  
3 about -- around August 1983.

4 **A.** Yes.

5 **Q.** You'll see that further up that page, Lord Glenarthur.  
6 I know you've got a hard copy of your statement.

7 **A.** Yeah.

8 **Q.** You're being asked questions about a response of yours  
9 on the issue of the leaflet on 3 August 1983, so  
10 around the time that the "no conclusive proof" line is  
11 simultaneously being used in various ways. At the  
12 bottom of the page, you say this:

13 "I have been asked whether at the time I thought  
14 there was strong circumstantial evidence that AIDS  
15 could be transmitted by blood products. My  
16 recollection is that there was clear evidence that  
17 AIDS could be transmitted by blood products, but that  
18 the risk appeared to be small."

19 So you, I think, from this, we can take, you  
20 shared the view Dr Walford articulated, and what was  
21 her understanding of the general Departmental view,  
22 that there was a causal link.

23 **A.** Yes.

24 **Q.** An absence of conclusive proof in terms of the  
25 availability of a test, but there was a causal link.

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- 1 **A.** Yes, exactly. We're on the same line.  
 2 **Q.** So why then did the Department in these various press  
 3 release, Parliamentary statements, not just by you,  
 4 but by others, correspondence, why say "no conclusive  
 5 proof" rather than say, for example, "We acknowledge  
 6 that it is likely that AIDS is transmitted or can be  
 7 transmitted, or has been transmitted through blood and  
 8 blood products, but", and then go on to set out  
 9 measures of qualifications?  
 10 **A.** Mm.  
 11 **Q.** Why was it never put that way?  
 12 **A.** I don't know the answer to that. A lot of people must  
 13 have been considering this, at senior levels within  
 14 the Department, both on the medical level and the  
 15 administrative chains of command within the Department  
 16 I and others relied on that advice. At some point, as  
 17 I think I said earlier, I must have discussed this  
 18 with Dr Walford or with other officials and, you know,  
 19 was assured that that was the correct thing to say,  
 20 certainly up to a point that they changed the line.  
 21 And so we all used it, to one degree or another.

22 And I cannot say now, I do not know, I cannot  
 23 recreate in my mind or in any other way, the nature of  
 24 the thought processes that went through Ministers'  
 25 minds, or my own mind, in relation to what was

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- 1 And why it wasn't expanded, I honestly, 38 years  
 2 later, can't go back to and describe fully.  
 3 **Q.** If we put to one side my use of the adjective  
 4 "honest", your own answer just then was "I think we  
 5 were trying to describe the facts as we saw them".  
 6 This line didn't describe the facts as the Department  
 7 saw them though, did it? Because it didn't say what  
 8 was, in truth, the internal understanding: it's likely  
 9 that AIDS is transmissible in this way?  
 10 **A.** So it now seems, but that was not apparent at the  
 11 time -- to me, anyway.  
 12 **Q.** If the Department had been being open and transparent  
 13 about its thinking at the time, and transparency,  
 14 openness, candour, are certainly principles that one  
 15 talks about in modern times, if the Department had  
 16 been open and transparent and candid, it would have  
 17 said, would it not, "We accept it is likely that AIDS  
 18 is transmissible by blood and blood products", and  
 19 then it might then have been quite proper to add  
 20 a qualification about the extent of the uncertainties  
 21 or incomplete scientific knowledge at the time?  
 22 **A.** Yes, if those phrases had been reversed in the sense  
 23 of what we've seen in the other correspondence, that  
 24 might have made sense. But I cannot -- I certainly do  
 25 not feel for one minute that what was said using those

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- 1 apparently clear advice, what say, coming up from  
 2 officials within the Department. I am afraid I can't  
 3 help any more on that.  
 4 **Q.** Would you accept that although "no conclusive proof"  
 5 might have been technically correct --  
 6 **A.** Yes.  
 7 **Q.** -- certainly if one is talking about testing being the  
 8 yardstick for conclusive proof, that it wasn't  
 9 an honest and accurate reflection of the Department's  
 10 actual understanding and belief, which was that it was  
 11 likely that AIDS was transmitted through blood and  
 12 blood products?  
 13 **A.** No, I wouldn't necessarily say that, I mean I don't --  
 14 the implication that -- if you -- if I've got your  
 15 question right, that it wasn't honest, in some  
 16 respect, I believe it was thought, by all concerned,  
 17 that it was fair. I don't know whether "honest" is  
 18 quite the right word. It may now appear to have been  
 19 incomplete, and indeed, there's plenty of stuff to  
 20 indicate that there was a cautionary bid put  
 21 afterwards, we're doing our best to make sure that it  
 22 isn't -- there isn't a great risk growing out of it.  
 23 I don't think there's any question of honesty.  
 24 I think we were trying to describe the facts as we saw  
 25 them, and that was being done by officials as well.

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- 1 words was any attempt to mislead. It may have been  
 2 incomplete to a degree, but -- and that was the  
 3 reassurance point that I referred to a few minutes  
 4 ago. But it was not -- I am absolutely certain that  
 5 officials in the Department, let alone Ministers,  
 6 would not wish to have misled in any way, but lines to  
 7 take, in one form or another, were regular throughout  
 8 virtually every department I'd been in, so far as  
 9 I know.  
 10 **Q.** If one leaves aside the question of whether there was  
 11 a subjective intention to mislead, and I appreciate  
 12 you can probably only speak to your own subjective  
 13 intentions and not the subjective intentions of  
 14 others, so leave that aside, would you accept that it  
 15 was a line which clearly had great potential to  
 16 mislead, because it was partial?  
 17 **A.** Well, looking at it now, and having seen, for example,  
 18 the approach that the Penrose Inquiry took to it, and  
 19 my response to that through Government lawyers,  
 20 looking back all that time, yes, I can see that it  
 21 could have created that sense. But it was not at the  
 22 time, either by me or by anybody else that I'm aware  
 23 of, an intention to mislead. It may have been  
 24 incomplete, we accepted the advice that was given,  
 25 which is essentially one that covered a clinical area,

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1 and the practicalities of so many other aspects of  
 2 this particular problem that we operated in this field  
 3 on the advice of experts.  
 4 And why now the whole business hadn't been  
 5 spotted higher up the medical chain of command within  
 6 the Department, and called into question even at CMO  
 7 level, and some view, from them, from him and his  
 8 staff had not come down the chain to the point where  
 9 those that were dealing with Ministers said, "Look, we  
 10 can't use this any longer because it is incomplete or  
 11 could be judged as incomplete", I do not now know.  
 12 **Q.** Then lastly on this topic and before we break, you  
 13 have accepted, I think, that part of the thinking  
 14 behind the use of this line may have been because you  
 15 didn't want haemophiliacs discouraged from continuing  
 16 to take factor concentrates. Is it also possible that  
 17 this formula was adopted because it helped explain or  
 18 excuse why the Department was not taking more radical  
 19 action, such as planning the importation of  
 20 concentrates or banning pre-March 1983 plasma?  
 21 **A.** I'm not sure. I can't get into the minds of officials  
 22 who came up with the formula and worked it through.  
 23 **MS RICHARDS:** Sir, I'm going to move on to another topic  
 24 and we're at our normal break time, in any event.  
 25 **SIR BRIAN LANGSTAFF:** Can you just help me with this: it's

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1 really going back to your paragraph 20.4. Thank you,  
 2 Soumik. It's on the screen.  
 3 **A.** Oh yes, 20.4, sorry, yes.  
 4 **MS RICHARDS:** Page 33.  
 5 **SIR BRIAN LANGSTAFF:** Thank you. It's the second last  
 6 sentence underneath little (i):  
 7 "There was growing public interest, if not  
 8 a degree of alarm; and the overall uncertainty  
 9 indicated to me that it would be wise to plan for the  
 10 worst ..."  
 11 Just stop there.  
 12 That's really saying, well, there's uncertainty  
 13 about this. There's obviously a real risk, whatever  
 14 else, however else you may describe it --  
 15 **A.** Yes.  
 16 **SIR BRIAN LANGSTAFF:** -- and this is borne out of your  
 17 experience in the -- in part, in aviation, as  
 18 I understand it, your personal view?  
 19 **A.** In relation to risk, yes.  
 20 **SIR BRIAN LANGSTAFF:** So if the position was that it had  
 21 been known that a plane had developed a defect which  
 22 either had or came close to causing a crash, and the  
 23 engineers had been over the plane and said, "We can't  
 24 find out what's wrong here", is the general reaction  
 25 of the airline industry to stop using that plane until

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1 there can be absolute certainty that it is safe, as  
 2 opposed to saying, "Well, we've got no reason at the  
 3 moment to know that it's unsafe, we'll keep on flying  
 4 it"?  
 5 **A.** No, that is correct. That's where the analogy doesn't  
 6 completely tie in, but it was my perception of risk  
 7 and, in this case, as I tried to describe yesterday,  
 8 Sir Brian, there was -- there were risks both ways.  
 9 The absolute risk seemed to be, as was explained to me  
 10 at the time, that if Factor VIII, even if it had risks  
 11 attached to it, was not provided for haemophiliacs --  
 12 **SIR BRIAN LANGSTAFF:** There would be worse risks?  
 13 **A.** -- then they were in serious trouble.  
 14 **SIR BRIAN LANGSTAFF:** Well, I understand that, but that  
 15 was my point of view.  
 16 **A.** But it was considered reasonable to continue because  
 17 the risk of importing Factor VIII and using it was  
 18 considered to be very small, and the words have  
 19 emerged several times over the last couple of days.  
 20 So, yes, I don't think anyone denies there was a risk.  
 21 One risk was greater than the other, and it's  
 22 a very difficult position to be in.  
 23 **SIR BRIAN LANGSTAFF:** Thank you very much. We'll take  
 24 a break now until 10 to 12.  
 25 **THE WITNESS:** Thank you.

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1 (11.23 am)  
 2 (A short break)  
 3 (11.50 am)  
 4 **MS RICHARDS:** Lord Glenarthur, before I move on to my next  
 5 topic with you, I just want to go back to the text of  
 6 some of the statements that we've looked at on "no  
 7 conclusive proof", and just explore with you what you  
 8 said, in your statement and what was said on your  
 9 behalf to the Penrose Inquiry, were qualifications to  
 10 that general statement.  
 11 I wouldn't go to the press release from  
 12 Mr Clarke because I can ask him about that --  
 13 **A.** Thank you.  
 14 **Q.** -- so I'll just look briefly again at the fourth --  
 15 statements that emanate from you.  
 16 So if we start with DHSC0002229\_085. This is  
 17 the Parliamentary question. If we go slightly further  
 18 down the page, Soumik. So if we just pick up that  
 19 sentence, above Baroness Dudley:  
 20 "Although there is no conclusive evidence that  
 21 AIDS is transmitted by blood or blood products ..."  
 22 I think I read out the whole sentence previously  
 23 but I'll read it out again:  
 24 "... the department is considering the  
 25 publication of a leaflet indicating the circumstances

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1 in which blood donations should be avoided."  
 2 So having said "no conclusive evidence", you go  
 3 on to talk about the publication of the leaflet, and  
 4 we explored that in detail yesterday. Would you  
 5 accept however, that's not an actual qualification  
 6 that addresses the question of causal link of proof,  
 7 is it?  
 8 **A.** I'm sorry I'm not quite sure what you mean by that  
 9 question.  
 10 **Q.** Let me try to put it more clearly.  
 11 **A.** Can you.  
 12 **Q.** What I think was said by you in your witness  
 13 statement, and was said on your behalf to the Penrose  
 14 Inquiry --  
 15 **A.** Yes.  
 16 **Q.** -- is that when you look at the various pronouncements  
 17 of "no conclusive proof", there is always something  
 18 else that's said --  
 19 **A.** Yes.  
 20 **Q.** -- that might have shown that nonetheless the  
 21 Department was doing something?  
 22 **A.** Correct.  
 23 **Q.** So we see here, we have the sentence that talks about  
 24 the absence of conclusive evidence, "no conclusive  
 25 evidence", but then the sentence continues:

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1 Department was considering the publication of  
 2 a leaflet at that time, we explored that --  
 3 **A.** Yes, it was, as we discussed at length.  
 4 **Q.** -- in some detail already.  
 5 Then if we go to the second document in  
 6 chronological time, which is the letter to Mr Jenkins,  
 7 DHSC0002231\_036.  
 8 You say in that second paragraph:  
 9 "I think that I should emphasise, firstly, that  
 10 there is no conclusive evidence that AIDS is  
 11 transmitted through blood products."  
 12 Full stop. And I've asked you already about  
 13 that. Then you continue by saying:  
 14 "Nevertheless we are taking all practicable  
 15 measures to reduce all possible risks to recipients of  
 16 blood and blood products. Our scope for action in  
 17 this is limited, as there is no means of testing for  
 18 the presence of AIDS in blood donors or in blood  
 19 products."  
 20 **A.** Yes.  
 21 **Q.** So, again, is it right to understand that you're  
 22 dealing in the first sentence with the issue of causal  
 23 link, and then your second and third sentences are  
 24 a statement of what the Department is or isn't doing?  
 25 **A.** That appears to be correct, yes.

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1 "... the department is considering the  
 2 publication of a leaflet ..."  
 3 **A.** Yes.  
 4 **Q.** It says what it says.  
 5 **A.** Yes.  
 6 **Q.** It refers to the action that you're taking.  
 7 My question to you is simply this: what's  
 8 recorded there as being something the Department is  
 9 considering is not, in itself, any form of express  
 10 qualification to the line to take? You're not saying,  
 11 for example, along Dr Walford --  
 12 **SIR BRIAN LANGSTAFF:** Well, I think it's a question of how  
 13 one reads what is being said but at the moment it  
 14 reads to me -- unless you, sir, have a different view  
 15 of what you meant to say -- but it looks as though  
 16 you're dealing with, first of all, what the evidence  
 17 is, yes or no, to AIDS being transmitted by blood and  
 18 blood products, and secondly, you're talking about  
 19 action that's being taken in any event.  
 20 **A.** Correct. And this was not me using my own words,  
 21 although it was approved by me, because it was the --  
 22 it was the answer to the -- that question which  
 23 appeared in the brief that I was given and I did not  
 24 find any reason to dispute it.  
 25 **MS RICHARDS:** And as a matter of factual reality, the

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1 **Q.** And I've explored with you already yesterday the  
 2 question, not by reference to this expressly, but the  
 3 question of whether there were other measures that  
 4 could have been considered. I'm not going to go back  
 5 over those. We'll come on shortly to consider the  
 6 issue about the pre- and post-March plasma, as --  
 7 whether that was an area where further action could  
 8 have been taken.  
 9 **A.** Yes, thank you.  
 10 **Q.** Then if we go to the third letter in time, the letter  
 11 to Baroness Masham.  
 12 DHSC0002231\_037. Second page, third paragraph.  
 13 We've got that first sentence that we explored before  
 14 the break:  
 15 "There is, in fact, no conclusive proof that  
 16 AIDS could be transmitted by blood, cryoprecipitate or  
 17 Factor VIII concentrates."  
 18 Then you go on to say, and I will be coming back  
 19 to the substantive issue here:  
 20 "While no cryoprecipitate for therapeutic use is  
 21 imported into this country, we are at present  
 22 dependent on imports from the USA for about half our  
 23 requirements of Factor VIII for the treatment of  
 24 haemophilia."  
 25 Then you refer to the issue of whether to ban

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1 the pre-March plasma.  
 2 So again, you've dealt with, is this right --  
 3 and please, if you think there's another way the  
 4 letter should be understood, do correct me -- you deal  
 5 with the question of the causal link in the first  
 6 sentence.  
 7 **A.** Yes.  
 8 **Q.** And then you go on to explain the factual position in  
 9 relation to dependency upon American concentrates, and  
 10 then to explain what the position is in relation to  
 11 the FDA recommendations, and the Department's response  
 12 to them.  
 13 **A.** That's what it looks like, yes.  
 14 **Q.** Then, last of all, if we look at the letter to  
 15 John Maples MP, ARCH0000679 -- ah, I'm asked to draw  
 16 attention -- sorry, Soumik, can we continue with this  
 17 letter? I'm asked to draw attention to the last  
 18 paragraph, which refers to "close touch with the  
 19 Haemophilia Society". It says:  
 20 "Naturally this is a matter of great concern to  
 21 them; but they did not support the cries from some  
 22 quarters to ban the import of Factor VIII because they  
 23 accepted that the possible risks of infection from  
 24 AIDS must be balanced against the obvious risk of not  
 25 having enough Factor VIII."

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1 imports from the USA for an adequate supply:  
 2 "While there is as yet no test for AIDS, such  
 3 imports ... will be subject to new regulations  
 4 initiated by the US Food and Drug Administration,  
 5 designed to exclude donors from high risk groups ..."  
 6 Then it goes on to talk about:  
 7 "... future supplies ... will be manufactured  
 8 from plasma collected in accordance with these  
 9 Regulations, there is still a quantity of stock that  
 10 has been made from 'pre-March' plasma. The FDA has  
 11 recently decided not to ban the use of such stocks  
 12 because to do so would cause a crisis of supply. The  
 13 same considerations apply here."  
 14 Then over the page -- oh, I'm sorry -- no, don't  
 15 worry, I was looking at the wrong document. That's  
 16 fine. Bottom paragraph, sorry:  
 17 "We are of course anxious to minimise the  
 18 possible risk of the transmission of AIDS by blood  
 19 donation ..."  
 20 Then there's reference to the leaflet.  
 21 **A.** Yes.  
 22 **Q.** I've been asked to draw your attention to the  
 23 content -- or those aspects of the content of the  
 24 remainder of the letters. Is there anything in those  
 25 letters that you would wish to flag up which, for

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1 So I think I am being asked to draw attention to  
 2 what could be said to be an acceptance there by you to  
 3 possible risks of infection by AIDS?  
 4 **A.** Yes, that's correct.  
 5 **Q.** Then the last document, the letter to John Maples.  
 6 ARCH0000679 -- thank you, Soumik; you are, as  
 7 ever, ahead of me.  
 8 If we look further down the page -- so we've got  
 9 that first long paragraph which we looked at before  
 10 the break, referring to anxiety, putting matters into  
 11 perspective, cause of AIDS unknown, no conclusive  
 12 proof.  
 13 Then you continue by saying:  
 14 "Nevertheless, I would like to assure your  
 15 continuity that the Government is committed to making  
 16 this country self-sufficient in blood products."  
 17 You go on to refer to the expenditure at BPL,  
 18 the redevelopment under way, and then you go on to  
 19 the -- sorry, just pausing there. The redevelopment  
 20 of BPL was, of course, unrelated to the AIDS crisis,  
 21 because the decision was taken to develop BPL -- or  
 22 redevelop BPL --  
 23 **A.** Way back, yes.  
 24 **Q.** -- before that.  
 25 Then it goes on to talk about dependency on

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1 example, record a view that AIDS is the likely cause  
 2 of blood and blood products? I don't think we see  
 3 that said anywhere but I want to give you an  
 4 opportunity to say anything you wish to about those  
 5 letters.  
 6 **A.** No, I think the letters stand as they are and I've got  
 7 nothing to add to those letters.  
 8 **Q.** Thank you.  
 9 **SIR BRIAN LANGSTAFF:** May I just ask about the use of the  
 10 wording in the last paragraph. What is being  
 11 contrasted, perhaps, for the reader by the draftsman  
 12 of this -- I appreciate it wasn't you --  
 13 **A.** No, it wasn't.  
 14 **SIR BRIAN LANGSTAFF:** -- is the "no conclusive proof" that  
 15 AIDS is transmitted by blood or blood products, and  
 16 then this is said:  
 17 "... the possible risk of the transmission ..."  
 18 And it set me wondering what the word "possible"  
 19 added to the word "risk", because, as a matter of  
 20 fact, as I understand it, on the evidence which we've  
 21 been through, the view of the Department was that the  
 22 *probable* situation was that it was transmissible  
 23 through blood and blood products, whatever the cause  
 24 was, so "possible" seems to be a rather odd word to  
 25 use. Would you like to comment on that, or not?

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1 A. Looking at it now, it does seem there's a contrast  
2 between "probation" and "possible", and quite why it  
3 was written in this way, or quite why I didn't pick it  
4 up at the time, I don't know. I don't think it was  
5 done with any intent. I think it was more drafting  
6 than anything else, and I don't know whether the same  
7 person drafted this letter as drafted some of the  
8 others. So there's a little bit of language that  
9 floats about, perhaps slightly inaccurate --

10 **SIR BRIAN LANGSTAFF:** I don't blame you for this. It's  
11 just it doesn't entirely reflect what we understood  
12 the position of the --

13 A. No --

14 **SIR BRIAN LANGSTAFF:** -- Department to be.

15 A. -- looking at it now, I agree, Sir Brian.

16 **MS RICHARDS:** I want to come on to then to just consider  
17 in a little more, not at great length, this issue  
18 about pre-and post-March plasma. And I think we can  
19 pick it up, in terms of material that you'd have seen,  
20 with the briefing note or background note that you had  
21 asked the Chief Medical Officer for, which you  
22 received -- I think authored by Dr Walford, at  
23 DHSC0002309\_124.

24 We looked at this yesterday, if we can just go to  
25 the third page, we can pick up this particular issue,

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1 Is it right to understand that this will reflect  
2 your state of knowledge as at end of June, early  
3 July 1983, when you received and, you tell us in your  
4 statement, read this paper?

5 A. Exactly. Yes.

6 **Q.** Can you recall any particular discussions that you had  
7 with civil servants, whether administrative or  
8 medical, or in your private office, about this  
9 specific issue, the issue of a concern about the  
10 dumping of pre-March concentrates?

11 A. No, I can't recall any discussions about that.

12 **Q.** Now, we'll look at how it's then reflected in letters  
13 to Baroness Masham and Mr Jenkins in a moment, but can  
14 we just go, first of all, to your witness statement.  
15 And it's, I think, paragraph 37.3. Yes. Page 52.

16 You refer in paragraph 37.1 to the letter to  
17 Mr Jenkins, and then in -- sorry, let me read that  
18 out:

19 "I have been referred to my letter to Mr Jenkins  
20 ... in which I stated that the Government would adopt  
21 the same position as the US Food and Drug  
22 Administration by allowing the continued use of blood  
23 products manufactured from plasma collected prior to  
24 March 1983."

25 Then you say:

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1 under the heading "Haemophiliacs":

2 "It is thought that the greatest risk to  
3 haemophiliacs at present is from the use of  
4 Factor VIII concentrate prepared from American  
5 plasma."

6 Then there is reference to the redevelopment of  
7 BPL and that, until that is done:

8 "... some 50% of the Factor VIII concentrate  
9 needed to treat haemophilia will have to be imported,  
10 mainly from the USA."

11 Then it says this:

12 "In March of this year, the FDA [Food and Drug  
13 Administration] instituted new regulations governing  
14 the selection of plasma donors which were aimed at  
15 excluding, as far as possible, donors in high-risk  
16 groups. The Department's Medicines and Supply  
17 Divisions are endeavouring to ensure that there will  
18 be no 'dumping' of high-risk plasma products on the UK  
19 market and are seeking various assurances from the  
20 manufacturers in relation to the quality of their  
21 products. It is it should be noted that certain  
22 commercial manufacturers are proposing to introduce  
23 heat-treated Factor VIII concentrate. There is no  
24 evidence whatsoever that such material reduces the  
25 risk of transmitting AIDS."

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1 "In response to specific questions ..."

2 At paragraph 37.3:

3 "This was current policy, based on the fact  
4 that, without continued use of pre-March plasma, there  
5 would have been a crisis of supply. I did not have  
6 any personal involvement in formulating this policy.  
7 It appears to have followed from the recommendation of  
8 the [Committee on Safety of Medicines Biological  
9 Sub-Committee] (subsequently endorsed by the CSM)  
10 without being put directly to Ministers for decision  
11 or approval."

12 Before we look at any of the underlying  
13 documents, I think it's pretty clear from your  
14 statement, but I'll just invite you to confirm, that  
15 this question of what to do about pre-March plasma  
16 never came to you for a decision or for approval?

17 **A.** No, I'm certain it didn't. The first that I knew  
18 about the crisis -- the phrase "crisis of supply", in  
19 a sense, has been drawn from the documents, that -- I  
20 may have been told about it at the time, but certainly  
21 from the documents that I've seen since, in CSM and  
22 CSM-B.

23 **Q.** Which, as we established yesterday, you didn't see at  
24 the time?

25 **A.** I didn't see.

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1 Q. And, I should say, the beginning of the top of the  
2 next page, you say in paragraph 37.5:  
3 "There seemed no viable alternative ..."  
4 And that's based upon the information that you  
5 were receiving at the time?  
6 A. That's what I was told.  
7 Q. Now, if we then just look at what was said on this  
8 issue in the correspondence, if we can go, first of  
9 all, to the draft letter to Baroness Masham, it's  
10 DHSC0001405. If we go to the second page and we look  
11 towards the bottom half of the page, I think this is  
12 the point, sir, at which you'd asked if we were going  
13 to come back to this, so I'm coming back to it now.  
14 Sir, we can see there set out:  
15 "... we are at present dependent on imports from  
16 the USA for about half our requirements of Factor VIII  
17 for the treatment of haemophilia. In March this year  
18 the US Food and Drug Administration initiated new  
19 Regulations for the collection of plasma, designed to  
20 exclude donors from high-risk groups. Although future  
21 supplies of Factor VIII both for export and for use in  
22 America will be manufactured from plasma collected in  
23 accordance with these Regulations, there is still  
24 a quantity of stock, some already in the UK and more  
25 in America awaiting shipment here, which has been made

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1 last sentence:  
2 "Meanwhile, we have confirmed with American  
3 manufacturers that future supplies of Factor VIII for  
4 this country will be manufactured only from plasma  
5 collected in accordance with US Food and Drug  
6 Administration regulations introduced in March this  
7 year. These were designed to exclude from plasma  
8 donation, donors from high risk groups."  
9 Did you understand -- I appreciate you weren't  
10 briefed on this and you weren't asked to make  
11 a decision about it, did you understand that before  
12 March, plasma which might have been -- to which --  
13 sorry, to which high-risk groups might have  
14 contributed, had been used as a base material to make  
15 factor concentrate in the US?  
16 A. I'm not sure if it -- I believe I may have been, but  
17 you --  
18 **SIR BRIAN LANGSTAFF:** Well, I can take it more simply,  
19 perhaps, rather than ask you to puzzle over this.  
20 There were two classes of product: pre-March, not as  
21 good as post-March --  
22 A. Correct.  
23 **SIR BRIAN LANGSTAFF:** -- but post-March was safer and  
24 pre-March was less safe?  
25 A. Yes.

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1 from 'pre-March' plasma. The FDA has recently decided  
2 not to ban the use of similar stocks intended for the  
3 USA market because to do so would cause a crisis of  
4 supply. The same considerations apply to the UK  
5 supply position."  
6 Then I don't think the rest of this letter adds  
7 anything further on that particular issue. So it  
8 would appear that, by this time -- and this is sent to  
9 your private office on 26 August 1983 -- you are, as  
10 it were -- you're not being asked to take the decision  
11 or approve the policy, but you are being -- you're  
12 effectively being informed through this draft that  
13 that's the position that's been taken by the  
14 Department; is that right?  
15 A. That is right. I mean, I -- yes, I was being informed  
16 through this draft about that particular step, but  
17 I can't add more to that.  
18 Q. Then --  
19 **SIR BRIAN LANGSTAFF:** Well, just rather than going on in  
20 time, can I just go back a month, because this is to  
21 go back to DHSC0002309\_032. We looked at it earlier,  
22 can we go to the next page, this is something which  
23 was prepared by civil servants with a view to giving  
24 the draft reply which you, in fact, sent on 26 August.  
25 But I just want to ask you about what is said in the

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1 **SIR BRIAN LANGSTAFF:** So in order to ensure that the UK  
2 got the safer product, we've seen -- we saw with  
3 Dr Walford -- that there had been some discussions and  
4 contact, attempted contact, with the pharmaceutical  
5 companies.  
6 A. Yes.  
7 **SIR BRIAN LANGSTAFF:** It was proposed at this stage to  
8 have, you say, on behalf of the Government, that there  
9 had been confirmation from American manufacturers that  
10 future supplies would be manufactured only from  
11 plasma. Now, it doesn't talk about there being a back  
12 stock in the warehouse, which had been made -- the  
13 riskier stuff, if I can put it in those terms --  
14 A. Yes.  
15 **SIR BRIAN LANGSTAFF:** -- which was going to be sent anyway  
16 because it was already assigned to the UK, if this  
17 draft had been sent out, it would have had completely  
18 the wrong picture, would it not?  
19 A. I think I'd really have to analyse that a bit more  
20 closely. I mean, I know who prepared the draft --  
21 **SIR BRIAN LANGSTAFF:** I'm putting words in your mouth, but  
22 looking at --  
23 A. Looking at it now it does look as though there could  
24 be a conflict, I appreciate that now.  
25 **SIR BRIAN LANGSTAFF:** Yes, and by the time you get to the

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1 letter which is actually sent out, there's a change,  
2 and the letter quite rightly says: well, there is  
3 stuff in the pipeline, which --

4 **A.** Yes.

5 **SIR BRIAN LANGSTAFF:** -- is made from the riskier  
6 material, which is going to come. Did you ever see  
7 this particular draft, these particular notes? Do you  
8 remember?

9 **A.** I don't think I ... did. It was a contribution to it  
10 and I can't remember what the rest of it was.  
11 I couldn't recall whether I saw it. It was very  
12 unlikely that I did see a draft.

13 **SIR BRIAN LANGSTAFF:** I suppose if you had seen it, you  
14 would have contrasted that with what you were then  
15 being asked to say in August --

16 **A.** Yes.

17 **SIR BRIAN LANGSTAFF:** -- and then said: how come these  
18 assurances no longer hold water?

19 **A.** I think that is very possible, Sir Brian. I was  
20 taking quite a lot of trouble over this letter to Lady  
21 Masham because the first -- I think I'm right in  
22 saying that the first reply that I was given to send  
23 did not include various elements. One particular one  
24 was the question of cryoprecipitate, which I asked  
25 officials to go back and look at again and make sure

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1 that the letter was complete. So I probably wouldn't  
2 have seen this, but I'd have seen a final version  
3 which was unsatisfactory, which I asked to be  
4 modified, and we've now seen that the suggestions  
5 there, not just in relation to this but also in  
6 relation to "no conclusive proof but", which was  
7 eventually missed out on the advice of an official,  
8 and I was given the draft that was eventually signed  
9 by me, and sent off.

10 So yes, I wouldn't have seen -- I don't believe  
11 I'd have seen this particular draft.

12 **SIR BRIAN LANGSTAFF:** Yes. So what I'm to take from this,  
13 is it, that in the Department they were proposing that  
14 you should say something which may not have been  
15 accurate, it was reviewed and you were given  
16 an accurate draft to send, a more accurate draft?

17 **A.** I suppose that is the case, but I could certainly not  
18 be absolutely certain because I wasn't involved in the  
19 mechanism of decision making at that level of  
20 providing the draft.

21 **SIR BRIAN LANGSTAFF:** Yes, I see. That's very helpful.  
22 Thank you.

23 **MS RICHARDS:** Having made clear, as you do in your witness  
24 statement, and there's no documentary evidence to  
25 suggest that you're wrong in that regard, that you had

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1 no personal involvement in developing this policy and  
2 that it appears not to have been put to Ministers for  
3 approval, do you have any concerns about that now,  
4 that this issue, was not put with a briefing paper  
5 setting out pros and cons, for example, for Ministers  
6 to decide?

7 **A.** Yes, on reflection, I do. And I don't understand why  
8 concern wasn't raised through the medical and clinical  
9 chain, up towards the CMO, and the CMO being alerted  
10 to say, you know, "This, amongst other things" --  
11 these are issues which are of sufficient interest and  
12 concern, Ministers ought, at least, to be aware and  
13 then able to discuss what, if anything, could be done  
14 about it. But I don't believe that ever happened.

15 **Q.** We did explore in more detail with Dr Walford, who was  
16 more closely involved with some aspects of it at  
17 least --

18 **A.** Yes.

19 **Q.** -- some of the toing and froing with manufacturers,  
20 and so on --

21 **A.** Yes.

22 **Q.** -- to obtain information. There's no evidence that  
23 any of that came to your attention, so I'm not going  
24 to seek to explore that with you. Can I then pick it  
25 up, rather than do it by reference to the letter to

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1 Baroness Masham, I'm just going to do it by reference  
2 to the letter to Mr Jenkins, although I don't think  
3 there's any great difference between the two, in terms  
4 of substance.

5 DHSC0002231\_036. We'll see, if we now look at  
6 the paragraph at the bottom of the page, having  
7 referred to the FDA, I, think what is consistently  
8 described as regulations, and then -- it's then  
9 recorded as:

10 "... still a quantity of stock, some already in  
11 this country and more in America awaiting shipment  
12 here, which has been made from 'pre-March' plasma."  
13 So you would have become aware, whether seeing  
14 the draft from Baroness Masham or the draft from  
15 Mr Jenkins, that, as a matter of fact, pre-March  
16 plasma was going to be used in the United Kingdom --

17 **A.** Yes.

18 **Q.** -- or concentrates made from pre-March plasma,  
19 I should say, to be more accurate. Then it says:  
20 "The FDA has recently decided not to ban the use  
21 of similar stocks intended for the USA market because  
22 to do so would cause a crisis of supply. Obviously  
23 the same considerations apply here."  
24 Then it goes on to talk about the balance of  
25 risks and, in fairness, I should say you then set out

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1 your view that you think the decision to carry on  
 2 using the current stock is justified and you make  
 3 reference to manufacturers' own precautions.  
 4 You described for us the process that you get  
 5 the draft and if you agreed with it you would sign it  
 6 and send it out. Do you think you probed civil  
 7 servants at all as to whether there was really --  
 8 whether it was true or correct that the same  
 9 considerations applied here? Or asked to have details  
 10 of what reassurances there might be from the  
 11 manufacturers about their own safety regimes? Or do  
 12 you think you just assumed that the advice being given  
 13 to you was the right advice?

14 **A.** I had to take on trust what was being provided to me  
 15 by way of documentation, a letter in this particular  
 16 case. I think we were all heavily reliant on accurate  
 17 drafting of letters replying to constituents, or other  
 18 people in this case, ASTMS, so I don't think  
 19 I probably did query it. But I think, in hindsight,  
 20 with more familiarity with it all, because I've read  
 21 more documentation over the last few months than I was  
 22 aware of at the time, in the Department, it probably  
 23 ought to have been brought to Ministers' attention, we  
 24 are going to have to use stuff which was "dodgier" --  
 25 if you put it, you know, in inverted commas -- than

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1 I saw it and as I'd been briefed by officials, and so  
 2 I didn't dissect this particular letter, pull it to  
 3 pieces and ask for a redraft and ask all the questions  
 4 that are now being put to me about, you know,  
 5 suggesting that I should have done. But this was  
 6 prepared in that way. I mean it seemed to me then, as  
 7 it does now, that it was reasonable to continue to  
 8 use, because we had to, pre-March material from the  
 9 States.

10 **SIR BRIAN LANGSTAFF:** I'm not really asking about that.  
 11 I'm just asking about, as it were, the draftsman,  
 12 thinking it appropriate to put in, in your mouth --  
 13 and I know you looked at the letter and approved it,  
 14 but you did so partially on trust -- saying, "We're  
 15 doing everything we possibly can" and then saying,  
 16 "Well, actually, we're not in this respect because  
 17 we're having to accept 'dodgier stuff' because there's  
 18 no alternative".

19 **A.** Yes, that's correct.

20 **MS RICHARDS:** If we just look at the Biological  
 21 Sub-Committee's decision of 13 July again,  
 22 ARCH0001710. This is the minutes of the meeting on  
 23 13 July and if we go to paragraph 3, paragraph 5.5.  
 24 This is how the Biological Sub-Committee dealt with  
 25 this pre/post-March plasma issue:

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1 the post-March stuff because, otherwise, we're not  
 2 going to have sufficient of this "risky but less risky  
 3 than no Factor VIII at all" to treat patients with,  
 4 which is what the United States have continued to do  
 5 themselves.

6 **Q.** We established yesterday, I know, that you didn't see  
 7 the decision of the Biological Sub-Committee on the  
 8 Committee on the Safety of Medicines, but if we just  
 9 look at ARCH001 --

10 **SIR BRIAN LANGSTAFF:** Just before we do that, I just  
 11 caught the top line on the screen. Can we just scroll  
 12 down a little bit to see what else -- yes, it's that  
 13 second sentence of the second paragraph:

14 "... we are taking all practicable measures to  
 15 reduce any possible risks to recipients ..."

16 Then, of course, you go on to describe in very  
 17 clear terms how you are actually taking "dodgier  
 18 stuff" because of the circumstances you expressed.

19 **A.** Yes.

20 **SIR BRIAN LANGSTAFF:** Is there any tension between those  
 21 two, between the principle that you're expressing and  
 22 what you say later? It may put a very heavy weight on  
 23 what's practicable, perhaps.

24 **A.** I suppose I can conceive of a tension but that did not  
 25 occur to me at the time. I was relating the facts as

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1 "It is advisable that all clotting-factor  
 2 concentrates derived from US plasma sources and  
 3 intended for use in the UK be prepared only from  
 4 material manufactured from plasma collected after new  
 5 regulations were introduced by the FDA on  
 6 March 23rd 1983. These regulations were introduced  
 7 specifically to minimise the likelihood of collecting  
 8 blood from affected donors. This step is recommended  
 9 notwithstanding the possibility that its practical  
 10 value may be relatively small. It cannot, however, be  
 11 taken until supplies of post-March 23rd material can  
 12 be assured. It is recommended that close contact is  
 13 maintained between the Licensing Authority and  
 14 Supplies Division with the aim of introducing this  
 15 step immediately it becomes feasible."

16 Now, of course, it may be argued by those  
 17 involved that it never became feasible, and that may  
 18 be a matter that Sir Brian has to resolve, but we can  
 19 see here that the recommendation of the Sub-Committee,  
 20 the primary recommendation, was not to use  
 21 concentrates manufactured from pre-March plasma,  
 22 albeit they recognised -- or thought, I should say --  
 23 that that step couldn't actually be implemented until  
 24 it was -- there was sufficient post-March supplies.

25 So there's a recommendation that that should be

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1 the primary position, the recommendation that there  
2 should be close contact between of the Licensing  
3 Authority and Supplies Division, with the aim of  
4 introducing this step immediately it becomes feasible.

5 Had you seen that -- and we know you didn't --  
6 had you seen that, however, do you think it would be  
7 more likely that you would have wanted to probe, test,  
8 challenge officials as to whether the position  
9 articulated in your letters to Baroness Masham and  
10 Mr Jenkins really were the only course left to you?

11 **A.** I think it's very likely that that would be the case.  
12 But I didn't see it.

13 **Q.** No, you didn't.

14 Can I move, then, to a separate issue, which is  
15 the issue of the introduction of a screening test for  
16 donations --

17 **A.** Yes.

18 **Q.** -- in which you had some involvement, but the issue  
19 really then continued after you'd moved post --

20 **A.** Correct.

21 **Q.** -- in March 1985, so I'm not going to seek to  
22 establish the full story through you because you only  
23 had an involvement for a period of time.

24 If we just pick it up at DHSC0000443, please.

25 This is a briefing note dated 31 August 1984.

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1 submission that a blood test for AIDS antibody is  
2 under development at the Middlesex Hospital and the  
3 Institute of Cancer Research. This background note  
4 provides further briefing to cover publication in The  
5 Lancet of a paper on the results of the use of this  
6 blood screening test. The title of the Guardian  
7 article and the unqualified statement that the  
8 HTLV-III virus 'is the cause of AIDS and PGL' is  
9 misleading. The study does confirm that antibody to  
10 AIDS is prevalent in the homosexual community ...",  
11 et cetera.

12 Then, under the heading "The Test", we can see:

13 "Reference to research workers have developed  
14 a test which detects, in the serum of AIDS patients  
15 and others, antibody to the ... (HTLV-III) ..."

16 Then it goes on to talk about how that has been  
17 based upon isolates obtained from Dr Gallo's  
18 laboratory in the States, and further down it refers  
19 to the work being done by Dr Weiss and Dr Tedder.

20 So I think it's right to understand, if we look  
21 over the last page of this document, if we look at the  
22 heading "Conclusion" -- sorry, you're not being asked  
23 here to take a decision; this is being provided to you  
24 for information. Is that right?

25 **A.** That's what it appears, yes.

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1 We can see it comes to Mr Joyce in your private  
2 office, and it says:

3 "The Briefing Note opposite has been prepared in  
4 collaboration with Dr Smithies ... in response to the  
5 publication of the article ... in The Lancet dated  
6 tomorrow. As The Guardian ran an item based on that  
7 article in today's paper, Dr Harris considers that  
8 Lord Glenarthur should have this available as soon as  
9 possible."

10 So it would seem as though the trigger for  
11 information being passed directly to you on this  
12 occasion is press publicity, and you've explained that  
13 that's one of the circumstances in which ministers  
14 might become involved.

15 **A.** Yes.

16 **Q.** Then, if we go over the page, we can see it talks  
17 about to -- or it's headed:

18 "Publication of a paper in 'The Lancet' (1  
19 September) in 'The Guardian' (31 August) on the use of  
20 a screening test for AIDS devised by teams at the  
21 Institute of Cancer Research at the  
22 Middlesex Hospital."

23 I don't think we need to look at it in detail,  
24 probably just a summary.

25 "Ministers are aware from the AIDS leaflet

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1 **Q.** So it doesn't have, as we see in the submissions -- or  
2 briefings that that -- or, asking you to take  
3 a decision, what that decision is --

4 **A.** Yes.

5 **Q.** -- you're essentially being updated as to this  
6 development because of the publicity.

7 If we then go to DHSC0002309\_052. I'm not going  
8 to go through this in any great deal, but we can see  
9 it's the notes of a meeting on 13 November 1984 at  
10 which MS(H), so Mr Clarke, is present but you're not.  
11 The heading of the meeting is "to discuss HCHS  
12 reserves", and I understand that to be an abbreviation  
13 for Hospital and Community Health Services reserves.

14 **A.** Yes.

15 **Q.** So it's a discussion about the allocation of financial  
16 resources?

17 **A.** Yes.

18 **Q.** And I think your statement tells us that that's, no  
19 doubt, why Mr Clarke was involved rather than you?

20 **A.** That's correct. I don't know if this minute was  
21 copied to me.

22 **Q.** Without checking, I don't think I know the answer to  
23 that either.

24 If we go to the second page, and just the reason  
25 for showing this, if we look, paragraph 4 at the top

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1 of the page, (v), we can see there the reference to  
 2 "AIDS Tests", and the comment:  
 3 "Hypothetical. Additionally, should be  
 4 expenditure for regions, not Central Pre-emption."  
 5 "I'll ask Mr Clarke about that not you.  
 6 **A.** Yes.  
 7 **Q.** But we can see, in terms of the chronological  
 8 narrative of events, there's a meeting in November  
 9 discussing central funding at which the possibility of  
 10 funding for AIDS tests is discussed in the abbreviated  
 11 terms we see here.  
 12 **A.** Yes.  
 13 **Q.** You say in your witness statement that these types of  
 14 financial issues were inevitably handled by the  
 15 Minister of State, by Mr Clarke --  
 16 **A.** Yes.  
 17 **Q.** -- rather than by you or Mr Patten.  
 18 **A.** Yes.  
 19 **Q.** If we then go to DHSC0002309\_116, we've got a minute  
 20 from your private office, 15 November 1984, to  
 21 Mr Williams:  
 22 "Lord Glenarthur has queried whether we are now  
 23 screening all blood for AIDS. If we are not he would  
 24 like to know when we will be able to and if there are  
 25 any problems associated with such an idea if the

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1 Central Reserves would be inappropriate. Again, that  
 2 will be an issue for Mr Clarke, not you.  
 3 But you're given this update, effectively --  
 4 **A.** Yes.  
 5 **Q.** -- on 26 November, but not at a stage yet at which  
 6 you're being asked to take a decision?  
 7 **A.** That's correct.  
 8 **Q.** Then if we just follow it through to a draft  
 9 submission, then, in January of 1985.  
 10 DHSC0000562.  
 11 Now this is a draft from Dr Smithies dated  
 12 11 January 1985, headed "Screening blood donations for  
 13 AIDS antibodies":  
 14 "CMO ..."  
 15 That's the Chief Medical Officer, who by now is,  
 16 I think, Dr Donald Acheson:  
 17 "... wished to consider this submission prepared  
 18 with administrative colleagues for Ministers to obtain  
 19 approval in principle for the introduction of  
 20 a screening test for AIDS antibodies in the National  
 21 Blood Transfusion Service."  
 22 And if we look at the list of those who received  
 23 this, down the bottom of the page, could you just --  
 24 I don't identify from that any of the names  
 25 I recognise from your private office. But I might be

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1 technology exists.  
 2 "I would be grateful for a short note by  
 3 29 November."  
 4 So you're trying to find out what progress is  
 5 being made and what the current state of affairs is?  
 6 **A.** Yes, I am just trying to enquire what was going on,  
 7 where it had got to.  
 8 **Q.** Then we can see the response is at DHSC0000436.  
 9 26 November 1984, Mr Williams to Mr Joyce. So this is  
 10 clearly a response to the minute we just looked at.  
 11 We can see that in the first line, where it records:  
 12 "PS(L) [that's you] asked for an update ..."  
 13 Next paragraph explains that:  
 14 "The [Transfusion Service] is not yet screening  
 15 blood for evidence of an AIDS infection."  
 16 There is reference to the test having been  
 17 developed and will be in use in a pilot trial, and  
 18 then reference to:  
 19 "... arrangements ... being made with industry  
 20 to scale up production of test reagents so that  
 21 a British test is widely available for use as soon as  
 22 possible."  
 23 Then there's a question of what the cost of that  
 24 might be, and we can see in brackets a reference to  
 25 Mr Clarke, MS(H), having decided that allocation from

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1 wrong. Does that include your private office --  
 2 **A.** No, none of my private office are copied into this.  
 3 **Q.** And it may be it's because it was a draft submission  
 4 being shown to the CMO for approval quite possibly?  
 5 **A.** Yes, and I don't think it also includes either  
 6 Mr Clarke's private secretaries or indeed Mr Patten's.  
 7 **Q.** Then if we go over the page -- and, sir, I think this  
 8 is probably something I will deal with in more detail  
 9 with Lord Clarke next week, but we can see from the  
 10 summary of this draft submission:  
 11 "This submission describes the public health  
 12 problem that the spread of AIDS presents and the need  
 13 to reduce as far as possible the risk of its  
 14 transmission by blood and blood products. It seeks  
 15 Ministers agreement in principle to the introduction  
 16 of a test to screen all blood donations for evidence  
 17 of infection with the AIDS virus."  
 18 If we go then to page 4, we'll see there what's  
 19 set out is the decision that's required, and the last  
 20 paragraph:  
 21 "Ministers are asked to agree in principle to  
 22 the introduction of a screening test ... and to  
 23 an announcement made to this effect at the appropriate  
 24 moment ..."  
 25 As I understand the statement, and indeed as

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1 I understand the state of the documents, this is the  
 2 draft submission. The final submission, which was  
 3 dated 15 January, is another one of those documents  
 4 that can't be located, which is why I bothered going  
 5 to the draft submission.

6 **A.** Yes.

7 **Q.** Sir, I should say this isn't a matter which  
 8 Lord Glenarthur would have any knowledge of. We think  
 9 we might have found a copy of -- or found what  
 10 happened to the final submission through some Welsh  
 11 Office papers, and it looks as though there's no real  
 12 material difference between the draft submission and  
 13 the final submission but, if necessary, we can try to  
 14 resolve that before Mr Clarke gives evidence --  
 15 Lord Clarke gives evidence next week.

16 If we go very briefly to DHSC0002482\_012, we've  
 17 got a minute from Mr Clarke dated 22 January 1985.  
 18 And I'm looking at this with you very briefly because  
 19 it's really a document for Mr Clarke. We can see it  
 20 says:

21 "Thank you for your submission of 15 January."  
 22 So I think this is how we assume the date of the  
 23 final submission is 15 January.

24 **A.** Yes.

25 **Q.** If we go to the bottom of the page, I just want to

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1 look at the underlying documents really with  
 2 Lord Clarke rather than you, if we can pick it up most  
 3 usefully with your witness statement -- if we can have  
 4 Lord Glenarthur's witness statement back on the  
 5 screen, please, Soumik -- and it's page 71 of your  
 6 witness statement.

7 **A.** Page 71, yes.

8 **Q.** Paragraph 59.1. You say there:

9 "I have been asked to describe my role in the  
 10 further decisions concerning the introduction of  
 11 a screening test ..."

12 **A.** Yes.

13 **Q.** Then you refer to some of the documents I briefly have  
 14 taken you through, just to try to get the chronology  
 15 understood. You then, further down, in paragraph  
 16 (iii), you refer to Mr Clarke's position and response  
 17 from the Chief Medical Officer and so on. As I say,  
 18 we'll look at all that next week.

19 If we go over the page, you refer in (v) to  
 20 Mr Clarke's press release, and then you describe your  
 21 own recollection and paragraph 59.2:

22 "With regard [to] the introduction of the  
 23 screening test, I believe that I was kept aware of all  
 24 developments, but I notice that many of these  
 25 documents were not copied to me;

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1 look at the list of those who are copied in. We can  
 2 see Mr Joyce there.

3 **A.** Yes.

4 **Q.** So it would appear, and I think this is the  
 5 reconstruction exercise you do in your own statement,  
 6 probable that the final submission was copied to you  
 7 as well as to Mr Clarke?

8 **A.** Yes, it would have been, I'm certain.

9 **Q.** Again, there are then various documents one can trace  
 10 through which lead to, I think, a press announcement  
 11 by Mr Clarke in the second half of February. It tends  
 12 to suggest that the ministerial lead on this issue was  
 13 taken by Mr Clarke. Is that your recollection? Do  
 14 you recall having any detailed involvement with  
 15 considering this issue?

16 **A.** Clearly he had strong views, and he also had  
 17 a concern, which was expressed in the bottom:

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

20 And I think I responded to that, saying that  
 21 we -- or I had at some point suggested that we needed  
 22 both. We needed to know what was suggested in this  
 23 minute, this submission, and indeed, you know, what  
 24 was causing it, and how to treat it.

25 **Q.** And if we then pick it up, as I say, because I want to

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1 "(ii) If I did make any decisions on these  
 2 issues, none seem to have been recorded and decisions  
 3 on funding would have been handled by the Minister of  
 4 State."

5 **A.** Mm.

6 **Q.** "(iii) I cannot now recall whether I had a role in  
 7 deciding which tests should be used in the UK, or  
 8 when. I doubt that I did."

9 **A.** Yeah.

10 **Q.** Then you refer to Mr Clarke's announcement.  
 11 Then, paragraph 60.1, you say:  
 12 "It appears from the contents and distribution  
 13 lists of the documents listed above that my role in  
 14 respect of decisions on the donor screening test was  
 15 limited."  
 16 "60.2 It is difficult to say why this was so.  
 17 But it may have been due to my work other work in DHSS  
 18 taking pre-eminence ..."

19 Then you explain other various commitments you  
 20 had. Then, bottom of the page, you say:  
 21 "I have been asked whether I agree with the  
 22 policy in respect of donor screening that was pursued.  
 23 The answer is yes. With regard to funding (and  
 24 whether it would be centrally-provided or a matter for  
 25 regional budget to cover), funding was largely left to

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1 the Minister of State for Health to deal with."  
 2 **A.** Yes.  
 3 **Q.** So that's really the limit of your involvement with  
 4 the issue of the introduction of screening tests, is  
 5 it?  
 6 **A.** Yes, it is. That's correct.  
 7 **Q.** Can I then, just briefly, pick up the issue about  
 8 heat-treated products. Again, it might be quickest to  
 9 do it by reference to your witness statement because  
 10 I think your role, again, was relatively limited.  
 11 Can we go to the next page, Soumik, it's  
 12 page 73, Lord Glenarthur. I think we can pick it up  
 13 at the bottom of the page, where you say:  
 14 "I have been asked what role, if any, I played  
 15 in respect of the following ..."  
 16 And we go over the page, to the top of page 74:  
 17 "a. Decisions relating to the prioritisation  
 18 and/or development of heat-treated Factor VIII by  
 19 [BPL], and/or the Protein Fractionation Centre.  
 20 "b. Decisions relating to the  
 21 licensing/regulation and use of imported heat treated  
 22 blood products by NHS parents (including by allowing  
 23 the use of unlicensed heat-treated products on  
 24 a named-patient basis)."  
 25 Then you explain in the next paragraph:

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1 concerns the heat-treatment of blood products used by  
 2 people with haemophilia. We note that Dr Lane has  
 3 stated publicly that he expects the Elstree products  
 4 to be heat-treated from April 1985."  
 5 Then in subparagraph (a) the Reverend Tanner  
 6 welcomes that but says that:  
 7 "... leaves a gap between now and April 1985."  
 8 Then at paragraph (c):  
 9 "We therefore urge that heat-treated commercial  
 10 concentrates be introduced forthwith."  
 11 I don't know if I need to refer you to any other  
 12 ... just one further part of this letter I'll refer  
 13 you to, if we go to the next page. If we look at  
 14 paragraph 3, just picking up on the issue we were just  
 15 exploring Lord Glenarthur, screening. We can see the  
 16 Reverend Tanner saying:  
 17 "... we very simply urge the most speedy  
 18 possible progress on this topic. We understand that  
 19 the test is in an advanced state of development and  
 20 would ask that no financial constraints impede its  
 21 progress to the stage of implementation."  
 22 So you'd have been aware of The Haemophilia  
 23 Society's view in relation to screening tests from  
 24 this.  
 25 **A.** Yes, I would have been and so would the officials who

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1 "In relation to both of these, I do not recall  
 2 being specifically involved. These were both  
 3 technical areas being addressed, in essence, by  
 4 clinical experts. I believe that advancement in this  
 5 field would have been left to expert bodies. I would  
 6 have expected to be informed of any issues in  
 7 respect of which Ministerial decision or intervention  
 8 would have assisted."  
 9 And it doesn't look as though you were asked to  
 10 make any particular decision or approve any particular  
 11 policy or any funding in this regard.  
 12 **A.** No, apparently not.  
 13 **Q.** There was, however, an exchange with The Haemophilia  
 14 Society on an aspect of heat treatment. So if we just  
 15 look at that and the further meeting you had with the  
 16 Haemophilia Society, so if we go to DHSC0002251\_016.  
 17 We can see this is a letter dated 28 November 1984,  
 18 it's from the Reverend Tanner, chair of the  
 19 Haemophilia Society. It says:  
 20 "[I'm] most grateful to you for agreeing to meet  
 21 us on Friday, December 7 ...  
 22 "We list below the points which we wish to  
 23 discuss with you in relation to AIDS and haemophilia."  
 24 Then the first is this:  
 25 "The principle point which we wish to emphasise

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1 no doubt attended the meeting with me.  
 2 **Q.** So if we then come to the meeting on 7 December 1984,  
 3 again, I don't think there's any record of that  
 4 meeting, as I understand the position. Do you have  
 5 any recollection of it, the second meeting?  
 6 **A.** I don't have as much recollection of that meeting as  
 7 I do of the first meeting, which was in 1983, if  
 8 I recall, no. And invariably, notes were taken by  
 9 officials as a memo of what had taken place, and would  
 10 have been placed on record -- what had been said, the  
 11 balance of discussion at that meeting. Why it's not  
 12 available now I simply have no idea.  
 13 **Q.** We can see, then, how you -- it was -- sorry, before  
 14 we look at the letter. Do you have any recollection  
 15 of the mood of the meeting or the issues that were  
 16 being raised at the meeting?  
 17 **A.** Not now, no.  
 18 **Q.** Then, if we pick up the letter you wrote to the  
 19 Reverend Tanner after the meeting, we can at least get  
 20 a sense of some of the topics that might have been  
 21 discussed. DHSC0002249\_015. So this is from you,  
 22 12 November 1984, to the Reverend Tanner, and you say:  
 23 "When we met on 7 December, I promised to write  
 24 to you confirming some of the points I made at the  
 25 meeting."

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1 You say that you appreciate and share your  
2 concern about the risks of AIDS to haemophilia --  
3 **A.** Mm-hm.  
4 **Q.** -- and refer to progress since the previous meeting.  
5 Then I just want to pick up what's said about  
6 heat-treated products. You say this:  
7 "One of your main concerns was about the  
8 introduction of commercial heat-treated Factor VIII.  
9 I said that evidence of the efficacy of heat treatment  
10 in reducing the risk of transmission of AIDS has  
11 emerged only recently. The decision has been taken at  
12 [BPL] to heat treat their product commencing in April  
13 next and existing commercial product licence-holders  
14 have been asked to make early application for  
15 variations in their licences to allow introduction of  
16 heat-treated products."  
17 **A.** Mm-hm.  
18 **Q.** "I sounded a note of caution, however, that the  
19 regulatory authorities would need to be satisfied that  
20 any proposed heat-treatment process was not only  
21 efficacious but also did not introduce new toxic  
22 risks. In the meantime, practitioners have discretion  
23 to prescribe unlicensed heat-treated Factor VIII  
24 concentrates on a named patient basis only. The  
25 choice of treatment is of course a matter for the

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1 Society, if we go to DHSC0000684, this is a press  
2 release from The Haemophilia Society, and the context  
3 of it you'll see from that passage at the bottom of  
4 the page:  
5 "This PRESS RELEASE, issued subsequent to the  
6 announcement that Scottish Factor VIII had been shown  
7 to be contaminated with HTLV-III virus, is embargoed  
8 until [1 minute past midnight] on 20 December 1984."  
9 Just pausing there, Lord Glenarthur, this is  
10 an issue the Inquiry has heard a lot of evidence about  
11 from the clinicians involved and the individuals  
12 involved. Do you recall it coming to your attention,  
13 as the Minister responsible for blood and blood  
14 products in England and Wales, that it had been learnt  
15 that a number of individuals in Scotland had been  
16 infected with NHS Factor VIII, Scottish produced NHS  
17 Factor VIII? Do you recall learning that?  
18 **A.** No, I don't recall learning that. I don't remember  
19 anything about it, and I don't believe I've seen  
20 anything in writing other than what's referred to  
21 here, to suggest it. I certainly can't remember it  
22 now.  
23 **Q.** Because it would indicate that certainly in Scotland,  
24 AIDS had penetrated the domestic blood supply, which  
25 would have been a cause for concern presumably for the

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1 judgment of the clinician responsible for the patient.  
2 The cost will be borne by Health Authorities in the  
3 normal way. The Department has not to date been  
4 informed of any problems on this score."  
5 Then it goes on to talk about various other  
6 matters including the redevelopment of BPL. So,  
7 again, I -- it's a question of reconstruction from the  
8 letter rather than --  
9 **A.** Yes.  
10 **Q.** -- necessarily expecting you to be able to recall the  
11 detail, Lord Glenarthur. But would it be right to  
12 understand this as saying, in relation to commercial  
13 heat-treated concentrates, that was going to be left  
14 to clinicians to decide, and the funding would have to  
15 come from the regional Health Authorities out of their  
16 budgets?  
17 **A.** Well, that's what it looks like, yes. But any  
18 commercially heat-treated product would require  
19 approval of the necessary regulatory authorities.  
20 **Q.** Yes, and I'm not going to ask you to deal with what  
21 process of licensing of the heat-treated products  
22 might have been undergone because you don't -- you  
23 wouldn't have had any involvement in that.  
24 Then just, as it were, to conclude this issue in  
25 terms of the 1984 interactions with the Haemophilia

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1 safety of the domestic blood supply in England and  
2 Wales. So you're absolutely right -- I'm not aware of  
3 any particular documentation drawing it to your  
4 attention --  
5 **A.** No.  
6 **Q.** -- other than possibly through this press release, but  
7 is it the kind of issue that, you would say, should  
8 have been brought to your attention? It may or may  
9 not have been, as a matter of fact.  
10 **A.** Yes, it would have been helpful to be aware. But it  
11 wasn't brought to my attention, and I don't know to  
12 the extent to which it was brought to the attention of  
13 officials either. I just don't know the answer.  
14 **Q.** We can, no doubt, explore that with other witnesses.  
15 **A.** Yes.  
16 **Q.** Because I don't think you're likely to be able to  
17 assist us with how the Department of Health became  
18 involved. I mean, certainly there's evidence of  
19 Dr Smithies having some knowledge of what was going  
20 on.  
21 If we just go over the page, then, just picking  
22 up one of the issues of concern to the Haemophilia  
23 Society. If we just go closer in. Second paragraph  
24 picks up on the issue that it seems The Haemophilia  
25 Society had been pressing at the meeting of

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1 7 December:  
 2 "This underlines the very great urgency attached  
 3 to the immediate introduction of heat-treated  
 4 concentrates which The Haemophilia Society has been  
 5 pressing for since early November.  
 6 "We are disappointed that there appears to be a  
 7 lack of urgency in the attitude of both the Department  
 8 and some of those who treat people with haemophilia  
 9 which means that heat-treated concentrates are only  
 10 available to a limited number of patients."  
 11 Then it says in the next paragraph:  
 12 "While we remain of the opinion that treatment  
 13 by prescribed medication is that first priority for  
 14 anyone with haemophilia, based on the firm conviction  
 15 that haemophilia, itself, is more dangerous than AIDS,  
 16 in the light of the recent development of heat-treated  
 17 product, we urge our members to press for these  
 18 concentrates at the earliest possible moment. We know  
 19 that supplies can be imported very quickly, given the  
 20 willingness of the doctors and their regional  
 21 financiers.  
 22 "The Society met with Lord Glenarthur recently  
 23 to discuss, among other matters, the provision of  
 24 heat-treatment. Our understanding is that additional  
 25 funding could be made available to any region which

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1 taken by the Department or anything which came to your  
 2 knowledge about the best way to respond to that issue?  
 3 **A.** Not now, I don't. But I was aware that this was, if  
 4 you like, a recent -- a newish discovery that it was  
 5 possible to heat treat without doing the damage that  
 6 was suspected before and, naturally, there was a great  
 7 deal of caution amongst clinicians to make sure that  
 8 there were no adverse effects from heat treatment, and  
 9 that would require the necessary regulatory approval.  
 10 I wasn't aware -- oh, I can't remember when I first  
 11 came across the "named patient" basis, which I think  
 12 I've heard of since, which allows doctors under  
 13 certain strict criteria to do stuff which has not  
 14 necessarily received final approval from the  
 15 regulatory authorities.  
 16 **Q.** I was just checking your statement, Lord Glenarthur,  
 17 to see if there was any further document that casts  
 18 any further light on that issue, in terms of your own  
 19 involvement, but I don't think there is.  
 20 **A.** No.  
 21 **Q.** Then I think there was a suggestion by Professor Bloom  
 22 of a meeting with you. So if we turn to MPNI0000037,  
 23 it's a letter from Professor Bloom, chair of the UK  
 24 Haemophilia Centre and Reference Centre Directors,  
 25 dated 4 February 1985, and I don't propose to go

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1 faces problems over meeting the additional cost  
 2 involved. The Society has also identified problems,  
 3 in the longer term, over the supply of plasma to  
 4 ensure self-sufficiency of blood products in the  
 5 United Kingdom."

6 Then there's a discussion about the possibility  
 7 of a plasmapheresis programme and issues about the  
 8 capacity of BPL, which I'm not going to ask you to  
 9 comment on.

10 Then the next paragraph says:

11 "As the representatives of over 5,000  
 12 haemophiliacs in the [UK] we are not dissuaded from  
 13 our ... view by statements that heat-treated  
 14 concentrates should be further scientifically  
 15 evaluated before they are introduced on a wider scale  
 16 than that on which they are currently available (viz  
 17 'named patient' basis). We believe that, apart from  
 18 haemophilia itself, there is at the present time no  
 19 risk greater than AIDS."

20 So The Haemophilia Society there appears to be  
 21 expressing a degree of disappointment over what's said  
 22 to be the attitude of the Department and some treating  
 23 clinicians which means that heat-treated concentrates  
 24 are only available to a limited number of patients.

25 Do you know if there was any particular action

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1 through it in detail. He writes to you to ask if you  
 2 think:

3 "... it might be worthwhile our meeting with you  
 4 or a member of your staff in the near future. We feel  
 5 it may be advantageous to discuss the impact of [AIDS]  
 6 on the management of haemophilia and related  
 7 disorders. The rapid changes that are resulting have  
 8 already caused someone difficulties and the  
 9 indications are that these will increase. The  
 10 problems are not purely clinical. Equally important  
 11 are those that arise with regard to health and safety  
 12 of staff, members of patients' families and the  
 13 general public."

14 Then it continues in more detail.

15 The reason I'm not going to ask you about that  
 16 in more detail, Lord Glenarthur, is that, as I  
 17 understand it, there was an agreement in principle by  
 18 the Department of a meeting between the Minister and  
 19 representatives of UKHCDO, but then you left office  
 20 and it was an issue taken up by your successor.

21 **A.** Yes, I mean there's a note at the top of that -- if we  
 22 can go back to the letter, please.

23 **Q.** Yes, of course. Top of the page.

24 **A.** Right at the top.

25 "Advice [please] [as soon as possible] and

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1 please arrange briefing to update me on AIDS."  
 2 Because when -- what's the date of this?  
 3 **Q.** February.  
 4 **A.** February 1985. I just wanted an update on where  
 5 things were going. So yes, it was put out for advice  
 6 on what they wanted me to -- what they suggested we  
 7 should do.  
 8 **Q.** And as I understand it from the documents -- again,  
 9 please correct me if your understanding is any  
 10 different -- but this was the first time there'd been  
 11 a suggestion of a direct meeting between you, as  
 12 Minister, and UKHCDO?  
 13 **A.** I believe it is, yes. I don't think there'd been any  
 14 earlier ones.  
 15 **MS RICHARDS:** Sir, I've got a couple more topics to cover  
 16 and some general questions for Lord Glenarthur, but  
 17 I note the time. So it might be the right time to  
 18 break for lunch.  
 19 **SIR BRIAN LANGSTAFF:** Yes, we'll take a break until  
 20 two o'clock.  
 21 **THE WITNESS:** Thank you very much.  
 22 **SIR BRIAN LANGSTAFF:** Two o'clock.  
 23 **(12.58 pm)**  
 24 **(The Luncheon Adjournment)**  
 25 **(2.00 pm)**

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1 your statement -- so, Soumik, WITN5282002 -- this is  
 2 the extract from the directory of Civil Service  
 3 guidance to which you referred, I think.  
 4 **A.** Yes.  
 5 **Q.** We can see it's entitled:  
 6 "Access by Ministers and Special Advisers to  
 7 documents of a previous administration.  
 8 "1. Documents of a former Administration are  
 9 the property of the Crown. Access to them by any  
 10 person not entitled in an official capacity to see  
 11 them requires the agreement of the Government of the  
 12 day until they are released as public records.  
 13 "2. Ministers of a former Administration,  
 14 whether currently in office or not, may see but may  
 15 not retain official documents which they saw as  
 16 members of that administration."  
 17 Then 3, and I think this is what you were  
 18 referring to in your statement:  
 19 "It is an established convention that Ministers  
 20 of a current Administration may not generally see  
 21 documents of a former Administration of a different  
 22 political party."  
 23 And then the guidance sets out a description  
 24 given by the then Prime Minister in a written  
 25 Parliamentary answer on 24 January 1980. I'm not

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1 **MS RICHARDS:** Lord Glenarthur, I want to ask you now  
 2 a handful of questions on the issue of  
 3 self-sufficiency, and the Government's policy in that  
 4 regard.  
 5 Can we just start by looking at your witness  
 6 statement, WITN528001 again, and just pick a matter of  
 7 background up at page 7, paragraph 1.7, where you say  
 8 this:  
 9 "In the case of policy with regard to blood and  
 10 blood products, there was quite a long history, some  
 11 of it involving Governments of a different political  
 12 persuasion. But then, as now, it was not the  
 13 convention to share with other Governments the details  
 14 of decisions taken by Ministers in previous  
 15 administrations or the official advice on which those  
 16 decisions were based, nor to grant access to the  
 17 papers of previous administrations, at least unless  
 18 there was felt to be a real need to do so. The point  
 19 is more fully set out in the Directory of Civil  
 20 Service Guidance ..."  
 21 You give a reference to that.  
 22 "Consistently with this convention, and as far  
 23 as I can recall, I was not briefed in depth on any  
 24 earlier history or how policy had been derived."  
 25 If we just look at the document you refer to in

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1 going to go through the detail of that, but that's the  
 2 convention to which you referred in your statement.  
 3 **A.** Yes, it is.  
 4 **Q.** And so is it right to understand that you therefore --  
 5 you think possibly because of that convention -- don't  
 6 think you'd have received any kind of detailed  
 7 briefing about the history of the self-sufficiency  
 8 policy?  
 9 **A.** No, I was only aware that the BPL was going to be  
 10 rebuilt, but I wasn't given any information about the  
 11 background leading up to those decisions taken in the  
 12 seventies and up to '79.  
 13 **Q.** Before we just look at what then you were being told  
 14 by your civil servants about the policy and some  
 15 interactions you had in relation to it, do you have  
 16 any observations or views upon the convention that  
 17 you've described, and its impact on good government or  
 18 its impact on the public interest?  
 19 **A.** I don't think I can speak generally about it because  
 20 it is a convention. In terms of my own involvement in  
 21 this particular issue, it would obviously have been at  
 22 least interesting, and probably more than that, to  
 23 have been made more aware. But having said that, the  
 24 process was in train, albeit extremely slowly, in my  
 25 view, to redevelop BPL. So it would have been

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1 helpful, it would have been interesting, but perhaps  
2 not essential.

3 **Q.** And is it right to understand that you did understand  
4 that there was a policy of achieving self-sufficiency?  
5 You weren't aware of its history but you knew that was  
6 the policy?

7 **A.** I believe I did, yes.

8 **Q.** Again, if we just go back to a document we've  
9 looked at on more than one occasion now, that original  
10 briefing that you got in writing from Dr Walford,  
11 DHSC0002309\_124.

12 We can see if we go to the one bit I haven't  
13 marked up -- yes, to the third page. We looked at it  
14 when we were looking at the issue of the March plasma.  
15 It's the paragraph below "Haemophiliacs" -- sorry, if  
16 we go back further up, Soumik -- where it says:

17 "It is thought that the greatest risk to  
18 haemophiliacs at present is from the use of  
19 Factor VIII concentrate prepared from American plasma.  
20 Although the Blood Products Laboratory is to be  
21 redeveloped over the next three years at a cost of  
22 £21 million to achieve national self-sufficiency in  
23 blood products, until this time, some 50% ... will  
24 have to be imported ..."

25 So would it be right to understand that you

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1 receive a letter, as you say -- or you were sent  
2 a copy of a letter to Kenneth Clarke -- DHSC0000209 --  
3 and we can see it's from David Owen to Mr Clarke,  
4 19 October 1983. It says:

5 "I have had a letter recently from the mother of  
6 a haemophilic child about the use of imported  
7 Factor VIII concentrates. In my time as Minister for  
8 Health I know we set in train a capital investment  
9 programme to make us self-sufficient in blood and all  
10 the factors because of worries about imported blood  
11 products. I wonder if you could let me know what  
12 stage this has now reached."

13 I think you were asked to reply on behalf of  
14 Mr Clarke, or asked to reply in any event, and it's at  
15 DHSC0000208. It think it probably says "10 [November]  
16 1983":

17 "Dear Dr Owen,

18 "Thank you for your letter of 19 October about  
19 the supply of blood products in this country.

20 "I can assure you that the Government is  
21 committed to making this country self-sufficient in  
22 blood products. Over £2 million has already been  
23 spent on improving the production facilities at the  
24 Blood Products Laboratory at Elstree, Herts and  
25 a major 3 year redevelopment programme is under way.

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1 would have read from this, first of all, that the  
2 redevelopment of BPL was under way and, at that point  
3 in time, it's being said it was a three-year project,  
4 and the goal of it was to achieve national  
5 self-sufficiency?

6 **A.** Yes.

7 **Q.** I think it's right to understand that you weren't  
8 aware, no doubt possibly because of the convention  
9 you've described, of particular statements that had  
10 been made by Lord Owen, or Dr David Owen as he then  
11 was, in the 1970s?

12 **A.** At that point, no, but at a point a bit later than  
13 this I replied to a letter which had been written to  
14 Kenneth Clarke by David Owen, and I gave a short  
15 answer, which said, yes, it was still going on.

16 **Q.** Yes, and in fairness, we'll just look at that. Yes,  
17 I'm so sorry, my question wasn't sufficiently clear,  
18 you're right.

19 At the point in time when you take up your role,  
20 the information you have, as I understand it, about  
21 the Government's policy in relation to  
22 self-sufficiency is as essentially summarised in the  
23 paper there?

24 **A.** Exactly.

25 **Q.** So you don't know more of the history but then you did

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1 When this is complete the Central Blood Laboratories  
2 Authority will have a new laboratory of a size capable  
3 of meeting the demands of England and Wales for blood  
4 products."

5 Again, that essentially reflects what your  
6 understanding was of the Government's position,  
7 does it?

8 **A.** Yes.

9 **Q.** Can I just then explore with you briefly the question  
10 of by when it was understood or believed that  
11 self-sufficiency might be achieved?

12 I think there are probably four letters -- or  
13 documents, rather, that it may assist to look at.

14 The first is DHSC0002071. We've already  
15 looked at this in part. So we can see in the second  
16 paragraph of your letter to the Reverend Tanner, and  
17 this is the letter of 28 September 1983, following the  
18 meeting of 8 September 1983.

19 **A.** Yes.

20 **Q.** You say:

21 "I would first of all like to reassure members  
22 of the Haemophilia Society of the Government's  
23 commitment to self-sufficiently in blood products.  
24 The Central Blood Laboratories Authority has embarked  
25 on a £21 million redevelopment programme. The target

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1 date for completion is the end of 1985, by which time  
2 the Authority aim to have a new laboratory of a size  
3 capable of meeting the demands of England and Wales  
4 for blood products."

5 So very similar to what you said to  
6 Dr David Owen.

7 **A.** Yes.

8 **Q.** So you've set out there the target date for  
9 completion, as I understand it, of the redevelopment  
10 programme. What was your understanding of the date by  
11 which the UK -- or England and Wales might be  
12 self-sufficient? Was it immediately on completion of  
13 the redevelopment programme or a further period of  
14 time?

15 **A.** It wouldn't have been immediately on completion,  
16 because any new enterprise has to be worked up to  
17 ensure that it's capable of doing what was intended  
18 of it. And that would have been a process taking  
19 a period of time -- I can't remember what the time  
20 period would be, but I imagine probably six or nine  
21 months or something -- in order to ensure that it  
22 worked correctly and did what it had always been  
23 intended to do. So it wouldn't just crack off  
24 producing all the right amount on day one, it would be  
25 a worked out procedure.

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1 **A.** Yes.

2 **Q.** And it puts it rather longer than six to nine months,  
3 it's --

4 **A.** Well, six to nine months was me plucking what  
5 I thought to be a sensible figure out of the air --

6 **Q.** I know --

7 **A.** -- so, yes, probably a bit longer than that.

8 **Q.** So that's August '84.

9 If we then go to PRSC0002251, this is a press  
10 statement, November 1984, and it is of course by  
11 Mr Patten and not by you.

12 **A.** Yes.

13 **Q.** "Britain to be self-sufficient in blood products by  
14 late 1986", is the headline.

15 **A.** Mm-hm.

16 **Q.** And if we look further down it says:

17 "John Patten, Parliamentary Secretary of State  
18 for Health, today said that Britain should be  
19 self-sufficient in blood products by late 1986. He  
20 also announced action which is being taken on four  
21 fronts to combat the spread of ... (AIDS) in this  
22 country.

23 "Mr Patten said: 'Our multi-million pound  
24 development project at the Blood Products Laboratory,  
25 Elstree, is on target for completion early in 1986 and

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1 **Q.** So the significance here of the date of the end of  
2 1985 in your mind was: that's the date when the  
3 redevelopment of the plant --

4 **A.** That was my understanding. That's when the plant  
5 would have been completed and then the work-up would  
6 have followed that.

7 **Q.** Then if we go next to DHSC0000443. This the briefing  
8 note from Dr Smithies that you were sent in  
9 August 1984 again we've looked at on more than one  
10 occasion, but if we can go to page 3 of the document,  
11 please, Soumik. Under the heading, halfway down the  
12 page, "Haemophiliac patients with antibody HTLV-III",  
13 if we pick it up about halfway down that paragraph,  
14 where it says:

15 "As Ministers are aware, building of the plant  
16 required to extract Factor VIII from blood donations  
17 given in this country is going ahead at Elstree and it  
18 is expected that self-sufficiency will be obtained by  
19 1987/88. In the meantime sufferers from haemophilia  
20 must continue to be supported with Factor VIII  
21 concentrates obtained from abroad."

22 That does appear, is this right, to be talking  
23 not just about completion of the plant, the  
24 redevelopment, but actually achieving  
25 self-sufficiency.

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1 this should enable us to become self-sufficient in  
2 blood products, such as Factor VIII which is  
3 a clotting agent required by haemophiliacs, by the end  
4 of the year. This will mean that we no longer have to  
5 import factor VIII from abroad."

6 Here it is being said, rather shorter period  
7 than Dr Smithies' briefing note, the redevelopment  
8 plant should be completed by the beginning of 1986 or  
9 early in 1986, self-sufficiency by the end of 1986.  
10 Is that how you understand it?

11 **A.** That's how I understand it, yes.

12 **Q.** Are you able to assist us in understanding why there  
13 is this variation between the suggestion that it's  
14 '87/'88 by Dr Smithies and Mr Patten saying it's the  
15 end of 1986?

16 **A.** No, I'm not able to help you at all.

17 **Q.** Then the last document I wanted to ask you about on  
18 this particular topic is I think a document that you  
19 may have been given yesterday evening or this morning.  
20 It's COLL0000009. It's a letter of 15 March 1985.  
21 It's you responding, I think if we go to the second  
22 page we can see it without the compliment slip, yes.

23 **A.** Ah, that's a clearer version, yes.

24 **Q.** So this is you responding to a letter from an MP, and  
25 I'm not going to name the MP --

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1 A. Understood.  
 2 Q. -- or the people involved --  
 3 A. No.  
 4 Q. -- but some constituents -- or the MP is writing on  
 5 behalf of some constituents, and has written to  
 6 Kenneth Clarke, and you're here responding. And you  
 7 say -- you make the point in the second paragraph  
 8 that:

9 "This country is already self-sufficient in  
 10 whole blood."

11 A. Yes.  
 12 Q. Then if we go down to the bottom of the page, you then  
 13 talk about the position in relation to blood products.  
 14 I'll just read the last two paragraphs but it's really  
 15 the last one I want to ask you about. You say:

16 "We are however very conscious of the  
 17 difficulties faced by people with haemophilia who need  
 18 treatment with blood products. We are especially  
 19 aware of the additional pressures which the risk from  
 20 AIDS must involve for parents of haemophiliac  
 21 children. It was with the needs of haemophiliacs very  
 22 much in mind that we decided in 1982 that the UK must  
 23 back self-sufficient in blood products".

24 Just pausing there, and I'm just going to make  
 25 an observation, Lord Glenarthur, which will explain

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1 self-sufficiency will be achieved upon completion of  
 2 the build. You certainly don't give a later date in  
 3 this letter for the achievement of self-sufficiency.  
 4 A. It could be read that way, but the project is  
 5 presently on target for completion. That's to say,  
 6 the commission -- rebuilding was going to be completed  
 7 by early '86, but I -- in all these instances, there  
 8 is -- the commissioning is sort of setting it up and  
 9 getting it going, and then there is the gradual  
 10 work-up to ensure that it can do the job it was  
 11 intended to do. But I agree, that's not spelt out  
 12 there.  
 13 Q. And I do appreciate, Lord Glenarthur, that you've been  
 14 given this letter in the course of your evidence so  
 15 you've not that the opportunity, for example, to try  
 16 to enquire as to whether the drafting process or the  
 17 terms of the letter that you were responding to --  
 18 A. No, and I don't know the background to it.  
 19 Q. So are you able to assist us any further beyond the  
 20 documents that we've looked at as to the date by which  
 21 the Government in 1984 and 1985 was aiming to achieve  
 22 self-sufficiency?  
 23 A. Well, I can only recall that it was due to be  
 24 completed -- I think at one point we were talking  
 25 about the end of 1985 --

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1 why I'm not asking you about that, there is an issue  
 2 about whether it was correct or not to say that that  
 3 was a decision by the Government in 1982, but I'm not  
 4 proposing to ask you about that. You weren't in post  
 5 in 1982.

6 A. Yes.  
 7 Q. It is a matter that can be picked up to the extent it  
 8 needs to with other witnesses.

9 A. Yes, thank you.

10 Q. The last paragraph says this:

11 "To achieve this goal we commissioned the  
 12 re-building of the Blood Products Laboratory (BPL) in  
 13 Elstree and the project is presently on target for  
 14 completion in early 1986. Self-sufficiency of itself  
 15 will not guarantee AIDS free blood products, but we  
 16 shall then no longer be dependent upon imported  
 17 Factor VIII produced from pooled plasma given by  
 18 donors who are paid for their blood."

19 I don't need to ask you to look at anything else  
 20 in the letter.

21 Now, in that last paragraph, you're talking  
 22 about completion of the project early in 1986, and  
 23 then the next sentence goes on immediately to talk  
 24 about self-sufficiency, and it might be said that it  
 25 is at least giving the impression that

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1 Q. Yes.

2 A. -- but it got extended, and I think when it came to  
 3 the laying of the foundation stone, if I remember  
 4 rightly, which Lord Fowler and I went to, he was then  
 5 talking about the 1 January 1987, well, that's  
 6 splitting hairs but it was, you know, right at the  
 7 change of the year, so to speak. I don't recall any  
 8 more about that, nor do I recall, in detail, the  
 9 history of the whole project, obviously before my  
 10 time. But I was always given to understand that --  
 11 indeed, I went up there in what -- in '83, I think it  
 12 was --

13 Q. Yes, I think that's right.

14 A. -- to visit and see around, and I was talked through  
 15 what was going on. At that stage, I think it had  
 16 started, there was a shell of a building. There was  
 17 always -- I'm pretty sure I discussed it with the  
 18 people there, the fact that science was moving on in  
 19 the blood products field in terms of machinery,  
 20 equipment and one thing and another, and there was  
 21 sufficient space there to adapt and take on new  
 22 equipment, in order to allow the laboratory to fulfil  
 23 its function. So there was a certain amount of  
 24 flexibility in the space arrangements, as far as I can  
 25 recall from my visit.

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1 Q. Then just on the issue of the redevelopment of BPL,  
2 and it's something you deal with, I think, in  
3 section 85 of your statement onwards, but I think we  
4 can probably take it fairly shortly. I think there  
5 came a point in around September 1984 when you were  
6 made aware of there having been a very substantial  
7 escalation in costs --

8 A. Yes.

9 Q. -- of the BPL development. Perhaps if we take it from  
10 your statement, again, it was really more of an issue  
11 for Lord Clarke, I think, and indeed possibly for  
12 other witnesses as well.

13 So if we go to page 98, Soumik. Paragraph 85.1,  
14 you say:

15 "I have been referred to a submission sent to  
16 Ministers dated 20 September 1984, seeking approval  
17 for a substantial increase in the capital cost for the  
18 redevelopment of BPL. The submission was sent to my  
19 Private Office as well as to the Minister of State  
20 ..."

21 You've summarised here, and I think this means  
22 we don't need to go to the underlying material, the  
23 three options that were put forward in the submission:  
24 abandon the project, cut the project back to fit the  
25 original budget with a bit of --

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1 of ministerial input, that was dealt with by Mr Clarke  
2 because it involved significant sums of expenditure.

3 A. Yes. That is exactly what happened. He took a very,  
4 very keen interest in that. Great concern.

5 Q. In that case, I think I'll probably leave that issue  
6 and I can take up what the Departmental response was  
7 then with Mr Clarke who was more directly involved.

8 The other issue relevant to the question of  
9 achieving self-sufficiency that I wanted to just ask  
10 you about, fairly shortly, was the question of  
11 achieving increases in plasma supplies. Is this  
12 right: there are two particular elements to achieving  
13 self-sufficiency. One was the redevelopment of BPL  
14 itself --

15 A. Yes.

16 Q. -- so that it had the capacity to process enough  
17 quantities of plasma to produce --

18 A. Yes.

19 Q. -- sufficient domestic concentrates.

20 A. Yeah.

21 Q. But the second was the need to ensure that sufficient  
22 quantities of plasma were sent to BPL in order for  
23 them to have the material to process to produce the  
24 requisite volume of --

25 A. Yes, this was an issue.

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1 A. Yeah.

2 Q. -- inflation, or accept the revised budget,  
3 essentially?

4 A. Yes.

5 Q. If we go to the next page, you refer -- sorry, let's  
6 wait until we get it up on the screen -- you refer in  
7 paragraphs 85.2 and 85.3 to a fairly tranchant  
8 response from Mr Clarke --

9 A. Yes.

10 Q. -- and an expression of concern from the Permanent  
11 Under-Secretary of State, Sir Kenneth Stowe about two  
12 things: the magnitude of the costs increase --

13 A. Mm-hm.

14 Q. -- and, as I understand it, the fact that this was  
15 coming as news, at this point in time --

16 A. Yes.

17 Q. -- rather than having been notified at an earlier  
18 stage. Is that fair?

19 A. That, I think, is fair.

20 Q. Then you've set out in your statement how that matter  
21 then progressed and various other exchanges and  
22 communications. My understanding, both from your  
23 statement and from the documents themselves, is that  
24 you had no real involvement in the question of how to  
25 address or resolve this problem. It was -- in terms

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1 Q. You deal with this in your witness statement, I think,  
2 section 80. I'm not going to ask you to look at  
3 the -- I'm not going to put the document on screen but  
4 if you want it for your own reference,  
5 Lord Glenarthur, it's from page 88 onwards you deal  
6 with this.

7 A. Page 88 onwards, yes.

8 Q. Sir, what I want to do is really just look at a very  
9 small number of documents, in part just to add  
10 a little to your witness statement because there are  
11 couple of documents that I think had come to light  
12 since you produced your witness statement, which have  
13 been shown to you.

14 If we pick it up in February 1984, if you want  
15 to be following it in your statement, Lord Glenarthur,  
16 it's paragraph 80.6.

17 A. Yes.

18 Q. Dr Gunson wrote to Dr Harris, who was one of the  
19 Deputy Chief Medical Officers --

20 A. Yes.

21 Q. -- raising concerns about whether there was going to  
22 be sufficient supplies of plasma for BPL. And if we  
23 look at Dr Harris's response, that's at  
24 DHSC004692\_114. Do you need that reference again,  
25 Soumik? I might have said it wrong, DHSC0046942\_114.

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1 Yes, I'm sorry, I missed a digit out earlier.  
 2 So we can see it's dated 15 February 1984. It's  
 3 from Dr Harris, deputy CMO, to Dr Gunson. He refers  
 4 in the first paragraph to the letter received from  
 5 Dr Gunson, with Dr Gunson's analysis of options on  
 6 plasma supply for self-sufficiency, and then Dr Harris  
 7 says this:  
 8 "We are taking this matter extremely seriously  
 9 in the Department and, following discussions with  
 10 Donald Acheson and my DCMO colleagues, we have decided  
 11 that a submission to Ministers will be required. This  
 12 will state the nature of the problem and suggest  
 13 Secretary of State should impress upon Regional  
 14 Chairmen at an early meeting the importance Ministers  
 15 attach to increasing plasma supply so as to make us  
 16 self-sufficient.  
 17 "Alan Williams and Alison Smithies will be  
 18 working on the initial draft and we will turn to you  
 19 for guidance on some of the technical details."  
 20 I think, in your statement, you say that you've  
 21 not been supplied with a copy of the ministerial  
 22 submission referred to in this letter.  
 23 **A.** No, I haven't been.  
 24 **Q.** Now, the reason I'm just going to go to some of the  
 25 documents is really just to add to the picture you

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1 now be more appropriate to report this matter, as  
 2 a point of urgency, to the NHS Management Board, as  
 3 the DHSS were well aware of the problem. Dr Harris  
 4 agreed to report back on progress at the Authority's  
 5 next meeting in May."  
 6 So it would seem, Lord Glenarthur, that the  
 7 decision was taken, perhaps by Dr Harris, that rather  
 8 than take this matter up with the Secretary of State  
 9 or with yourself as Minister, it was going to be taken  
 10 up urgently with the NHS Management Board, is that  
 11 your reading of the material?  
 12 **A.** That's what it looks like, yes.  
 13 **Q.** Then if we pick matters up at the May meeting of the  
 14 CBLA, which is CBLA0002007, and you didn't have that  
 15 last document or the document we were just going to  
 16 look at when you were drafting your statement,  
 17 Lord Glenarthur, that's why --  
 18 **A.** No, I didn't. I got it subsequently.  
 19 **Q.** Yes, that's why I'm taking some time with it now. So  
 20 we can see these are the minutes of the next meeting,  
 21 the 12th meeting of the CBLA, 23 March 1984, and if we  
 22 go to page 5 -- no, sorry. I'm looking at a document  
 23 which doesn't look like that at all. I think that's  
 24 the wrong document.  
 25 My apologies, can we just go to the front of the

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1 give in your statement. The reason we think, Lord  
 2 Glenarthur, that you weren't supplied with the  
 3 ministerial submission is that it looks like  
 4 a decision was taken contrary to what Dr Harris had  
 5 set out here to go not to ministers, but to go instead  
 6 to the NHS Management Board. So because this is  
 7 additional to the material in your witness statement,  
 8 I just want to go through it so the chronology is  
 9 apparent to all.  
 10 **A.** Yes.  
 11 **Q.** So we have this letter from Dr Harris in  
 12 February 1984. If we then go to DHSC0002241\_003.  
 13 You'll see there, Lord Glenarthur, minutes of  
 14 a meeting of the Central Blood Laboratories Authority,  
 15 28 March 1984. If we go to the bottom of page 2,  
 16 you'll see the heading "Plasma supply":  
 17 "Dr Harris referred to his suggestion at the  
 18 last meeting about the problem of plasma supply being  
 19 taken up at the meetings of Regional Chairmen with the  
 20 Secretary of State ..."  
 21 Pausing there, that seems to reflect the content  
 22 of the letter that we looked at with Dr Gunson:  
 23 "... but confirmed that, unfortunately, these  
 24 recent meetings had not proved suitable to owing to  
 25 other business. He suggested therefore that it would

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1 document again, first page. Yeah, that's the wrong  
 2 reference. Hold on a moment. Soumik, can we try  
 3 CBLA0004998. That's the one, thank you. Can we go to  
 4 page 5 of that, "Plasma supply":  
 5 "A copy of a report on Plasma Supply ... was  
 6 received and noted."  
 7 Sorry, I should have said these are the minutes  
 8 of the meeting held on 23 May 1984.  
 9 "Dr Gunson said that on 9 April 1984 he wrote to  
 10 each Regional Transfusion Director asking for an  
 11 update on plasma supplies for self-sufficiency."  
 12 There's a reference there to their replies being  
 13 included in Dr Gunson's report. I'm not going to  
 14 trouble you with the underlying report,  
 15 Lord Glenarthur:  
 16 "Dr Harris stressed the need to report the  
 17 problems of plasma supply to the NHS Interim  
 18 Management Board as a matter of urgency, stressing the  
 19 points made in Dr Gunson's report. This was agreed."  
 20 It would seem from this, you are probably not in  
 21 a position to comment on it because I don't think you  
 22 would have seen these documents at the time, but it  
 23 would seem from this that again, Dr Harris is saying  
 24 this matter needs to be urgently raised with the NHS  
 25 Management Board but it doesn't look as though this

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1 had necessarily been done by that stage.  
2 Can you recall what the role of the NHS  
3 Management Board was at this point in time, and how  
4 its responsibilities interacted with those of the  
5 Department?

6 **A.** No, I'm afraid I can't. I can't recall exactly what  
7 its status was then or whether that status had changed  
8 during my time as Minister.

9 **Q.** Don't worry. I wasn't trying to put you on the spot  
10 there, Lord Glenarthur.

11 If we then go to a letter, in any event, we can  
12 see -- we can pick things up in August 1984 at  
13 CBLA0001870. Just to fix the chronology in our mind,  
14 Dr Gunson raises the problem in February 1984,  
15 Dr Harris says we're taking it very seriously, we're  
16 going to send the matter to Ministers. You observe in  
17 your statement it never came to you. That seems to be  
18 absolutely right, Lord Glenarthur. March and May  
19 1984, Dr Harris says, "We must raise this urgently  
20 with the NHS Management Board."

21 The Inquiry will no doubt need to look in more  
22 detail at what happened in the intervening weeks and  
23 months but what we get to here is a letter of  
24 10 August 1984, which is sent to all regional  
25 administrators from the Department of Health, from

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1 is taking in order to ensure that the plasma  
2 procurement target set for your region will be met."

3 There's a request to have comments by the end of  
4 September.

5 **A.** Yes.

6 **Q.** Then, I'm not going to go to the further documents,  
7 the issue is picked up at a later CBLA meeting. There  
8 is some correspondence that goes out in your name, I  
9 think, to Tony Benn MP, about the issue.

10 The purpose of showing you those materials, Lord  
11 Glenarthur, is first of all to indicate that it would  
12 seem from this that the ministerial submission, which  
13 you refer into your statement as not having been  
14 supplied to you, doesn't in fact exist because the  
15 matter didn't go to ministers at all.

16 **A.** That's what it seems like from what you've explained.

17 **Q.** Do you have any observations or thoughts about the  
18 course that appears to have been taken by Dr Harris  
19 which was to go to the NHS Management Board instead of  
20 ministers? Do you think it should have come to  
21 ministers?

22 **A.** It did indicate, on one of those documents, that the  
23 original idea had been to raise it with the Secretary  
24 of State at one of his regional chairmen's meetings  
25 but for one reason or another that could not be fitted

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1 Mr Parker, and it refers to -- in the second paragraph  
2 it says:

3 "I am concerned to learn from several Regional  
4 Transfusion Directors that they are pessimistic about  
5 their chances of obtaining the continued growth in  
6 plasma procurement so as to reach the targets set for  
7 1988. Regional Health Authorities in some cases have  
8 not provided the necessary additional funding, and in  
9 others have not been prepared to give a long-term  
10 commitment to continued expansion to meet the targets  
11 set.

12 "Ministers attach considerable importance to the  
13 matter of self-sufficiency in the supply of blood and  
14 blood products, and the procurement of the necessary  
15 raw material, blood plasma, by Regional Transfusion  
16 Centres, is a vital element in this process. The  
17 construction of the enlarged production unit at [BPL]  
18 is well under way, and the considerable savings the  
19 NHS will make by not having to buy commercial products  
20 will not be realised without adequate supplies of  
21 blood plasma."

22 There's the problem being described:

23 "Action

24 "I should be glad if you would arrange for your  
25 Regional Health Authority to reconsider the steps it

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1 in. Why that should have happened, I have no idea.  
2 I did attend a number of regional chairman's meetings  
3 with the Secretary of State over the two years I was  
4 in the Department. I can't recall an awful lot about  
5 them, quite honestly and I have no idea whether this  
6 sort of issue was raised at any of them. So I'm  
7 afraid I can't help you.

8 **Q.** Do you have any concerns about the timeframe from  
9 Dr Gunson raising these concerns in February 1984 and  
10 then it being August 1984 before there's a letter sent  
11 out to regional administrators requiring action.  
12 Given what was said to be the urgency of this, do you  
13 think February to August 1984 is too long a period of  
14 time?

15 **A.** Well, so it appears. I mean, there did seem to be  
16 an awful lot of -- what's the word? There was, in so  
17 many of these things, there was a long period of  
18 pre-digestion within the Department before action was  
19 taken. That seemed to be the nature of the beast,  
20 frustratingly, I think, in many cases, and no doubt  
21 frustratingly for Dr Gunson in this particular case.  
22 But I can't explain why, other than it's been tossed  
23 around in the official circles.

24 **Q.** It may be that some of these matters were brought to  
25 your attention, it may be they weren't. I don't think

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1 we can tell from the documentation available. So I'm  
2 just going to put my next question to you as a matter  
3 of general principle.

4 **A.** Yes.

5 **Q.** Given the importance of the policy of  
6 self-sufficiency, and given the importance of  
7 increasing plasma supply in order to be able to  
8 achieve the policy of self-sufficiency, is this  
9 something which, as a matter of fact, you think  
10 ministers should have been closely briefed on and kept  
11 up to date with developments?

12 **A.** Well, I think that would have been helpful, and kept  
13 us in the frame so that we were aware of what's going  
14 on, and intervened if necessary one way or the other,  
15 preferably to speed it up. But we weren't so we  
16 couldn't act.

17 **Q.** It is right to note, and I'm deliberately taking this  
18 quite quickly without going to all the documents  
19 because you weren't closely involved, but your  
20 statement explains and produces the documents, you  
21 did, for example, give a speech in September 1984 to  
22 the British Blood Transfusion Society --

23 **A.** Yes.

24 **Q.** -- in which you referred to the request having gone to  
25 Regional Health Authorities. So you obviously had

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1 **Q.** "It is difficult to advise any particular Departmental  
2 policy on the collection of blood from borstals and  
3 prisons at the moment. It is for individual Regional  
4 Transfusion Directors to determine how and from where  
5 donations are sought in the light of the targets they  
6 need to achieve and the numbers of donors on their  
7 panels.

8 "However, Transfusion Directors have been aware  
9 of the dangers of relying too heavily on prisons as  
10 a source of donations for some time ie prior to the  
11 advent of AIDS as a cause of concern, because of the  
12 risk of hepatitis in prisons, (also connected with the  
13 higher incidents of homosexuality) which can be spread  
14 through blood transfusion. Nevertheless, although  
15 most Regions, especially those with no shortage of  
16 donors, may not need to use prisons, there is at least  
17 one which has to view them as a major source of  
18 donations in order to meet targets.

19 "AIDS has now of course called the wisdom of  
20 continuing to view prisons as a source of blood even  
21 further into question, and the Directors are due to  
22 discuss it at their next meeting in September. If the  
23 risks are now considered too great to justify  
24 continued collection from prisons, some measures will  
25 be needed to compensate for the loss of that source of

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1 been told at least by that date that that action was  
2 being undertaken?

3 **A.** Yes.

4 **Q.** So I don't want to put things on an incorrect factual  
5 basis to you.

6 Can I then move away from self-sufficiency and  
7 BPL altogether to a discrete topic, which concerns the  
8 collection of blood from prisons.

9 So if we go to PRSE00004729, you'll see there,  
10 Lord Glenarthur -- and I don't think there's any  
11 evidence that this was something that crossed your  
12 decks at the time.

13 **A.** No.

14 **Q.** It's a minute from Mr Winstanley to Mr Brown dated  
15 23 August 1983. If we just look at the list of those  
16 copied, is there anyone there in your private office?

17 **A.** Not in mine, no.

18 **Q.** So if we go to the top of the page, we can see it's  
19 headed "Use of blood from prisons", and:

20 "I am replying on behalf of Mr Parker to your  
21 minute of him of 27 July."

22 We haven't troubled you with that either,  
23 Lord Glenarthur, I think we looked at that with  
24 Dr Walford.

25 **A.** Okay.

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1 donors, perhaps, for example, a system whereby Regions  
2 with no need to rely on prisons can take extra blood  
3 to be transferred to those Regions for whom the loss  
4 of prisons as a source of blood will cause  
5 difficulties."

6 Then there's reference in the final paragraph to  
7 advising Mr Brown of developments, debate on the  
8 problem by Transfusion Directors in Scotland, with no  
9 particular policy line, and liaison with the Home  
10 Office. And it's said that they had in the past been  
11 very much in favour of blood donation by prisoners.

12 Before I ask you to look at one other document  
13 from August 1983, were you aware, as the minister with  
14 responsibility for blood and blood products, that  
15 blood was still being collected it would seem, in  
16 1983, to some extent at least, in England and Wales  
17 from prisons or a prison?

18 **A.** I don't believe I was. I was aware that it was  
19 happening in the States. But I don't think I was, nor  
20 latterly, when I was Home Office Minister responsible  
21 for prisons, do I recall ever being informed about it.  
22 Not that I can recall anyway.

23 **Q.** Was that something that, as a minister with  
24 responsibility for overseeing, to some extent, the  
25 safety of the blood supply, should have been brought

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1 to your attention, do you think?

2 **A.** Well, I think it probably should have been brought to  
3 my attention because the same difficulties are  
4 expressed in this -- in Mr Winstanley's minute here  
5 as -- the same concerns as reflected the issue in the  
6 United States. So I would have been surprised that it  
7 hadn't been brought to my attention. I don't recall  
8 it being brought to my attention.

9 **Q.** Certainly I don't think we've uncovered any evidence  
10 of it being brought to your attention, and obviously  
11 if that changes, we'll clarify the position.

12 If it had been brought to your attention, do you  
13 think you would have wanted to try to take some action  
14 to bring the practice to an end? Because of the  
15 obvious risk.

16 **A.** Yes, I would certainly have wanted to ask was this  
17 a wise way to proceed.

18 **Q.** The other document I'm going to put to you is -- or  
19 ask you to look at is from the same time, and it's  
20 a document, again not a document that you'd have seen  
21 at the time, it's a document from one Scottish  
22 director to the Scottish National Blood Transfusion  
23 Service director. It's PRSE0002981.

24 It's 23 August '83, so it's the same date, and  
25 it's from Dr Brookes, regional director of the East of

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1 Scotland Blood Transfusion Service to Dr Cash of  
2 SNBTS. I draw attention to it really only for the  
3 sake of completeness and balance. The bottom  
4 paragraph, "Donor sessions at prisons and borstals",  
5 it says:

6 "You asked me to discuss this with my  
7 colleagues."

8 So that's referring to internal Scottish  
9 directors, as I understand it, or perhaps in fact more  
10 widely.

11 "In fact, no discussion was necessary, since as  
12 far as England and Wales are concerned these sessions  
13 have already been stopped."

14 **A.** Yes.

15 **Q.** "It is now left to the Scottish regions to decide  
16 whether they would do the same."

17 So we have a slight curiosity, Lord Glenarthur,  
18 and I don't think we've got to the bottom of it yet  
19 but two letters on the same date.

20 **A.** Yeah, they were the same date. Just which -- '84?

21 **Q.** No, exactly the same date for that.

22 **A.** Okay, yes.

23 **Q.** Two letters on the same date.

24 **A.** Yes.

25 **Q.** The Scottish one seems to think that the practice has

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1 stopped in England and Wales, the internal DHSS memo  
2 seems to think that it's still going on, at least in  
3 one area. I don't expect you to be able to resolve  
4 that but, having asked you about the one document,  
5 I wanted to be able to put the other document which  
6 suggested it had stopped on the record.

7 **A.** Okay, yeah.

8 **Q.** Can I then ask you a little about the question of  
9 hepatitis because it was referred to in the first of  
10 the two prison minutes we have looked at, but  
11 obviously my questions to you have very much been  
12 about AIDS.

13 **A.** Yes.

14 **Q.** Because that was the publication health emergency into  
15 which you were, as it were, precipitated as minister  
16 in 1983. What, if anything, can you recall being told  
17 about hepatitis viruses, and the link between blood,  
18 blood products being administered to patients and the  
19 transmission of hepatitis?

20 **A.** I believe I can recall that one of the earlier  
21 concerns about contaminated blood was because of  
22 hepatitis -- non-A, non-B hepatitis -- from the  
23 United States, before the arrival of the AIDS issue,  
24 and that the whole purpose of ensuring that unaffected  
25 blood, that word -- you know -- what's the phrase? --

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1 unaffected blood was based on hepatitis. But AIDS  
2 came in on top of that. So yes, but I don't remember  
3 it in any great detail.

4 **Q.** Were you aware -- no, let me put it a different way.  
5 What was your understanding of the seriousness  
6 or potential seriousness of non-A, non-B hepatitis?

7 **A.** Well, I believed it to be a very serious condition but  
8 I don't know the science of it.

9 **Q.** There's comparatively little reference to hepatitis in  
10 the materials we've looked at.

11 **A.** Yes.

12 **Q.** Again, unsurprisingly it might be said, multiple  
13 references to AIDS --

14 **A.** Yes.

15 **Q.** -- but little in relation to hepatitis.

16 Can you recall, if you leave aside the question  
17 of the redevelopment of BPL and the policy of  
18 self-sufficiency -- and it's a big thing, obviously,  
19 in one sense, to leave aside -- but can you recall  
20 ever being asked to consider any other steps or  
21 measures that might avoid or minimise the risks of  
22 transmission of hepatitis, during your time as  
23 minister?

24 **A.** No, I don't, but I think I'd seen subsequently that  
25 heat treatment, as one example, was something that

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1 didn't necessarily solve the non-A, non-B hepatitis  
2 issue, if blood was treated that way. But I can  
3 recall no more than that off the top of my head.  
4 **Q.** You've described in your statement, and you've  
5 described in the course of your oral evidence, the  
6 balance of risk exercise that was essentially  
7 undertaken within the Department with, on the one  
8 hand, the risk to haemophiliacs if concentrates were  
9 not available to them.

10 I ventilated the nature of that risk yesterday.  
11 I'm not going back to that.

12 So that was one side of the balance. Then you  
13 put, or you described being put on the other side of  
14 the balance, the risk of haemophiliacs from AIDS?

15 **A.** Yes.

16 **Q.** Which was described to you in the various materials  
17 we've looked at as small, or sometimes very small.

18 **A.** Yeah, mm-hm.

19 **Q.** It doesn't appear that the risk from non-A, non-B  
20 hepatitis, which itself could be fatal, either in  
21 short-term --

22 **A.** Yes.

23 **Q.** -- or the longer term --

24 **A.** Yes.

25 **Q.** -- was put into the balance at that point. In other

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1 measures relevant to transfusion, one was a leaflet,  
2 the AIDS leaflet.

3 **A.** Yes.

4 **Q.** Designed to deter high-risk donors from giving blood.

5 Then there's, of course, the issue we've touched on,  
6 the screening test.

7 **A.** Yes.

8 **Q.** Do you recall whether the question of minimising the  
9 risks of infecting people with transfusions of whole  
10 blood, whether that was ever discussed with you, other  
11 than by reference to the leaflet or the screening  
12 test, which was usually looked at in relation to the  
13 risk to haemophiliacs?

14 **A.** I can't be sure but I don't believe it was.

15 **Q.** Just, then, I think, one further issue in relation to  
16 your time as minister and then I've got some questions  
17 I want to ask you in general terms about your role  
18 when you were Minister for State for Scotland.

19 The last issue in relation to your period as  
20 Minister within the Department of Health is this: the  
21 Expert Advisory Group on AIDS was established I think  
22 late '84 -- met for the first time, in any event, in  
23 January 1985.

24 **A.** Yes.

25 **Q.** I'm not going to ask you detailed questions about its

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1 words, you weren't just dealing with what was  
2 believed, rightly or wrongly, to be a small risk of  
3 infection with AIDS; you were also dealing with a very  
4 high risk, some describe it as a near inevitability of  
5 infection with non-A, non-B hepatitis.

6 Now, I should say, in the interests of fairness,  
7 non-A, non-B hepatitis is also a significant problem  
8 in terms of the domestic blood supply.

9 **A.** Mm.

10 **Q.** Do you know why, in undertaking that balance, the  
11 issue of non-A, non-B hepatitis doesn't appear to have  
12 factored in, in the Department's decision-making  
13 process? Specifically in 1983, I'm talking about.

14 **A.** No, I don't know, and I'm quite surprised that it  
15 wasn't flagged up, for example, in the first briefing  
16 I had from Dr Walford, or highlighted in some way.  
17 I can't recall without looking at it whether or not it  
18 referred to it at all. But, you know, if it was so  
19 serious, then I'm quite surprised it wasn't flagged  
20 up.

21 **Q.** Then if I can just ask you just a little more about  
22 risks from what's sometimes referred to as "whole  
23 blood", so not blood products but blood transfusions.

24 **A.** Yes.

25 **Q.** We've talked in the course of your evidence about two

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1 work or terms of reference or its establishment, but  
2 do you think it would have been a good thing, better  
3 course, to have established a body such as that, that  
4 could, from an expert perspective, external to the  
5 Department, analyse all the material in relation to  
6 AIDS and provide advice to the Department, at a much  
7 earlier stage than January 1985?

8 **A.** Yes, I think it probably would have been. I can't  
9 remember how the decision to set up that body was  
10 arrived at, whether it was -- I don't believe it came  
11 to ministers. It may have done, I can't remember.  
12 But it would have been something that I think should  
13 have been generated with the medical chain, starting  
14 with somebody approaching the Chief Medical Officer  
15 and saying, "Get it done through your channels."

16 **Q.** And that actually leads me to one further matter I did  
17 want to explore with you before we look at Scotland,  
18 and that is the role of the Chief Medical Officer.

19 Now, it doesn't appear from the material we've  
20 looked at, and obviously, for the purposes of your  
21 evidence, that's very much focused upon issues that  
22 you were involved in, or copied into, or perhaps  
23 should have been copied into but weren't, so the  
24 material you've looked at is obviously not an  
25 exhaustive survey of all the actions and decisions

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1 being taken by the Chief Medical Officers during this  
 2 time. But it doesn't seem from your evidence that you  
 3 had much, if any, direct interaction with the Chief  
 4 Medical Officer on the issue of blood and blood  
 5 products and AIDS; is that right?

6 **A.** That is correct. I didn't have that contact.

7 And if I'm allowed to just add to that, it's  
 8 very difficult to discern from the voluminous  
 9 documentations that I've got here at what point or at  
 10 what points the more junior people in the medical  
 11 chain actually reported to him. I have no idea. It  
 12 would be very interesting to see to what extent he was  
 13 actively involved. And I don't know the answer.

14 **Q.** And it is right, of course, to note we do see  
 15 Dr Harris, who was a Deputy Chief Medical Officer --

16 **A.** Yes.

17 **Q.** -- referred to on a number of occasions.

18 In terms of areas such as obtaining information  
 19 from some of the multiple experts, committees, working  
 20 parties, expert groups, the Chief Medical Officer, or  
 21 his team --

22 **A.** Yes.

23 **Q.** -- would be particularly well placed, would they not,  
 24 to undertake that kind of task, rather than it being  
 25 left to -- rather that in being a ministerial task

1 to provide information to doctors or provide  
 2 information to patient groups? That would have been  
 3 the natural conduit?

4 **A.** That would have been the natural course, yes.

5 **Q.** Can I then come to Scotland.

6 If we go in your statement -- Soumik, can we go  
 7 back to Lord Glenarthur's statement, please, and go to  
 8 page 115. WITN5282021. Thank you.

9 We can see under the heading "Later roles" you  
 10 say:

11 "As Minister of State for Scotland, from  
 12 September 1986 until June 1987, I had responsibility  
 13 for health under the Secretary of State for Scotland,  
 14 Mr Malcolm Rifkind. I do not recall detail about  
 15 blood or blood products per se, but I do recall being  
 16 advised to, and agreed to, needle exchange in order to  
 17 prevent cross contamination of AIDS, hepatitis and  
 18 other diseases by drug abusers."

19 Then at 102 you say:

20 "At the time I, I would have had overall  
 21 responsibility for blood, blood products, and related  
 22 matters, and recompense and support for people  
 23 infected and affected by HIV and hepatitis as a result  
 24 of transfusions of blood and blood products, but I am  
 25 now unaware of the detail and have no records."

1 perhaps, it would be, is this right, something you'd  
 2 expect the Chief Medical Officer to be doing, was  
 3 going to be done by --

4 **A.** Yes, his team would be the people who would be best  
 5 placed to advise on that, and suggest it.

6 **Q.** And if it came to wanting to perhaps robustly review  
 7 or challenge or play devil's advocate in relation to  
 8 the kind of information the Department might be  
 9 getting from others, again, would it really be, if  
 10 you're talking about medical matters, clinical  
 11 matters, very much something the Chief Medical Officer  
 12 and his team again would be the well placed, one would  
 13 have thought, to undertake that kind of role, the  
 14 critical scrutiny of the information that the  
 15 Department might be receiving?

16 **A.** Yes, I believe that is correct.

17 **Q.** Then the dissemination of information to doctors or  
 18 patients, and obviously we've discussed the issues in  
 19 relation to that --

20 **A.** Yes.

21 **Q.** -- in some detail. We know I think that Dr Acheson  
 22 did send out a "Dear Doctor" letter in relation to  
 23 AIDS in 1985. But again, would it most likely have  
 24 been through the office of the Chief Medical Officer  
 25 that the Department would have most readily been able

1 Then you set out some very limited information  
 2 you've been able to give about meetings, a meeting in  
 3 relation to AIDS in January 1987, and attendance at  
 4 one of the meetings, on 9 April 1987, of the Cabinet  
 5 Home Affairs and Social Affairs Subcommittee on AIDS.

6 Now I recognise fully, Lord Glenarthur, that  
 7 you've not been provided with documents relating to  
 8 this time, in order to be able to refresh your memory.  
 9 So the questions I'm going to ask you about are going  
 10 to be very general in their nature, and it may be,  
 11 I don't know, that you can't take your statement any  
 12 further without seeing underlying documents.

13 Is this right: you were, in terms of the  
 14 ministerial responsibilities, within the Scottish  
 15 Office?

16 **A.** Mm.

17 **Q.** Health was one of your areas, and thus blood and blood  
 18 products would have come under the health umbrella?

19 **A.** Yes, it would have done. Health -- I mean, there are  
 20 another series of issues as well as health --

21 **Q.** Yes.

22 **A.** -- but health was one of them, and that was  
 23 all-encompassing as far as health was concerned,  
 24 and -- every aspect, yeah.

25 **Q.** Now, you'd obviously have come to the Scottish role --

1 I think with an intervening period at the Home Office  
2 that you mentioned --

3 **A.** Yeah.

4 **Q.** -- but with a degree of knowledge in relation to blood  
5 and blood products and AIDS --

6 **A.** Mm-hm.

7 **Q.** -- and hepatitis to a lesser extent, that you'd have  
8 acquired from your role at the Department of Health.  
9 Do you recall whether, taking up the health  
10 responsibility in Scotland, you made any enquiries or  
11 requested any information about what the situation was  
12 in relation to infection from blood and blood products  
13 in Scotland?

14 **A.** I may have done. I honestly can't recall now, and no  
15 documentation has been shown to me to suggest  
16 that I might have asked for a briefing on it, found  
17 out where Scotland was in comparison to England or  
18 anything like that, I'm afraid.

19 **Q.** Lord Glenarthur, we may have to come back to you at  
20 least for a further statement if such documentation is  
21 found, because I do appreciate you've not --

22 **A.** Fine, thank you.

23 **Q.** -- you've not had it. Can you recall anything at all  
24 about the decision-making structures? You described  
25 the decision-making structures within the Department

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1 **Q.** Do you have any recollection at all of whether the  
2 approach in Scotland was to, as it were, go its own  
3 way, plough its own furrow, on the basis of its own  
4 independent advice, or whether it was a question of  
5 trying to peg what it was doing to what was being done  
6 at the Department in relation to England and Wales?

7 **A.** Well, I can't be sure but I'm sure that there was  
8 close liaison between the -- between England and  
9 Scotland, and no doubt Wales and Northern Ireland on  
10 these issues. I simply cannot recall exactly how it  
11 worked, but there was evidence in some of the other  
12 material I've seen where SSHD were copied in.

13 **Q.** Then last question for now, I'm going to ask it  
14 because I've been asked to. I rather suspect from  
15 what you've been able to say that, without documents  
16 to prompt your memory, you're not going to be able to  
17 answer it but there's a particular issue in relation  
18 to blood products in Scotland in 1986/1987, in terms  
19 of products in England that may have been treated so  
20 as to eliminate non-A, non-B hepatitis not being  
21 available in Scotland until a later date. Do you have  
22 any recollection without any documents, I'm afraid, to  
23 prompt you, any recollection about that issue?

24 **A.** No, I don't, I'm afraid.

25 **Q.** Just then one final question for now from me,

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1 of Health on health matters, so there was -- we've got  
2 the parallel hierarchies of Chief Medical Officer  
3 administrative civil servants, the private office, and  
4 you described how information came to you, and we've  
5 looked at lots of examples of when information didn't  
6 come to you. Do you recall whether it functioned in  
7 a similar way at the Scottish Office, in terms of  
8 health responsibilities?

9 **A.** Not in any great detail. The -- I think there was  
10 a Chief Medical Officer for Scotland, and there was  
11 a head of the Scottish Home & Health Department who  
12 was an official, and there would have been a stream  
13 dealing with various aspects but, I'm afraid, I simply  
14 do not recall any of it in detail, rather  
15 surprisingly.

16 **Q.** Do you recall what the precise relationship was  
17 between the Scottish Office as the overarching, as it  
18 were, Government Department that you were appointed  
19 to, and the Scottish Home & Health Department?

20 **A.** I can't recall what the other branches were in the  
21 Scottish Office because it was Scottish Home & Health  
22 that I dealt with most of the time, as well as, you  
23 know, there was industry, there was a whole series of  
24 different elements, and I only concentrated on,  
25 I think, three or four of them. I can't remember now.

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1 Lord Glenarthur. If you go back to your statement,  
2 WITN5282001, page 117, and it's paragraph 108. You  
3 say this:

4 "I have been asked if I have anything more to  
5 add. I believe that I have covered as much as I can  
6 in relation to a matter with which I was dealing some  
7 38 years ago, and in which I had no prior knowledge or  
8 experience. It is without doubt that the decisions  
9 taken at the time have had tragic consequences for  
10 many: this is deeply troubling. However, the  
11 decisions taken were on the best scientific, clinical,  
12 administrative and well-meaning advice available at  
13 the time, and it is very difficult to use contemporary  
14 attitudes and scientific advances to gainsay the  
15 decisions taken at the time."

16 I want to ask you only about one of the  
17 observations you make and it's where you say "the  
18 decisions taken were on the best scientific, clinical,  
19 administrative and well-meaning advice available at  
20 the time". Given the material we've looked at, and  
21 the issues we've explored over the course of yesterday  
22 and today, Lord Glenarthur, and knowing, as I think  
23 you may now know, quite a lot of material that didn't  
24 come your way, do you think you're in a position to  
25 maintain that the decisions taken were on the best

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1 scientific clinical administrative advice available at  
2 the time?

3 **A.** I think I would add now, after the words "however the  
4 decisions taken were, to the best of my belief, the  
5 best scientific", et cetera. Because I had no reason  
6 to doubt the advice that I was being given, because  
7 I was not qualified in the same way as those experts  
8 were.

9 **MS RICHARDS:** I understand. Thank you.

10 Sir, those are my questions for Lord Glenarthur  
11 as things stand. But obviously we need to provide the  
12 opportunity to Core Participants and their recognised  
13 legal representatives to suggest any further questions  
14 they wish to have considered. So if we took take  
15 a break for half an hour I'd be very grateful.

16 **SIR BRIAN LANGSTAFF:** Yes, do you think half an hour will  
17 be enough, do you?

18 **MS RICHARDS:** I do think half an hour will be enough, yes.

19 **SIR BRIAN LANGSTAFF:** Very well.

20 Lord Glenarthur, what happens at this stage, you  
21 may know already, but if not, let me tell you anyway.  
22 At this stage, there are possibly further questions to  
23 be asked by Core Participants, whoever they are, and  
24 the routine is that they are channelled through  
25 counsel to the Inquiry.

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1 **Q.** Do you recall whether you were given any particular  
2 information about what the Minister, whoever it might  
3 have been, who'd been responsible for blood and blood  
4 products before you, what they'd been doing, what  
5 decisions or actions they'd taken?

6 **A.** No, except that I picked up the policy that I think it  
7 was Mr Finsberg was doing, and we sort of just went  
8 along with that and the advice that officials provided  
9 on it.

10 **Q.** Did you yourself have any access to advice from  
11 Dr Gunson, the consultant adviser to the Chief Medical  
12 Officer, or was that really only available to the  
13 Chief Medical Officer?

14 **A.** I don't think I ever sought advice directly from him  
15 or indeed was offered advice from him, although there  
16 was of course that letter later on when he approached  
17 me and asked to meet. I think that's right.

18 **Q.** That was Professor Bloom, in fact.

19 **A.** Professor Bloom. Wrong professor. No, I don't think  
20 so.

21 **Q.** You talked about the medical advisers in the  
22 Department being experts. We heard from Dr Walford in  
23 fact that although she, as it happens, was  
24 a haematologist, but not a specialist in haemophilia  
25 care itself, her understanding of how she entered up

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1 **A.** Yes.

2 **SIR BRIAN LANGSTAFF:** So she will be given questions, if  
3 there are any, and then those questions will be put to  
4 you when you come back. But, obviously, that needs  
5 a break, and it comes at a convenient time for cup of  
6 tea, so we'll come back, shall we, at 25 to four.

7 **THE WITNESS:** Thank you very much, Sir Brian.

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

9 **(3.05 pm)**

10 **(A short break)**

11 **(3.35 pm)**

12 **MS RICHARDS:** Lord Glenarthur, just a few further  
13 questions. You told us about the convention reflected  
14 in the Civil Service guidance about not having access  
15 to information provided to ministers of a different  
16 political party.

17 **A.** Yes.

18 **Q.** That same convention presumably wouldn't have  
19 prevented you from being given information about what  
20 had been done by your immediate predecessors as  
21 ministers --

22 **A.** No.

23 **Q.** -- whether it was Mr Finsberg or Lord Trefgarne or  
24 whoever it was?

25 **A.** No, it wouldn't have prevented that at all.

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1 in her role was that was almost, I think,  
2 happenstance.

3 **A.** Yes.

4 **Q.** And she wasn't aware what the actual specialities  
5 were, the clinical specialities were of her own  
6 colleagues in the medical hierarchy. Did you have any  
7 particular knowledge of what the clinical expertise  
8 was of the various medical officers from whom you were  
9 receiving advice?

10 **A.** No, I was well aware that Dr Walford  
11 was a haematologist, but I simply cannot recall what  
12 the other doctors had specialisations in. Although  
13 I believe it would be true to say that, in general  
14 terms, they all had a knowledge, to some extent, about  
15 haematology.

16 **Q.** Why was it that ministers didn't attend meetings of  
17 expert advisory groups? Was there a convention not  
18 to, or a practical impediment?

19 **A.** I don't know, because it was a group of experts and  
20 the ministers were not experts in that particular  
21 field.

22 **Q.** If I can just ask you to think next for a moment about  
23 the issue of trying to prevent high-risk donors from  
24 donating blood. We discussed in detail the leaflet,  
25 and we saw during the course of your evidence

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1 yesterday the references to questioning donors about  
 2 sexual or intravenous drug use history and the  
 3 reluctance of Regional Transfusion Directors, as  
 4 I understand it, to go down that route. Do you know  
 5 whether any assessment was ever undertaken of the  
 6 likely impact of questioning donors about sexual or  
 7 intravenous drug history, and whether that would, in  
 8 truth, have a knock-on effect on donation?  
 9 **A.** No, I don't know whether that was undertaken.  
 10 **Q.** Do you know from the materials you've seen or your own  
 11 memory, whether any consideration was given to making  
 12 up any perceived shortfalls in donation through  
 13 deterring high-risk donors by having a public  
 14 education programme or an appeal for suitable donors  
 15 to come forward?  
 16 **A.** No, and I'm not -- I don't believe that was ever  
 17 suggested by anybody.  
 18 **Q.** Just a couple of questions on your Scottish role, very  
 19 general, I promise. I'm asked to ask you to clarify  
 20 that the Scottish Home & Health Department was  
 21 a sub-department of the Scottish Office, a kind of  
 22 mini DHSS for Scotland; is that right?  
 23 **A.** That is correct, yes.  
 24 **Q.** And there was an administrative head, as I think you  
 25 referred to, and then you were effectively a minister

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1 haemophiliac and the patient was, if you like,  
 2 sacrosanct, and this was made clear in some of the  
 3 papers I've read and, indeed, I think, in earlier  
 4 parts of the Inquiry. That was the major key  
 5 relationship, rather more than ministers taking  
 6 a view, in my case, whether something was moral or  
 7 ethically correct.  
 8 **Q.** Can I put it then in a slightly different way. If it  
 9 had come to the attention of the Department -- and  
 10 this is a hypothetical question, but a number of my  
 11 questions have been hypothetical. If it had come to  
 12 the attention of the Department or your attention as  
 13 Minister, that patients were not being informed of the  
 14 risks of AIDS, or indeed of non-A, non-B hepatitis,  
 15 from their NHS treatment, for which the Secretary of  
 16 State for Health was ultimately responsible for that  
 17 treatment, would that have caused you concern, and  
 18 made you want to at least make further enquiries and  
 19 potentially consider what steps could be taken?  
 20 **A.** Yes, I think it would. That would have been something  
 21 that I would have wanted to enquire up the medical  
 22 chain of command, as to what the -- what doctors  
 23 thought about it. But I understand that it's  
 24 a hypothetical question.  
 25 **Q.** Last two questions, Lord Glenarthur.

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1 for health and a number of other matters, and then  
 2 with the Secretary of State for Scotland over you in  
 3 the hierarchy?  
 4 **A.** That's correct, yes. I was effectively his number 2,  
 5 and there were, I think, three Parliamentary  
 6 Under-secretaries in the Department at the time.  
 7 **Q.** And then I'm asked to ask you to clarify this: when  
 8 you say you were advised that the risk of AIDS was  
 9 small or very small, can you clarify what risk it was  
 10 you believed was small? Was it the risk that AIDS  
 11 would be transmitted by blood products, or was it the  
 12 risk that, if it could be transmitted, the prospect of  
 13 a patient developing AIDS and dying was small?  
 14 **A.** It was more the transmission, I think, that -- the  
 15 transmission more than anything else, that the risk of  
 16 the -- that came from the infected extracts in the  
 17 States was believed to be small, and not what might  
 18 happen should that ever be given to anybody.  
 19 **Q.** Did you accept that there was a moral and ethical  
 20 imperative for haemophiliacs to be informed of the  
 21 risks of viruses from their NHS treatment?  
 22 **A.** I wouldn't like to say that it was moral or ethical,  
 23 either way, but I -- because I go back to what  
 24 I've said earlier: my clear understanding was that the  
 25 relationship between the doctor who was treating the

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1 Did you ever, during your time in office at the  
 2 Department, meet any haemophiliacs with bleeding  
 3 disorders, any -- or, sorry, any haemophiliacs or  
 4 others with bleeding disorders?  
 5 **A.** Not that I'm aware of, unless somebody who was  
 6 a member or attended on behalf of the Haemophilia  
 7 Society has suffered from that affliction.  
 8 **Q.** And did you ever visit any Haemophilia Centres or meet  
 9 with any haemophilia clinicians during your time in  
 10 office?  
 11 **A.** I might have done, but I don't have any particular  
 12 recollection. I can only look through my diary to see  
 13 if I did.  
 14 **MS RICHARDS:** Those are the questions I'm proposing to  
 15 ask. I'm just going to turn to your representatives.  
 16 There's no questions from your representatives.  
 17 Sir Brian?  
 18 **Questions from SIR BRIAN LANGSTAFF**  
 19 **SIR BRIAN LANGSTAFF:** Well, I have just two areas of  
 20 question for you, if I may. One which looks at your  
 21 aspects of your experience in Government and the other  
 22 which looks at the aspects of your experience before  
 23 you came into Government. So the first is this: if  
 24 you go with us -- Soumik, please, it's the witness  
 25 statement page 116. It's 5282. Thank you.

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1 Now, the second sentence of that says this:  
 2 "With hindsight" --  
 3 Sorry. No. 104.1, sorry:  
 4 "With hindsight, it would have been ideal to  
 5 have had our own full availability of blood products  
 6 first mooted in the 1970s, but progress there was  
 7 obviously far too slow."  
 8 Then can we go to the top of the next page,  
 9 please, Soumik, 105.1:  
 10 "Reflecting more generally, and drawing on my  
 11 wider experience of government, perhaps the major  
 12 decision that could and should have been made was to  
 13 improve the BPL facilities at an earlier stage and to  
 14 remove our reliance on imported blood factors."  
 15 Then you add what is obviously a sensible  
 16 qualification, that you're not in a position to  
 17 comment on the history of the matter.  
 18 So you've made your views clear there, but  
 19 you've ascribed in paragraph 105 to the -- your  
 20 general reflections on what had happened, and indeed,  
 21 as you now articulated, the desirability of having had  
 22 a quicker improvement of the BPL facilities at  
 23 an earlier stage. You say that "drawing on your wider  
 24 experience of government". Now, what is it about your  
 25 wider experience of government that helps you to that

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1 previous experience, which was -- a lot of it had been  
 2 centred not just on the military but also in the  
 3 aviation industry.  
 4 **A.** Yes.  
 5 **SIR BRIAN LANGSTAFF:** The aviation industry is often said,  
 6 and perhaps rightly, to have had an enviable safety  
 7 record. Are there any particular lessons which,  
 8 reflecting back, taking into account your ministerial  
 9 experience, you think that we might learn for the  
 10 future which derive out of what happened here, as you  
 11 see it, in your time in office, but given the insight  
 12 which you have to risk which derives from the aviation  
 13 industry?  
 14 **A.** I'm not sure that I could ascribe anything  
 15 particularly relevant to this issue. But, in a more  
 16 general way, the practice in the aviation industry to  
 17 describe things that might just have gone wrong, but  
 18 needed to be brought to other people's attention  
 19 rather than let them go wrong and then have an  
 20 accident, became ingrained in a sort of no-fault --  
 21 you know, there was a particular -- and I'm afraid at  
 22 this second I can't remember what it was called --  
 23 where people could write and say, "Such-and-such  
 24 happened to me, this was very risky, I got away  
 25 with it, what can be done to put in train something to

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1 conclusion?  
 2 **A.** I think that as I grew more experienced in ministerial  
 3 life, and moved from one department to another, quite  
 4 rapidly, really, that I found that similar sorts of  
 5 decisions, I can't bring any to mind, were dealt with  
 6 rather more quickly. And that was -- I judged to some  
 7 extent, because there weren't the two parallel lines,  
 8 one being medical and the other being administrative  
 9 and policy making. Of course, even in the Home Office  
 10 where I dealt with a range of responsibilities, there  
 11 was expert opinion amongst the officials on the  
 12 streams that were relevant to whatever they were  
 13 doing.  
 14 I think things moved rather more quickly there.  
 15 I was in Scotland for such a short time, I can't  
 16 recall much there that's relevant to that. But  
 17 certainly in the Foreign Office -- although, again, it  
 18 was a fairly large piece of machinery and dealing with  
 19 people all around the world, in terms of our  
 20 ambassadors and high commissioners, it was -- it was  
 21 speedy. There was a relatively -- a need to produce  
 22 fairly rapid reaction on policy initiatives, generated  
 23 through the communications system that we had.  
 24 **SIR BRIAN LANGSTAFF:** Thank you.  
 25 The second area, as I said, draws on your

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1 prevent that sort of thing happening again?"  
 2 I think it has happened in relation to issues  
 3 with surgery.  
 4 **SIR BRIAN LANGSTAFF:** Yes.  
 5 **A.** If somebody makes a dreadful mistake for some sort of  
 6 reason and gets away with it, it's much better to be  
 7 open and describe it to people. And I have -- I mean,  
 8 I made mistakes in aviation, and it astonished me  
 9 when -- I remember one particular one when I got all  
 10 my pilots together and said, "This is what happened to  
 11 me yesterday", and of course out of the woodwork came,  
 12 "Well, it happened to me last week", but they never  
 13 said anything. So one had to handle it.  
 14 But if you then blamed everybody the whole  
 15 time -- it was to learn from these things, not to be  
 16 destructive but to be constructive and say, "Well,  
 17 okay, we've all had a fright, how do you think we can  
 18 get over this in the future?"  
 19 I believe that happens within the medical world  
 20 now, and I believe I've raised it at some point or  
 21 other in discussion in my ministerial days.  
 22 **SIR BRIAN LANGSTAFF:** Well, of course you're looking for  
 23 essentially a no-blame culture, I think is the  
 24 expression.  
 25 **A.** Well, yes, I mean, if something silly happens, then

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1 maybe blame would be attached but if it is, you know,  
 2 a genuine -- error is made because nothing is perfect  
 3 in this world, and other people can learn from the  
 4 mistake that you either made or you nearly made, then  
 5 that should be promulgated so that people are not  
 6 frightened to be honest with their colleagues about  
 7 the issues.

8 **SIR BRIAN LANGSTAFF:** I suppose part of the essence of  
 9 that is having information and having the transfer of  
 10 information, sufficient information at the appropriate  
 11 level to the appropriate people to put things right or  
 12 adjust the policy, whatever the policy might be.

13 **A.** Yes, I think that's correct, Sir Brian.

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

16 **A.** Thank you.

17 **MS RICHARDS:** Lord Glenarthur, is there anything further  
 18 that you would wish to add?

19 **A.** Just a couple of things, if I may. I mean first of  
 20 all, I'm grateful to you, Sir Brian, and everybody  
 21 concerned, for the opportunity to contribute to this  
 22 Inquiry, and I hope that my evidence has helped build  
 23 upon my statement.

24 I would like to say that my clear recollection  
 25 is that ministers during my time, whatever anybody

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1 might feel, took issues on this matter extremely  
 2 seriously, and diligently. I have no doubt either  
 3 that both clinical and administrative officials  
 4 involved were thoughtful, diligent and concerned to  
 5 provide the right advice, even if the process, looking  
 6 back on it -- all of us looking back on it, me  
 7 included -- often seemed slow and perhaps even too  
 8 bureaucratic.

9 Everybody really was doing their best, and  
 10 I reiterate roughly the words that I used in my  
 11 statement when I said that it is an enormous sadness  
 12 and regret that so many were infected and others  
 13 dreadfully affected by what transpired over that  
 14 period.

15 That's all I have to say. Thank you.

16 **MS RICHARDS:** Thank you, Lord Glenarthur.  
 17 Sir Brian.

18 **SIR BRIAN LANGSTAFF:** It's a matter of our gratitude to  
 19 you for having come to tell us what you have.  
 20 I suspect that at times it must have been rather  
 21 frustrating for you to sit there -- because you're the  
 22 person who was in a position of responsibility -- and  
 23 answer questions, when so much of the information you  
 24 might have wished to rely on hasn't been available and  
 25 so much wasn't put before you.

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1 **A.** Yes.

2 **SIR BRIAN LANGSTAFF:** And although it may be frustrating  
 3 for you, it was actually, I think, quite revealing for  
 4 us, because it helps us to understand what someone in  
 5 a ministerial position might face, to understand what  
 6 information was and wasn't before you, before the  
 7 CMO -- who -- a question just before the break, you  
 8 said it might have been better if perhaps there'd been  
 9 more obvious involvement by the CMO -- put before you,  
 10 put before the patients.

11 That has been of great value to me in thinking  
 12 about what conclusions ultimately I may reach.

13 I'd like to thank you as well for the way in  
 14 which you've done it, because you've listened to the  
 15 question. You have answered it on its own merits.  
 16 And you must have thought quite a long time at times  
 17 in your career over what happened, but you have given  
 18 no sense of a determinedly preconceived view. You  
 19 didn't come -- if you'll excuse me for this  
 20 reference -- with a determined line to take, but  
 21 you've listened to the question, you've responded to  
 22 it on its merits, and you've shown us both that you --  
 23 as a minister, you would have been prepared to be  
 24 inquisitive had you been given the chance and the  
 25 information to be inquisitive. You've accepted you

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1 don't necessarily know what conclusion you'd have  
 2 reached but you've said quite fairly you think it  
 3 probably would have been the same. And that's  
 4 informative and useful.

5 So I'd like to thank you for that, and I think  
 6 for coming from Scotland to talk to us. If that's so,  
 7 and you're going back there tonight, then I can tell  
 8 you a little aside this, that the weather up there is  
 9 likely to be rather better than the weather down here  
 10 over the next couple of days. So there you are.

11 **THE WITNESS:** Thank you, Sir Brian.

12 **MS RICHARDS:** Sir, we reconvene on Tuesday, which I think  
 13 is 27 July, for the evidence of Lord Kenneth Clarke.

14 **SIR BRIAN LANGSTAFF:** Yes. So Tuesday, 10.00 am.

15 **(3.58 pm)**

16 **(The hearing adjourned until Tuesday, 27 July at 10.00 am)**

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