

Thursday, 22 July 2021

(10.00 am)

SIR BRIAN LANGSTAFF: Good morning. This morning we have Lord Glenarthur. Lord Glenarthur, would you please take the oath.

SIMON MARK, LORD GLENARTHUR (sworn)

Questions by MS RICHARDS

MS RICHARDS: Lord Glenarthur, you were appointed as a joint Parliamentary Under-Secretary of State at the Department of Health and Social Security on 13 June 1983.

A. That is correct.

Q. I understand that at that point in time you had no prior ministerial experience, although you had spent a year as a Government Whip?

A. I had Government experience in the Whip's office in the House of Lords for a year but that did not include dealing with policy areas. It simply meant handling material that I had to in debates, questions, et cetera, on four or five different subjects.

Q. You had no previous background in either the health or social security --

A. No none at all.

Q. Indeed, your background was in the military and as a helicopter pilot?

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your ability to answer any of the questions the Inquiry poses?

A. I have certainly signed the Official Secrets Act but don't think it inhibits me on anything in this particular -- in the papers.

Q. Can I start then by asking you a little about the ministerial structure in the Department that you joined and the hierarchy. At the top of the hierarchy, so to speak, is the Secretary of State for Health and Social Services, and that was then Norman Fowler, now Lord Fowler?

A. That's correct.

Q. The Inquiry will be hearing from Lord Fowler in September.

The next level down, so to speak, was the minister for health and that at the relevant time was Kenneth Clarke?

A. That's correct.

Q. Then the next tier down is the Parliamentary Under-Secretary of State and you were the Parliamentary Under-Secretary of State in the House of Lords and John Patten MP performed the equivalent role in the House of Commons?

A. Yes, he did. My role, though, encompassed, as Joint Parliamentary Under-Secretary of State, all the social

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A. Exactly, helicopter pilot in both -- in the military as well as normal military experience and then with flying helicopters for British Airways.

Q. You're a hereditary peer having succeeded to that title in 1976?

A. I succeeded in 1976 and first went to the House of Lords, took my seat in July '77.

Q. You remained in the position at the Department of Health and Social Security until 26 March 1985 and then you moved to the Home Office in a similar ministerial capacity?

A. Yes. I mean, an overnight move, a shuffle, because of somebody's illness, in fact.

Q. Then in terms of your later ministerial career, insofar as relevant to the Inquiry, you were Minister of State for Scotland between September 1986 and June 1987?

A. Yes, that's correct.

Q. In that capacity, you were a member of the Cabinet, Home Affairs and Social Affairs Subcommittee on AIDS?

A. Yes, I was.

Q. Just asked to ask you this before we move on to the substance of your evidence: have you in your ministerial or indeed any other capacity signed the Official Secrets Act and, if so, does that restrict

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security parts of the Department as well as the health side. So I covered everything from DHSS.

Q. Yes, and you rightly point out that there was then -- there's a separate or a potentially separate hierarchy for social security?

A. Yes.

Q. But you filled both briefs, as it were?

A. I filled both briefs for the House of Lords.

Q. Along with Mr Patten, therefore, you were the most junior of the ministers in the Department at that time?

A. Yes, I believe I was junior to John Patten.

Q. Can you just assist us with this. People are generally familiar with the concept of there being a Secretary of State for Health and familiar broadly with the concept of there being junior ministers. What's the particular role of the Parliamentary Under-Secretary of State, whether in the House of Lords or the House of Commons?

A. I think part of it's in the title, "Parliamentary". My responsibilities and I suppose the reason I ended up being sent from the Whip's office to a department was because, over a period of time, I'd been able to deal with matters in the House of Lords effectively, was considered a reasonably safe pair of hands to get

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1 business through the Lords, and after a period of
2 experience as a Whip it was felt that I should
3 continue that role in a department with the policy
4 areas as well.

5 So, yes, there was -- the more senior ministers,
6 take the Secretary of State, for example, was dealing
7 with a massive Department on both the health and the
8 social security side of things. The Minister for
9 Health was -- I suppose one might describe as my boss,
10 in a way, because he had almost ultimate
11 responsibility for health although the Secretary of
12 State is the Cabinet Minister dealing with it all and
13 my role, with delegated responsibilities, was to deal
14 with the matters that had been given my way, put my
15 way.

16 **Q.** Did your lack of ministerial experience -- and I don't
17 mean that in a pejorative sense, purely as a statement
18 of fact -- at that stage in 1983 make you more
19 deferential to the views of the ministers who were
20 above you in the hierarchy?

21 **A.** Only very partially. Kenneth Clarke was a much more
22 experienced politician. That was one of the -- apart
23 from being a lawyer himself, he had much more
24 experience in other departments than me -- deferential
25 because he was -- you know, had that experience which

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1 responsibilities work, what's the function of the
2 private office?

3 **A.** The private office was really the office which looked
4 after me in terms of having a professional civil
5 servant Private Secretary, who was probably a fast
6 stream expert, Christopher Joyce in my case. They
7 were the people that would ask for the briefings, they
8 would ensure that all documentation was in order.
9 They would support me in the House of Lords when it
10 came to dealing with questions and debates. There
11 would be one of them, as well as an official, probably
12 in what we call the box, the official's box, to
13 provide advice; send up notes, if necessary, on
14 a point that wasn't fully understood by me, or
15 an answer to a question which I couldn't possibly
16 answer without getting advice; and they were the
17 general mechanism at official level keeping in touch
18 with every element of the Department.

19 **Q.** Again, I don't mean this in any pejorative sense but
20 does the private office operate in some respects as
21 a kind of gatekeeper, in terms of what material will
22 go to the Minister or as a point of liaison between
23 the Minister and then the rest of the Department?

24 **A.** To an extent, yes, but I think, in my case, virtually
25 everything that I would have wanted to know about the

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1 I didn't have. So I was at the beginning of my
2 ministerial career up the ladder and I did defer in
3 many respects to him but I stood my own ground where
4 I felt there was a need to.

5 **Q.** Then, again, did that lack of ministerial experience
6 as a fact, and the fact that you didn't have any
7 particular -- many ministers won't have -- any
8 particular experience or knowledge in the health or
9 social services field, did that make you particularly
10 reliant, do you think, upon the Civil Service advice
11 that you received?

12 **A.** Yes, there was an enormous amount to learn about the
13 background to the issues which I had responsibility
14 for. So, yes, enormous reliance on both my own
15 private office and the rest of the Department as
16 necessary, in order to learn what was going on and
17 learn the issues that were likely to arise in due
18 course. So, yes, there was a lot to be learnt from
19 them and particularly in scientific and clinical
20 fields, which much of this Inquiry's involved with.

21 **Q.** Then if we look at from your ministerial perspective
22 at the structure of the Department, you've referred to
23 your private office. Can you just explain for the
24 many of us who will be less familiar than you with how
25 Government departments and ministerial

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1 issue we're talking about would have come to me.
2 I cannot, and I have thought about it, I cannot
3 conceive of any particular piece of information which
4 my office would have decided I did not need to see,
5 although in other departments sometimes the bulk of
6 material coming in front of you, which you didn't
7 necessarily need to read, was huge and you couldn't
8 digest it all.

9 **Q.** This may become more apparent as we look at specific
10 issues but a lot of the documentation that the Inquiry
11 has been looking at and, for example, the
12 documentation that the Inquiry looked over a number of
13 days with Dr Walford this week would simply never
14 reach the private office and thus never reach you?

15 **A.** That is absolutely correct. It's evident from looking
16 through all the material I've been sent that an
17 enormous amount of information never came my way.
18 Understandably, it was dealt with at official level.
19 This was stuff which was scientific, clinical. It was
20 Department -- members of -- different elements of the
21 Health side of the Department of Health and Social
22 Security debating amongst themselves, and external
23 committees as well, as to what was the right way
24 forward. So a huge amount never came my way.

25 **Q.** Then in terms of, leaving aside the private office,

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1 the remainder of the hierarchy of the Department,
 2 we've heard from Dr Walford this week that there were
 3 essentially two parallel hierarchies within the
 4 Department of Health: the medical hierarchy,
 5 ultimately reporting to the Chief Medical Officer, and
 6 then the administrative and policy making side of the
 7 Civil Service?

8 **A.** Yes.

9 **Q.** Reporting up the more conventional Civil Service
 10 structure. Was that your understanding as well?

11 **A.** Absolutely.

12 **Q.** What was your understanding, if any, of the role of
 13 the Chief Medical Officer, in particular as regards
 14 the provision of advice to the Department and to
 15 ministers?

16 **A.** I think it's true to say that the link between the
 17 Permanent Under-Secretary of State, who was the sort
 18 of accounting officer, if you like, Sir Kenneth Stowe,
 19 and the Chief Medical Officer ran parallel lines, one
 20 dealing with administration, the other dealing with
 21 purely medical matters.

22 The CMO's side of things had a substantial
 23 number of people who worked to him on clinical issues,
 24 which wouldn't necessarily come in front of ministers,
 25 except occasionally and in fairly general terms, and

1 with the issue at the right level in the Department,
 2 who were experts in their particular field, such as
 3 Dr Walford.

4 **Q.** So I would be right to understand there was no system
 5 in operation at the time, for example, of regular
 6 meetings with the Chief Medical Officer?

7 **A.** No, no.

8 **Q.** We heard from Dr Walford earlier in the week that the
 9 Chief Medical Officer had a number of what were called
 10 consultant advisers?

11 **A.** Yes.

12 **Q.** So a small group of medical advisers in some but not
 13 all medical fields, which included a consultant
 14 adviser in blood transfusion, and at the time you were
 15 in post it would have been Dr Harold Gunson.

16 **A.** Yes.

17 **Q.** Did you ever have any dealings directly with Dr Gunson
 18 or any of the other consultant advisers that you can
 19 recall?

20 **A.** I think I did meet Dr Gunson. I'm not sure that --
 21 and I can't recall whether he was present when
 22 I visited the Blood Products Laboratory. The name is
 23 certainly familiar and I may well have met him.

24 **Q.** Again, there was no system or process of any kind of
 25 regular encounters with any of the consultant

1 they complemented each other because some of the
 2 clinical issues involved, and you'll no doubt come on
 3 to something like the Blood Products Laboratory, on
 4 the one hand, which would have had a medical arm
 5 dealing with one aspect of it, also had an
 6 administrative -- it was administratively important
 7 because, of course, money was involved and, as the
 8 accounting officer, the Permanent Secretary had
 9 a major responsibility to ensure that all that was in
 10 order.

11 So they worked in a complementary way, the
 12 medical people really reporting ultimately to the CMO.

13 **Q.** Did you yourself ever have any particular dealings
 14 with the Chief Medical Officer?

15 **A.** Only very occasionally. Certainly when I arrived in
 16 the Department I was called upon by a number of senior
 17 people in the department, one of whom was
 18 Sir Henry Yellowlees, and the Chief Nurse came to see
 19 me and lots of other senior officials came to brief me
 20 about their role and offer help if necessary. There
 21 were other occasions when I did speak to -- certainly
 22 more to Sir Donald Acheson than Sir Henry Yellowlees,
 23 but yes, if necessary, I would have gone directly, but
 24 very often it was through the private office and
 25 then through the people that were actually dealing

1 advisers?

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

3 **Q.** Beyond the civil servants, whether in the private
 4 office or the medical hierarchy or the administrative
 5 hierarchy, did you have access to any other particular
 6 sources of information or advice about the matters
 7 that fell within your ministerial responsibilities or
 8 was it very much dependent upon what the officials
 9 within the Department provided to you?

10 **A.** It was -- I had no external information at all. It
 11 was entirely from within the Department. I mean,
 12 I might have had the odd chat with people who were
 13 interested, for example in the House of Lords, where
 14 there are a number of doctors, but they were just, you
 15 know, informal discussions, as one was bound to have
 16 in a collegial setting like that, but nothing serious.

17 **Q.** You have referred already to there being a number of
 18 expert bodies and the Inquiry knows, and again
 19 Dr Walford cast some further light on this, there were
 20 a myriad of working parties, committees and the like,
 21 arguably often with overlapping responsibilities,
 22 throughout this period. Did you ever have any direct
 23 dealings with those committees or working parties?

24 **A.** Not that I can recall.

25 **Q.** Now then, you and your fellow ministers each had

1 particular areas of responsibility, a particular
2 portfolio of matters; is that right? And if we look
3 at your statement -- Soumik, can we have
4 WITN5282001 -- it's paragraph 2.3, Lord Glenarthur, if
5 you want to look at your hard copy, but it will come
6 up on screen. If we go to page 12 we can see at the
7 bottom of the page you say:

8 "My roles as Parliamentary Secretary of State.

9 "My main policy areas of responsibility,
10 allocated by the Secretary of State, were ..."

11 Just before we look at what they actually were,
12 you say they're allocated by the Secretary of State.

13 Do you have any knowledge of the basis upon which
14 a particular policy area might go to you rather than
15 Mr Patten or to Mr Clarke rather than you or --

16 **A.** No, I don't. I mean, I realise that there were
17 a number of substantial issues which had to be looked
18 at in comparative detail by junior ministers.
19 I remember hearing that mental health and mental
20 handicap were the two prime ones, but at the very
21 moment AIDS cropped up and so I got very involved in
22 blood.

23 There was an enormous amount of information
24 floating about. I mean, the fact that one was dealing
25 with half a dozen or more different areas on both

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1 **A.** Yes. I mean, I'm using the term that was used at the
2 time.
3 **Q.** Yes, absolutely. Understood.
4 "Hospital Scientific Services" the next,
5 "Alternative Therapies", "The NHS Estate" over the
6 page?
7 **A.** Yes.
8 **Q.** So that's really the physical properties that
9 constitute the NHS; is that right?
10 **A.** Yes. It was a mix of both what were owned by the NHS
11 and also the pre-1948 legacy issues, of which I can
12 remember a couple of instances, some of which were
13 quite time consuming.
14 **Q.** Then we can see we get to "The Public Health
15 Laboratory Service". So that system service was part
16 of your ministerial responsibilities.
17 Next, then, "The Centre for Applied
18 Microbiological Research", possibly better known as it
19 facility at Porton Down?
20 **A.** Yes.
21 **Q.** "Healthcare Exports", then "Blood, Blood Products, the
22 Blood Products Laboratory (BPL) and the Central Blood
23 Laboratories Authority (CBLA)", which obviously is the
24 key area of responsibility from the Inquiry's
25 perspective.

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1 health and social security and the office's
2 population, censuses and surveys and the necessary
3 briefings on other Parliamentary matters which I would
4 have been asked to play a role in, for example, the
5 telecommunications bill, privatising BT, this
6 generated an enormous amount to learn and keep on top
7 of, and certainly keep one's short-term memory on top
8 of over a period of time. These issues that were
9 particular to health or social security would be
10 rather longer term and one could keep them in one's
11 mind and deal with material as and when it came up.

12 **Q.** If we just look at what the main areas were as
13 Parliamentary Under-Secretary of State we've got there
14 "Mental Health" including, as you say, the special
15 hospitals, and you have identified a number or
16 significant issues that were active during the time
17 you were minister in that regard?

18 **A.** Yes.

19 **Q.** And so if we go to the top of the next page we see
20 that included work in relation to the new Mental
21 Health Act and the Mental Health Act Commission?

22 **A.** Yes.

23 **Q.** We can then see the next is "Mental handicap", which
24 I think we would now probably term as "learning
25 disabilities", but --

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1 Your understanding, as you set out in your
2 statement, is because the Public Health Laboratory
3 Service fell within the areas allocated to you, it
4 brought with it responsibility for blood and blood
5 products; is that right?

6 **A.** That is as far as -- as I recall, yes.

7 **Q.** Then if we go to the next page we can see a range of
8 other areas of responsibility you had, so "The Warnock
9 Report into Human Fertilisation and Embryology", "The
10 Office of Population, Censuses and Surveys", "War
11 Pensions", "National Insurance Contributions".

12 So a fairly wide range of areas that you were
13 expected to cover?

14 **A.** It was a huge area of responsibility, yes.

15 **Q.** Was there any expectation, as far as you can recall,
16 that you would accord some of those areas priority
17 over others or did it very much depend upon what
18 particular issues emerged from month to month?

19 **A.** It depended on what issues emerged. One built up
20 a general database in one's mind of the key issues one
21 had to keep on top of. If not, you were reminded by
22 your private office that such and such was
23 an important thing to, you know, keep on top of but,
24 no, there was no particular pecking order. The issues
25 that arose day by day, either for you to have

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1 a meeting about or to read something about or reply to
 2 a letter which was dealing with that particular issue,
 3 or so on, but it was wide. But there was no
 4 generalisation that you spent a day concentrating
 5 solely on blood and blood products or anything like
 6 that.
 7 **Q.** So one week there might be a particular issue relating
 8 the organisation of the special hospitals and the next
 9 week it might BPL, and the week after that you might
 10 have to deal with something relating to Porton Down,
 11 and so on?
 12 **A.** Absolutely.
 13 **Q.** Was there any particular ministerial responsibility
 14 for, either for public health, as a dedicated area, or
 15 for the particular public health crisis of AIDS, as
 16 far as you can recall?
 17 **A.** Whether or not that was in part looked after by either
 18 Mr Clarke or Mr Patten, I can't recall, because when
 19 I arrived AIDS had just emerged as an issue and
 20 because of the connection of AIDS with blood and blood
 21 products it naturally fell to me. In terms of public
 22 health generally, and the relationship to public
 23 health to social services and to other elements of the
 24 Department, I think the sort of overall topic was
 25 looked after by one of my ministerial colleagues and

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1 State, the licensing of pharmaceutical and biological
 2 products?
 3 **A.** No, not at all.
 4 **Q.** I think you've told us in your statement that in part,
 5 because you were relatively junior and new and because
 6 there was some very weighty matters that you were
 7 being asked to look at, quite a lot of the material
 8 was then copied to the Minister of State --
 9 **A.** Yes.
 10 **Q.** -- Mr Clarke?
 11 **A.** That's correct.
 12 **Q.** You've said in your statement, and perhaps in part
 13 emerges from what you've just told us about the
 14 breadth of responsibilities you had, you said it was
 15 utterly impracticable for ministers to be involved in
 16 the level of detail to the extent that officials were
 17 and so meant day to day aspects of policy making and
 18 implementation of policies were essentially left to
 19 officials to get on with.
 20 **A.** That is broadly correct, yes. The detail involved in
 21 so many of these complex areas, and I include all of
 22 my portfolio responsibilities were such that there was
 23 a substantial team of people dealing with it day by
 24 day and if there were important decisions to make,
 25 which they needed ministerial approval for, they were

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1 not by me.
 2 **Q.** We can ask them.
 3 To what extent was there an overlap between your
 4 role and Mr Patten's because we'll see -- and we'll
 5 hear next week when we hear from Lord Clarke -- Lord
 6 Clarke becoming involved in a number of issues
 7 relating to blood, blood products, blood safety and
 8 the like --
 9 **A.** Yes.
 10 **Q.** -- and one understands that as the minister in the
 11 hierarchy above you. But Mr Patten was involved from
 12 time to time in relation to some of these matters?
 13 **A.** Mmm.
 14 **Q.** Was that normal, that because one of you has the House
 15 of Lords role and one has the House of Commons that
 16 you would be copied into what the other was seeing?
 17 **A.** Yes, precisely. There was a need for ministers to
 18 copy certain information to one another so that there
 19 was a general growing awareness for the Minister who
 20 wasn't dealing with the topic *per se* full-time to be
 21 aware of what's going on because they were likely to
 22 have to answer to Parliament in one form or another.
 23 **Q.** Did your role involve oversight of the work of the
 24 Medicines Division within the Department of Health, so
 25 the licensing responsibilities of the Secretary of

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1 brought forward. But it would simply be impractical
 2 for a minister to get to that level of detail because
 3 the portfolio was so large and the volume of
 4 information so large that it was quite difficult to
 5 cope with anyway, quite honestly, but if you had to
 6 deal with every single detail you would have spent all
 7 day doing it and probably all night as well.
 8 But if you really needed to dig down deeply into
 9 a particular issue, then you were, of course, able to,
 10 providing you got the information in the first place
 11 which led you to decide that you needed to dig down
 12 into it.
 13 **Q.** What was the criteria, if any, for a matter to come to
 14 the attention of ministers? Just to provide some
 15 context for the question, Lord Glenarthur, I ask it
 16 because we've seen a number of examples of submissions
 17 to ministers, sometimes on overwhelmingly obvious
 18 matters, huge amounts of expenditure of public money
 19 (entirely understandable why that goes to a minister),
 20 and others really very much more what one might think
 21 more minor matters: should there be a subcommittee
 22 established, should there be a consultation with so
 23 and so?
 24 What was the yardstick by which something would
 25 go to a minister as opposed to be dealt with purely by

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1 the civil servants?
 2 **A.** I'm not sure I can recall exactly what the different
 3 criteria would be but ministers were very concerned to
 4 ensure that any public statements on issues were
 5 properly handled, and no doubt we'll come to some of
 6 those that have been made in due course. Any
 7 substantial change of policy which was likely to
 8 affect either -- well, a whole range of things, they
 9 were brought to your attention. But, you know, if one
 10 was dealing with a particular topic at 10.00 in the
 11 morning and had a 45-minute discussion on a paper that
 12 required ministerial involvement at quarter to 11 you
 13 would be dealing with a completely different subject
 14 totally remote from the issue that you'd been dealing
 15 with half an hour before because that was the nature
 16 of the pressure of ministerial life.

17 So I can't recall exactly what the criteria
 18 would have been but if the civil servants thought that
 19 something was of such significance that it required
 20 ministers either to be aware or to approve, then that
 21 would be directed our way for a decision or to seek
 22 other ministerial advice on what the decision should
 23 be.

24 **Q.** Now, before we come to look at any of the specific
 25 briefings you received, can you just assist us with

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1 **A.** They did have meetings, sort of ministerial level
 2 meetings, sometimes without officials, but I think in
 3 the case of the Secretary of State, Norman Fowler, one
 4 of his special advisers was there. These used to take
 5 place on Mondays. I didn't go to them all because
 6 there were other things I had to do or maybe I was
 7 still in transit between Scotland and London where
 8 I worked, although I generally came down on a Sunday
 9 night.

10 As well as those meetings, there was obviously
 11 the opportunity for Commons ministers to talk to each
 12 other outside the office in the House of Commons. It
 13 was more difficult for me because, as I said in the
 14 statement, I didn't have access to the House of
 15 Commons and they didn't -- for social reasons, and
 16 they didn't have access to the House of Lords for
 17 social reasons. So, yes, there were some regular
 18 meetings. I don't know -- I don't think -- they were
 19 just ministerial meetings tossing around the various
 20 issues of the day.

21 **Q.** Were those meetings, the ministerial meetings,
 22 minuted, do you think?

23 **A.** I don't think they were, no.

24 **Q.** To what extent was your role as Minister, and again
 25 I'm talking generally at the moment rather than the

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1 understanding what the general arrangement was when
 2 a new minister took up a post. How would he or she be
 3 expected to familiarise themselves at the beginning
 4 with the subject matter of their areas of
 5 responsibility and the core issues that they might
 6 need to have been aware of?

7 **A.** I think that was really in two different ways. First
 8 of all, there were oral briefings from the officials
 9 most closely involved with whatever the subject matter
 10 was. There would also have been written briefings on
 11 some issues but not all. The rest, frankly, was
 12 learning on the job as issues arose and one can always
 13 consult either the private office or through the
 14 private office more extensively within the Department,
 15 if it required further explanation, so that one
 16 understood as much as one possibly could about the
 17 often quite technical issues that one faced.

18 So it was a fairly rapid process. You were
 19 pitched in, frankly, and got on with it but you could
 20 always call for help if necessary.

21 **Q.** Then I've asked you about whether there are regular
 22 meetings with the Chief Medical Officer and you have
 23 indicated not. Were there regular meetings between
 24 the ministers, so would you and Mr Fowler, Mr Clarke,
 25 Mr Patten have any kind of regular interaction?

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1 some of the specific decisions that we'll look at,
 2 a reactive one to respond to submissions that were put
 3 before you, rather than proactively raise matters or
 4 make enquiries about matters?

5 **A.** Could you just say again?

6 **Q.** To what extent was your role as a minister, in
 7 general, a reactive one, reacting to submissions,
 8 rather than a proactive one?

9 **A.** It was a bit of both. A lot of it was reactive but
 10 when issues cropped up which did require one to go
 11 back to the Department and query, ask for advice,
 12 debate through particular things, ensure that the
 13 Department's heading what you believe to be in the
 14 right direction, one would do that. So it was a bit
 15 of both. I don't think I could give a split between
 16 proactive and reactive.

17 **Q.** Then could you perhaps just talk us through what might
 18 be a typical day as a Minister in the Department in
 19 1983/1984. You'll probably say there was no such
 20 thing as a typical day but, broadly speaking, what
 21 would a day in the job comprise?

22 **A.** Probably getting to one's office about 8.30. One
 23 would have a diary for the day's activities prepared
 24 by my diary secretary. There were three staff in the
 25 office, one Private Secretary, another Private

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1 Secretary, a Diary Secretary, and I can't remember
2 whether -- in certainly other departments I had four
3 people, and there was you know a continual flow of
4 information, trying to get things into the Minister's
5 diary so that he could handle them and that would go
6 on all day. Briefing on Parliamentary matters was,
7 you know, always very important. Some things cropped
8 up at the last minute, uprating on pensions, which
9 I probably didn't know about the weekend before
10 because no-one had told me, and I had to deal with it
11 on a Monday or Tuesday morning and, you know, 2.30 in
12 the afternoon in the House of Lords, and there were of
13 course lots of external visits.

14 I used to attend Regional Health Authority
15 chairmen's meetings, District Health Authority's
16 chairmen's meetings because the Secretary of State
17 wanted his ministerial team there, so one was often
18 away, let alone all the other visits that one would
19 want to make to learn about particular issues at
20 firsthand and begin to understand the sort of meat of
21 what the Department was dealing with.

- 22 **Q.** So, in terms of those kind of visits, there might be
23 a visit to BPL or Porton Down or a special hospital.
24 **A.** Yes, exactly, and that would go on and then, depending
25 on Parliamentary activity, I would be -- almost

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- 1 **A.** Yes.
2 **Q.** We'll look at some individual details again as we go
3 through the issues but there's some of the briefings,
4 for example, have not been found, some minutes have
5 not been found, and the like.

6 What were, to the best of your recollection, in
7 '83 to '85 the systems to ensure that papers were
8 retained?

- 9 **A.** I honestly don't know and I don't think I ever asked.
10 I think I assumed that papers would be retained and,
11 certainly, in other departments that I was in
12 subsequently, I know because of various instances
13 where papers were produced which indicated one had
14 taken a particular view many, many years before on
15 a particular issue. I do not know what the sort of
16 archiving system was within the Department of Health.
17 **Q.** The fact that documents are missing, I think, has come
18 to your attention --
19 **A.** Yes.
20 **Q.** -- through the process of writing your statement for
21 the Inquiry. Have you asked what the understanding is
22 as to how or why they've gone missing and, if so, what
23 answers have you received?
24 **A.** I haven't asked the question. I mean, the lawyers who
25 have been helping me have been trying to discover

27

1 certainly most of the time in the afternoons were
2 spent in the House of Lords because, as a member of
3 the Government, what we used to loosely call the
4 payroll vote, I had to be there to vote on issues,
5 unless there were -- particularly if it was a very
6 strong Whip, unless I had good cause not to be.
7 Sometimes there was good cause. Sometimes I couldn't
8 go to wherever I wanted to go to.

9 I may get back to the Department at some point.
10 I don't necessarily recall because it was quite a long
11 way to go to Alexander Fleming House and then, in the
12 evening, I'd almost invariably be in the House of
13 Lords, either dealing with DHSS matters on the floor
14 of the House or other matters, or working on piles of
15 paper which used to be brought across, in my case
16 black boxes, for attention. So one went through it
17 all, when one could, commented as necessary, noted as
18 necessary and invariably returned them in the morning
19 when one arrived at the Department for my office to
20 sort them out and put them in the right direction.
21 Often, I have to say, in the House of Lords until 1 or
22 2 in the morning in those days.

- 23 **Q.** You've identified in your statement a number of
24 documents relevant to the issues that the Inquiry is
25 investigating that are missing.

26

1 where things have got to but they have not been
2 discovered, I think, either by them or indeed the
3 Inquiry. I just simply do not know. All I would say
4 is that the voluminous amount of material that even
5 I've got, let alone lots of others, is an indication
6 that they were kept somewhere but some probably
7 were -- I don't know, the amount -- I don't know how
8 the national archiving system actually operates. I've
9 never visited it.

- 10 **Q.** You do make an observation in your statement of
11 a perspective that, at least compared to some of the
12 other departments that you became familiar with, the
13 record-keeping within the department, or at least
14 within the ministerial private office, was perhaps
15 poorer than other departments; is that right?
16 **A.** Well, I think it might have been, but I'm not sure.
17 Once the information left my private office -- and
18 they were very diligent -- what happened to it then,
19 when it went back into the system, I honestly do not
20 know. But what I do know from experience elsewhere,
21 and as I've explained in my statement, where
22 classified information was concerned, and this
23 particularly was in the Home Office and the Foreign
24 Office, there naturally was a very strict regime of
25 control of classified papers.

28

1 **Q.** Now, if you were going to be in Parliament addressing
 2 something which fell within your specific area of
 3 responsibility, whether in response to a Parliamentary
 4 question or a Parliamentary debate or however
 5 something might come up, what typically would be the
 6 briefing process that would precede that?
 7 **A.** The first thing would be a written brief. Let me take
 8 an example of a Parliamentary question. Parliamentary
 9 questions in the House of Lords, and I'm talking about
 10 the four questions at the beginning of the day --
 11 which had, in my day, to be fitted into 20 minutes, it
 12 often overran to 25 -- there were four questions. The
 13 briefing would consist of a folder containing
 14 background -- the question, which had been put down
 15 two or three weeks before, background to it or likely
 16 background to it, the answer that the Department
 17 proposed that I should give, and a whole list of
 18 supplementary questions that were likely to arise.
 19 Then I would have an oral briefing, invariably,
 20 with the necessary officials, to go through it,
 21 perhaps amend the answer, shorten it, because we were
 22 encouraged always to be brief and answer the question,
 23 don't stitch supplementary answers into the sort of
 24 the few minutes that you had left to do it, and
 25 I would then go over to the House of Lords and

29

1 political mood.
 2 The House of Lords did things in a slightly
 3 different way. The House of Lords was much --
 4 although it was obviously political, it was much more
 5 on detail and real experts, who were looking at things
 6 not so much through a political eye but more on
 7 a factual basis, and there was a lot of expertise
 8 there. So, yes, I think the general reality of
 9 ministers in the House of Commons was always to be
 10 aware of the public.

11 Not to say I wasn't aware, myself. You know,
 12 all ministers were aware to some extent.

13 **Q.** Can I just ask you about the interrelationship between
 14 your role and Scottish Office, Welsh Office, Northern
 15 Ireland Office, and in Scotland, indeed, the Scottish
 16 Home and Health Department.

17 **A.** Yes.

18 **Q.** Do you recall any particular system or process of
 19 liaison with any of those Departments or Offices?

20 **A.** Not that I was involved with, although there were
 21 certain submissions in relation to blood and blood
 22 products which might have been copied at one point to
 23 Scottish Home and Health Department by DHSS, and
 24 vice versa, but I don't remember more than very, very
 25 few instances of it.

31

1 digest -- you know, I had it in a folder, everything
 2 was tabbed so that I could refer to an index and turn
 3 up the relevant page, listen carefully to the question
 4 and answer it appropriately.

5 **Q.** Then if I can just ask you again, just before we come
 6 to some of the specifics, about a comment you make in
 7 your statement.

8 Soumik, if we can have the statement back, it's
 9 WITN5282001?

10 **A.** What page?

11 **Q.** Page 18, paragraph 6.6.

12 **A.** Page 18. Hold on. 6.6.

13 **Q.** You say there:

14 "Other Ministers were very alert to the public
 15 perception and political mood generated by decisions
 16 taken, and to any likely press comment."

17 Were there particular other ministers that you
 18 had in mind in making that observation?

19 **A.** Just that, you know, particularly the House of Commons
 20 ministers, simply because of their role as
 21 representatives, with constituencies, they were
 22 elected Members of Parliament, so they had -- and they
 23 had much more experience than me -- the public
 24 perception of what is being said, and that crops up
 25 in, for example, the first AIDS leaflet, and overall

30

1 **Q.** To what extent did you -- sorry, I'll put it another
 2 way. What was your understanding of the geographical
 3 reach of your responsibility in terms of the
 4 United Kingdom?

5 **A.** England and Wales.

6 **Q.** So Scotland and Northern Ireland were very much
 7 *sui generis*, as it were, they ran themselves through
 8 the respective Offices or the Scottish Home and Health
 9 Department --

10 **A.** Yes, I don't remember any involvement with Northern
 11 Ireland in relation to this at all. Wales, I think
 12 I did but I don't remember the detail, and Scotland,
 13 I didn't have any real dealings with until I became
 14 Minister of State for Scotland, where I did have the
 15 health portfolio.

16 **Q.** Do you know, maybe you don't at the ministerial level,
 17 but do you know whether there were any systems or
 18 measures in place to ensure co-ordination or
 19 consistency between decisions being taken in relation
 20 to England and Wales, for example, and decisions being
 21 taken in Scotland?

22 **A.** I believe there were but I don't know the details.

23 **Q.** I want to turn then to your early involvement with the
 24 public health crisis of AIDS and the information that
 25 you were given.

32

1 A. Yes.

2 Q. Now, there's a minute -- I won't put it on screen but

3 there's a minute, I think we looked at it with

4 Dr Walford earlier in the week -- of 22 June 1983, so

5 fairly soon after you've joined the Department, which

6 records you'd asked the Chief Medical Officer,

7 Sir Henry Yellowlees, for information on AIDS.

8 We'll look at what information you were provided

9 with, which was a paper I think authored by

10 Dr Walford, in a moment.

11 A. Yes.

12 Q. But at that point in time, coming into the post, can

13 you recall what your understanding was about AIDS and

14 any link between AIDS and blood and blood products?

15 A. I was only aware of AIDS through what I'd read in the

16 papers and a degree of public concern about it, but

17 not in any way that I'd researched or anything like

18 that, just -- it was general knowledge, beginning to

19 get alarming, and I believe that I probably asked for

20 that briefing on AIDS, as I said earlier, when I first

21 met Sir Henry.

22 Q. So you'd have had some knowledge of AIDS from the

23 press generally, the media generally, before being

24 appointed to your post. In terms of the blood supply,

25 issues about the safety of the blood supply, is that

33

1 A. Latency, yes.

2 Q. In broad terms, you have been?

3 A. In very broad terms, yes.

4 Q. And of the very high mortality rate?

5 A. Mm-hm.

6 Q. There is then a section on AIDS in the USA and various

7 figures there given. I won't read out the detail of

8 that.

9 If we look then down the bottom of the page,

10 Spread of ... Disease":

11 "The pattern which emerges, is of a disease

12 which appears to be transmitted predominantly by male

13 homosexual activity but also by heterosexual means.

14 As a secondary method of spread, contaminated needles

15 used by drug addicts and the transfusion of blood and

16 plasma taken from donors carrying the AIDS agent,

17 account for the occurrence of AIDS in intravenous drug

18 abuse, haemophiliacs and recipients of blood

19 transfusion. Haemophiliacs seem at greatest risk of

20 acquiring AIDS in this way, since the clotting factor

21 which they need (Factor VIII) is prepared from the

22 pooled plasma from many thousands of donations."

23 So again, just pausing there, is it right that

24 you'd have understood from that that by this point in

25 time, June 1983, a causal link between the transfusion

35

1 something you had any knowledge of at all prior to

2 taking up your post?

3 A. No, none at all.

4 Q. Then in response to your request, as far as I think we

5 can understand from trying to piece together papers,

6 you were provided with essentially a briefing paper.

7 Soumik, it should be at DHSC0002309_124.

8 A. Yes.

9 Q. So we'll just go through it to see what the initial

10 information was that you were being provided with.

11 So the first paragraph describes AIDS as this

12 "newly recognised disease".

13 A. Yes.

14 Q. The symptoms are then described in the next paragraph:

15 "[They] come on insidiously, with non-specific

16 symptoms such as weight loss, fever, malaise

17 [et cetera]. There is usually considerable delay

18 between the occurrence of these early symptoms and the

19 onset of the specific disease - such as Kaposi's

20 sarcoma - which provides a clue to the diagnosis. The

21 mortality is at least 40% and there is no known cure."

22 So you would have been aware from this of this

23 latency period, this potential significant period of

24 delay between possibly infection and someone being

25 diagnosed with AIDS?

34

1 of blood or blood products and AIDS was recognised?

2 A. It was beginning to emerge, as I understood it, but

3 since the -- I think "aetiology" is the correct word,

4 the -- what AIDS was was not fully understood, and

5 there was -- I remember very well Dr Walford coming to

6 the office to tell me -- to explain the paper that

7 she'd sent so that I could ask her questions, and she

8 gave an extremely clear explanation about it all, and

9 I'm sure we probably discussed it, but the -- you

10 know, the extent to which the community were using

11 pooled plasma might be at risk, but also that it was

12 considered then to be an extremely small --

13 Q. We'll obviously come back to some of these issues.

14 Then we can see, talking about the rate so it

15 says:

16 "... although the number of AIDS cases reported

17 in homosexuals seems to be increasing at a rate of 4-5

18 new cases daily, the numbers of haemophiliacs with

19 AIDS ... does not seem to have altered over the past

20 several months."

21 Then, if we go to the next paragraph, "AIDS in

22 the UK", it refers to cases that had been reported to

23 the Communicable Disease Surveillance Centre, the

24 Central Public Health Laboratory, and an explanation

25 that there's one case so far of a haemophiliac who had

36

1 received Factor VIII concentrate made from USA plasma
 2 and then NHS concentrate, and the last sentence says:
 3 "Although this patient fits many of the criteria
 4 for the diagnosis of AIDS, there is still some
 5 uncertainty over the diagnosis."
 6 Then "Cause of AIDS", it is then said cause is
 7 unknown, the evidence is suggestive it may be a virus,
 8 and then there is some further information provided in
 9 relation to that.
 10 We are told:
 11 "There is no laboratory test which can be used
 12 to detect AIDS" at that point in time.
 13 Then there's a heading, "Steps which are being
 14 taken to prevent the spread of AIDS in the UK".
 15 **A.** Yes.
 16 **Q.** "Case reporting." There's reference again to the
 17 Communicable Disease Surveillance Centre and then,
 18 over the top of the next page, "Blood Donors".
 19 There's reference there to an information leaflet and
 20 we'll come on to that in some detail.
 21 Then we can see the second paragraph under that
 22 heading says:
 23 "The Directors are currently considering whether
 24 to introduce additional questioning for donors in
 25 respect of their general health or the presence of

1 **A.** Yes.
 2 **Q.** There's then a reference towards the bottom of that
 3 paragraph to the possibility of heat-treated
 4 concentrate and then we see below that a reference to
 5 the establishment of a working party in relation to
 6 research, and then the bottom paragraph, under the
 7 heading "Homosexuals" talks about a research venture
 8 proposed at the Middlesex Hospital.
 9 So that's the written information you received
 10 in response to your request to Sir Henry Yellowlees
 11 for a briefing on the whole situation?
 12 **A.** Yes.
 13 **Q.** Then you say you had a meeting with Dr Walford at
 14 which this issue was discussed. Can you remember
 15 anything further about that?
 16 **A.** No, I can't remember the detail of the meeting but it
 17 was an opportunity for me to discuss with her what had
 18 been set out in the paper and, no doubt, I probed on
 19 certain detail but I honestly can't remember this long
 20 ago exactly what I asked.
 21 **Q.** You say in your statement that this brief, the content
 22 of this brief, can fairly be said to represent your
 23 state of knowledge at that time.
 24 **A.** Yes, absolutely.
 25 **Q.** In terms of the incubation or latency period

1 certain key symptoms. No questions pertaining to
 2 donors' sexual habits will be asked -- the Directors
 3 are adamant on this score."
 4 Again, we will come back to that.
 5 **A.** Yes.
 6 **Q.** Then we have a heading "Haemophiliacs":
 7 "It is thought that the greatest risk to
 8 haemophiliacs at present is from the use of
 9 Factor VIII concentrate prepared from American
 10 plasma."
 11 Then there's reference to the redevelopment of
 12 BPL but that until national self-sufficiency is
 13 achieved some 50 per cent of Factor VIII concentrate
 14 will have to be imported mainly from the States. The
 15 next paragraph deals with the March 1983 regulations
 16 introduced by the FDA --
 17 **A.** Yes.
 18 **Q.** -- the Food and Drug Administration in the States.
 19 Again, we will come back to that at a later stage of
 20 your evidence, Lord Glenarthur, but you are told in
 21 this paragraph that:
 22 "The Department's Medicines and Supply Divisions
 23 are endeavouring to ensure that there will be no
 24 'dumping' of high-risk plasma products on the UK
 25 market ..."

1 between -- so the length of time that might elapse
 2 between someone actually being exposed and someone
 3 being diagnosed with AIDS -- can you remember whether
 4 you attached any particular significance to that at
 5 the time or --
 6 **A.** I'm afraid I can't recall whether I did. I'd have
 7 been told about it but, in these early days,
 8 I probably hadn't known enough, despite this briefing,
 9 to ask further questions about it. I don't recall
 10 now.
 11 **Q.** Do you know whether you -- or do you think you would
 12 have asked any further questions, again at this stage,
 13 about what was being done to achieve self-sufficiency
 14 or what was being done in relation to the FDA
 15 regulations?
 16 **A.** I'm sure I did ask about self-sufficiency and because
 17 of the March '83 FDA regulations I'm certain I did, if
 18 not at that meeting, I would have been given
 19 information for the Parliamentary question which
 20 I answered Lady Dudley's question, which was on
 21 14 July, I think it was, by memory, and I would have
 22 asked a series of questions then.
 23 **Q.** We'll look at the actual Parliamentary question and
 24 answer on 14 July at a later stage of your evidence
 25 today but, as you know, you answered a Parliamentary

1 question in relation to blood products on that day and
 2 you tell us in your statement that, I think consistent
 3 with what you said a few minutes ago, you would expect
 4 to have had that folder with the briefing --

5 **A.** Yes.

6 **Q.** -- the answer and the background question and answer
 7 document.

8 **A.** Yes.

9 **Q.** But those cannot be located, so --

10 **A.** No, apparently not.

11 **Q.** Then you say you would have had an oral briefing.
 12 I think you think you might have had an oral briefing
 13 on that occasion with Dr Walford because if we look
 14 at -- Soumik, it's DHSC0002229_114 -- we can see
 15 a minute dated 13 July from Dr Walford to Mr Joyce,
 16 who was your Private Secretary?

17 **A.** Yes.

18 **Q.** "I attach an explanation of the meaning of
 19 'international units' of Factor VIII as requested by
 20 Lord Glenarthur at this morning's meeting."

21 So you had obviously had a meeting, at which one
 22 of the participants was Dr Walford, on 13 July?

23 **A.** Yes, I don't recall whether Dr Walford was personally
 24 present for that briefing.

25 **Q.** I see.

41

1 were described to me as small."

2 So we'll come back to the issue about
 3 importation of US products and the March regulations
 4 but, in broad terms, are you able to help us with who
 5 you received those early explanations from, other than
 6 Dr Walford?

7 **A.** I don't know who they would have been and how it would
 8 have come across to me and whether any papers were
 9 sent to me which hadn't been circulated originally but
 10 were given to me by way of additional briefing, there
 11 might have been some. My mind goes back to the
 12 earlier inquiries into AIDS, which data was sent to me
 13 about -- that's to say the one before Penrose -- and
 14 some of that stuff might still be in my head as
 15 relevant. But I have no idea now who else, apart from
 16 Diana Walford, gave those other explanations to me.

17 **Q.** I'll come back to the question of what your
 18 understanding was of the risks of not providing
 19 treatment.

20 **A.** Yes.

21 **Q.** But just before I leave this paragraph, in the last
 22 sentence you say you recall being told the risk of
 23 blood products being contaminated were described to
 24 you as small.

25 **A.** Yes.

43

1 **A.** Other officials might have been but she was then asked
 2 by Mr Joyce to provide this explanation.

3 **Q.** I follow. So, at this distance of time, and given
 4 that unfortunately the documents have not been
 5 located, you don't know who was involved in giving you
 6 either the actual written briefing or the oral
 7 briefing in preparation for the Parliamentary
 8 question?

9 **A.** I'm afraid I don't.

10 **Q.** Can we then just look back, again, at your witness
 11 statement, if we could have that back on screen,
 12 Soumik, and if we go to page 24, it's paragraph 13.3
 13 and 13.4. So in paragraph 13.3, you say this:

14 "In very general terms, the early explanations
 15 to me suggested that the risk of transmission by blood
 16 products that might prove to contain the AIDS agent
 17 (which was not fully understood at this point) had to
 18 be set against the risk to haemophiliacs of not
 19 providing Factor VIII. Given this issue, there was no
 20 doubt in the papers provided to me that we had to
 21 continue to import Factor VIII from the US, and I was
 22 advised that reassurance was being obtained from US
 23 manufacturers that their products were of the
 24 post-March type and safer than earlier products. As I
 25 recall, the risk of blood products being contaminated

42

1 **Q.** First of all, are you there talking solely about
 2 contamination with AIDS or with a virus causing AIDS,
 3 as opposed to hepatitis?

4 **A.** I believe it was, in particular, in relation to AIDS
 5 because that was the topic that had alerted me to
 6 seeking the necessary briefing. But I did become
 7 aware that, also, there was the hepatitis issue as
 8 well and the relationship of the rebuild or
 9 redevelopment of BPL, which was initially because of
 10 that, rather more than anything else, and the need to
 11 increase the amount of plasma available.

12 **Q.** Then, in terms of your recollection that you were told
 13 that the risk of blood products being contaminated was
 14 small, are you able to elaborate upon what you mean by
 15 the risk of being small? Do you mean the number of
 16 likely cases that might eventuate of people being
 17 infected was small or was it your understanding that
 18 the thinking was only a very small proportion of blood
 19 products would be contaminated?

20 **A.** It really -- to my mind, it was the overall risk, as
 21 I would try and explain what was -- seemed to be
 22 an absolute risk was that if imported Factor VIII was
 23 not available for haemophiliacs, that the risk was
 24 determinate. I mean, it was going to be very, very
 25 serious indeed, and, in these early days of discovery,

44

1 so to speak, both here and the United States, about
2 AIDS, the risk, as identified in lots of papers, was
3 that it was very small but we now know that that was
4 not the case.

5 **Q.** As I say, I'll pick up on some of those in the course
6 of today and tomorrow as issues but you then tell us
7 in paragraph 13.4 that there came a point, later in
8 1983, when you were more concerned, more troubled
9 about the balance of risk.

10 **A.** Yes.

11 **Q.** You asked for a meeting with your fellow ministers to
12 discuss it and you've ascertained, from looking at
13 your own personal diary, that that meeting took place
14 on 15 September 1983?

15 **A.** Yes.

16 **Q.** Can you just tell us a little more about what made you
17 ask for that meeting and then what your recollection
18 is of the meeting and its outcome?

19 **A.** I think it was just after I'd seen The Haemophilia
20 Society. It was after the question that I'd had to
21 deal with in the House of Lords, and I was turning up
22 and making public comments about any risks that were
23 involved and I wanted to -- I'd been involved in
24 aviation for many years, where risk was a very
25 identifiable thing and we did not take risks. If you

45

1 I was also aware that the official view from
2 a myriad of experts was that this is the right way to
3 proceed and, bearing in mind after that measure of
4 reassurance that I got from my ministerial colleagues,
5 that, yes, this is a perfectly proper view to take in
6 the light of the clinical advice that you have been
7 given and that the Department have given generally,
8 this was the right way to proceed.

9 And so, you know, these are clinical, scientific
10 matters. Yes, there's a presentational aspect to it
11 as well but I believed that advice was solid on the
12 basis of what my colleagues said and that was the end
13 of the conversation.

14 **Q.** This meeting was with the Minister of State for
15 Health, so Kenneth Clarke, and with your equivalent in
16 the House of Commons --

17 **A.** John Patten, yes.

18 **Q.** -- John Patten. Did it involve Lord Fowler,
19 Mr Fowler?

20 **A.** Well, I think I remember saying that it would be very
21 nice if he could be available and I'd like to sit
22 round and have a chat about it all but I believe he
23 was not available and I got that reassurance from both
24 Kenneth Clarke and John Patten.

25 **Q.** Now, other than the entry in your own personal diary,

47

1 did, you had to have a very good reason to take a risk
2 and you didn't do it.

3 So there was a purity of that, on the one hand,
4 and here I felt, as a new minister involved in this,
5 that that balance of risk was an extremely difficult
6 one. The risk one way was perfect clear: if
7 haemophiliacs did not get Factor VIII they were going
8 to be in very serious trouble; on the other hand, the
9 apparently lesser risk, as described in myriads of
10 papers, was that, at that stage, it was thought that
11 the risk, although the AIDS agent had not been
12 identified, might be there, were looking at other ways
13 to mitigate that risk. The risk of providing that
14 imported Factor VIII product, the plasma necessary for
15 it, was a lesser risk than the alternative of not
16 providing it because we only produced 40 or
17 50 per cent of the necessary blood products to treat
18 haemophiliacs.

19 So it was a question of balance of risk, really,
20 that worried me and I wanted to ensure that my
21 ministerial colleagues were happy because I was
22 dealing with it rather more actively than they were,
23 that what I was saying in public and what the
24 Department were doing was correct and justifiable and
25 defensible in every single sense.

46

1 which has enabled you to pinpoint the date of this
2 meeting --

3 **A.** Yes.

4 **Q.** -- is it right to understand there's no official
5 record of the meeting?

6 **A.** I don't believe there was any official record.
7 I don't believe any officials were present. There
8 were many opportunities for ministers to talk to each
9 other. It's a normal dialogue in Parliament and in
10 Government to chat about things because that's how
11 lots of attitudes are expressed when they can't
12 necessarily be fed into a busy day in the Department.
13 In this particular case, it did happen in the
14 Department because we were all there, and I do not
15 know when I asked for the meeting but it happened when
16 we could all manage to get there.

17 **Q.** Now, I'd asked you about Dr Gunson as the consultant
18 adviser to the Chief Medical Officer in blood
19 transfusion. In terms of the treatment of patients
20 with bleeding disorders, the Inquiry has heard
21 an awful lot about an organisation called UKHCDO, the
22 United Kingdom Haemophilia Centre Directors
23 Organisations --

24 **A.** Yes.

25 **Q.** -- chaired by a clinician called Professor Bloom. Do

48

1 you recall ever being briefed about or learning about
 2 UKHCDO?
 3 **A.** No, I don't, I'm afraid.
 4 **Q.** Was the name Professor Bloom a name that you came
 5 across?
 6 **A.** Yes, I'm sure I came across Professor Bloom's name but
 7 I don't recall the detail, other than in the papers
 8 which I've subsequently seen.
 9 **Q.** Do you recall if you ever met Professor Bloom?
 10 **A.** I don't recall, I'm afraid.
 11 **Q.** Now, I want to then come to the issue of the donor
 12 leaflets.
 13 **A.** Yes.
 14 **Q.** We're going to look at the September -- or the 1983
 15 donor leaflet and then the 1984 donor leaflet, and I'm
 16 afraid in some degree of painstaking detail, because
 17 I think it's quite important to get the actual
 18 chronology and the documents seen by everybody.
 19 **A.** Yes.
 20 **Q.** So if we start with -- sorry, let me just find the
 21 reference -- DHSC0002309_121.
 22 This is a paper or submission that was provided
 23 to you. I think we'll see from another document
 24 shortly that it was on or about 1 July.
 25 If we just look at it, we can see the "Purpose

49

1 **Q.** -- it would appear that although there was a funding
 2 decision to be made, it's a very modest one?
 3 **A.** Yes.
 4 **Q.** Presumably expenditure of the magnitude of £5,000,
 5 would that ordinarily come to ministers for approval?
 6 **A.** I very much doubt it, but I don't know the answer to
 7 the question.
 8 **Q.** So it does appear that the reason why ministers are
 9 being asked about this issue is there described as
 10 "the sensitivity of the issue as it relates to
 11 homosexuals". So a concern -- was it a concern about
 12 potentially offending a cohort of potential donors?
 13 **A.** I think that was one of the concerns, yes.
 14 **Q.** Then if we look under the heading "Background", this
 15 is what you are told:
 16 "There is increasing evidence that AIDS may be
 17 transmitted by the transfusion of blood which is taken
 18 from a person who is either suffering from AIDS or who
 19 is in the incubation period of the disease. Blood
 20 products, such as Factor VIII for the treatment of
 21 haemophilia, may also transmit AIDS and haemophiliacs
 22 are at particular risk of contracting the disease
 23 because Factor VIII concentrates are made from.
 24 Pooled plasma of up to 5,000 donors. In this country
 25 there have been 12 confirmed cases of AIDS, 11 of

51

1 of paper", so the purpose of this particular paper, is
 2 set out:
 3 "An information leaflet on AIDS has been
 4 prepared by the Regional Blood Transfusion
 5 Directors ..."
 6 And you were provided with a copy of the draft
 7 at that point?
 8 **A.** Yes.
 9 **Q.** "Its main purpose is to discourage practising male
 10 homosexuals - who as a group carry the highest risk of
 11 transmitting AIDS in their blood - to refrain from
 12 donation. Funds are available for the Department to
 13 pay for the printing of the leaflet (estimated cost
 14 approximately £5,000), which would be distributed by
 15 the NBTS."
 16 So the National Blood Transfusion Service.
 17 "In view of the sensitivity of the issue as it
 18 relates to homosexuals, Ministers' agreement is sought
 19 to the funding and publication of the leaflet."
 20 Now, just pausing there, and again trying to
 21 understand why this was an issue where, in fact,
 22 ministers became very closely involved, not just you
 23 but also Mr Clarke and Mr Patten became engaged,
 24 I think, with this issue --
 25 **A.** Yes.

50

1 which have occurred in homosexuals and one in
 2 a haemophiliac. It is believed that there may be
 3 under-reporting of cases."
 4 Then the next paragraph says:
 5 "Although there is no conclusive evidence ..."
 6 And just pausing there, the theme of that line
 7 is an issue I will come back to at a later stage of
 8 your evidence:
 9 "... it seems very likely that AIDS is caused by
 10 an as yet unidentified virus. There is no laboratory
 11 or other test ... In the absence of such a test, Blood
 12 Transfusion Directors are anxious that information on
 13 AIDS should be made available to blood donors and that
 14 promiscuous male homosexuals - who as a group carry
 15 the highest risk of transmitting AIDS in their blood -
 16 should be discouraged from donating. There is
 17 absolutely no intention, however, that donors should
 18 be questioned about their sexual habits or be required
 19 to undergo a routine physical examination. The
 20 leaflet at Flag B has been prepared by the Regional
 21 Transfusion Directors who have asked the Department -
 22 which is responsible for the provision of much of the
 23 promotional literature distributed by the NBTS - to
 24 arrange for and to fund the printing of the leaflet."
 25 There's then a heading "Draft resolution of

52

1 Council of Europe", and I shall come back to, again,
 2 various aspects of the Council of Europe
 3 recommendation in due course.

4 **A.** Yes.

5 **Q.** But here you're told that:
 6 "If the Department were to fund the leaflet for
 7 distribution by the NBTS, this would be in conformity
 8 with a draft resolution ..."
 9 It then became a final resolution:
 10 "... prepared by the Committee of Experts on
 11 Blood Transfusion and Immunohaematology of the Council
 12 of Europe, which is to be submitted to the Committee
 13 of Ministers later this month. The draft resolution
 14 proposes that steps should be taken:
 15 ""To provide all blood donors with information
 16 on AIDS so that those in high-risk groups will refrain
 17 from donating'."
 18 Then you are told that an example of an
 19 information leaflet for donors will be appended for
 20 the Committee of Ministers in Europe.
 21 Then we have a heading "Sensitive issues":
 22 "It is possible that a request to homosexual
 23 donors to refrain from donating could be interpreted
 24 by homosexual rights groups as a discriminatory move
 25 which would infringe their rights as individuals

53

1 Service]."
 2 So would it be right to understand that the
 3 decision you were being asked to take there set out is
 4 to agree to the leaflet -- and you were sent the
 5 draft -- being funded and distributed, and there was
 6 a measure of urgency, is it fair to say, in this?

7 **A.** Yes.

8 **Q.** It was something that should be done as quickly as
 9 possible?

10 **A.** Absolutely.

11 **Q.** Because it was in the interests of the public health
 12 to try to ensure that the blood supply in the
 13 United Kingdom did not become contaminated with AIDS?

14 **A.** Absolutely.

15 **Q.** Then, just so that we can put a date on this, can we
 16 look at DHSC0002309_024.
 17 This is a minute dated, if we look down the
 18 bottom of the page, 1 July 1983, from Mr Parker in
 19 HS1, and Dr Walford's explained to us that's one of
 20 the administrative divisions of the Department of
 21 Health, services 1?

22 **A.** Yes.

23 **Q.** Then, top of the page, it's to Mr Joyce, and "PR/OFF"
 24 presumably abbreviation for --

25 **A.** Private office, yes.

55

1 donate their blood. Such a reaction would be more
 2 likely to arise if there were widespread
 3 misunderstanding of the nature of the problem posed by
 4 AIDS and the Transfusion Directors are anxious to
 5 pre-empt such misunderstanding by publishing their
 6 information leaflet as quickly as possible. The
 7 Directors have secured the full co-operation of the
 8 Gay Medical Association - a society of homosexual
 9 doctors - who have undertaken to disseminate
 10 information on AIDS and to draw attention to the need
 11 for homosexuals who suspect they may be at risk from
 12 AIDS to refrain from donation. It would also be
 13 possible for officials to meet with leaders of the
 14 various homosexual groups to ensure that they were
 15 fully informed of the medical background to this
 16 request, if such a meeting were felt to be desirable."
 17 Then we get to the "Recommendation":
 18 "In spite of the potential sensitivity of the
 19 issue, officials are of the view that early
 20 publication of the information leaflet is in the best
 21 interests of the public health.
 22 "Ministers are asked if they will agree:
 23 "To the funding and publication by the
 24 Department of the information leaflet, for
 25 distribution by the [National Blood Transfusion

54

1 **Q.** And it said:
 2 "AIDS
 3 "I attach a paper (flag A) ..."
 4 That's what we've just looked at.

5 **A.** Yes.

6 **Q.** "... prepared by Dr Walford, which seeks Ministers'
 7 agreement to the funding and publication by the
 8 Department of an information leaflet on AIDS (flag B)
 9 [the leaflet] for distribution by the National Blood
 10 Transfusion Service.
 11 "Lord Glenarthur will be aware from Dr Walford's
 12 note of 22 June ..."
 13 And that, I think, is probably the background
 14 paper we've already looked at.

15 **A.** Mm-hm.

16 **Q.** "... of the steps being taken by the Department to
 17 prevent the spread of AIDS in the [UK] and a further
 18 submission covering the imports of blood products,
 19 developments in technology, research and UK production
 20 of Factor VIII will shortly be put to Ministers.
 21 Meanwhile, in view of the public interest in AIDS, the
 22 issue of the leaflet would be seen as a positive step
 23 to minimise the risk of the transmission of the
 24 disease through blood donation in this country."
 25 So that's the matter coming to you on 1 July?

56

1 A. Yes.
 2 Q. Before we break, if we just look at your initial
 3 response, which is at DHSC0002309_025.
 4 This is from Mr Joyce, so from your Principal
 5 Secretary, back to Mr Parker, the date is 4 July 1983,
 6 it says:
 7 "Lord Glenarthur has seen your submission of
 8 1 July and is content with the proposed leaflet and
 9 the suggested cost."
 10 So you responded within a few days saying
 11 "Absolutely fine"?
 12 A. Agreed.
 13 Q. I'm not going to ask you to look at the draft leaflet.
 14 We might look at some of the later versions --
 15 A. Yes, okay.
 16 Q. -- but not the ones submitted at that stage.
 17 Sir, I note the time. Perhaps a good point for
 18 this morning's break.
 19 **SIR BRIAN LANGSTAFF:** Yes, we'll take a break until 11.45.
 20 Let me just tell you what I say to all witnesses at
 21 this stage. There's a break you are giving evidence.
 22 You are not permitted to talk to anyone, whoever they
 23 may be, lawyers, friends, family, anyone, about the
 24 evidence you have so far given or any evidence that
 25 you think you may yet be asked to give. Anything else

57

1 risk from AIDS?", a figure given as to the approximate
 2 number of patients found to be suffering, 1,450 in the
 3 States. Then, over the page, there's the question
 4 posed "Has AIDS occurred in the [UK]?" The draft
 5 reads:
 6 "Yes, a few cases have been reported, although
 7 nothing like as many in the USA. No-one knows whether
 8 more people in the [UK] will develop AIDS ..."
 9 Then "Can AIDS be transmitted by transfusion of
 10 blood and blood products?":
 11 "Almost certainly yes, but there is only the
 12 most remote chance of this happening with ordinary
 13 blood transfusions given in hospital. However, in the
 14 USA about twelve patients suffering from haemophilia,
 15 an illness in which the blood will not clot, have
 16 developed AIDS. Haemophiliacs are more susceptible to
 17 AIDS because they need regular injections of a product
 18 called Factor VIII. This is made from plasma obtained
 19 from many donors. Should just one of the donors be
 20 suffering from AIDS, then the Factor VIII could
 21 transmit the disease."
 22 So there's the explanation, as it were, as to
 23 why donors are being asked to consider whether they
 24 should donate blood.
 25 "How can the risks be reduced?" and there's

59

1 is fine but not that. That applies to all breaks,
 2 whenever they occur because you will be back with us,
 3 I think, tomorrow --
 4 A. Yes.
 5 **SIR BRIAN LANGSTAFF:** -- so bear it in mind.
 6 A. Thank you very much.
 7 (11.17 am)
 8 (A short break)
 9 (11.45 am)
 10 **MS RICHARDS:** Lord Glenarthur, I know I said before the
 11 break that I wasn't going to take you to the leaflet
 12 but I think actually we will just look at it briefly
 13 to see what the draft leaflet that you were approving
 14 said. Soumik, it's DHSC0002309_122, please.
 15 So we can see it starts by posing the question
 16 "Why is a leaflet on AIDS necessary?" and the second
 17 paragraph under that heading says:
 18 "Since AIDS maybe transmitted by transfusion of
 19 blood and blood products, the National Blood
 20 Transfusion Service wants blood donors to have the
 21 facts about the disease."
 22 We then see a question "What is AIDS?" The last
 23 sentence of that paragraph explains that AIDS is
 24 probably caused by a virus but this is not known for
 25 certain. There's then the question posed "Who is at

58

1 an explanation that there's no test, and so the
 2 leaflet then continues:
 3 "So, until there is and until more is known
 4 about this disease, donors are requested not to give
 5 blood if they think they may either have the disease
 6 or be at risk from it."
 7 So we can see there the language formulated is
 8 of a request.
 9 "Will donors be questioned on sexual matters
 10 when they attend to give blood?"
 11 "DEFINITELY NOT."
 12 "The [NBTS] has a very high regard for donors as
 13 extremely responsible people who give blood for the
 14 benefit of others and it is confident they would not
 15 knowingly put patients at risk from such a serious
 16 disease."
 17 And then the question posed and an answer given:
 18 "Where can donors obtain further information on
 19 AIDS?"
 20 So that's the lead let that you were being asked
 21 to approve and which you did approve?
 22 A. Yes.
 23 Q. We can see that Mr Patten also thought the matter
 24 required urgent action. That's DHSC0002309_027, so
 25 the date -- it's not entirely clear, it may be the 1st

60

1 but I think more likely, I think, 6 July 1983 but it
2 doesn't, I think, matter for present purposes, and it
3 says:

4 "Mr Patten has seen Mr Parker's submission of
5 1 July and has commented:

6 "In my view, public concern on this issue is
7 mounting, and rightly. The earliest possible
8 publication seems desirable, and the Gay Medical
9 Association could take the strain should more
10 fringe-like-gay bodies raise the flag of
11 discrimination."

12 That's copied to Mr Joyce, so copied to you?

13 **A.** Yes.

14 **Q.** So you'll have seen at the time Mr Patten essentially
15 adopting, effectively, the same line as you?

16 **A.** Yes.

17 **Q.** Then I just want to look by way of context to
18 a document that I think you almost certainly wouldn't
19 have seen at the time. It's DHSC0002321_024. You
20 will see, Lord Glenarthur, this is a letter of
21 14 July 1983. It's from Dr Gunson --

22 **A.** Yes.

23 **Q.** -- who was director of the Manchester Transfusion
24 Service and, as we've established, consultant adviser
25 to the CMO and it's addressed to Dr Oliver so one of

61

1 and alarm amongst patients. I suppose this could be
2 a possible reaction, but on the other hand, it will
3 only require one patient to die with an authenticated
4 diagnosis of AIDS contracted after a blood
5 transfusion, for there to be an accusation of the
6 Government failing to take measures which have been
7 advocated in the USA and recommended by the Council of
8 Europe."

9 Then he sets out two possible lines of action.
10 I'm not going to go through the detail of that and,
11 over the page, we'll see from about four lines down he
12 refers to having spoken to colleagues in the other
13 Regional Transfusion Centres about the method of
14 distribution of the leaflet, and I'll come on to that.

15 The purpose of showing you this, Lord
16 Glenarthur, really, is to reinforce -- or Dr Gunson
17 was reinforcing to your officials, officials within
18 the Department, the urgency of the matter and the
19 possible consequences if action wasn't taken?

20 **A.** Precisely.

21 **Q.** You say in your witness statement, I think it's
22 paragraph 16.4 --

23 **A.** Sorry, say again.

24 **Q.** 16.4, I think, let me just check. So if we could go
25 to page 26, please, Soumik, you say there at

63

1 those in the medical hierarchy at the Department of
2 Health and we saw his name come up on number of
3 documents we looked at with Dr Walford yesterday.

4 It would appear from the first paragraph that
5 there had been a discussion between Dr Oliver and
6 Dr Gunson about the leaflet on AIDS because he says:

7 "Dear Ron,

8 "Following our conversation yesterday about the
9 proposed leaflet on AIDS I thought I would set down
10 some thought I had on the matter whilst on my train
11 journey home.

12 "I appreciate the Minister's concern ..."

13 Just pausing there, I think we'll probably see,
14 possibly from other documents or perhaps from Lord
15 Clarke's evidence next week that this is probably
16 a reference to Mr Clarke, as he then was.

17 **A.** I suspect it was.

18 **Q.** Not in any event, as far as you're concerned,
19 a reference to you?

20 **A.** No --

21 **Q.** "I appreciate" --

22 **A.** -- I didn't have that concern.

23 **Q.** "I appreciate the Minister's concern that the issuing
24 of the leaflet may be regarded as a panic measure by
25 the Government and lead to resentment amongst donors

62

1 paragraph 16.4:

2 "I myself was quite clear that such a leaflet
3 was necessary. I was perhaps not as sensitive as were
4 some of my ministerial colleagues to any concerns
5 about upsetting the homosexual community, and the
6 adverse press coverage that could ensue. My greatest
7 concern was to minimise the risk of donors passing on
8 infection."

9 Then you refer to a Home Office minute which
10 we'll look at shortly.

11 **A.** Yes.

12 **Q.** Is it right to understand, both from the
13 contemporaneous documentation and your statement, you
14 were in no doubt whatsoever we need this leaflet and
15 it needs to be done quickly?

16 **A.** Yes, exactly that. I felt that there was a degree of
17 urgency which we didn't know where we were going with
18 this and we ought to get it out as soon as possible.

19 **Q.** There was however, it would appear, a question being
20 raised about the leaflet by Mr Clarke, the Minister,
21 and we'll look at that in the context of a meeting
22 that took place on 6 July, in which you were involved,
23 so if we go to DHSC0001511, this is the note of
24 a meeting. It's dated 6 July 1983. We can see at the
25 top it says "MS(H) Meeting Note; Subject: AIDS" and

64

1 we've got the date. Then those present: MS(H), now
 2 that's the internal abbreviation for the Minister of
 3 State for Health --
 4 **A.** Yes.
 5 **Q.** -- so that's Kenneth Clarke; Lord Glenarthur, so
 6 you're there; Mr Parker; Dr Oliver, and we've seen
 7 those names from documents with Dr Walford earlier in
 8 the week. So Mr Parker's, I think, in the Health
 9 Services Division, Dr Oliver is in one of the medical
 10 divisions. Mr Bolitho, do you recall who that was?
 11 **A.** I recall the name but I don't recall him at all.
 12 **Q.** Don't worry.
 13 Then we can see the record of the meeting.
 14 "MS(H) [so the minister Mr Clarke] had two main
 15 concerns - to establish the necessity of a leaflet and
 16 to agree how the inevitable publicity surrounding it
 17 should be handled.
 18 "2. Officials felt that Ministers did not have
 19 the option of doing nothing. The main objective of
 20 the leaflet was to discourage those who were most at
 21 risk from AIDS from giving blood and thereby spreading
 22 the infection to patients who needed large amounts of
 23 blood, principally haemophiliacs. Similar guidance
 24 had been issued by the American Blood Transfusion
 25 Service and the Council of Europe had recommended that

65

1 asked about the Blood Transfusion Service,
 2 Lord Glenarthur should emphasise that the risk to
 3 haemophiliacs was very small."
 4 Now, first of all, Lord Glenarthur, have you got
 5 any recollection, any particular recollection of this
 6 meeting on 6 July?
 7 **A.** Only very vague. I don't recall the nature of the
 8 conversation or the part that I played in it but I was
 9 certainly present at it, and indeed the Minister of
 10 Health had strong views, which are set out in this
 11 paper. I don't remember the detail of the
 12 conversation but I do remember being asked to be aware
 13 of the risk being small in relation to my question,
 14 the question I answered in the Lords.
 15 **Q.** Then if we just go back to the top of it, appreciating
 16 as I do that your own independent recollection is
 17 understandably, given the passage of time, limited, is
 18 it right, however, to understand from what we see
 19 written here, which is quite a helpful account, that
 20 the meeting would seem to have been called because the
 21 Minister of State wanted to have a discussion about
 22 this rather than, as it were, sign it off on the
 23 papers as you and Mr Patten had done?
 24 **A.** Yes, that's correct.
 25 **Q.** And it may be I can pose this question more directly

67

1 its Member States should put out a warning. Moreover,
 2 one of the Regional Transfusion Directors had let slip
 3 to the Press that a leaflet was in the offing and if
 4 nothing was now done, speculation would be rife."

5 Then paragraph 3:

6 "MS(H) [so Mr Clarke] accepted the strength of
 7 these arguments. He thought the leaflet, as drafted,
 8 read well although he would like it to emphasise more
 9 strongly how few cases of AIDS there had been in
 10 the UK, perhaps by quoting numbers. It should also
 11 emphasise unequivocally that donors would not be
 12 questioned about sexual matters when giving blood. It
 13 was inevitable that the leaflet would attract wide
 14 publicity and a carefully drafted Press Notice and
 15 full question and answer briefing would be needed. To
 16 minimise the scaremongering, the PN [that's the press
 17 notice, presumably] should emphasise how relatively
 18 few cases of AIDS had been reported and repeat that
 19 there was no question of donors being quizzed about
 20 their sexual habits. The main objective was to
 21 minimise any damage to the transfusion service. The
 22 announcement should be made at the same time as the
 23 leaflets were released.

24 "4. Lord Glenarthur would be answering an oral
 25 PQ about AIDS from Baroness Dudley on 14 July. If she

66

1 to Lord Clarke, but it sounds as though there was
 2 a discussion in which officials felt it important to,
 3 as it were, bring Lord Clarke on side about the need
 4 for a leaflet to be published?
 5 **A.** Yes I would say that's completely correct, yes.
 6 **Q.** Then, do you have any recollection of what's being
 7 referred to when we talk about -- where it talks
 8 about, at the end of paragraph 2, "one of the Regional
 9 Transfusion Directors having let slip to the Press
 10 that a leaflet was in the offing"?
 11 **A.** I don't recall anything about that at all. I've
 12 obviously read it in the documents that I've been sent
 13 but I don't recall that particular quote, "let slip",
 14 having happened. I'm afraid it's too long ago.
 15 **Q.** Then if we look at the third paragraph, there's
 16 reference there to wide publicity. Again, would it be
 17 right to understand from this that there was
 18 a concern, whether on the part of the minister or
 19 officials or both, that this had the potential for
 20 adverse publicity in the press and therefore needed to
 21 be handled carefully?
 22 **A.** Yes, I think that is absolutely right. Things picked
 23 up, quite understandably, and rightly, by the press
 24 could be sensationalist in a way and not express it in
 25 quite the same way that those of us handling it or at

68

1 the Centre would have wished to express it. A lot of
2 shorthand could be used which could generate alarm
3 when alarm might not be due and both Mr Clarke and, to
4 a degree, Mr Patten were alive to these risks.

5 **Q.** Then if we could just look at the last but one
6 sentence in paragraph 3, it says:

7 "The main objective was to minimise any damage
8 to the transfusion service."

9 Now, the main objective of the leaflet, as
10 I understand it from what we looked at earlier, was to
11 try to prevent AIDS from entering the domestic blood
12 supply, with the inevitable appalling consequences
13 that would ensue. Can you help us understand why it's
14 being said here the main objective was to minimise any
15 damage to the Transfusion Service?

16 **A.** I think there are two elements, really, in this, and
17 I'm looking at my statement --

18 **Q.** Yes, of course.

19 **A.** -- paragraph 16.5. The leaflet and the press notice
20 had slightly different but, as I've said,
21 complementary objectives. The leaflet was to
22 discourage high-risk donors because of the risk that
23 that would induce the infection into the donations
24 that had been given. The press release was a way of
25 trying to explain this in a way which was sort of

69

1 **Q.** I think you're right. So I appreciate it didn't arise
2 in terms of what you then said in Parliament, but can
3 you help us understand why it was thought important
4 that if the issue arose in Parliament you should
5 emphasise that the risk was very small?

6 **A.** Because that was the advice that we were being given
7 by clinicians and by the departmental officials, that
8 the risk was very small, and I had to go along,
9 naturally, with that expert advice.

10 **Q.** Now, you were sent a revised draft leaflet -- no
11 actually, sorry, before we come to the revised draft
12 leaflet, let's take this in chronological order.

13 On 8 July there's a document from the Home
14 Office.

15 DHSC0002229_072.

16 It's a letter from an Anthony Townsend, at the
17 Home Office, to Mr Parker, in HS1 at DHSS, and it
18 appears that he's being copied into the note that had
19 been sent to your Principal Secretary, Mr Joyce.

20 It refers to the possibility of an argument
21 about there being discrimination against homosexuals,
22 and then the last paragraph says:

23 "From the Home Office point of view, there is no
24 objection to the publication of the leaflet."

25 Now, I don't think there's any evidence to

71

1 user-friendly for the population at large and not to
2 provoke an overreaction, because if that happened,
3 there was a risk that the blood donations might dry up
4 and that would put the Transfusion Service in a degree
5 of difficulty, and so the two tended to balance each
6 other in a way.

7 So that was really -- and, indeed, as I say,
8 there was a risk that that could happen, as
9 demonstrated in New York.

10 **Q.** So your reading of this, essentially, is that when it
11 talks about the main objective being to minimise
12 damage to the Transfusion Service, that's really
13 talking about how you handle the possibility of any
14 adverse fallout?

15 **A.** Yes, precisely. The leaflet was to encourage people
16 not to give blood if they shouldn't.

17 **Q.** Then if we just look at that last paragraph, do you
18 know who it was who appears to have been advising you
19 or recommending to you that you should emphasise that
20 the risk to haemophiliacs was -- these are my words
21 here -- not just small but "very small"? Who did that
22 come from?

23 **A.** That would have been Mr Clarke. As far as I can
24 recall -- we can look at the question -- I don't think
25 actually the question was asked.

70

1 suggest you'd have seen this at the time --

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

3 **Q.** -- or yourself had any discussions with Home Office.
4 Do you have any understanding as to why the Home
5 Office's views were being sought at all?

6 **A.** I don't, at this stage, I'm afraid.

7 **Q.** Then if we go to PRSE0000049.

8 Again, this is a minute that you probably would
9 not have seen, I think. It's dated 6 July 1983. It's
10 from Dr Bell to Dr Scott. So Dr Bell was, I think,
11 effectively performing a similar role to Dr Walford
12 within the Scottish Home and Health Department, and if
13 I've got that wrong I hope someone will correct me.

14 We see at the top "AIDS". It says:

15 "You should be aware of the attached DHSS
16 submission received today. The submission an proposed
17 leaflet or in line with what has been tentatively
18 agreed by the English and Scottish RTDs."

19 So Regional Transfusion Directors.

20 Then there's identified an alteration between
21 what had been a draft prepared by Dr Gunson, which, in
22 turn, had been based upon a draft prepared by
23 Dr McClelland, who was the Scottish Regional
24 Transfusion Director -- I don't need to ask you about
25 that -- and then the National Blood Transfusion

72

1 Service version.
 2 Then in paragraph 2, and this is what I wanted
 3 to ask you about, it says this:
 4 "However we are informed that Mr Fowler's first
 5 reaction is that the term of this leaflet is too
 6 strong, and that the DHSS may therefore be making
 7 further amendments."
 8 Then it goes on to talk about a discussion held
 9 with Dr Cash, again a key figure in relation to
 10 Scotland.
 11 The Mr Fowler there is presumably a reference to
 12 Norman Fowler, to the Secretary of State for Health.
 13 Do you know anything about his views about the
 14 leaflet?
 15 **A.** I don't recall his views on the leaflet. I think that
 16 was being largely handled by Mr Clarke and myself.
 17 I don't know to what extent the papers were circulated
 18 to the Secretary of State's office without referring
 19 to the documents.
 20 **Q.** Well, no doubt if this is a reference to him and if
 21 it's an inaccurate one, I can take that up in due
 22 course with Lord Fowler.
 23 **A.** Yes.
 24 **Q.** But you weren't aware of any expression of opinion by
 25 Mr Fowler at the time on the topic of the leaflet?

73

1 "If my memory serves me correctly, I understood
 2 MS(H) [so Mr Clarke] to say at the meeting we had with
 3 Lord Glenarthur that he would prefer some consistency
 4 of approach in relation to the distribution of the
 5 leaflet but did not want it to be distributed with
 6 call-up cards. This was said against the background
 7 of the need for a low-key approach to the publication
 8 of the leaflet and the need to ensure that we do not
 9 spread unnecessary alarm and despondency amongst
 10 donors."
 11 **A.** Yes.
 12 **Q.** Then there's a reflection about what Dr Gunson had
 13 been putting forward, and we can see then there's
 14 going to be a submission to ministers.
 15 So is it right to understand that the issue
 16 which arose and which is alluded to here was the
 17 question of whether, when donors were sent the
 18 invitation to come and give blood, the leaflet would
 19 be provided to them with their call-up card --
 20 **A.** Yes.
 21 **Q.** -- so before they ever got to the Regional Transfusion
 22 Centre?
 23 **A.** Correct.
 24 **Q.** So that they could take a decision in the privacy of
 25 their own home as to whether to go?

75

1 **A.** I wasn't. I don't recall it being mentioned to me.
 2 The main reaction was from Mr Clarke.
 3 **Q.** So we then go to a slightly revised leaflet that
 4 emerged at the end of July DHSC0002327_117.
 5 And if we just go to the second page, we can
 6 see -- and I'm not going to go through it, it's
 7 similar not identical to the earlier draft --
 8 **A.** Yes.
 9 **Q.** -- you've observed in your statement that the changes
 10 as between the two are relatively modest?
 11 **A.** I believe so, yes.
 12 **Q.** Now, an issue, however, arose, as I think we saw
 13 reflected in that letter from Dr Gunson to Dr Oliver,
 14 about the method of distribution of the leaflet, how
 15 it should be made available to donors.
 16 We can pick that up at DHSC0002321_026.
 17 This is a minute of 19 July from Mr Parker to
 18 Dr Oliver.
 19 **A.** Mm-hm.
 20 **Q.** It doesn't look like it would have come to you but it
 21 does refer to --
 22 **A.** No.
 23 **Q.** -- "the meeting", presumably the meeting of 6 July, or
 24 if not to another meeting, because in paragraph 2 it
 25 says:

74

1 **A.** Yes.
 2 **Q.** Or whether they turned up to the Blood Transfusion
 3 Centre and the leaflet was in some way or other made
 4 available to them then?
 5 **A.** That's correct.
 6 **Q.** Again, do you recall any discussion about that or what
 7 your view was at the meeting, presumably the 6 July
 8 meeting, on that issue?
 9 **A.** Say that last bit again.
 10 **Q.** At the meeting that is referred to here, do you recall
 11 now the discussion about that issue?
 12 **A.** No, I don't recall that discussion but I do recall,
 13 from the papers, my reaction to it on paper, which was
 14 that I suggested that both methods were used, if I'm
 15 correct.
 16 **Q.** We'll just take it through in stages.
 17 **A.** Okay.
 18 **Q.** If we look at Dr Oliver's response, it's at
 19 DHSC0002321_027.
 20 So this is the following day. Dr Oliver says:
 21 "I refer to your minute of 19 July 1983. As you
 22 say, we'll need to seek Ministers' views on how the
 23 AIDS leaflet might best be distributed. I had
 24 recalled Lord Glenarthur's preference for
 25 a consistency of approach but do not remember his

76

1 forming any definite view on how this might be done."
 2 Reference to a "consistency of approach", was
 3 that to, whatever was done, it was done the same way
 4 across all centres?
 5 **A.** Well, I'm not sure. If you go back to the earlier
 6 paper.
 7 **Q.** Yes, DHSC0002321_026.
 8 **A.** Yes, if you could look at that.
 9 "If my memory serves me correctly, I understand
 10 MS(H) to say at the meeting we had with
 11 Lord Glenarthur that he ..."
 12 Now, who does "he" refer to? Is it
 13 Lord Glenarthur or is it MS(H)? I think probably the
 14 "consistency of approach" element was more related to
 15 Kenneth Clarke. I honestly can't remember, I'm
 16 afraid, but that seems to have been the pattern of
 17 these things.
 18 But, yes, we'll come later to my later comments.
 19 **Q.** We will. So if we then go back to DHSC000 -- thank
 20 you, Soumik, you are there already -- and so we then
 21 see Dr Oliver setting out in no uncertain terms, in
 22 the second paragraph:
 23 "... I am quite sure that the best way is to
 24 sent out the leaflet with the call-up cards so that
 25 the contents can be studied by individuals in private.

77

1 perhaps more importantly, if people are rejected for
 2 donation during a session for quite other reasons
 3 others who see them leaving may assume they are in the
 4 high risk AIDS group of donors when in fact the
 5 reasons may be quite different. All this points in my
 6 mind to the benefit of distributing the leaflets with
 7 call-up cards so that those who feel any concern can
 8 discuss the matter privately with their own doctors or
 9 with the transfusion centres without undue
 10 embarrassment."
 11 Those are fairly powerful persuasive points
 12 being made there by Dr Oliver, aren't they?
 13 **A.** Yes. Those are powerful points. I imagine also,
 14 though, and again it's supposition, looking back that
 15 far, that there were those who might not have actually
 16 seen the information, the leaflet, at home for one
 17 reason or another and that it would have been wise to
 18 ensure that either they had seen the leaflet or it was
 19 handed to them when they got to the point of giving
 20 blood.
 21 **Q.** Then for the sake of completeness I should just see
 22 what we see in the last paragraph:
 23 "I think we will need to make these points to
 24 Ministers but at the same time we may need to point
 25 out that our ability to influence Transfusion

79

1 I do not think donors would take exception to
 2 receiving a leaflet in this way, couched in the way it
 3 is as general information on a subject of public
 4 interest. I personally would have thought this would
 5 entirely satisfy the low key approach that Ministers
 6 and all of us want."
 7 The reference there to "low key", is it right to
 8 understand that that's again about the concern about
 9 adverse publicity?
 10 **A.** Adverse sensationalist publicity, I mean, yes,
 11 absolutely.
 12 **Q.** And then Dr Oliver goes on to explain why:
 13 "The only alternative is to make the leaflet
 14 available at donor sessions or positively hand it out
 15 at donor sessions. In either event it could place
 16 a donor in an impossibly embarrassing situation or
 17 defeat the objective of the leaflet. For example, if
 18 having read the leaflet before donation the donor
 19 feels he should decline to give blood it is
 20 embarrassing to walk out as everyone will suspect the
 21 reason for his doing so. If he reads the leaflet or
 22 considers it while actually donating blood, again he
 23 can hardly saying anything without embarrassment, and
 24 if he is in the high risk group of donors possibly
 25 infected blood will get into the system. Finally, and

78

1 Directors is limited and many will do what they
 2 themselves think is in the best interests of their
 3 donors. At present the majority [and I read that as
 4 referring to the majority of transfusion directors]
 5 seem persuaded by the above arguments for notification
 6 with the call-up cards."
 7 **A.** Yes.
 8 **Q.** So that's where we are on 20 July.
 9 If we then look at DHSC0002321_028. This is
 10 Mr Bolitho, and I've been informed, and I can see it's
 11 borne out of this, he's in the information division,
 12 so that's the reference to "ID" below his name.
 13 **A.** Yes.
 14 **Q.** 21 July he is writing to Dr Oliver:
 15 "At our meeting with MS(H) [so Mr Clarke] he was
 16 very keen to keep the leaflet operation very low key.
 17 Therefore I must support John Parker's memory of the
 18 meeting when he says the MS(H) does not want the
 19 leaflet to go out with call up cards. The leaflet is
 20 an information leaflet and cannot be seen as a leaflet
 21 which you read and then change your mind about giving
 22 blood. I am sure that the only way it should be
 23 distributed is by having it available when you give
 24 blood. If this is distributed with call up cards, it
 25 will soon be in the news media and we could have

80

1 a similar furore to the Gillick case with family
2 planning.
3 "I think MS(H) will be very irritated if we are
4 not able to control distribution the way he wants it.
5 He reacted very unfavourably when this was suggested
6 at the meeting."

7 That perhaps bears out your reading of the
8 earlier documents that this was an issue that was
9 being raised by the minister rather than you?

10 **A.** Yes, I think it does, on reflection.

11 **Q.** Then, if we go to DHSC0002321_029, we can see
12 Dr Oliver on 25 July responding to Mr Bolitho.
13 Picking it up halfway through the first line:

14 "I am afraid I cannot accept that the leaflet
15 should not be seen 'as a leaflet which you read and
16 then change your mind about giving blood'. To my mind
17 this is precisely what it is intended for although the
18 message has had to be slightly obscured for obvious
19 reasons."

20 I just ask you -- again, I know you won't have
21 seen this at the time, so it's really for your
22 reflection as someone who was involved in the issue
23 rather than anything else -- would you agree, first of
24 all, with what Dr Oliver is here saying, that that was
25 precisely what the leaflet was intended for? It was

81

1 any adverse publicity. On purely medical grounds,
2 I am convinced that sending out the leaflet with the
3 call-up cards is the only sensible thing to do and
4 indeed this is the independent advice we have received
5 from our consultant adviser [that's Dr Gunson] whose
6 opinion I respect."

7 So we've got to, now, 25 July 1983. Now, I'm
8 conscious, of course, your own involvement in this
9 issue began at the beginning of the month, in this
10 particular issue, and you had only been in post since
11 the middle of June. We heard from Dr Walford
12 yesterday that by the time she was involved in the
13 work that produced the submission that was sent to
14 you, she already thought it had taken too long by that
15 stage.

16 This appears to indicate a somewhat prolonged
17 debate taking place with ministerial involvement in
18 precisely how the matter was going to be distributed.
19 Does it concern you, looking at this material now,
20 that days and weeks were going by whilst these matters
21 were being debated?

22 **A.** Yes, it does concern me, and I think I said that at
23 the time in one of the notes that went from my office
24 to other ministers. Yes, it was taking a long time.
25 But there was a lot of drafting and redrafting at

83

1 people who would otherwise be giving blood to realise
2 that they shouldn't?

3 **A.** Exactly. That is what I believed the purpose of it to
4 be. I mean, I was aware of the sensitivities in both
5 cases, but that's what the purpose was. You know, if
6 you were putting people at risk by giving blood, then
7 you shouldn't do it.

8 **Q.** Do you know or have any insight as to what's meant
9 when it says "although the message has had to be
10 slightly obscured for obvious reasons"?

11 **A.** No, I don't know that I can comment on that. I don't
12 know precisely what he means so I don't think I can
13 comment. I never saw the minute.

14 **Q.** No, you didn't. But then we can see again, just so
15 that we can follow the story through, he says:

16 "Clearly we must bow to Ministers' wishes on the
17 matter of handling the distribution but although
18 I must accept your and Mr Parker's better recollection
19 of our earlier discussions I am not sure that
20 Ministers have fully understood the pros and cons .to
21 this end therefore it is essential that the points
22 I raised in my minute to Mr Parker are brought out in
23 the submission so that Ministers can weigh the
24 possible disadvantage of letting 'risky' blood slip
25 through the net against the advantage of minimising

82

1 official and ministerial level to reflect people's
2 views, which concerned me at the time. I was keen to
3 get on with it. And I don't think I can add any more.
4 But I began to understand that these things were quite
5 difficult and that ministers took a keen interest.

6 **Q.** Yes. Then we'll get to the ministerial submission
7 then that was anticipated in these minutes, and this
8 is a document that you would have seen so it's -- no,
9 wrong reference. DHSC0002327_016.

10 So we can see, again, it's from Mr Parker, dated
11 29 July:

12 "I attach a submission, prepared in consultation
13 with colleagues in MED SEB, Information Division and
14 CH Division, which seeks Minister's agreement to the
15 printing, distribution arrangements and publicity for
16 the proposed AIDS leaflet."

17 **A.** Yes.

18 **Q.** If we go down the bottom, we can see it's "cc
19 Mr Joyce"?

20 **A.** Yes.

21 **Q.** So that's its mechanism for getting to you, via your
22 Principal Secretary?

23 **A.** Yes.

24 **Q.** Then if we go to the next page we can see it says:
25 "Following the meeting with [the Minister] and

84

1 Lord Glenarthur on 6 July, officials have revised the
2 text of the AIDS leaflet to incorporate the points
3 made by Ministers."

4 Then we can see reference to there being the
5 revised leaflet, a draft statement to be incorporated
6 in a Press release, a detailed question and answer
7 brief, and:

8 "The submission is seeking [the Minister's]
9 approval [so Mr Clarke's approval] for printing the
10 leaflet and the proposed arrangements for its
11 distribution; and his agreements to the texts of the
12 statement and the question and answer brief."

13 Was it customary, as far as you can recall, to
14 seek ministerial approval, even to the detail of the
15 content of a question and answer brief?

16 **A.** I think it probably was because if they were going to
17 be used, the minister handling it would want to know
18 that everything that was said, potentially, in the
19 answers, was correct.

20 **Q.** Then if we pick it up down the bottom half of the
21 page, we've got the heading "Distribution of leaflet",
22 then we look towards the bottom, it says:

23 "The two possible methods of distribution which
24 were considered by RTDs are discussed below ..."

25 And then we've got method I:

85

1 a leaflet and there could be insufficient time for it
2 to be read prior to donation.

3 "(f) There are many other circumstances, besides
4 the risk of AIDS, which lead to a donor being rejected
5 for a donation on a particular occasion. Donors could
6 be caused embarrassment if they felt their fellow
7 donors had wrongly suspected the reason for their
8 rejection."

9 And (g):

10 "If a donor in a high-risk group were to read
11 the leaflet immediately prior to, or during, donation,
12 he might well be tempted to proceed with the donation
13 rather than to risk the embarrassment or withdrawing
14 at that stage."

15 So would you agree those are all, as it were,
16 negatives to that, disadvantages of that proposed
17 method of distribution, although it's then recorded at
18 (h) there's very few administrative problems and no
19 obvious resource implications?

20 **A.** Yes.

21 **Q.** Then if we go to the top of the next page, we can see
22 then what was being suggested to ministers:

23 "Although it would be possible to achieve a near
24 uniformity of method of distribution amongst
25 Directors, it is not immediately obvious which method

87

1 "Issue of leaflet with donor call-up cards
2 "... expected to reach about 80 per cent of the
3 total donor population."

4 **A.** Mm-hm.

5 **Q.** Then if we go over the page, various advantages of
6 that are set out. So.

7 "Donors could read the leaflet in their own
8 homes ..."

9 Is paragraph (b). Paragraph (c):

10 "The supposition is that this method or
11 distribution would be that most effective in keeping
12 high-risk donors away from sessions, thus removing the
13 temptation to proceed with donation in order to avoid
14 embarrassment ..."

15 **A.** Mm-hm.

16 **Q.** So that's being identified as an advantageous method.
17 Then we can see there are some administrative and
18 resource implications. Would you agree that those are
19 fairly minor administrative and resource implications
20 there identified?

21 **A.** I believe that to be the case, yes.

22 **Q.** Then we can see that the second option is for the
23 leaflet to be made available at donor sessions, and
24 a number of disadvantages set out at (e), (f) and (g):
25 "... difficult to ensure all donors received

86

1 is to be preferred."

2 Just pausing there, if one leaves aside the
3 administrative and resource implications which appear
4 to be fairly modest, there's a list of advantages to
5 method 1 and disadvantages to method 2. Was it not
6 pretty obvious that, in terms of the objective of
7 preventing AIDS entering the domestic blood supply,
8 distribution method 1 was the more appropriate?

9 **A.** Well, it appears that that's the case looking at this
10 38 years later.

11 **Q.** I understand.

12 **A.** I can't remember what the dialogue would have been
13 about it but there were also advantages in the other
14 method, although they are not dismissed but they are
15 put down as negative points, yes.

16 **Q.** Then there's then reference what might be the
17 differing perspectives of Regional Transfusion
18 Directors. So it's said:

19 "... it was evident that Directors' opinions
20 were influenced by what they saw as being most
21 appropriate in their Regions, bearing in mind the
22 differing population characteristics, including the
23 numbers of and attitudes to, homosexuals. As
24 Directors are responsible under the Medicines Act, for
25 the safety of the blood which they issue, due weight

88

1 must, of course, be given to their clinical decisions
 2 in this matter."
 3 Then there's reference to the resource
 4 implications.
 5 So the recommendation in the next paragraph,
 6 paragraph 5:
 7 "Officials would recommend, therefore, that RTDs
 8 [Regional Transfusion Directors]" --
 9 **A.** Yes.
 10 **Q.** -- "should be given the discretion to decide, for
 11 a trial 6 month period, the most effective means of
 12 distribution in their own Regions. Officials would be
 13 able to obtain regular feed-back information from
 14 Directors during this trial period."
 15 So the recommendation ultimately is leave it to
 16 Directors' discretion?
 17 **A.** Yes, it was.
 18 **Q.** Then it goes on to talk about how publicity could be
 19 handled and whether there should be an early public
 20 statement, and so on, and I'm not going to read
 21 through that.
 22 You can see that's the submission that went to
 23 you and to Mr Clarke and, indeed, to Mr Patten. If
 24 I can then just invite your attention to the
 25 responses, starting most importantly with your own,

89

1 Is it right to understand then that what you
 2 thought the best thing to do would be, although you
 3 were content for it to be left to Regional Transfusion
 4 Directors' discretion, you were saying here, actually,
 5 the ideal would be to do both, so it goes out with the
 6 call-out cards but is also then available in the
 7 centres?
 8 **A.** Yes, that was my view, based on the papers that I'd
 9 seen and the discussions we'd held.
 10 **Q.** Then we can see there's what's put in speech marks, so
 11 presumably a verbatim account of what you had said:
 12 "We may be at the tip of an iceberg with AIDS
 13 and find ourselves in trouble in 18 months' time
 14 unless we are really positive in our approach -- even
 15 if it does embarrass a few 'gay' people."
 16 I just want to ask you about two parts of that.
 17 The first, the reference to being really positive in
 18 our approach: what did you have in mind with that?
 19 **A.** Proactive, perhaps more than positive, reflecting on
 20 the words that I used all those years ago. Yes, let's
 21 get on with it and do something but it's no good -- we
 22 were putting ourselves, in my view, in a degree of
 23 peril if we didn't get a move on with it and alert
 24 people to the risks that might be there. So that's
 25 why I said "be positive". I don't think I can add to

91

1 DHSC0002327_120.
 2 This is your -- well, it's a minute from
 3 Mr Joyce, your Principal Secretary, to Mr Parker
 4 3 August 1983, but it sets out your response. So:
 5 "(i) He approves the text of the leaflet and
 6 statement."
 7 **A.** Yes.
 8 **Q.** "(ii) He has asked if we have a publication date in
 9 view ..."
 10 Was there a particular reason why you wanted to
 11 know what the publication date was going to be?
 12 **A.** I didn't know when it was going to be so I simply
 13 asked the questions.
 14 **Q.** Were you essentially anxious to try and ensure,
 15 bearing in mind there had already been a degree of not
 16 insignificant delay that --
 17 **A.** Further you know, I didn't want to see that it was
 18 being further delayed.
 19 **Q.** You asked a colleague if you or Mr Clarke should deal
 20 with any TV or radio interest. Then on the substance,
 21 you say this:
 22 "He favours using both methods of distribution
 23 and feels that the risk of embarrassment to potential
 24 donors is outweighed by the need to achieve wide
 25 distribution."

90

1 that.
 2 **Q.** Then that reference to "tip of an iceberg with AIDS",
 3 now you said in your statement that you think you were
 4 talking about AIDS in general. I think that's at
 5 paragraph 20.4 of your statement.
 6 **A.** 20.4. Yes.
 7 **Q.** Yes, you say:
 8 "My comment about being at the 'tip of
 9 an iceberg' was, I think, about AIDS generally, not
 10 specifically about blood products."
 11 **A.** Yes.
 12 **Q.** I just want to test with you whether you are still of
 13 that view. You didn't have responsibility for AIDS
 14 generally, you had responsibility for blood, blood
 15 products, blood safety, and this memo is being
 16 written, or this minute's being written specifically
 17 in relation to a policy designed to secure the safety
 18 of the blood. Was it not possible that you were
 19 actually referring specifically to the fact that you
 20 might be at the tip of an iceberg in terms of
 21 infection with AIDS through blood or blood products
 22 rather than AIDS generally?
 23 **A.** I can't recall precisely what my thought process was
 24 at the time but there was growing public concern about
 25 AIDS. There was publicity about it and we didn't seem

92

1 to know at that stage what was going to happen, if we
2 did nothing to try and prevent contaminated blood
3 being delivered in the United Kingdom.

4 So I think it was AIDS, in general, that I was
5 concerned about because we still didn't know very
6 much, and I suppose I might also have connected it
7 with the blood products issue but this was just
8 a handwritten note at the top of the piece of paper
9 that I -- was subsequently typed up and sent round.

10 **Q.** Then if we look at Mr Patten's response --

11 **SIR BRIAN LANGSTAFF:** Just a moment. I think what you are
12 articulating is this, is it, that the question of
13 blood products was part of a general potential problem
14 with AIDS and that if AIDS was -- if you were at the
15 tip of an iceberg, that is what you were seeing was
16 only a very small proportion of what was there
17 ultimately to be seen, that would apply across the
18 board, including blood products.

19 **A.** Yes, I think it would, Sir Brian.

20 **SIR BRIAN LANGSTAFF:** So what you were saying applies to
21 blood products, it applies to AIDS generally?

22 **A.** I suspect that is correct, yes, but I can't reflect
23 more closely than that at this distance.

24 **MS RICHARDS:** If we look then at Mr Patten's response
25 DHSC0002327_118, this is 2 August, and the reference

93

1 where he says:

2 "A lot of work has obviously gone into this and
3 I am content with it. I am even prepared to allow
4 directors discretion on how to distribute for six
5 months as the arguments are finely balanced.
6 Presumably we will then think again in light of
7 experience.

8 "I hope this does not become a silly season
9 story. Handle it in the DHSS through Press Office.
10 Regional Directors should not handle queries
11 themselves. Go ahead with the leaflet as drafted and
12 the press notice."

13 So as I say, for the most part, I will ask
14 Lord Clarke about this, but what appears from the
15 first paragraph, at this point in time, is there's
16 a proposal that's affecting the submission, there will
17 be a six-month trial period --

18 **A.** Yes.

19 **Q.** -- during which it will be left to directors'
20 discretion as to which mode or whether they adopt both
21 modes of distribution but it won't be imposed by the
22 Department of Health?

23 **A.** That's my understanding.

24 **Q.** Then --

25 **SIR BRIAN LANGSTAFF:** Can I just be clear to the dates and

95

1 to PS(H) there is to Mr Patten, as I understand it,
2 and:

3 "... has seen Mr Parker's submission ... and has
4 commented:

5 "1. I think that printing and distribution
6 arrangements should go ahead as soon as possible
7 [underlined] ..."

8 So, again, Mr Patten emphasising the urgency.

9 **A.** Yes.

10 **Q.** "... with low key publicity as suggested.

11 "2. We need to do something, and for it to be
12 known that we have done something, in case the worst
13 does happen. Can it be done by end August?"

14 Then 3, and again this seems to be consistent
15 with your own views:

16 "Is there any reason why Directors could not
17 follow both methods of distribution for the trial
18 period?"

19 Anything there that you disagree with?

20 **A.** No, I agree with that entirely. I think we just
21 expressed it in different ways.

22 **Q.** Now, just for the sake of completeness, although these
23 will be more questions for Mr Clarke, Lord Clarke than
24 for you, we can see at DHSC0002327_119 there's
25 a response on behalf of Mr Clarke, 2 August 1983,

94

1 the sequencing of this. This is a response dated
2 2 August. It doesn't -- therefore, we don't know from
3 its text whether he had already received the response
4 or any copy of the response made by Mr Patten and the
5 response of Lord Glenarthur was yet to come.

6 **MS RICHARDS:** Yes.

7 **SIR BRIAN LANGSTAFF:** So this could have been the first of
8 three documents.

9 **MS RICHARDS:** It could, yes, we don't know the precise
10 dates.

11 **SIR BRIAN LANGSTAFF:** I simply mention that in case those
12 people who were following it were, as it were,
13 following the story chronologically, which it isn't
14 necessarily, and indeed the last two responses are
15 before you made the points you made in your memo.

16 **A.** That's correct.

17 **MS RICHARDS:** Yes, I'd essentially understood this (but
18 please correct me if this is wrong, Lord Glenarthur,
19 or if you disagree) as being each of the ministers is
20 effectively responding roughly around the same time
21 independently, not at this point in time commenting
22 upon each other's or following any particular
23 sequence, but that all of you have looked at it and
24 you're, through your Principal Secretaries, then
25 feeding back to Mr Parker your initial thoughts.

96

1 A. Yes, I think that's right. It would have appeared
 2 probably in our boxes to do late at night, or whenever
 3 the opportunity arose to deal with it, and we'd have
 4 probably been all -- the three of us would have been
 5 looking at all the different dates. I simply can't
 6 remember -- I haven't got a chronology written out
 7 here.

8 Q. Then there's a minute then, which again is going to be
 9 more for Lord Clarke, but which I think just helps
 10 then perhaps explain what happens towards the end of
 11 August. It's DHSC0002309_034. This is
 12 26 August 1983, and it's from Mr Clarke's private
 13 office. We can see it's copied to your office,
 14 because it's cc Mr Joyce, and it's from -- so from
 15 Mr Naysmith to Mr Winstanley:

16 "We spoke. MS(H) [so Mr Clarke] has now seen
 17 the Q&A briefing and Press Statement prepared,
 18 together with information provided by ID ..."

19 A. Information Department, yes.

20 Q. "... on the rather alarmist press coverage this
 21 subject has so far attracted and has commented:
 22 "The publicity is annoying, partly because it
 23 is what I feared and what we do not want. "Docs Ban
 24 Gays' Blood" et cetera. I am concerned by the report
 25 that similar alarmist action caused a shortage of

97

1 PS(L) ..."

2 That's an abbreviation that refers to you.

3 A. Me.

4 Q. "... I agreed to check the latest position on the
 5 distribution of the leaflet with officials."
 6 Then there's a discussion about or a reference
 7 to the fact that printing and distribution's been
 8 completed and transfusion directors are awaiting the
 9 go-ahead. Then there's a reference to Mr Clarke's
 10 earlier minute of 2 August.

11 Paragraph 3 tells us that:
 12 "[He] has been reviewing his earlier decision
 13 and in light of the information supplied by
 14 Mr Winstanley has confirmed that he is content to
 15 allow the distribution to proceed on the basis
 16 outlined above, subject to any last minute views which
 17 Lord Glenarthur may have."
 18 So some discussion appears to have taken place
 19 in any event between you and Mr Clarke. You were,
 20 I think, slightly doubtful about whether there could
 21 have been a meeting because, looking at your personal
 22 diary --

23 A. I was in Scotland and I know what I was doing and it's
 24 in the diary. I don't have it to hand but I think
 25 we've got it on the screen --

99

1 blood in New York.

2 "The range of views from Directors is also
 3 alarming. Have we agreed on one method of using the
 4 leaflet. There could well be a fuss and a scare if
 5 different steps are taken in different parts of the
 6 country. What authority do I have to insist on one
 7 national method and what are the options?"

8 Now, not necessarily easy to reconcile that with
 9 the earlier minute but, as I say, that's for Lord
 10 Clarke, not for you.

11 A. Yes.

12 Q. But what we can see is this issue is raised on
 13 26 August and then there appears to have been
 14 a meeting involving you and Lord Clarke on 30 August,
 15 although I think you've got some doubt about whether
 16 that can be right but let's just look at the
 17 documents, first of all.

18 DHSC0002309_035, 31 August 1983. This is from,
 19 again, I think Mr Clarke's private office to Mr -- is
 20 that Ghagan?

21 A. Ghagan, yes, Scott Ghagan.

22 Q. Was he in your private office?

23 A. Yes, he was, he was my Assistant Private Secretary.

24 Q. It says:
 25 "Following yesterday's meeting between MS(H) and

98

1 Q. We do and we don't need to --

2 A. -- but I do not recall that meeting and I was in
 3 Scotland at the time, and came down a couple of days
 4 later. I even got the time of the flight that I came
 5 down on. So whether it was a telephone call or
 6 anything like that I simply do not know, I'm afraid.

7 Q. I was going to ask whether in fact it's possible it
 8 could have been a telephone meeting?

9 A. It could have been but I have no recollection of it at
 10 all.

11 Q. But, in any event, what we then get to
 12 DHSC0002309_036, is a minute on your behalf, dated
 13 1 September 1983, in which you put forward a proposal
 14 for a trial period of three months instead of six
 15 months, and then you say, or it's said on your behalf
 16 in the second paragraph:
 17 "[You] would like copies of the Directors'
 18 responses and copies of the briefing you have
 19 requested from Miss Edwards when this arrives."
 20 I'm not sure what the reference to the briefing
 21 from Miss Edwards refers to but I don't think we need
 22 worry about that.

23 Again, I'm going to paraphrase and then perhaps
 24 you can tell me if I've got this wrong. There was
 25 this proposal for six months in which Regional

100

1 Transfusion Directors would each decide what they
 2 wanted to do. You're suggesting that that should be
 3 brought down to three months, so that -- with the
 4 reports from directors as to what they're actually
 5 doing, so that an earlier decision could be taken as
 6 to whether there should be then, as it were,
 7 a department-imposed method of single distribution; is
 8 that right?

9 **A.** Yes, broadly speaking, that is right. It did seem to
 10 me that a six-month trial was unnecessarily long and
 11 we had to go firm on how we were going to distribute
 12 these leaflets and six months was excessive in my
 13 view. I was used to dealing with stuff much more
 14 rapidly than that and it seemed an unconscionably,
 15 whatever the word is, long period of time. That was
 16 accepted, I think.

17 **Q.** Then I think there is -- well, we've got the final
 18 leaflet BPLL0007247. Again, I'm not going to go
 19 through the detail of it but it's not radically
 20 different from the version you had first been asked to
 21 look at, at the beginning of July, is it?

22 **A.** No, it's not radically. There are a few small
 23 changes.

24 **Q.** Then, just so that we can put a date on the eventual
 25 availability of the leaflet, it's DHSC0006401_006. So

101

1 and what you have already said but, bearing in mind we
 2 know from Dr Walford's evidence that work on this
 3 issue would certainly have been taking place in May,
 4 it has taken an unconscionably long time to get to
 5 1 September and the distribution of the leaflet,
 6 hasn't it?

7 **A.** That is my understanding, yes. I was concerned that
 8 it was all taking too long and I think probably
 9 Dr Walford felt the same.

10 **Q.** Now, when we looked, I think, at one of the earlier
 11 documents, the question came up about the possibility
 12 of, in addition to a leaflet, donors being questioned
 13 at the Regional Transfusion Centres, and that isn't
 14 a route that has been gone down by the Department at
 15 this stage.

16 Can you recall any particular discussions or
 17 consideration that was given to that issue during this
 18 period, this late spring/summer of 1983?

19 **A.** No, I can't recall any discussion on the issue. A lot
 20 of the views on that sort of thing were expressed in
 21 some of the earlier papers we looked at.

22 **Q.** Yes, and we saw the Regional Transfusion Directors
 23 were certainly adamant that they weren't going to ask
 24 people about sexual practices?

25 **A.** No, there was a great concern about that.

103

1 this is the press release, dated 1 September 1983:
 2 "The Department of Health and Social Security
 3 has today published a leaflet -- "AIDS and how it
 4 concerns Blood Donors". It's been produced in
 5 co-operation with Regional Blood Transfusion
 6 Directors.
 7 "Announcing publication, Kenneth Clarke,
 8 Minister for Health said: 'It has been suggested that
 9 AIDS may be transmitted in blood or blood products.
 10 There is no conclusive proof that this is so.
 11 Nevertheless I can well appreciate the concern that
 12 this suggestion may cause. We must continue to
 13 minimise any possible risk of transmission of the
 14 disease by blood donation but it is not possible to
 15 test a person's blood for the presence of AIDS. The
 16 best measure which can be taken at the present time is
 17 to ask people who think they may have AIDS or be at
 18 risk from it, to refrain from giving blood. This is
 19 what this leaflet sets out to do'."
 20 So we can see from this it's on 1 September that
 21 the leaflet then becomes available for distribution in
 22 the Regional Transfusion Centres, in accordance with
 23 the Directors' discretion?

24 **A.** Yes.

25 **Q.** I think it's probably obvious from both your statement

102

1 **Q.** There was then a question of whether they should ask
 2 questions about whether people are experiencing --

3 **A.** Exactly.

4 **Q.** -- symptoms that could be consistent with AIDS but it
 5 doesn't appear the Department got involved with that
 6 at this point in time or that you got involved in it,
 7 I should say?

8 **A.** I wasn't involved in it, no.

9 **Q.** Just pausing there, do you think it would have been
 10 a good idea for there to be, at the very least,
 11 encouragement of questioning, not necessarily about
 12 sexual practices but about the donors' health with
 13 a view to ascertaining if they were exhibiting
 14 symptoms consistent with an early AIDS state?

15 **A.** I don't think, out of context, looking at it so long
 16 ago, that I could say whether or not it was a good or
 17 a bad idea. I think that is too difficult to judge
 18 because the context is, in 2021, wholly different from
 19 what was there in 1983. So I honestly don't know.

20 **Q.** So that's 1 September 1983 and your proposal for
 21 a three-month trial period, as you understand it, had
 22 been accepted.

23 **A.** Mm-hm.

24 **Q.** So the matter should then, if that takes us through
 25 September, October, November, should really have been

104

1 being reviewed in December 1983?

2 **A.** Yes.

3 **Q.** So I want to pick up the narrative of what then

4 happened?

5 **A.** Okay.

6 **Q.** If we look at WITN5282011 -- we can see this is

7 a minute dated 23 November 1983, and it's copied to

8 your private office, because it's cc Mr Joyce, and

9 it's from Mr Clarke's private office to Mr Winstanley.

10 It refers to a submission of 20 October, and my

11 understanding from your statement is that that's one

12 of the submissions that hasn't been located, so we

13 don't have that particular submission?

14 **A.** Which paragraph number was that in relation to?

15 **Q.** That's a good question. I'm afraid I haven't noted

16 down -- but I can ... let me just double-check.

17 Paragraph 43.2.

18 **A.** Okay.

19 **Q.** Page 58 of your statement.

20 If we put that up on screen, Soumik, so the

21 statement, again, is WITN5282001, page 58.

22 **A.** Yes, and sub-para?

23 **Q.** Sub-paragraph 43.2.

24 So you say in the paragraph 43.1:

25 "As set out above, the first AIDS leaflet for

105

1 about what it was regional transfusion directors were

2 as a matter of fact doing.

3 **A.** Yes.

4 **Q.** I'm not going to trouble you with those. You explain

5 in your statement that your lawyers, the Government

6 legal department team, have put together a narrative

7 note of what -- from the documents, of what they think

8 might have happened.

9 **A.** Yes.

10 **Q.** I'm not going to take you through that because you've

11 said in your statement you can't speak to the accuracy

12 of its contents, and much of it concerns material you

13 never saw at the time.

14 Sir, I should say, and for the benefit of those

15 listening, that note -- we're very grateful to the

16 Government legal department for putting it together,

17 but we will of course, within the Inquiry team, be

18 verifying for ourselves if it is an accurate and

19 comprehensive note. It refers to documentation which

20 the Inquiry has, so we will be doing that exercise.

21 So I want to pick things up shortly before the

22 matter came back to your attention, and then look at

23 the documents you received?

24 **A.** Yes.

25 **Q.** Just sticking with your statement, you say in

107

1 blood donors was published on 1 September 1983. In

2 early September 1983 I had suggested a trial period of

3 three months ..."

4 That's the document we looked at a few moments

5 ago.

6 "From the papers which have now been supplied to

7 me, it seems that this was the approach adopted."

8 Then you say this:

9 "I cannot remember being provided with any

10 further information from civil servants about the way

11 it was distributed after its publication, although

12 I see that my office was copied in to the response

13 from the Minister for Health (Mr Clarke) to

14 a submission dated 20 October 1983. A copy of the

15 submission does not seem to be available, but it

16 appears from Mr Clarke's response that it suggested

17 distributing the leaflets in STD clinics ...

18 a suggestion that was approved by Mr Clarke."

19 **A.** Yes.

20 **Q.** We don't have that submission, and so you've tried to

21 piece together from the response what it might have

22 been about.

23 **A.** Yes.

24 **Q.** Now, there are various documents, none of which

25 I think you saw at the time, which provide information

106

1 paragraph 43.3:

2 "I cannot recollect any further submission (*sic*)

3 on the leaflet being provided until 17 April 1984 ..."

4 We will look at that in a moment. Before we do

5 that, there's just, I think, one document that will

6 help put that submission in context.

7 So DHSC0002239_015.

8 So a minute of 14 February 1984. It's from

9 Alison Smithies, and we know she was Dr Walford's

10 successor?

11 **A.** Yes.

12 **Q.** Because Dr Walford had moved to a different post in

13 December '83, and it's addressed to Mr Williams:

14 "AIDS leaflet.

15 "We have briefly discussed the need for the

16 current AIDS leaflet which is distributed by Regional

17 Transfusion Centres to potential donors. In view of

18 the published evidence of transmissibility of AIDS by

19 blood transfusion, our current advice to donors could

20 seem too lax. It may also be necessary to take up

21 with the Transfusion Directors the need for more

22 positive distribution rather than the negative

23 approach that some of the Centres have used.

24 "I would be grateful for an indication of how

25 soon a reprint of the leaflet will be required. If

108

1 this is fairly soon I should be discussing the
 2 re-draft with Dr Gunson and the RTDs [Regional
 3 Transfusion Directors]. If, however, there are many
 4 more leaflets still available we may need to consider
 5 whether we should substitute the re-draft before they
 6 are used up."
 7 **A.** Mm-hm.
 8 **Q.** So just looking at the first paragraph, and again this
 9 didn't come to you, you pick up the picture at April
 10 with a ministerial submission, but there are two
 11 issues or concerns being raised here by Dr Smithies,
 12 are there not? The first is the content of the
 13 leaflet: does it need to be made stronger?
 14 **A.** Yes.
 15 **Q.** Is it, as she says there, too lax? And, secondly, the
 16 distribution method, a concern expressed that it's not
 17 being distributed in the way that it should?
 18 **A.** Precisely.
 19 **Q.** It's right to note, and I'm not going to go into what
 20 the reasons might have been with you because you
 21 weren't privy to what was going on in the background,
 22 but this is rather later than the three-month trial
 23 period that you had envisaged, isn't it?
 24 **A.** The date is --
 25 **Q.** We're now in the middle of February 1984?

1 "Publicity: blood donors":
 2 "Ministers agreed last year that a leaflet
 3 should be issued to blood donors about the dangers of
 4 those at risk of contracting AIDS giving blood. There
 5 has been a 6 months' trial of this leaflet which has
 6 been successful. The leaflet and the method of
 7 distributing it are under review."
 8 Now, it's not quite clear whether the six months
 9 is because your message about three months having got
 10 through to the author of this or whether that's just
 11 reflecting that six months or more has now passed.
 12 I don't think you can probably answer --
 13 **A.** I don't think I can answer that, but one thing does
 14 strike me with this, and that is, if we go back to the
 15 top, I think this -- Miss McKessack was John Patten's
 16 Private Secretary, and I can't recall from this why
 17 John Patten was dealing with it and not me in this
 18 particular case.
 19 **Q.** Yes, and it looks from paragraph 1 as though there was
 20 an issue of media coverage.
 21 **A.** Yes.
 22 **Q.** I don't know whether that explains why Mr Patten's
 23 private office has been directly addressed but, in any
 24 event, we can see it's taken until 17 April before the
 25 issue of a leaflet comes back, albeit slightly

1 **A.** Yes, well, that's quite a lot later, yes.
 2 **Q.** So let's then look at the submission that was sent in
 3 April of 1984 to you, which I think is the first
 4 evidence we have of you being asked to consider this
 5 matter again.
 6 **A.** Yes.
 7 **Q.** It's at DHSC0002321_044. It's a minute, of
 8 17 April 1984. Again, we can see it's copied to
 9 Mr Joyce. The topic is not, in fact, directly the
 10 leaflet at all, and we can see the heading on the
 11 minute:
 12 "Medical Research Council working party on AIDS:
 13 press conference ...
 14 "1. Please see Mr Cunningham's minute
 15 attached."
 16 Then if we go over the page there's a minute
 17 from Mr Cunningham dated 17 April 1984. Again, it's
 18 copied to you, so if we go to the second page -- or
 19 copied to your office -- we can see there
 20 "cc Mr Joyce".
 21 If we go back to the previous page, I'm not
 22 going to go through most of it because, as I say, it's
 23 talking about matters such as the Medical Research
 24 Council working party, but if we go to the bottom of
 25 the page we can see paragraph 4, under the heading

1 obliquely --
 2 **A.** Yes.
 3 **Q.** -- before you?
 4 **A.** Yes.
 5 **Q.** Then if we go to -- well, I should say -- just to
 6 complete it -- go to the second page -- sorry, Soumik,
 7 the next page.
 8 There's an issue raised in paragraph 5 about
 9 a different leaflet but a leaflet possibly by the
 10 Health Education Council -- this is the last sentence
 11 of that paragraph, Lord Glenarthur -- as part of
 12 a programme of updating publicity material on sexually
 13 transmitted diseases.
 14 **A.** Mm-hm.
 15 **Q.** So there's a proposal for, as it were, reinforcing the
 16 message but through a different means.
 17 **A.** Yes.
 18 **Q.** And warning of the dangers of what's there termed
 19 "promiscuous homosexual activity".
 20 Then if we look at DHSC0002309_040, we can see
 21 the message on behalf of Mr Patten on 18 April, again
 22 cc'd to your private office, is:
 23 "PS(H) [so Mr Patten] has seen your minute of 17
 24 April and has commented:
 25 ""Any leaflets on prevention by the HEC [that's

1 the Health Education Council] as described in
 2 paragraph 5 must be handled very sensitively, and
 3 I think that MS(H) [Mr Clarke] should be aware of
 4 this. I am doubtful."
 5 Then we look at your response. This is where we
 6 come back to the issue of the Blood Transfusion
 7 Service leaflet.
 8 It's at DHSC0002309_041.
 9 It's 25 April 1984. It's from Mr Joyce, your
 10 Principal Secretary, and it says this:
 11 "Lord Glenarthur has seen your minute of
 12 17 April covering Mr Cunningham's submission.
 13 "He takes a somewhat different view to
 14 [Mr Patten] ... in that he favours a further leaflet,
 15 directed particularly at promiscuous gays.
 16 "Lord Glenarthur's view is based on the fact
 17 that there have been criticisms - though not
 18 widespread - from correspondents and others that the
 19 Department has not done sufficient to increase
 20 relevant public awareness. He therefore feels that we
 21 should pursue a sensible, non-alarmist course of
 22 increased public education."
 23 Then, before we look at the next paragraph,
 24 Lord Glenarthur, that presumably is an accurate
 25 reflection of your view at the time?

113

1 A. I'm certain it was, yes.
 2 Q. You were keen on there being as much public awareness
 3 as could be?
 4 A. Yes, because I did not want to discover, or any of us
 5 want to discover, that there was infected material
 6 getting into the UK blood donation system.
 7 Q. Then we can see in the last paragraph you say:
 8 "He would like ..."
 9 Or Mr Joyce says on your behalf:
 10 "He would like a fuller note on the successful
 11 NBTS leaflet trial referred to at paragraph 4 of
 12 Mr Cunningham's submission."
 13 A. Yes.
 14 Q. So you actually asked back in September, I think, to
 15 be kept updated, and it doesn't appear that that
 16 happened, but, in any event, you're asking here to be
 17 told what the outcome of the trial has been?
 18 A. Exactly, yes.
 19 MS RICHARDS: I think that's probably the right point to
 20 break, sir, and then we'll look after lunch at what
 21 then happened in terms of the material.
 22 SIR BRIAN LANGSTAFF: Yes, very well. We will take
 23 a break now until 2.00. 2.00.
 24 (1.00 pm)

(Luncheon Adjournment)

114

1 (2.00 pm)
 2 MS RICHARDS: Lord Glenarthur, before lunch we'd left
 3 matters with you on 25 April, wanting an update on
 4 what had happened with the trial of the leaflets in
 5 the Regional Transfusion Centres.
 6 A. Yes.
 7 Q. If we go next to DHSC0002309_044, we can see this is
 8 a minute of 10 August 1984 from Mr Parker to your
 9 Principal Secretary, Mr Joyce -- Private Secretary,
 10 Mr Joyce, "Revision of leaflet 'AIDS and How it
 11 Concerns Blood Donors'". Before we look at the
 12 content of it, it would appear that you then,
 13 therefore, didn't get the update or, if so, we haven't
 14 traced it until August, so a further period of time
 15 elapsed.
 16 A. Yes.
 17 Q. In any event, it says:
 18 "I attach a submission from Mr Williams which
 19 seeks Ministers' agreement to the revision of the
 20 current AIDS leaflet. I agree with the action
 21 recommended in paragraph 10."
 22 Then there's reference to the cost of printing
 23 up to 1.5 million leaflets and we see in the last
 24 sentence of that paragraph:
 25 "Officials believe, however, that it is vital

115

1 that the AIDS leaflet should be reproduced and that it
 2 should be accorded this priority."
 3 A. Yes.
 4 Q. Just before we go to the submission itself, we can see
 5 handwritten on the top "MS(H) to see". So it
 6 sounds as though whether you have decided or
 7 an official's decided that the minister should also
 8 see this.
 9 A. Either my Private Secretary or I -- I can't recall.
 10 Q. So if we go over the page, we can see it says:
 11 "This submission reports to Ministers on the
 12 experience of the initial issue of the new leaflet
 13 'AIDS and how it concerns blood donors' and seeks
 14 permission to issue a revised version. The submission
 15 also suggests a more uniform and consistent
 16 distribution system to be adopted by Regional
 17 Transfusion Centres in England and Wales."
 18 Then there's the background:
 19 "Ministers will recall that the first issue of
 20 the leaflet was in August 1983 [probably 1 September
 21 but I don't think that matters]. Its aim was to
 22 persuade those donors potentially at risk from AIDS
 23 not to give their blood. [RTDs] were asked to
 24 distribute it in the way most suitable to their
 25 individual service. Ministers asked officials to

116

1 monitor the distribution, its reception by the blood
 2 donor population and any effect on the numbers
 3 volunteering to give blood."
 4 Then the next heading is "Factual content of
 5 leaflet":
 6 "The current AIDS leaflet ... is now out of date
 7 in certain detailed factual matters, and there is
 8 a need to strengthen its warning to high-risk groups
 9 not to donate."
 10 Then there's an attached redrafted leaflet.
 11 Then we get the update on the results of the review:
 12 "Results ... from the monitoring exercise at
 13 paragraph 2 above indicate that distribution of these
 14 leaflets has not caused any fall in the number of
 15 blood donors ..."
 16 So it didn't have the adverse consequences that
 17 have been feared, but:
 18 "... there has been little if any adverse
 19 comment by donors. However there was, as anticipated,
 20 a wide variation in the manner in which the leaflet
 21 has been distributed by the Regional Transfusion
 22 Centres. At some Centres, all donors were sent the
 23 leaflet individually with their recall notifications.
 24 Others offered donors the leaflets to read when they
 25 attended a donor session, whilst a few Centres pursued

117

1 open to criticism if it failed to take all reasonable
 2 practicable steps to discourage all high-risk donors
 3 from giving their blood. It is suggested all those
 4 RTCs who did not send out the leaflet individually to
 5 their registered donors should now be asked to do so
 6 at the next recall of those donors. This has
 7 relatively minor cost implications for some RTCs who
 8 have not previously distributed the leaflet in this
 9 way ..."
 10 Then some details in relation to the minor
 11 costs.
 12 Then we see the heading "Other developments",
 13 reference in paragraph 7 to a possible test.
 14 Paragraph 9 refers to what we saw earlier, the
 15 separate issue of the production of a leaflet by the
 16 Health Education Council.
 17 Then "Recommended action":
 18 "Officials recommend:
 19 "the issue of the revised AIDS leaflet for blood
 20 donors and,
 21 "a more consistent method of distribution as
 22 detailed at paragraph 6 ...
 23 "Ministers are asked to agree to:
 24 "the revision of the leaflet ...
 25 "a more consistent and uniformly effective

119

1 a policy of having them available for donors to pick
 2 up as they wished."
 3 We then have the heading "Continued need for
 4 a leaflet":
 5 "The slow but steady increase in AIDS victims in
 6 the [UK] (51 cases with 28 deaths up to 30 June 1984)
 7 indicates that the disease is prevalent here.
 8 Haemophiliac patients are at greatest risk of
 9 contracting the disease since the clotting agents they
 10 need are produced from plasma pooled from a large
 11 number of donors. Fortunately, of the UK patients
 12 receiving treatment for haemophilia, only two have
 13 become victims of AIDS and both had received
 14 Factor VIII concentrates from [US] sources, as well as
 15 the UK. It is known that one patient with AIDS in the
 16 UK has been a blood donor (it was possible to trace
 17 his donations and eliminate them). It is therefore
 18 clear that there continues to be a need for positive
 19 action to ensure that donors who may be carrying the
 20 transmissible agent for AIDS are dissuaded from giving
 21 their blood until a screening test suitable for
 22 detecting possible carriers has been developed ..."
 23 Then we have the heading "Recommended
 24 distribution":
 25 "Officials consider that the Department would be

118

1 distribution system being adopted as per paragraph 6."
 2 So we're now nearly a year on from when the
 3 first leaflet had been agreed, are we not?
 4 **A.** Yes.
 5 **Q.** So a lot longer than you'd envisaged with your
 6 recommendation for a three-month trial?
 7 **A.** A lot longer, yes.
 8 **Q.** We can see there are two aspects of what was happening
 9 where changes are recommended, strengthening the
 10 content of that leaflet to ensure that high-risk
 11 donors don't get through --
 12 **A.** Yes.
 13 **Q.** -- and improving the method of distribution.
 14 **A.** Yes.
 15 **Q.** So, really, if one thinks back to that submission that
 16 you looked at in 1983, that first method of
 17 distribution, which I think you'd agreed looked like
 18 it was the best method of distribution, that's now
 19 going to be adopted nationally?
 20 **A.** That seems to be correct, yes.
 21 **Q.** Would you agree it's highly unsatisfactory that the
 22 first substantive update you receive is nearly a year
 23 on?
 24 **A.** Yes, it's less than desirable but I cannot recall what
 25 the reasons were for its delay. I think, you know,

120

1 quite how it came forward, so to speak, from the
 2 official side within the Department, I cannot --
 3 I don't know why it took so long but it's certainly
 4 disappointing.

5 **Q.** Then we can see your response at DHSC0002309_046.
 6 This is a minute of 21 August 1984 from your private
 7 office and it records this:

8 "Lord Glenarthur has seen Mr Williams'
 9 submission of 8 August and has commented:
 10 ""We must take all sensible steps to prevent
 11 this disease being transmitted, and I support the
 12 recommendations ...""

13 **A.** Yes.

14 **Q.** So you didn't raise any concerns or qualms or need for
 15 change?

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

17 **Q.** I think we can see, if we look at the handwritten note
 18 at the top of the page, it says:

19 "MS(H) ..."
 20 So that's directed to the Minister, Mr Clarke?

21 **A.** Yes.

22 **Q.** "... Please see this submission attached. Any
 23 comments on content for the leaflet to be revised as
 24 suggested?"

25 It looks as though that was a note written on

121

1 19 November 1984. It's looking, overall, at various
 2 matters relating to AIDS.

3 If we turn to the bottom of the second page --
 4 actually, no, if we turn to the second page, we can
 5 see reference in the first paragraph:

6 "News from Australia ... 13 people including
 7 3 babies have died from AIDS after receiving a blood
 8 transfusion has caused nation wide concern in
 9 Australia."

10 Paragraph 2 refers to the death of another
 11 haemophiliac patient, a patient in Newcastle who
 12 contracted AIDS and had died at the beginning of the
 13 month.

14 Then if we go to the bottom of the page, we can
 15 see the heading, "What is being done to prevent AIDS
 16 being transmitted by blood or blood products":

17 "Blood donors have had a leaflet since August
 18 1983 available to them asking any who believe they are
 19 in the high risk for AIDS not to give blood. This
 20 leaflet (attached) has been revised to include all
 21 practising homosexuals in the high risk group. It is
 22 being printed now and will be given to every donor.
 23 The Department will issue a circular advising on
 24 distribution of the leaflet once it is ready."

25 **A.** Yes.

123

1 there on 14 September.

2 **A.** Yes.

3 **Q.** If we then go to DHSC0002309_050, we can see this is
 4 a minute of 16 October 1984 -- so it looks like it's
 5 about -- not far off two months from since you
 6 responded and just over a month from when it looks as
 7 though the material was sent to the Minister, and this
 8 is on behalf of Mr Clarke, is it not?

9 **A.** Yes, it is.

10 **Q.** It says:

11 "We spoke and I confirmed that MS(H) [that's
 12 Mr Clarke] has now seen your submission of 8 August
 13 (under cover of Mr Parker's minute of 10 August) and
 14 is content for the leaflet to be revised and
 15 distributed in the way in which you suggest.
 16 "I am sorry this has taken so long to clear."
 17 So why it took that long is for Mr Clarke to
 18 answer, not you --

19 **A.** Yes.

20 **Q.** -- but it's another month has gone by.

21 **A.** Absolutely.

22 **Q.** We can see that. I'm not going to ask you to look at
 23 the particular version of the draft leaflet that was
 24 then in issue but what we then see, if we go to
 25 DHSC0002309_053, this is a note from Dr Smithies on

122

1 **Q.** Then it goes on to talk about a number of other
 2 matters, some of which we might come back to.

3 **A.** Yes.

4 **Q.** So it would seem that, as at 19 November, from the
 5 perspective of civil servants, the process is under
 6 way now to print it and get this new leaflet out?

7 **A.** That is correct.

8 **Q.** However, that seems to then have been interrupted by
 9 an intervention from the Information Division, and if
 10 we can look at DHSC0002323_014, what we have here is
 11 a minute dated 22 November 1984 from
 12 Janet Hewlett-Davies. It's addressed to Mr Cashman,
 13 and I think you say in your witness statement that
 14 this was a document that was copied to Mr Clarke's and
 15 Mr Patten's Private Secretaries. Did it come to you?

16 **A.** It appears not.

17 **Q.** We just look further down the page --

18 **A.** Go further down the page. No, it wasn't. Neither of
 19 my Private Secretaries' names appear there, so I did
 20 not see it.

21 **Q.** I think you subsequently become aware of it, but at
 22 this point in time it doesn't appear to go to you, but
 23 we can see that Mrs Hewlett-Davies says:

24 "I attach a revised version of the leaflet
 25 drafted by my Publicity Branch. Also attached for

124

1 purposes of comparison are the original leaflet and
2 the first revised version.
3 "I endorse your view that the first revise had
4 to be looked at again in the light of recent
5 developments and ministerial statements. The need is
6 for a much more strongly worded leaflet and for urgent
7 approval, production and distribution. I think our
8 draft meets the first need, and should be grateful for
9 your support in getting the quickest possible
10 clearance."

11 Now that's addressed to Mr Cashman. Are you
12 able to assist us as to who Mr Cashman was?

13 **A.** I'm afraid I don't.

14 **Q.** Don't worry. In any event, we now have, it would now
15 appear, two versions of the revised leaflet, the one
16 that had effectively been signed off by ministers
17 pursuant to the submission but now the Information
18 Division Publicity Branch has done a rewrite.

19 There are, I think, if we look over the page --
20 I'm not going to go through all the differences
21 between the two versions but if we look at the bottom
22 of page 3, we see there the question "How can the
23 risks be reduced?" and the last three lines read:

24 "Until there is a reliable test to detect AIDS
25 donors must not give blood if they think they have the

125

1 **A.** Sorry.

2 **Q.** It's -- I'm told, yes, page 62, paragraph 46.2.

3 Soumik if we put Lord Glenarthur's statement
4 back up, WITN5282001 --

5 **A.** Yes, 46.2, that's quite a long -- yes.

6 **Q.** And we go to page 62. So it's the paragraph with
7 (vi), where you say:

8 "However, a minute from Ms Hewlett-Davies dated
9 22 November 1984 to colleagues refers to further
10 recommended changes ..."

11 And you say halfway down that paragraph:

12 "... she refers to making changes to the 'first
13 revise' having to be looked at again in the light of
14 'recent developments and ministerial statements' ..."

15 You suggest that's a reference to Mr Patten's
16 press statements on 18 and 19 November 1984?

17 **A.** Yes, I believe so.

18 **Q.** If we can just pick those up, they are at -- there's
19 a press statement at PRSE0002251. This is
20 19 November. It deals with self-sufficiency and then
21 talks about -- this is the third paragraph down -- the
22 voluntary blood donor service, and refers to the need
23 to encourage donors not at risk from AIDS to come
24 forward.

25 If we look at the bottom of the page there's

127

1 disease or are in one of the risk groups listed
2 below."

3 **A.** Yes.

4 **Q.** Then those groups are listed. One of the differences
5 between the two versions -- again, I'm not going to
6 compare them in detail -- was that a request, "donors
7 are asked not to give blood", has become "donors must
8 not give blood"?

9 **A.** Correct.

10 **Q.** That's one of the suggested changes.

11 If we just go back to the first page of this --
12 sorry, the first page of the document, so the minute
13 from Mrs Hewlett-Davies, we'll see in that second
14 paragraph she's referred to looking at the draft again
15 "in the light of recent developments and ministerial
16 statements", and I think I understand from your
17 statement, Lord Glenarthur, that you have taken that
18 to mean possibly a reference to what had happen in
19 Australia, a further death of a haemophiliac in the
20 UK, and there'd been some press statements by
21 Mr Patten?

22 **A.** I believe so. Could you bring me to the reference in
23 my statement, please?

24 **Q.** I can try, but unhappily I don't think I've written it
25 down but I'm sure we'll be able to find it.

126

1 reference to the replacement leaflet being reprinted
2 with a strengthened message.

3 Then the second press statement -- actually, it
4 says pretty much exactly the same thing but it's dated
5 18 November, so I don't think we need to look at that.

6 I think I picked up from your statement,
7 Lord Glenarthur, but I'll check, and I don't think it
8 probably matters one way or another, but part of the
9 context for the further strengthening might have been
10 the news from Australia?

11 **A.** Yes.

12 **Q.** It was obviously --

13 **A.** Generally growing concern, I think.

14 **Q.** Exactly.

15 Then if we picked matters up next then, and this
16 is still in November but just a few days later, at
17 DHSC0000435.

18 This is a minute of 23 November 1984 from
19 Dr Abrams to Dr Smithies. The first paragraph is
20 essentially for Lord Clarke to answer to, but it
21 refers to Lord Clarke having given an ITV interview
22 revealing he has strong -- and a briefing session,
23 revealing he had strong views on spending money on the
24 blood test.

25 If we then look at the next paragraph it says:

128

1 "MS(H) [so Mr Clarke] was content to hold up the
2 donor leaflet until after the Working Group meeting -
3 but he was obviously satisfied with it as it is at
4 present."

5 Then -- and, I'm sorry, we have to look at
6 multiple documents to make sense of the chronology --
7 the working group meeting we can see from
8 DHSC00002251_011.

9 This is a minute dated 27 November 1984 from
10 Dr Abrams to Dr Harris, and it's entitled "Advisory
11 Committee on the National Blood Transfusion Service
12 working group on AIDS". That appears to be the
13 working group referred to. Then there's a discussion
14 about the leaflet. We can pick things up -- it's the
15 paragraph numbered, first of all, (iv):

16 "They [that's I think Regional Transfusion --
17 no, in fact, it may be Regional Transfusion Directors
18 or whoever's on the working party] were not in favour
19 of closer questioning of donors to see if they were
20 homosexual etc. They were in favour of a local
21 session leaflet (such as is used now) which gets
22 people to answer a list of questions amongst which are
23 the AIDS questions. There was concern that too close
24 a questioning might be counterproductive."

25 Then the next sub-paragraph deals with the

129

1 **Q.** Then if we go to DHSC0002309_058.

2 We're now at 3 December. Again, this is from
3 Dr Abrams in Med SEB to Mr Naysmith. So that's
4 Mr Clarke's private office I think.

5 It says:

6 "MS(H) cleared the revised leaflet for Blood
7 Donors on 16 October ..."

8 So that's before Mrs Hewlett-Davies' changes:

9 "... and subsequently agreed to delay the
10 printing of the revised leaflet until it could be
11 discussed at the meeting of the Working Group on AIDS
12 on the 27 November.

13 "At that meeting members had only minor comments
14 to make on the current draft which are appended. They
15 considered that the information in the leaflet was
16 sufficient to give adequate warning to donors in the
17 risk groups for AIDS and would not deter other
18 volunteers. It was not thought necessary to adopt
19 a stronger line as has been suggested by Information
20 Division.

21 "If MS(H) [so Mr Clarke] is content arrangements
22 can be made for printing the leaflet and for
23 distributing it to Regional Transfusion Centres who
24 will be required to ensure that all donors receive the
25 leaflet."

131

1 leaflet:

2 "There was general endorsement of the latest
3 donor leaflet on AIDS - a few small but important
4 changes suggested which we can take on board. No wish
5 to see a rewrite. In Scotland the leaflet mentions
6 the countries where AIDS is prevalent: not wanted in
7 our version. This should be covered either by the
8 session doctor or the leaflet ... locally ..." and
9 it's explained why they didn't want reference to
10 prevalent countries.

11 That appears to be the working group meeting
12 that took place on 27 November. In the meantime -- in
13 fact, a few days later -- DHSC0002309_056 -- this is
14 a minute sent on behalf of Mr Patten I think, "PS(H)"?

15 **A.** Yes.

16 **Q.** "... has seen Mrs Hewlett-Davies' minute of
17 22 November and the revised leaflet and has commented:

18 "Content with this line if MS(H)
19 [Mr Clarke]/PS(L) [that's you] are."

20 And we can see it's addressed to your private
21 office in part here?

22 **A.** Correct.

23 **Q.** So you've come back into the loop, in any event, by
24 this time?

25 **A.** Yes.

130

1 We can see that's copied, amongst others, to
2 Mr Joyce. So that's going to your private office,
3 yes?

4 **A.** Yes, I see it.

5 **Q.** Then, if we go to DHSC0002309_117, this is on your
6 behalf on 4 December 1984:

7 "Lord Glenarthur has seen Mrs Hewlett-Davies'
8 minute of 22 November and Mrs Nolan's of 30 November
9 and is content with the revised wording."

10 Is this right: back in -- let's check the date
11 now, I think it is back in August, you had been happy
12 with the original redrafted leaflet, you have now been
13 sent Mrs Hewlett-Davies' redraft, you're happy with
14 that?

15 **A.** That's correct, it appears, yes.

16 **Q.** Is it right to understand your primary concern was
17 just to get the revised leaflet out there?

18 **A.** Yes, I'm sure it was. It did seem a protracted and
19 rather bureaucratic process to get it approved and out
20 where it should be, but that seemed to be the system
21 at the time.

22 **Q.** Then if we go to DHSC0002309_060, this is 14 December.
23 It's from Mr or Ms Harris in HS1.

24 **A.** Yes.

25 **Q.** To Ms Bateman -- again, I'm not sure who that is but

132

1 no doubt we can check -- copied, in any event, to
 2 Mr Joyce, so copied to your private office.
 3 It refers, in the second paragraph, to
 4 "a revision of the present leaflet" having been sent
 5 to the Minister of State for Health under cover of
 6 Dr Abrams' minute of 3 December.
 7 Ah, yes, so I'm told Ms Bateman is in the
 8 private office of Mr Clarke.
 9 **A.** Mm-hm.
 10 **Q.** Then, paragraph 3:
 11 "A revised leaflet for blood donors is one of
 12 the Government's announced responses to the AIDS
 13 problem. It is therefore highly desirable that action
 14 on this is taken forward in the near future."
 15 So it would appear to be, is this fair, the
 16 HS branch chasing Mr Clarke's private office for
 17 a response?
 18 **A.** It looks like it but I can't be absolutely sure. That
 19 seems to be the meaning of this.
 20 **Q.** Then if we go to DHSC0002327_127, we're now at
 21 20 December 1984. This is from Mr Williams in HS1 to
 22 Ms Bateman, so again to the minister's private office,
 23 at paragraph 1:
 24 "This note gives Ministers information about
 25 recent publicity on AIDS transmission in the press

133

1 **A.** I suspect that is absolutely true, Sir Brian. There
 2 were so many other things going on across the range of
 3 activities which all of us had to deal with, and
 4 probably Mr Clarke, in particular, as Minister for
 5 Health, that not everything came to the top of the
 6 pile of matters to be signed off at the appropriate
 7 time.
 8 **SIR BRIAN LANGSTAFF:** What interests me, particularly in
 9 something which is dealing with public perception,
 10 public attitude, is that it's on 20 December that this
 11 minute from HS1A talks about the Guardian article then
 12 reporting upon the cases of those who had been blood
 13 donors but who had had AIDS.
 14 **A.** Yes.
 15 **SIR BRIAN LANGSTAFF:** But it was actually known about,
 16 I think, on 30 November, which is some three weeks
 17 earlier. We do have a reference to it. It's
 18 DHSC0002309_057, if I'm not mistaken. I don't know if
 19 Soumik has that.
 20 **MS RICHARDS:** It's on the screen, sir.
 21 **SIR BRIAN LANGSTAFF:** Thank you. This is 30 November. So
 22 this is to Ministers. Who is it to? Mr Joyce is
 23 the --
 24 **A.** To my Private Secretary, copied to a lot of others.
 25 **SIR BRIAN LANGSTAFF:** Yes. So this is -- so far as the

135

1 today, CMOs that's the [Chief Medical Officer's]
 2 interviews with the media and his press statement, and
 3 seeks MS(H)'s [so Mr Clarke's] urgent clearance of the
 4 revised text of the leaflet 'AIDS and how it concerns
 5 blood donors'.
 6 Then there's an update on recent cases.
 7 If you go further down, there's reference to the
 8 Chief Medical Officer's press statement. Then at
 9 paragraph 4, under the heading "Revision of Leaflet":
 10 "These developments re-emphasise the need for
 11 the Department to produce the revised version of the
 12 leaflet 'AIDS and how it affects blood donors'. The
 13 National Blood Transfusion Service cannot be asked to
 14 effect a more positive distribution of these leaflets
 15 until Ministers have approved the text.
 16 "MS(H)'s approval of the revised text (as set
 17 out in Dr Abrams' minute of 3 December 1984) is sought
 18 urgently."
 19 I think on any view that is chasing the minister
 20 for a response?
 21 **A.** Absolutely.
 22 **SIR BRIAN LANGSTAFF:** Part of the problem here is,
 23 I suspect, a perennial problem in politics, which is
 24 that events have a habit of catching up before action
 25 may be taken.

134

1 leaflet is concerned, if it was out of date because it
 2 was trying to catch up with what Mr Patten had been
 3 saying about recent developments, it was even now more
 4 out of date presumably?
 5 **A.** Well, so it would seem but I cannot recollect quite
 6 what -- I can't recollect the reason for the delay
 7 between the various ministerial offices, I'm afraid.
 8 It's impossible now.
 9 **SIR BRIAN LANGSTAFF:** Does the overall delay, do you
 10 think, fit the epithet "unconscionable" that you used
 11 earlier?
 12 **A.** It was taking far too long and why it took so long
 13 I honestly do not know and nor could I really
 14 influence it, frankly.
 15 **SIR BRIAN LANGSTAFF:** No, it's not your responsibility but
 16 you were there and you can see if there's any obvious
 17 reason why it should have taken quite so long to
 18 change a word here or there in a document.
 19 **A.** The procedure for approving leaflets and press notices
 20 did seem to me to be very bureaucratic and slow and
 21 ministers, certain ministers, took a great deal of
 22 trouble over ensuring that by saying certain things in
 23 their documents they weren't generating hostages to
 24 fortune. They wanted to get it absolutely right,
 25 bearing in the mind the practicalities, the politics,

136

1 press interest, et cetera, and maybe I was not as
2 sensitive -- if that's the right word, I don't know --
3 to those concerns as some of my colleagues were. So
4 I was keen to get the thing moving and get it out.

5 **SIR BRIAN LANGSTAFF:** You described how part of that
6 feeling on your part probably arose from your
7 experience of the aircraft industry where safety is
8 a matter of urgency wherever it arises.

9 **A.** Yes, I think that was my attitude towards risk
10 generally, that risk was -- you know, you didn't take
11 risks unless there were some extraordinarily good
12 reasons and even then you would have to justify
13 yourself if anything went wrong. In this particular
14 case, as I said earlier, on the question of risk that
15 haemophiliacs were in a serious degree of peril if
16 they didn't get Factor VIII and that had to be
17 50 per cent from America, or not have any at all,
18 because that was another option, the two were in
19 conflict and one was rather less worse, less bad, than
20 the other.

21 I mean, I had a more absolute view of risk in
22 those days because of what I was doing just before
23 I joined the Government but that, I think, is the way
24 I rationalised it at the time.

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

137

1 DHSC0002309_062, this is also 20 December 1984. So on
2 the same date as a chasing minute is sent, chasing the
3 Minister, in fact, on that date the Minister's private
4 office replies to Dr Abrams' earlier minute of
5 3 December:

6 "MS(H) [so this is paragraph 2] has now seen
7 your revised version of the leaflet 'AIDS and how it
8 concerns blood donors' [so that's the one circulated
9 I think with the original submission] together with
10 the Information Division version [so Mrs
11 Hewlett-Davies' version]. His initial reaction to
12 both was that we may need to look at some of the
13 assurances again in the light of the publicity
14 surrounding the two cases involving blood
15 transfusions.

16 "On presentation, MS(H) saw nothing wrong with
17 your revised text, but felt that the language of the
18 ID version conveyed the message more effectively.
19 I should be grateful therefore if you and your medical
20 policy division colleagues would co-operate with
21 Information Division in producing a third (and
22 hopefully final) version of the leaflet based upon the
23 [Information Division] text to take account of any
24 recent significant developments, and amended as
25 necessary to ensure medical accuracy.

139

1 **MS RICHARDS:** Before we take this document down, and on
2 a slightly separate topic but one that we will either
3 come back to later today or tomorrow morning,
4 Lord Glenarthur, I just invite your attention to
5 paragraph 3 of this note --

6 **A.** Yes.

7 **Q.** -- which says:

8 "Knowledge of these incidents, particularly
9 (a) ..."

10 Just so that we can see the whole thing, can we
11 just go back to the top, so we can see (a) is the
12 description of a donor who subsequently developed
13 AIDS, blood donations, plasma used to make a batch of
14 Factor VIII given to 38 haemophiliacs, and so on.

15 Paragraph 3 says:

16 "Knowledge of these incidents, particularly (a),
17 is becoming more widespread, and is likely to reach
18 the media before long -- Haemophilia Centre Directors
19 managing the haemophiliacs involved may well feel that
20 they have to inform their patients of the situation."

21 I just draw your attention to that because the
22 question of information for patients is one I'm going
23 to return to.

24 **A.** Okay.

25 **Q.** So if we then, returning to the leaflet issue, go to

138

1 "I appreciate the need to produce the revised
2 leaflet as soon as possible, however, I understand
3 that the forthcoming Christmas break will inevitably
4 delay printing until the New Year. That being so,
5 I should be grateful if you could ensure that MS(H)
6 has an opportunity to comment of [that should be 'on']
7 the agreed version before printing and distribution
8 goes ahead."

9 So, again, the reason for this approach is
10 a question for Mr Clarke, Lord Clarke, not for you,
11 Lord Glenarthur, but just so that we can understand
12 where we've got to by Christmas 1984, there is the
13 first version, so to speak, that I think both you, and
14 Mr Patten were content with. There's the revised
15 version, produced by Mrs Hewlett-Davies, that you were
16 content with, the Minister's now looked at both and
17 wants, for reasons no doubt he will be able to tell us
18 about, there to be a third version agreed, that would
19 then hopefully presumably be the version that goes out
20 for publication?

21 **A.** Yes.

22 **Q.** We can see that being 20 December, that actually the
23 third version is produced the next day
24 DHSC0002309_063. We can see this is from R Windsor in
25 the Information Division, 21 December 1984, to

140

1 Mr Naysmith in the Minister's private office:
 2 "In the light of MS(H)'s comments, we have
 3 reconsidered the text of this leaflet with colleagues
 4 from Medical and Health Services Divisions.
 5 "The further revised text is attached. This
 6 retains the general direct style and presentation of
 7 the ID draft, but incorporates various detail changes
 8 that were felt to be desirable. We have also
 9 re-ordered the questions and answers. Subject to some
 10 final consultations by Dr Smithies on whether it is
 11 advisable to retain the brief mention of Haiti and
 12 Central Africa, we are agreed that this draft should
 13 be both effective and acceptable to donors and [the
 14 National Blood Transfusion Service]. (Note --
 15 Apparently the Directors of the RTCs are a bit
 16 concerned about this, although the [Department]
 17 doesn't mind either way.)
 18 "If MS(H) is content we will put the leaflet
 19 into production immediately after the break."
 20 So we've got the third version of the leaflet
 21 here and then if we go to -- there are some
 22 handwritten comments from Mr Clarke but we can see
 23 them in typed up form if we go to DHSC0002309_064.
 24 This is a minute of 31 December 1984 from Mr Clarke's
 25 private office to Mr Windsor:

141

1 leaflet?
 2 **A.** Yes.
 3 **Q.** So that's what this is commenting on, 2 January 1985.
 4 Then we see that getting to you at DHSC0002309_065,
 5 3 January, for Mr Williams to, amongst others,
 6 Mr Joyce in your private office:
 7 "Submission to Ministers -- Health Circular
 8 issuing leaflet 'AIDS -- Important new advice for
 9 blood donors'.
 10 "1. Ministers have agreed that as a matter of
 11 urgency the revised leaflet 'AIDS -- Important new
 12 advice for blood donors' should be reprinted and that
 13 it should be distributed on an individual basis to all
 14 blood donors.
 15 "2. I should be grateful for Ministers'
 16 agreement to the issue of the attached draft Health
 17 Circular which asks Regional Health Authorities to
 18 implement this decision."
 19 If we go over the page, we'll see the text of
 20 a proposed circular to Regional Health Authorities,
 21 paragraph 1:
 22 "This circular asks Regional Health Authorities
 23 to ensure that the revised leaflet ... is distributed
 24 individually to every blood donor."
 25 "Background" is set out in paragraph 2,

143

1 "MS(H) has seen your submission of 21 December
 2 and has commented:
 3 "Is it still true to say that there is only
 4 a remote chance of anyone getting AIDS from
 5 an ordinary blood transfusion, as it says at the top
 6 of page 2?
 7 "I remain wary of offering to promise blood
 8 screening tests and heat treatments. I would
 9 therefore like to leave out the paragraph at the
 10 bottom of page 3 "What is being done" et cetera.
 11 Otherwise OK."
 12 Then WITN5282014, we're now 2 January 1985, and
 13 if we look at paragraph 2 -- sorry, I should say this
 14 is from Mr Harris in HS1 to Mr Williams. I don't
 15 think this is a document copied to your office but the
 16 second paragraph says:
 17 "Given the particular sensitivity of this issue,
 18 I think we need to do a little more than just ask the
 19 RHAs [that's the Regional Health Authorities] to get
 20 on with it. I would suggest a circular tell them to
 21 report back within one month of date of issue
 22 confirming all donors have had the leaflet presented
 23 to them ..."
 24 That's because there was going to be a circular
 25 to the Regional Health Authorities introducing the new

142

1 including the variable distribution method between
 2 different transfusion centres. Paragraph 3:
 3 "The leaflet has now been revised, most
 4 significantly in extending the high-risk groups who
 5 should not donate blood, and the opportunity has been
 6 taken to amend the lay out and update factual
 7 matters."
 8 Then paragraph 4 talks about distribution:
 9 "Ministers have decided that it is essential
 10 that the revised leaflet be brought to the attention
 11 of each donor on an individual basis."
 12 This is further explained. The next page
 13 explains that the Department's going to meet the cost
 14 of printing the revised leaflet.
 15 So you, amongst others, were asked to agree to
 16 that, and we can see your response, DHSC0002482_011,
 17 15 January 1985 from Mr Joyce:
 18 "This is to confirm my telephone message that
 19 Lord Glenarthur and PS(H), [so that's Mr Patten too,
 20 I think, still] are content with the draft as
 21 'finally' revised accompanying your minute of
 22 3 January ..."
 23 Then there's a reference to Mr Patten being
 24 content to revert to the wording "serious" rather than
 25 "killer" disease. I don't need to ask you about that.

144

1 So we've finally got to 15 January 1985. Do you
2 attach any significance to the fact that "finally" has
3 been put in quotation marks. Was there an element of
4 frustration here being expressed on your behalf by
5 Mr Joyce?

6 **A.** Perhaps from both of us, both Mr Patten and myself,
7 but I couldn't be sure. But it was taking an awful
8 long time.

9 **Q.** Then there's a press release which, to complete the
10 saga, I'll just put up on screen.
11 DHSC0002311_053.

12 This is the draft press release. The
13 significance is really just the date: 1 February 1985.
14 It deals with the setting up of the expert advisory
15 group. It deals with the question of a screening
16 test.

17 Then if we go to the next page, we can see here
18 reference to the leaflet, and it refers in the first
19 line to:

20 "... the publication today and the supply to
21 Regions of the revised leaflet 'AIDS - IMPORTANT NEW
22 ADVICE FOR BLOOD DONORS' which [Regional Health
23 Authorities] have been asked to ensure is distributed
24 individually to all blood donors.

25 "The leaflet lists those at risk from AIDS -

145

1 suggest to you that that's something of an
2 understatement, Lord Glenarthur. It was an absurdly
3 long period of time, was it not, for such an important
4 public health measure?

5 **A.** Yes, it was and quite how it came about and the
6 continual toing and froing within the Department and
7 between ministers' offices, tweaking the leaflet and
8 the statements that go with it, were frustrating and
9 I think you can see that from both my comments and, to
10 some extent, John Patten's comments. But on the other
11 hand, you know, Mr Clarke had strong views on these
12 things, he was dealing with lots of other things, and
13 it may have been that he didn't quite perceive the
14 same degree of urgency when he looked at it as those
15 of us who were more immediately involved. But that
16 is, you know, me looking back 38 years later.

17 **Q.** Absolutely, and I'll ask Lord Clarke about that.

18 Before we move on from this topic, I just want
19 to refer to one further document.

20 It's HSOC0016001.

21 If we look at the left-hand column, if we look
22 at the top of the page first of all, this is an item
23 in the Guardian, 20 November 1984, and we can see --
24 this is really just to show why this was so important,
25 Lord Glenarthur, I don't think you disagree with this:

147

1 practising homosexual and bisexual men; drug abusers
2 both men and women, who inject drugs; and the sexual
3 contacts of people in these groups. It stresses that
4 donors in the risk groups must not give blood as they
5 may unknowingly be carriers of the AIDS virus."

6 If we then stand back, having looked at all the
7 detail -- and I'm afraid it was painfully necessary to
8 go through it just to see what was happening -- we
9 have a leaflet that was due to be reviewed around
10 December 1983, because that's the end of -- the three
11 months that you'd asked for --

12 **A.** Yes.

13 **Q.** -- would have expired at the end of November 1983.

14 We saw from the minute from Dr Smithies in
15 February 1984, the need for both strengthening the
16 wording of the leaflet and changing the method of
17 distribution --

18 **A.** Yes.

19 **Q.** -- was identified in February of 1984 within the
20 Department, hadn't got to you at that point. It's
21 another year before the leaflet's finally distributed
22 at the beginning of February 1985.

23 **A.** Yes.

24 **Q.** Now, you say in your statement ideally that should
25 have been achieved more quickly. I am going to

146

1 "Warning to gays still donating blood
2 "Homosexuals in London ..."

3 Soumik, can we zoom in on the left-hand side so
4 it's easier to read?

5 "Homosexuals in London have continued to donate
6 blood despite warnings that they risk infecting
7 patients with the AIDS virus, it was disclosed
8 yesterday.

9 "Doctors and organisations for gays blamed the
10 Department of Health for failing to issue clear
11 guidelines, and called for the introduction of blood
12 test to screen all donors.

13 "The homosexual donors have been identified by
14 doctors at the North London transfusion centre's
15 West End branch. They thought that the Department of
16 Health leaflet asking promiscuous homosexuals not to
17 donate did not apply to them because they did not
18 consider themselves promiscuous, said the centre's
19 deputy director, Dr Patricia Hewitt."

20 If we just read further down, if you can zoom in
21 again:

22 "Her centre has overprinted the department's
23 leaflet with a request that practising homosexuals
24 should refrain from donating. 'I suspect that it is
25 only a matter of time before a male donor, whether he

148

1 realises he is at risk or not, transmits AIDS,' she
2 said.
3 "The junior health minister, Mr John Patten,
4 said yesterday that he would be issuing clearer
5 guidelines. 'Gays should not donate blood,' he
6 added."
7 Then there's a discussion about various matters
8 which I don't think I need ask you to look at.
9 That's a powerful reminder, is it not,
10 Lord Glenarthur, of why the revised leaflet needed to
11 be produced and distributed much quicker than it was?
12 **A.** Yes, I think it is. I don't recall now that
13 particular article, but it is a very strong piece,
14 indeed.
15 **Q.** I'm going to move now to a separate topic, the
16 question of the recommendations of the Council of
17 Europe from June 1983.
18 We can start just by looking at the
19 recommendations themselves.
20 MACK0000307.
21 If we go to the second page:
22 "Council of Europe Committee of Ministers
23 "Recommendation No. R (83) 8"
24 Then if we look at the words in italics
25 underneath the title:

149

1 **A.** Yes.
2 **Q.** So those are the recommendations of the Council of
3 Europe. As I say, I will come back to one of them, in
4 particular, in a moment. If we then just look at how
5 this matter came before you.
6 DHSC0002309_086.
7 So this is a minute from Mr Cumming to Mr Lupton
8 and Mrs Walden, but then we can see, written on the
9 right-hand side in handwriting:
10 "Copy to [amongst others] Mr Joyce."
11 **A.** Yes.
12 **Q.** So it comes to you.
13 "Recommendations, resolutions, etc by
14 international bodies.
15 "1. From time to time we submit to Ministers
16 international instruments which involve DHSS
17 interests. It is normal practice during the
18 preparation of these documents to ensure that the UK
19 is not committed to policies which would not otherwise
20 be followed, so that there is, correspondingly, no
21 action to be taken if and when they are adopted.
22 "2. However, recommendations or undertakings in
23 international agreements are often of interest to
24 pressure groups etc and it is thought that Ministers
25 may wish to be aware of Recommendation R(83)8 which

151

1 "(Adopted by the Committee of Ministers on
2 23 June 1983 at the 361st meeting of the Minister's
3 Deputies)"
4 There's then a number of basic principles set
5 out, I won't read those aloud, but if we go over the
6 page, we just see the recommendations -- and there's
7 one I'm going to ask you about in particular shortly:
8 "Recommends the governments of member states:
9 "1. To take all necessary steps and measures
10 with respect to [AIDS] and in particular:
11 "- to avoid wherever possible the use of
12 coagulation factor products prepared from large plasma
13 pools; this is especially important for those
14 countries where self-sufficiency in the production of
15 such products has not yet been achieved;
16 "- to inform attending physicians and selected
17 recipients, such as haemophiliacs, of the potential
18 health hazards of haemotherapy and the possibilities
19 of minimising these risks;
20 "- to provide all blood donors with information
21 on the [AIDS] so that those in risk groups will
22 refrain from donating ..."
23 That last -- that third point, obviously, is
24 then reflected in the issue of the leaflet that we've
25 just been examining.

150

1 was adopted by the Committee of Ministers of the
2 Council of Europe on 23 June 1983.
3 "3. The subject of the Recommendation is the
4 prevention of transmission of acquired immune
5 deficiency syndrome (AIDS) from affected blood donors
6 to patients receiving blood or blood products. On the
7 basis of present knowledge it is assumed that AIDS is
8 transmissible by blood and the recommendation aims to
9 ensure that appropriate precautions are taken in the
10 preparation of certain blood products, that specific
11 groups of recipients such as haemophiliacs are
12 accordingly reassured.
13 "4. An information leaflet for blood donors
14 used by the American Red Cross is appended to the
15 Recommendation for the convenience of National Blood
16 Transfusion Services wishing to draw up their own
17 leaflet.
18 "5. The Recommendation does not prevent the
19 United Kingdom from continuing to import factor VIII
20 concentrate from the USA on whom we currently rely for
21 about 50% of our supply.
22 "6. A copy of the Recommendation is attached."
23 So we can see that you are actually being sent
24 the recommendation itself?
25 **A.** Yes.

152

1 Q. Your response at DHSC0002309_029, 22 July 1983, from
 2 Mr Joyce:
 3 "Lord Glenarthur has seen Mr Cumming's minute of
 4 undated July and thinks we should accept the
 5 recommendation. He also feels there might be merit in
 6 referring to the 'European' advice when MS(H)
 7 announces the publication of our own leaflet to
 8 potential blood donors. Does MS(H) agree?"
 9 We can just note if we look further down, where
 10 the list of people being copied in is set out, it
 11 says:
 12 "Lord Glenarthur has asked if we have
 13 a publication date for our leaflet in view."
 14 So that's back in -- in terms of the 1983
 15 first --
 16 A. It's the first leaflet, yes.
 17 Q. I just note that.
 18 So you've seen the recommendation and your
 19 general comment is: we should accept it?
 20 A. Can we just go back to the recommendation again?
 21 Q. Absolutely.
 22 MACK0000307. Go to the next page, Soumik.
 23 So those are the recommendations.
 24 A. "... take all necessary steps ...
 25 "- to avoid wherever possible the use of

153

1 A. Okay.
 2 Q. Before I do that, can I just invite you to agree with
 3 me that it's identifying two cohorts who should be
 4 provided with information: attending physicians, i.e.
 5 those involved in treating patients with coagulation
 6 factor products, and then the patients themselves who
 7 are receiving them; so selected recipients such as
 8 haemophiliacs.
 9 A. Yes.
 10 Q. So they are the two cohorts which Governments are
 11 recommended to take all necessary steps and in
 12 particular provide information to. Then the category
 13 of information or the categories of information that
 14 this is concerned with again is twofold: information
 15 about the potential health hazards of haemotherapy, so
 16 the risks, in other words.
 17 A. Yes.
 18 Q. And this is all in the context of AIDS, so it must be
 19 said it tends to be talking about the risks of AIDS.
 20 A. Yes.
 21 Q. And then the possibilities of minimising these risks,
 22 i.e. things that could be done, steps that could be
 23 taken to reduce the risk.
 24 A. Yes.
 25 Q. So those are the two categories of information.

155

1 coagulation factor products prepared from large plasma
 2 pools ..."
 3 And the United States is one of those.
 4 "- to inform attending physicians and selected
 5 recipients ..."
 6 And:
 7 "- to provide all blood donors with information
 8 on [AIDS] ..."
 9 Yes, those all seemed to me to be sensible. The
 10 middle one, informing attending physicians and
 11 selected recipients, if I recall, the Department
 12 didn't actually advise doctors who were treating
 13 patients. That was done -- the relationship between
 14 the clinician and the patient was sacrosanct and the
 15 information which was necessary for the doctor who was
 16 treating the patient would have been gleaned from
 17 various professional sources which he or she would
 18 have had access to. So there may have been a view at
 19 the time, although I simply can't recall, that in all
 20 its -- that central one, to inform
 21 attending physicians, et cetera, was going to be
 22 difficult to achieve. But I can't really remember the
 23 detail.
 24 Q. You are right to alight upon that one because that's
 25 the one I want to ask you about.

154

1 Now you are absolutely right, as far as I'm
 2 currently aware, Lord Glenarthur, when you say the
 3 Department didn't do anything -- I'm paraphrasing what
 4 you said a few moments ago --
 5 A. Yes.
 6 Q. But it didn't take any particular steps in relation to
 7 either of these matters, and I just want to explore
 8 with you a little before we break for the afternoon
 9 break as to why that was the case and whether that was
 10 the right course to take.
 11 So if we start with the question of information
 12 to clinicians. I'm going to invite you to look at how
 13 you deal with this in your witness statement.
 14 So can we have the statement back up again,
 15 Soumik, WITN5282001.
 16 Then there are, I think, probably two passages
 17 that we should look at in your statement. So the
 18 first is on page 47.
 19 If we just start at page 46, Soumik, we can see
 20 the heading.
 21 A. Yes.
 22 Q. "Council of Europe Recommendations."
 23 Then if we go to page 47, paragraph 31.4, you
 24 refer in paragraph 31.3 to the minute that we just
 25 looked at in which you said we should accept the

156

1 recommendation.

2 Then you say:

3 "I do not recall taking any further personal

4 action."

5 You note that the covering minute didn't suggest

6 there were areas in which the UK was failing to meet

7 the standards of the recommendation, and it is right,

8 Lord Glenarthur, you weren't asked to take any

9 particular decisions in relation to that --

10 **A.** Yes.

11 **Q.** -- as far as I'm aware?

12 Then if we look just further down this paragraph

13 please, Soumik, you deal with the information

14 recommendation, if I can call it that, in

15 sub-paragraph (iii). You say -- actually, sorry, can

16 I pick it up in sub-paragraph (ii) to make sense of

17 it.

18 You say in sub-paragraph (ii), dealing with the

19 issue about large plasma pool products:

20 "I am certain that any recommendations on

21 avoiding products from 'large plasma pools' would have

22 been fully considered by officials including medical

23 advisers. I do not believe that I would have taken

24 direct action myself;

25 "(iii) The same applies to information to be

157

1 page 111, paragraph 98.1, you say:

2 "I have been asked whether I personally gave

3 consideration to asking the [Chief Medical Officer] to

4 issue guidance, advice or instructions, etc, on issues

5 such as (i) the risks of infection from blood or blood

6 products, (ii) the information to be provided to

7 patients regarding such risks or (iii) the

8 circumstances in which patients should or should not

9 receive treatment with blood or blood products."

10 Then you say:

11 "In practical terms, the response to AIDS was

12 generally ... being handled at [Deputy Chief Medical

13 Officer] ... or ... below ..."

14 You say in the last sentence of that paragraph:

15 "I cannot reliably say now whether any one of

16 these issues might have been raised or debated by me

17 with Senior Medical Officers - it would be speculation

18 now, after so much time has passed."

19 Then if we go to the bottom of the next page,

20 bottom of page 112, paragraph 99.4 you say this:

21 "In relation to direct advice from the DHSS to

22 clinicians (or their patients) about the risks of

23 blood products, I do not think that this would have

24 been considered appropriate. Again, the treatment of

25 haemophilia was a specialised area of expertise, and

159

1 supplied to practitioners and patients such as

2 haemophiliacs. It is difficult to remember what

3 I would have been told, or known, about the

4 information available."

5 Then you refer to a letter that was sent to

6 Baroness Masham. We'll come on to that later.

7 Then you says, in the last part of that

8 subparagraph:

9 "Equally, I cannot remember any suggestion by

10 the Haemophilia Society, when I met with its

11 representatives on 8 September 1983, that information

12 for patients was lacking."

13 So you deal expressly with the Council of Europe

14 recommendation there.

15 Then if we go to page 112 of your statement --

16 sorry, let me pick it up, first of all, on page 110.

17 The heading there, "Role of the Chief Medical

18 Officer", so you were asked some questions -- sorry,

19 I will wait until you have got the page.

20 **A.** Page 110?

21 **Q.** Page 110, "Role of the Chief Medical Officer".

22 **A.** Yes.

23 **Q.** You were asked some questions -- or asked to address

24 some questions in your statement about the role of the

25 Chief Medical Officer and, if we go to the next page,

158

1 the Department was in the position of receiving

2 information and advice from the clinicians

3 concerned ..."

4 And you refer to Dr Gunson and the Committee on

5 Safety of Medicines Subcommittee.

6 "As far as I am aware, the Department did not

7 have any information about risks that was not

8 available to those clinicians, and I do not think that

9 the Department it would have felt it appropriate to

10 have offered guidance in those circumstances."

11 So is this a fair reflection of your evidence,

12 Lord Glenarthur: you weren't asked to consider this

13 matter by officials, you didn't raise it proactively

14 yourself and then you are here expressing the view

15 that you don't think it would have been considered

16 appropriate for the Department to provide such

17 information to clinicians or patients?

18 **A.** I think it was more that the officials within the

19 Department who were the experts in this particular

20 field didn't come forward to me with any particular

21 direction which they encouraged ministers to take,

22 rather than the other way round.

23 I do not recall a submission, I don't think I've

24 seen them amongst all these papers, from ministers --

25 from officials, particularly drawing to my attention,

160

1 or to any of my colleagues' attention, how those three
2 elements should be handled, particularly the middle
3 one. I just don't recall it at all.

4 **Q.** I think you don't recall it, Lord Glenarthur, because,
5 as far as I think everyone's aware, there wasn't one.

6 **A.** There wasn't one.

7 **Q.** So you are right the matter was not, so far as we
8 know, raised with you by officials?

9 **A.** No, and if it wasn't highlighted like that, as
10 something, you know, "Minister, this is extremely
11 important, we need to have your view on it, our advice
12 is as follows", that never came forward.

13 **Q.** So can I now then take the two groups identified in
14 the Council of Europe recommendation separately and
15 ask you to reflect, first of all, upon the provision
16 of information to clinicians.

17 You say in this paragraph that we have still on
18 screen, paragraph 99.4 of your statement, you don't
19 think that would have been considered appropriate.

20 **A.** By the Department necessarily, not by me.

21 **Q.** Yes. I understand that. In a sense, these are
22 hypothetical questions because you were not asked
23 expressly to consider this at the time.

24 **A.** Yes.

25 **Q.** Bearing in mind that the UK had signed up to,

161

1 **A.** Yes, it was: rapidly developing.

2 **Q.** Then, if we turn to the question of the provision of
3 information to patients, again no evidence that this
4 mattered was expressly put before you for you to
5 either not or reach any decision on, but would you
6 agree, as a matter of principle, that it was of
7 fundamental importance that, by whatever route,
8 patients were made aware of the risks and of the ways
9 in which those risks could be minimised, so that they
10 could take informed decisions as to what treatment to
11 receive?

12 **A.** Yes, looking at it now that seems absolutely right.
13 Quite how it was going to be portrayed to them at the
14 time is something I don't think I can easily answer
15 now. We had sent out the -- we were planning to send
16 out the first leaflet warning people, basically, that,
17 you know, giving blood if you were at risk was
18 something that was likely to potentially
19 contaminate -- be contaminated if you had AIDS,
20 et cetera.

21 I don't recall any more stringent advice
22 suggestions, recommendations, coming to me or indeed
23 my colleagues, to say that we have to make our
24 concerns more widely known because we go back to the
25 earlier stage, the risk was considered to be extremely

163

1 effectively, the Council of Europe recommendation,
2 would you at least expect the Department to have made
3 some steps to satisfy itself as to what information
4 attending physicians, haemophilia clinicians, as
5 a matter of fact, had about the risks of treatment in
6 relation to AIDS and possible ways of minimising
7 risks?

8 **A.** Yes, I think I would. This was the first European
9 initiative that I had come across in my ministerial
10 days and, as you see, it's pretty early on in that
11 period. I don't think I came across any others during
12 my time in DHSS. But I would have expected the
13 officials involved to have noted these in detail and,
14 if necessary, to make a recommendation to ministers
15 about how it should be taken forward. It appears that
16 that was not the case and I can't add to that.

17 **Q.** Because, again, this is really inviting you to
18 consider this as a general proposition. It might turn
19 out that those clinicians have all the requisite
20 information and that the Department has nothing to
21 add.

22 **A.** Yes.

23 **Q.** But, unless you ask, you don't know, and this was
24 a rapidly developing field, was it not, in terms of
25 AIDS?

162

1 small, or words to that effect, and that the risks of
2 people not accepting the necessary factors to maintain
3 their health because of this small risk was likely to
4 be much more damaging than having the imported
5 Factor VIII in this particular case. So I cannot
6 recall the debate on how or whether or not, and in
7 what way, any method was being considered as to how to
8 explain this to patients.

9 **Q.** Whatever the magnitude of the risk and how those two
10 competing considerations might be balanced, and we'll
11 come back to that probably tomorrow morning, but you,
12 as in the Department, the Government, had signed up
13 to, effectively, or accepted this recommendation which
14 made clear, did it not, that patients were to be
15 informed of risks and ways of minimising risks. Again
16 I'm slightly paraphrasing the words of the
17 recommendation.

18 So would you accept it was -- in those
19 circumstances it was incumbent upon the Department to
20 do one or both of the following: to seek to ascertain
21 what information was generally being given to
22 patients, and I don't for a moment suggest that
23 somehow the Department should have contacted every
24 haemophilia patient in the country and asked them
25 individually, but through some means tried to

164

1 establish what information was being provided, whether
 2 by asking UKHCDO or otherwise; and, secondly, to have
 3 then considered the adequacy of that and to have
 4 considered whether further information needed to be
 5 provided to haemophiliacs to comply with the
 6 recommendation?

7 **A.** Those both seem reasonable. What I cannot tell now is
 8 why a firm recommendation was not made to ministers
 9 that this is what ought to be done. It didn't happen.

10 **Q.** No, you are absolutely right, it didn't happen?

11 **A.** It didn't happen and I dare say if a submission had
 12 been made through me or directly to other ministers
 13 making such recommendation, that would have been
 14 considered but it didn't happen. So, for whatever
 15 reason, it didn't happen.

16 **Q.** You don't know, I think, why it didn't happen?

17 **A.** I honestly do not know. What I do note from this,
 18 that one of the recommendations was that what appeared
 19 in that directive, if that's the right term, from the
 20 EEC, as it was at the time, that we were able to
 21 continue to use imported Factor VIII. I recall that
 22 quite clearly from having reread it.

23 But I don't recall suggestion coming to
 24 ministers that these three elements that we talked
 25 about were crucial, and particularly the middle one,

165

1 provision of information generally about public health
 2 threats should be something very much at the heart of
 3 the work that Department of Health and Social Services
 4 undertakes?

5 **A.** I don't think I can comment on the generality, because
 6 I was dealing with one particular issue and I don't
 7 think there were any others in my areas of
 8 responsibility that, you know, would fit that. But,
 9 yes, and we see it today when, you know, there's
 10 particular concern about another condition, not
 11 related in any sense but, you know, we were hit by
 12 surprises, and I don't know whether any other advice
 13 was ever given on other issues to patients generally
 14 by the Department through any system that existed to
 15 spread it around. I just do not know.

16 **MS RICHARDS:** Sir, I'm going to move to a slightly
 17 different topic, so probably a perfect moment for the
 18 afternoon break.

19 **SIR BRIAN LANGSTAFF:** Yes, certainly. Well, we'll take
 20 half an hour and come back at quarter to 4.

21 (3.14 pm)

(A short break)

22 (3.45 pm)

23 **MS RICHARDS:** Lord Glenarthur, about a month before you
 24 took up your post as Parliamentary Under-Secretary of
 25

167

1 and ministers had -- we had to consider and advise
 2 ministers on how this should be handled.

3 **Q.** Just really to complete the position in relation to
 4 the provision of information to patients, we've
 5 obviously looked in some detail at the leaflet that
 6 was produced, essentially reflecting what the third
 7 recommendation was talking about, that was designed to
 8 go to donors --

9 **A.** Yes.

10 **Q.** -- to try and prevent high-risk donors from donating
 11 blood, and that was -- I mean, we see reference to
 12 1.5 million leaflets being printed, and so on. Is
 13 there any practical reason you can think of -- and
 14 again I ask this knowing you weren't asked to think
 15 about this at the time -- any practical reason you can
 16 think of or principled reason you can think of why
 17 an equivalent process, production of a leaflet, could
 18 not have been undertaken which would have then have
 19 been provided to a defined and smaller cohort, several
 20 thousand, of haemophiliac patients?

21 **A.** Not now I can't, quite honestly.

22 **Q.** Then, just more broadly in terms of the role of the
 23 Secretary of State, the role of the Department in
 24 terms of responding to public health threats, would
 25 you accept, as a matter of generality, that the

166

1 State, as I think you now know, Dr Spence Galbraith,
 2 who was a leading public health doctor, wrote to the
 3 Department recommending the withdrawal of blood
 4 products imported from the United States until the
 5 risk had been clarified or the risks had been
 6 clarified.

7 We'll just, so that everyone knows what I'm
 8 talking about, look at the document. It's PRSE --
 9 sorry, its CBLA0000043_040. I'm not going to read it
 10 aloud, the Inquiry's looked at it on a number of
 11 occasions and I know it's been provided to you
 12 Lord Glenarthur. It's a letter of the 9 May. If we
 13 just look at that top of to the pages? We can see
 14 it's from the Public Health Laboratory Service
 15 Communicable Disease Surveillance Centre --

16 **A.** Yes.

17 **Q.** -- and it's addressed to one of the medical officials
 18 within the Department of Health, Dr Field. It refers
 19 in the first paragraph of the letter to various
 20 reports of cases of AIDS in haemophiliacs and then it
 21 sets out Dr Galbraith's conclusion, in the second
 22 paragraph, that:

23 "... all blood products made from blood donated
 24 in the USA after 1978 should be withdrawn from use
 25 until the risk of AIDS transmission by these products

168

1 has been clarified."
 2 Then if we just go over the page, again I'm not
 3 going to go through it in detail, but he sets out in
 4 his paper entitled "Action on AIDS" his reasons for
 5 his recommendation.
 6 Now, as I understand your statement,
 7 Lord Glenarthur, this was not drawn to your attention
 8 when you took up your post just over four weeks or so
 9 later?
 10 **A.** I don't believe it was. I don't recall it at all.
 11 **Q.** There's no paper trail to suggest that it was?
 12 **A.** No, and nor do I recall it actually being mentioned to
 13 me.
 14 **Q.** You say in your statement that you don't recall also,
 15 unsurprisingly therefore, seeing a minute from
 16 Dr Walford which set out her views.
 17 **A.** Yes.
 18 **Q.** I'm not going to put that on screen but you have seen
 19 it for the purpose of your statement?
 20 **A.** Yes, I have.
 21 **Q.** Does it strike you as curious that you as the Minister
 22 with responsibility both for blood and blood products
 23 and for the Public Health Laboratory Service, of which
 24 Dr Spence Galbraith and the CDSC was a key part, was
 25 not even informed that one of the country's leading

169

1 following Dr Walford's evidence this week will note
 2 that we didn't look at this particular document with
 3 Dr Walford but we looked at these conclusions in
 4 a different form.
 5 **A.** Oh right, okay.
 6 **Q.** If we go back to the first page, we see the date is
 7 13 July 1983. So this is, unlike at least
 8 Dr Galbraith's letter, this after you have taken up
 9 your post, a month after you have taken up your post,
 10 and as I understand your statement again, you were not
 11 aware that this meeting was taking place or, indeed,
 12 that this decision was being taken by the Committee on
 13 Safety of Medicines; is that right?
 14 **A.** I was not aware and I think, at that stage, I wouldn't
 15 necessarily have expected to. Looking back on it
 16 I think it would have been very useful to have been
 17 aware of it. But, you know, so much of this stuff was
 18 being dealt with at various levels within the
 19 Department by the experts who understood it all in
 20 great detail and, looking at this list of professors
 21 and others who were involved, they were all, you know,
 22 highly qualified in their field. It's only when
 23 difficulties arose or political interests arose or,
 24 you, know a whole series of things that, at that
 25 stage, I would have thought they ought to be brought

171

1 public health doctors had written to the Department
 2 arguing strongly for decisive action?
 3 **A.** Looking at it now, it does seem strange, although
 4 I can understand Dr Walford's views that not to do it
 5 was the only practical way to proceed. But it wasn't
 6 brought to my attention. I do find it quite odd,
 7 looking back, that I wasn't given the stark detail
 8 that appears in Dr Galbraith's letter.
 9 **Q.** More generally, do you recall having much or any
 10 interaction with either the Communicable Disease
 11 Surveillance Centre or the Public Health Laboratory
 12 Service more generally?
 13 **A.** Not at that stage. I believe I did visit Colindale at
 14 some point and, of course, I visited BPL but, no,
 15 I don't think I had any interaction with them.
 16 **Q.** Then if we look at a second significant document,
 17 ALCH0001710, these are the minutes of a meeting of the
 18 Subcommittee on Biological Products of the Committee
 19 on Safety of Medicines, held on 13 July 1983. We
 20 looked, if we just go over the page -- and I'm not
 21 proposing to go through this in terms of its detailed
 22 content, but we see, halfway down the page, that it
 23 says that "The following conclusions were reached",
 24 and there's a number of conclusions set out. I'm
 25 drawing attention to that only so that those who are

170

1 to ministers. But one couldn't, as a minister, get
 2 involved in every single detail on these things.
 3 Looking back on it now, I wish I'd seen this.
 4 **Q.** I understand, of course, that there are lots of
 5 meetings that take place on a regular basis, the
 6 Regional Transfusion Directors met regularly, the
 7 Haemophilia Centre Directors met, various of the
 8 working groups and the Central Blood Laboratories
 9 Authority met on a regular basis and I'm not
 10 suggesting that anyone would have expected you to see
 11 every set of minutes.
 12 **A.** No.
 13 **Q.** This was the subcommittee on biological products
 14 obviously met on a regular occasion, but this was
 15 a one-off decision, one of the most significant
 16 decisions taken in 1983 regarding blood products.
 17 That's what makes it surprising, is it not, that you
 18 were blissfully unaware, even that this process was
 19 going on?
 20 **A.** Yes, I was completely unaware.
 21 **Q.** I detect, I think from your statement, that having now
 22 seen it, you don't think you'd have disagreed with it
 23 but what I want to suggest to you is that that might
 24 be all the more reason for you to have seen what was
 25 being said because, if you know that the more radical

172

1 step of stopping concentrates being imported is not
2 going to be taken, because that's the view of the
3 Committee on Safety of Medicines, you might then have
4 wanted to consider whether there were less radical
5 steps that could be taken to nonetheless minimise the
6 risk and you weren't really put in a position, were
7 you, to be able to do that?

8 **A.** No, I wasn't and I was actually always interested in
9 the rather technical aspects, although I'm not in any
10 sense qualified, part of my interest generally in
11 these sorts of things. So I wasn't in a position to
12 comment and I think another thing that surprises me in
13 perhaps general terms, and I may have made this plain
14 in my statement, that I'm surprised that there wasn't
15 a point at which, you know, so many of these things
16 were coming together and coalescing in the minds of
17 officials. Look, at least ministers ought to be aware
18 of some of the competing elements and the real
19 concerns that are being raised, even if it wasn't to
20 make a decision but to say, you ought to be aware, oh
21 Ministers, that these are perilous times in some
22 respects and therefore you ought to be aware of them.

23 But that never actually happened, so far as
24 I can recall.

25 **Q.** The Galbraith letter lists two examples of significant

173

1 you say:

2 "We had to balance it against the counter-risk
3 of serious injury to haemophiliacs who would suffer
4 from not being able to accept treatment with blood
5 products. That counter-risk is well documented and
6 included joint damage, intracranial haemorrhage and
7 death."

8 So that's a short description from you about the
9 risks of non-treatment. Can we then turn, before
10 I ask you about it, to two further passages.
11 Paragraph 29.2, bottom of page 45 --

12 **A.** Yes.

13 **Q.** -- again bottom of the page Soumik -- last four lines.
14 Having referred to the uncertainty of or what was
15 unknown in relation to the risks of AIDS, you say
16 this:

17 "What was certain, however, was that
18 haemophiliacs were in peril from unavailability of
19 Factor VIII if foreign imports were stopped ..."

20 Then the last reference is paragraph 36,
21 sub-paragraph (v), it's the top of page 52,
22 Lord Glenarthur.

23 **A.** Yes.

24 **Q.** You are asked the bit in italics "Whether I agreed
25 with this policy", the policy is about not stopping

175

1 pieces of information not being shared by officials at
2 least with you as a minister. Do you have any
3 thoughts or views now looking back on how information
4 sharing, lines of communication, could have been
5 structured differently, so that people in your
6 position, ministers in your position, were fully aware
7 of all options?

8 **A.** I suspect that -- whether it happened or not I don't
9 know -- looking at those that are recorded as
10 attending this meeting that that information should
11 have gone up the medical chain of command to the Chief
12 Medical Officer and the Chief Medical Officer ought to
13 have taken a view that these were matters of such
14 seriousness that ministers ought to be involved and
15 asked the system to arrange that that should be so
16 but, apparently, that didn't happen.

17 **Q.** Now, can I then ask you to turn up your statement.

18 Soumik, could we have the statement back on
19 screen, please.

20 I want to show you three extracts from your
21 statement and then ask you about them. So, first of
22 all, paragraph 25.12, page 41.

23 **A.** Yes.

24 **Q.** If we look towards the bottom of the page, last five
25 lines, you refer to the risk of transmission, and then

174

1 importation, and you say this:

2 "I did. There seemed no practical alternative,
3 other than to suddenly imperil the lives of
4 haemophiliac patients."

5 It would appear your understanding was, if
6 imported concentrate didn't continue to be used as
7 they had been, there would be serious risks to the
8 health or life of haemophiliacs; is that right?

9 **A.** That is right, because only 40 or 50 per cent of the
10 availability was held in this country.

11 **Q.** When you use a phrase such as "suddenly imperil the
12 lives of haemophiliac patients", what did you actually
13 understand the dangers to haemophiliac patients to be?

14 **A.** Well, I understood that, you know, bleeding
15 intracranially and joints, the damage, and that sort
16 of thing were the issues that arose. Untreated
17 haemophiliacs also, as far as I'm aware, and I'm not
18 a doctor, were in peril of dying, you know, if things
19 went badly wrong and that was what I was advised.
20 This was not just basically my information, my
21 knowledge; it was knowledge that I was given by the
22 experts in that particular field.

23 **Q.** Do you recall having any particular information, for
24 example, about the incidence of intracranial
25 haemorrhage, how often it occurred or what the

176

1 magnitude of the risk was thought to be?
 2 **A.** No. No, I don't recall that.
 3 **Q.** Would you accept this as a general point, that in
 4 order to balance risks, and you've described that
 5 balance that had to be undertaken, you've got to
 6 understand the risks in order properly to weigh them
 7 in the balance?
 8 **A.** Yes.
 9 **Q.** In as much as you are able to?
 10 **A.** Yes.
 11 **Q.** You have told us how, on the one side of the balance,
 12 balance in relation to the risk of AIDS, there was
 13 much that was uncertain, you were being advised the
 14 risk was small or very small, it would appear that, on
 15 the other side of the balance, your understanding at
 16 least was that the risks to the lives or to the health
 17 of haemophiliacs was very great indeed, is that right,
 18 if they didn't receive concentrate?
 19 **A.** If they didn't receive it. That was my understanding
 20 from the advice that I was given at the various
 21 briefings that came my way.
 22 **Q.** I don't think we see language such as "imperial" in the
 23 contemporaneous documentation but I may be wrong about
 24 that, but it would suggest that, in your mind at
 25 least, when you were looking back at this for the

1 purpose of writing your statement, you thought it was
 2 a very grave risk?
 3 **A.** Yes, that's why I used the word.
 4 **Q.** But that's based effectively on whatever information
 5 it was you were being provided with by officials in
 6 the Department?
 7 **A.** Yes.
 8 **Q.** And you didn't have any access to any sources of
 9 information beyond that?
 10 **A.** No, I didn't.
 11 **Q.** Could we then just turn in your statement to page 53,
 12 paragraph 39.2. You say in the second line:
 13 "As far as I can recall, I was under the
 14 impression that cryoprecipitate was a precursor to the
 15 production of Factor VIII and held other impurities."
 16 **A.** Yes.
 17 **Q.** Then you refer to a particular minute, we may look at
 18 that when we're looking at the letter that was sent to
 19 Baroness Masham, but I'm not going to go ask you to
 20 look at it for presents purposes. You go on to say
 21 there was no suggestion that cryoprecipitate could
 22 replace Factor VIII for haemophiliacs.
 23 Were you aware that cryoprecipitate was still in
 24 1983 very much in use as a treatment for some
 25 haemophiliacs at least?

1 **A.** I am aware now. I'd forgotten that in the intervening
 2 period. I can't remember exactly what I was told at
 3 the time but my understanding since is that
 4 cryoprecipitate was of use in certain circumstances
 5 but it would have been impossible for it to have
 6 replaced the other forms of doing it.
 7 So I'm not an expert on the science of
 8 cryoprecipitate and I remember being asked a question
 9 about it by Lady Masham in the House of Lords and
 10 saying I didn't know what the answer was and I would
 11 come back to her, and subsequently wrote to her.
 12 **Q.** We'll look at that correspondence --
 13 **A.** It is just worth recording that some of these things
 14 are really quite complex scientific and medical facts
 15 which I simply don't believe I could have been
 16 expected to understand, in whole anyway, touching on
 17 them, yes, but I was relying always on advice, most of
 18 which was extremely good advice although some bits
 19 were obviously missed out.
 20 **Q.** Do you recall what your understanding of haemophilia
 21 itself was in the sense that there are various degrees
 22 of severity, mild, moderate, severe and within those
 23 a sliding scale, effectively, no single haemophiliac
 24 is identical to another haemophiliac in terms of what
 25 their needs might be or the risks to them might be.

1 Do you remember that being explained to you at any
 2 point?
 3 **A.** I can't recall now but I had a general understanding
 4 that, you know, if you didn't have Factor VIII you
 5 were not likely to -- your blood was not likely, to
 6 coagulate, and hence the bleeding into the joints and
 7 to the head, and things like that. But I didn't have
 8 any scientific or other briefings on it.
 9 **Q.** It would appear from your statement and, as we've
 10 already discussed, we know that there were certain
 11 materials that didn't get to you, but it would appear
 12 from your statement that you were left with a clear
 13 impression or understanding that there was no
 14 alternative to the continuation of use of imported
 15 Factor VIII concentrates; is that right?
 16 **A.** Yes, and that fact was made plain in the various
 17 minutes that we have looked at and seen and
 18 recommendations from, for example, Dr Walford against
 19 some of the recommendations that had been made by --
 20 was it CSMB, or CSM, I can't remember. But, you know,
 21 we had to continue to do that. That was the strong
 22 recommendation.
 23 **Q.** I explored with Dr Walford what various possibilities
 24 for minimising use of Factor VIII concentrates
 25 stopping home treatment, treatment not being given on

1 a prophylactic basis, increased use of
 2 cryoprecipitate, cancelling or postponing elective
 3 surgeries --
 4 **A.** Yes.
 5 **Q.** -- reserving concentrates for the life-threatening
 6 occasions or the necessary serious surgical
 7 interventions. I won't trouble you with the detail of
 8 the evidence given by Dr Walford but is it right to
 9 understand that those issues were not explored with
 10 you?
 11 **A.** No, they weren't explored at all. I imagine that
 12 these were, in a sense, clinical issues which were
 13 being discussed at a clinical level. They weren't
 14 brought to me at all.
 15 **Q.** So the picture that was painted for you, rightly or
 16 wrongly, was the stark one that you've referred to in
 17 your statement of risk of AIDS, the magnitude of which
 18 was explained to you, as against an all-or-nothing
 19 scenario: withdrawal of Factor VIII concentrates and
 20 haemophiliacs will suffer greatly?
 21 **A.** Yes --
 22 **Q.** That's a summary --
 23 **A.** That is correct. The only way that I could have
 24 usefully contributed to a debate on that would have
 25 been if I had been qualified in some respect to

181

1 document, or background document, you received drafted
 2 by Dr Walford other than to remind you that it
 3 referred to pool sizes. And I think probably from
 4 what you've said in your statement and your evidence,
 5 you were aware, were you, that the concentrates that
 6 were produced from the United States and imported into
 7 the United Kingdom were made from large donor pools?
 8 **A.** Large pools, yes.
 9 **Q.** Did you know anything in particular about the actual
 10 size of the pools and the significance of different
 11 pool sizes?
 12 **A.** I think I read in the papers 5,000 or something was
 13 the figure of different individuals who might have
 14 been involved in it. I didn't know the scientific
 15 rationale behind all that but -- broadly speaking,
 16 yes, but I don't know the exact figures.
 17 **Q.** Did you know anything, were you told anything about
 18 the practices in the United States for collecting
 19 plasma, collection from prisons, the phrase "skid row"
 20 has been used quite frequently, possibility of
 21 collection of plasma from third world countries, were
 22 any of those issues ever drawn to your attention that
 23 you can recall?
 24 **A.** Not that I can recall. I don't -- having looked at --
 25 there's so many papers I don't recall any information

183

1 counter it and produce different arguments, but I'm
 2 not qualified like that.
 3 **Q.** Does it concern you now that those possible
 4 alternative ways of minimising or reducing risk, not
 5 necessarily eliminating them, risks? So those less
 6 radical steps than just stopping the importation of
 7 concentrates were not drawn to your attention for you
 8 to consider?
 9 **A.** To a certain extent, yes, but I think it would have
 10 been a matter for the options that the clinicians and
 11 the other experts within the Department were
 12 considering -- and more widely, such as in CSM, and
 13 CSMB -- to have said, "Look, these risks are becoming
 14 more and more apparent" -- and I think I mentioned
 15 before the break that officials might have been wiser
 16 at the time to have produced a submission for
 17 ministers setting out all these criteria and some of
 18 the risks involved -- it needn't have been -- you
 19 know, a reasonably summarised and condensed package of
 20 information, so that ministers were aware of the facts
 21 and aware of some of the potential options, such as
 22 the ones you have you know suggested just now. But
 23 that, as far as I know, never happened, certainly not
 24 in my time.
 25 **Q.** Now, I'm not going to go back to the original briefing

182

1 coming my way on that, and I don't know now whether
 2 I ever asked the question.
 3 **Q.** Can I then, as probably a last topic for today, just
 4 ask you a little about the meeting with The
 5 Haemophilia Society in 1983 that you had?
 6 **A.** Yes.
 7 **Q.** I'll come on to the 1984 meeting tomorrow. You deal
 8 with this in paragraphs, I think -- page 54 of your
 9 witness statement onwards. I don't at the moment need
 10 it on screen, Soumik. That is just to remind you,
 11 Lord Glenarthur.
 12 So, in summary, is this right that a meeting had
 13 been arranged between The Haemophilia Society and
 14 Geoffrey Finsberg who had previously had John Patten's
 15 role but had been, I think, the Minister responsible
 16 for blood and blood products --
 17 **A.** Yes.
 18 **Q.** -- and that had to be rescheduled due to the General
 19 Election?
 20 **A.** Correct.
 21 **Q.** Then you took over the responsibility and so the
 22 suggestion, I think, was made that you would then have
 23 the meeting with The Haemophilia Society?
 24 **A.** That's correct.
 25 **Q.** The meeting did take place on 8 September 1983. If we

184

1 go to DHSC0002337_050, this is a minute from
2 Mr Winstanley to Mr Joyce, so to your private office:
3 "Briefing for Lord Glenarthur's meeting with The
4 Haemophilia Society on 8 September 1983 ...

5 "The main briefing for the above meeting was
6 sent to you under cover of my minute of 26 August."

7 Pausing there, that's another of the sets of
8 documents that hasn't been located, as I understand
9 it?

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

11 **Q.** Then it says:

12 "Minister should be aware of the attached report
13 of a death from AIDS of a haemophiliac. The patient
14 had received American Factor VIII in 1981 but normally
15 received only cryoprecipitate. Although the number of
16 deaths from AIDS recorded in the UK is now 6, this is
17 the first instance of the death of a haemophiliac from
18 the disease."

19 Then there are two other developments you're
20 asked to note in relation to research into AIDS.

21 **A.** Mm-hm.

22 **Q.** So, obviously, that's really just an update and we
23 don't know what the main substance of the briefing
24 that was given to you was because 26 August briefing
25 is missing.

185

1 Now, I'm going to ask you a little more about
2 self-sufficiency, about the works on BPL, tomorrow,
3 but just in relation to The Haemophilia Society
4 meeting, can you recall the discussion about
5 self-sufficiency and BPL at that meeting?

6 **A.** Not in any detail at all, no. I'm afraid not. Not
7 now.

8 **Q.** Can you recall anything being raised about Dr Owen?

9 **A.** No, I'm afraid I can't.

10 **Q.** Then if we look at the next -- paragraph 2:

11 "No suspension of imported products ..."

12 Then in brackets:

13 "(This is shakier than when first put on the
14 'agenda!') In spite of the recent death related to
15 AIDS in a person with haemophilia, the Society would
16 nonetheless hold firmly to their original persuasion
17 that the availability of treatment far outweighs any
18 conceivable AIDS risk. Can the Minister assure the
19 Society therefore that there will be no suspension of
20 the imported product."

21 So that's said to be the Society's perspective.

22 Can you recall that matter being discussed --

23 **A.** Yes, I most certainly can. I remember the meeting
24 quite well. It's one of the very first meetings I had
25 with an outside body to discuss this or any other

187

1 There is also, as I understand it, no record of
2 the meeting itself, and normally, is this right,
3 because it was a meeting involving you and officials,
4 with representatives of The Haemophilia Society, you
5 would have expected there to be some kind of record of
6 it?

7 **A.** I certainly would, and I presume there was, but it
8 hasn't been found.

9 **Q.** If we then look at the document that you wouldn't have
10 seen at the time but have seen for the purpose of
11 preparing your evidence, there's a briefing note
12 internal to The Haemophilia Society at HSOC0020347.

13 This is, as I say, The Haemophilia Society's own
14 internal note.

15 **A.** Yes.

16 **Q.** Presumably of the topics or questions it wanted to
17 raise. The first topic it refers to is
18 self-sufficiency and Factor VIII concentrates.
19 There's a reference to Dr Owen in 1976. There's
20 a reference then, in the next paragraph, to the death
21 of a haemophiliac. Then there is some -- what's said
22 to be a question about:

23 "Could the Minister provide full details of
24 projected usage in 1985, 1987 and 1990 of factor
25 VIII concentrates?"

186

1 matter, so far as I recall, and they were very
2 persistent that they did not wish to see importation
3 stopped.

4 **Q.** Then the third topic there, "Financial support for
5 AIDS research in the UK" and, again, I don't propose
6 to ask you about that in any detail but do you recall
7 that being discussed?

8 **A.** I don't recall it now, no.

9 **Q.** If we then go in your witness statement to page 56.

10 So can we put this on screen, Soumik?

11 WITN5282001, page 56. Thank you.

12 **A.** What paragraph number?

13 **Q.** Paragraph 41.1.

14 **A.** Yes, okay.

15 **Q.** This is a reference to evidence that the Inquiry heard
16 from David Watters of The Haemophilia Society and:

17 "... his viewpoint that the Society was
18 'possibly persuaded', 'by the facts and possibly by
19 Lord Glenarthur and his entourage of civil servants',
20 to support the continued use of pre-March plasma.

21 Now, the issue here, again, is one I will ask
22 you a little about tomorrow, the underlying issue
23 about the dumping of products and the FDA's
24 recommendations from March of 1983. All I want to ask
25 you about for present purposes is your response to

188

1 what Mr Watters says there.

2 **A.** This is what the Society wrote, as I understand it.

3 **Q.** It's Mr Watters' oral evidence.

4 **A.** This is Mr Watters' evidence. So, you know, quite why

5 he wrote it, that we were trying to persuade them,

6 I mean, I think this sort of argument's turned it all

7 on its head somehow. It was them coming to us to see

8 that we continued to do it, to make the pre-March

9 plasma available. So I'm not quite sure what

10 Mr Watters is getting at in his particular internal

11 minute. I just don't know quite how he arrives at

12 that conclusion. But I can't remember the detail of

13 the conversation in any sense.

14 **Q.** In fairness, just to see what you say in your

15 statement about it, top of the next page, you say in

16 your statement, paragraph 41.2, top of the page:

17 "... I cannot recall the discussion of the issue

18 at the meeting on 8 September but I'm sure the use of

19 pre-March factors would have been raised ..."

20 **A.** Yes.

21 **Q.** "... and our need to continue the use of existing

22 stock.

23 "41.3 I have been asked whether I or

24 civil servants 'persuaded' the Haemophilia Society to

25 support, or at least not to oppose, the continued use

189

1 self-sufficiency, which we'll look at as a topic

2 tomorrow.

3 Then the last paragraph on that page talks about

4 the question of ceasing to import US concentrates, and

5 then it refers to what's termed "Regulations" from the

6 Food and Drug Administration -- I think probably

7 better characterised as recommendations -- and then

8 the bottom of the page you say:

9 "The FDA has recently decided not to ban the use

10 of similar stocks intended for the USA market because

11 to do so would cause a crisis of supply. The same

12 considerations apply here."

13 Then it goes on to talk, over the page, about

14 other issues.

15 So is this correct: you set out in your letter

16 to the Reverend Tanner what the Department's position

17 was, which was that the use of pre-March stocks would

18 continue?

19 **A.** That's what the letter says, yes.

20 **Q.** This may be more significant when we looked at the

21 letter to Baroness Masham tomorrow but would it be

22 right to understand, generally when one is looking at

23 a letter of this kind, you haven't written the letter

24 yourself from scratch. A draft is prepared for you

25 and was prepared for you by officials which you would

191

1 of such products."

2 Then you refer to a letter from Mr Watters. I'm

3 not proposing to put it on screen, the Inquiry has

4 looked it at before and we have it, but you have made

5 the point that the Society's communications or

6 documents suggest that the Society had been keen to

7 obtain that reassurance. So as I understand it,

8 though you don't recall the issue being discussed in

9 detail, your response, is this right, is you wouldn't

10 have sought to persuade the Society of a particular

11 position although, as it happened, you agreed with the

12 Society's position. Is that fair?

13 **A.** Yes. I don't think we tried to persuade them. They

14 were trying to persuade us to continue to import the

15 necessary factor and I dare say that if, you know,

16 officials were present at the meeting that should

17 I have said anything that was incorrect in what I was

18 addressing them about that would have been corrected

19 by officials on essentially a technical matter.

20 **Q.** Then just to complete the issue of your September

21 interactions with The Haemophilia Society, you wrote

22 to the Reverend Tanner on 28 September. DHSC0002071.

23 **A.** Yes.

24 **Q.** You refer to the meeting in the first paragraph.

25 The next two paragraphs deal with the issue of

190

1 be at liberty to change before it went out in your

2 name, but the detailed drafting work starts with your

3 civil servants?

4 **A.** The letter starts with the civil servants, it goes

5 through perhaps a series of different drafts before it

6 comes to me in finished form to read through and sign,

7 and that was quite a lengthy letter. I don't recall

8 how I approached the draft in final form when it

9 reached me but I would have read it over. It didn't

10 come with any -- as far as I can recall, no letters

11 came with a sort of backing data sheet with "The

12 reason why we've written it like this, Minister, is

13 because", that didn't happen. One had to rely on

14 one's memory and, of course, the volume of

15 correspondence was huge not just on this but on every

16 other aspect there was a great deal of correspondence

17 which had to be signed every single day by me and all

18 my ministerial colleagues.

19 So I read it through, thought it seemed

20 a perfectly reasonable reply, without pulling it to

21 pieces, otherwise we would never have got the letter

22 off stocks, and sent it off. They can always refer.

23 **Q.** In relation to The Haemophilia Society, and I'll ask

24 you perhaps tomorrow a little about a later meeting

25 you had with them at the end of 1984, but do you

192

1 recall having a sense that The Haemophilia Society
2 spoke for all people with haemophilia or particular
3 cohorts of individuals with haemophilia? What did you
4 know of the Society and, as it were, its constituency?
5 **A.** The Society seemed to be the body that the Department
6 regarded as speaking for -- I don't know whether
7 everybody but a large proportion of those who were
8 involved with haemophilia. I don't know of any other
9 organisation. It was The Haemophilia Society that
10 loomed large in my life while I was there and I don't
11 recall any other organisation. So I take it that the
12 Department understood and appreciated their concern
13 and related to them.
14 **Q.** Lord Glenarthur, I might want to ask you a little
15 tomorrow about the underlying issue about the
16 pre-March plasma and post March plasma, and the extent
17 to which you had involvement in that but I think we
18 can pick that up when we look at some other
19 correspondence and correspondence you've had with
20 Mr Jenkins.
21 **A.** Yes.
22 **Q.** We'll do that, I think, tomorrow.
23 Sir, my next topic for Lord Glenarthur's quite
24 a lengthy one so, rather than start it now and sit
25 late, particularly as we had a long day yesterday,

193

1 perhaps we could pick that up tomorrow morning?
2 **SIR BRIAN LANGSTAFF:** Yes, well, we'll do that. So if we
3 aim to start then at 10.00 tomorrow, if you please.
4 10.00 tomorrow. Thank you.

5 **A.** Thank you.

6 **(4.24 pm)**

7 **(Adjourned until 10.00 am the following day)**

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194

MS RICHARDS: [12] 1/8 58/10 93/24 96/6 96/9 96/17 114/19 115/2 135/20 138/1 167/16 167/24 SIR BRIAN LANGSTAFF: [20] 1/3 57/19 58/5 93/11 93/20 95/25 96/7 96/11 114/22 134/22 135/8 135/15 135/21 135/25 136/9 136/15 137/5 137/25 167/19 194/2	/ /PS [1] 130/19 0 006 [1] 101/25 011 [2] 129/8 144/16 014 [1] 124/10 015 [1] 108/7 016 [1] 84/9 024 [2] 55/16 61/19 025 [1] 57/3 026 [2] 74/16 77/7 027 [2] 60/24 76/19 028 [1] 80/9 029 [2] 81/11 153/1 034 [1] 97/11 035 [1] 98/18 036 [1] 100/12 040 [2] 112/20 168/9 041 [1] 113/8 044 [2] 110/7 115/7 046 [1] 121/5 050 [2] 122/3 185/1 053 [2] 122/25 145/11 056 [1] 130/13 057 [1] 135/18 058 [1] 131/1 060 [1] 132/22 062 [1] 139/1 063 [1] 140/24 064 [1] 141/23 065 [1] 143/4 072 [1] 71/15 086 [1] 151/6 1 1 July [4] 49/24 56/25 57/8 61/5 1 July 1983 [1] 55/18 1 September [3] 102/20 103/5 116/20 1 September 1983 [4] 100/13 102/1 104/20 106/1 1,450 [1] 59/2 1.00 pm [1] 114/24 1.5 [1] 115/23 1.5 million [1] 166/12 10 [1] 115/21 10 August [1] 122/13 10 August 1984 [1] 115/8 10.00 [5] 1/2 21/10 194/3 194/4 194/7 11 [2] 21/12 51/25 11.17 [1] 58/7 11.45 [2] 57/19 58/9 110 [3] 158/16 158/20 158/21 111 [1] 159/1 112 [2] 158/15 159/20 114 [1] 41/14	117 [2] 74/4 132/5 118 [1] 93/25 119 [1] 94/24 12 [2] 13/6 51/25 120 [1] 90/1 121 [1] 49/21 122 [1] 58/14 124 [1] 34/7 127 [1] 133/20 13 [1] 123/6 13 July [2] 41/15 41/22 13 July 1983 [2] 170/19 171/7 13 June 1983 [1] 1/11 13.3 [2] 42/12 42/13 13.4 [2] 42/13 45/7 14 December [1] 132/22 14 February 1984 [1] 108/8 14 July [3] 40/21 40/24 66/25 14 July 1983 [1] 61/21 14 September [1] 122/1 15 January 1985 [2] 144/17 145/1 15 September 1983 [1] 45/14 16 October [1] 131/7 16 October 1984 [1] 122/4 16.4 [3] 63/22 63/24 64/1 16.5 [1] 69/19 17 [1] 112/23 17 April [2] 111/24 113/12 17 April 1984 [3] 108/3 110/8 110/17 18 [4] 30/11 30/12 91/13 127/16 18 April [1] 112/21 18 November [1] 128/5 19 July [2] 74/17 76/21 19 November [2] 124/4 127/20 19 November 1984 [2] 123/1 127/16 1948 [1] 15/11 1976 [3] 2/5 2/6 186/19 1978 [1] 168/24 1981 [1] 185/14 1983 [48] 1/11 5/18 33/4 35/25 38/15 45/8 45/14 49/14 55/18 57/5 61/1 61/21 64/24	72/9 76/21 83/7 90/4 94/25 97/12 98/18 100/13 102/1 103/18 104/19 104/20 105/1 105/7 106/1 106/2 106/14 116/20 120/16 123/18 146/10 146/13 149/17 152/2 153/1 153/14 158/11 170/19 171/7 172/16 178/24 184/5 184/25 185/4 188/24 1983/1984 [1] 24/19 1984 [31] 24/19 49/15 108/3 108/8 109/25 110/3 110/8 110/17 113/9 115/8 118/6 121/6 122/4 123/1 124/11 127/9 127/16 128/18 129/9 132/6 133/21 134/17 139/1 140/12 140/25 141/24 146/15 146/19 147/23 184/7 192/25 1985 [8] 2/9 142/12 143/3 144/17 145/1 145/13 146/22 186/24 1986 [1] 2/16 1987 [2] 2/17 186/24 1990 [1] 186/24 1st [1] 60/25 2 2 August [3] 93/25 96/2 99/10 2 August 1983 [1] 94/25 2 January 1985 [2] 142/12 143/3 2.00 [2] 114/23 114/23 2.00 pm [1] 115/1 2.3 [1] 13/4 2.30 [1] 25/11 20 [2] 29/11 106/14 20 December [2] 135/10 140/22 20 December 1984 [2] 133/21 139/1 20 July [1] 80/8 20 November 1984 [1] 147/23 20 October [1] 105/10 20.4 [2] 92/5 92/6 2021 [2] 1/1 104/18 21 August 1984 [1] 121/6 21 December [1] 142/1 21 December 1984 [1] 140/25 21 July [1] 80/14 22 [3] 56/12 127/9	132/8 22 July 1983 [1] 153/1 22 July 2021 [1] 1/1 22 June 1983 [1] 33/4 22 November [1] 130/17 22 November 1984 [1] 124/11 23 June 1983 [1] 152/2 23 June 1983 at [1] 150/2 23 November 1983 [1] 105/7 23 November 1984 [1] 128/18 24 [1] 42/12 25 [1] 29/12 25 April [1] 115/3 25 April 1984 [1] 113/9 25 July [1] 81/12 25 July 1983 [1] 83/7 25.12 [1] 174/22 26 [1] 63/25 26 August [3] 98/13 185/6 185/24 26 August 1983 [1] 97/12 26 March 1985 [1] 2/9 27 November [2] 130/12 131/12 27 November 1984 [1] 129/9 28 [1] 118/6 28 September [1] 190/22 29 July [1] 84/11 29.2 [1] 175/11 3 3 August 1983 [1] 90/4 3 babies [1] 123/7 3 December [3] 131/2 133/6 139/5 3 January [2] 143/5 144/22 3.14 pm [1] 167/21 3.45 [1] 167/23 30 August [1] 98/14 30 June 1984 [1] 118/6 30 November [3] 132/8 135/16 135/21 31 August 1983 [1] 98/18 31 December 1984 [1] 141/24 31.3 [1] 156/24 31.4 [1] 156/23	36 [1] 175/20 361st [1] 150/2 38 [1] 138/14 38 years [2] 88/10 147/16 39.2 [1] 178/12 4 4 December 1984 [1] 132/6 4 July 1983 [1] 57/5 4-5 [1] 36/17 4.24 pm [1] 194/6 40 [3] 34/21 46/16 176/9 41 [1] 174/22 41.1 [1] 188/13 41.2 [1] 189/16 41.3 [1] 189/23 43.1 [1] 105/24 43.2 [2] 105/17 105/23 43.3 [1] 108/1 45 [1] 175/11 46 [1] 156/19 46.2 [2] 127/2 127/5 47 [2] 156/18 156/23 5 5,000 [4] 50/14 51/4 51/24 183/12 50 [1] 152/21 50 per cent [4] 38/13 46/17 137/17 176/9 51 [1] 118/6 52 [1] 175/21 53 [1] 178/11 54 [1] 184/8 56 [2] 188/9 188/11 58 [2] 105/19 105/21 6 6 July [5] 64/22 67/6 74/23 76/7 85/1 6 July 1983 [3] 61/1 64/24 72/9 6.6 [2] 30/11 30/12 62 [2] 127/2 127/6 8 8 July [1] 71/13 8 September [1] 189/18 8 September 1983 [2] 184/25 185/4 8.30 [1] 24/22 80 per cent [1] 86/2 83 [2] 149/23 151/25 9 9 May [1] 168/12 98.1 [1] 159/1 99.4 [2] 159/20 161/18
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A	193/15 193/15 above [7] 5/20 18/11 80/5 99/16 105/25 117/13 185/5 Abrams [3] 128/19 129/10 131/3 Abrams' [3] 133/6 134/17 139/4 absence [1] 52/11 absolute [2] 44/22 137/21 absolutely [21] 8/15 9/11 15/3 17/12 39/24 52/17 55/10 55/14 57/11 68/22 78/11 122/21 133/18 134/21 135/1 136/24 147/17 153/21 156/1 163/12 165/10 absurdly [1] 147/2 abuse [1] 35/18 abusers [1] 146/1 accept [9] 81/14 82/18 153/4 153/19 156/25 164/18 166/25 175/4 177/3 acceptable [1] 141/13 accepted [4] 66/6 101/16 104/22 164/13 accepting [1] 164/2 access [5] 12/5 23/14 23/16 154/18 178/8 accompanying [1] 144/21 accord [1] 16/16 accordance [1] 102/22 accorded [1] 116/2 accordingly [1] 152/12 account [4] 35/17 67/19 91/11 139/23 accounting [2] 9/18 10/8 accuracy [2] 107/11 139/25 accurate [2] 107/18 113/24 accusation [1] 63/5 Acheson [1] 10/22 achieve [4] 40/13 87/23 90/24 154/22 achieved [3] 38/13 146/25 150/15 acquired [1] 152/4 acquiring [1] 35/20 across [9] 26/15 43/8 49/5 49/6 77/4 93/17 135/2 162/9 162/11 Act [5] 2/25 3/3 14/21 14/21 88/24 action [14] 60/24 63/9	63/19 97/25 115/20 118/19 119/17 133/13 134/24 151/21 157/4 157/24 169/4 170/2 active [1] 14/16 actively [1] 46/22 activities [2] 24/23 135/3 activity [3] 25/25 35/13 112/19 actual [4] 40/23 42/6 49/17 183/9 actually [24] 10/25 13/11 28/8 40/2 58/12 70/25 71/11 78/22 79/15 91/4 92/19 101/4 114/14 123/4 128/3 135/15 140/22 152/23 154/12 157/15 169/12 173/8 173/23 176/12 adamant [2] 38/3 103/23 add [4] 84/3 91/25 162/16 162/21 added [1] 149/6 addicts [1] 35/15 addition [1] 103/12 additional [2] 37/24 43/10 address [1] 158/23 addressed [7] 61/25 108/13 111/23 124/12 125/11 130/20 168/17 addressing [2] 29/1 190/18 adequacy [1] 165/3 adequate [1] 131/16 Adjourned [1] 194/7 Adjournment [1] 114/25 administration [3] 9/20 38/18 191/6 administrative [8] 9/6 10/6 12/4 55/20 86/17 86/19 87/18 88/3 administratively [1] 10/6 adopt [2] 95/20 131/18 adopted [7] 106/7 116/16 120/1 120/19 150/1 151/21 152/1 adopting [1] 61/15 advantage [1] 82/25 advantageous [1] 86/16 advantages [3] 86/5 88/4 88/13 adverse [8] 64/6 68/20 70/14 78/9 78/10 83/1 117/16	117/18 advice [26] 6/10 7/13 7/16 9/14 12/6 21/22 24/11 47/6 47/11 71/6 71/9 83/4 108/19 143/8 143/12 145/22 153/6 159/4 159/21 160/2 161/11 163/21 167/12 177/20 179/17 179/18 advisable [1] 141/11 advise [2] 154/12 166/1 advised [3] 42/22 176/19 177/13 adviser [4] 11/14 48/18 61/24 83/5 advisers [6] 11/10 11/12 11/18 12/1 23/4 157/23 advising [2] 70/18 123/23 advisory [2] 129/10 145/14 advocated [1] 63/7 aetiology [1] 36/3 Affairs [2] 2/20 2/20 affect [1] 21/8 affected [1] 152/5 affecting [1] 95/16 affects [1] 134/12 afraid [16] 40/6 42/9 49/3 49/10 49/16 68/14 72/6 77/16 81/14 100/6 105/15 125/13 136/7 146/7 187/6 187/9 Africa [1] 141/12 after [19] 5/1 7/4 17/9 17/17 17/25 33/5 45/19 45/20 47/3 63/4 106/11 114/20 123/7 129/2 141/19 159/18 168/24 171/8 171/9 afternoon [3] 25/12 156/8 167/18 afternoons [1] 26/1 again [64] 6/5 7/19 11/24 12/18 23/24 24/5 27/2 30/5 35/23 37/16 38/4 38/19 40/12 42/10 50/20 53/1 63/23 68/16 72/8 73/9 76/6 76/9 78/8 78/22 79/14 81/20 82/14 84/10 94/8 94/14 95/6 97/8 98/19 100/23 101/18 105/21 109/8 110/5 110/8 110/17 112/21 125/4 126/5 126/14 127/13 131/2 132/25 133/22	139/13 140/9 148/21 153/20 155/14 156/14 159/24 162/17 163/3 164/15 166/14 169/2 171/10 175/13 188/5 188/21 against [7] 42/18 71/21 75/6 82/25 175/2 180/18 181/18 agent [4] 35/16 42/16 46/11 118/20 agents [1] 118/9 ago [7] 39/20 41/3 68/14 91/20 104/16 106/5 156/4 agree [14] 54/22 55/4 65/16 81/23 86/18 87/15 94/20 115/20 119/23 120/21 144/15 153/8 155/2 163/6 agreed [14] 57/12 72/18 98/3 99/4 111/2 120/3 120/17 131/9 140/7 140/18 141/12 143/10 175/24 190/11 agreement [5] 50/18 56/7 84/14 115/19 143/16 agreements [2] 85/11 151/23 Ah [1] 133/7 ahead [4] 94/6 95/11 99/9 140/8 AIDS [159] 2/20 13/21 17/15 17/19 17/20 30/25 32/24 33/7 33/13 33/14 33/15 33/20 33/22 34/11 34/25 35/6 35/16 35/17 35/20 36/1 36/4 36/16 36/19 36/21 37/4 37/6 37/12 37/14 40/3 42/16 43/12 44/2 44/2 44/4 45/2 46/11 50/3 50/11 51/16 51/18 51/21 51/25 52/9 52/13 52/15 53/16 54/4 54/10 54/12 55/13 56/2 56/8 56/17 56/21 58/16 58/18 58/22 58/23 59/1 59/4 59/8 59/9 59/16 59/17 59/20 60/19 62/6 62/9 63/4 64/25 65/21 66/9 66/18 66/25 69/11 72/14 76/23 79/4 84/16 85/2 87/4 88/7 91/12 92/2 92/4 92/9 92/13 92/21 92/22 92/25 93/4 93/14 93/14 93/21 102/3	102/9 102/15 102/17 104/4 104/14 105/25 108/14 108/16 108/18 110/12 111/4 115/20 116/1 116/22 117/6 118/5 118/13 118/15 118/20 119/19 123/2 123/7 123/12 123/15 123/19 125/24 127/23 129/12 129/23 130/3 130/6 131/11 131/17 133/12 133/25 135/13 138/13 142/4 145/25 146/5 148/7 150/10 150/21 152/5 152/7 154/8 155/18 155/19 159/11 162/6 162/25 163/19 168/20 168/25 169/4 175/15 177/12 181/17 185/13 185/16 185/20 187/15 187/18 188/5 AIDS, [1] 149/1 aim [2] 116/21 194/3 aims [1] 152/8 aircraft [1] 137/7 Airways [1] 2/3 alarm [4] 63/1 69/2 69/3 75/9 alarming [2] 33/19 98/3 alarmist [3] 97/20 97/25 113/21 albeit [1] 111/25 ALCH0001710 [1] 170/17 alert [2] 30/14 91/23 alerted [1] 44/5 Alexander [1] 26/11 alight [1] 154/24 Alison [1] 108/9 Alison Smithies [1] 108/9 alive [1] 69/4 all [98] 1/23 3/25 5/12 7/8 8/8 8/16 10/9 11/13 12/2 12/10 19/3 19/21 20/6 20/7 22/8 22/11 23/5 25/6 25/18 26/17 28/3 31/12 32/11 34/1 34/3 36/8 44/1 47/22 48/14 48/16 53/15 57/20 58/1 65/11 67/4 68/11 72/5 77/4 78/6 79/5 81/24 86/25 87/15 91/20 96/23 97/4 97/5 98/17 100/10 103/8 110/10 117/22 119/1 119/2 119/3 121/10 123/20 125/20 129/15 131/24 135/3 137/17
----------	---	--	---	--	---

A	146/25 157/20 160/6 179/1 194/7 amend [2] 29/21 144/6 amended [1] 139/24 amendments [1] 73/7 America [1] 137/17 American [4] 38/9 65/24 152/14 185/14 amongst [11] 8/22 62/25 63/1 75/9 87/24 129/22 132/1 143/5 144/15 151/10 160/24 amount [8] 6/12 8/17 8/24 13/23 14/6 28/4 28/7 44/11 amounts [2] 20/18 65/22 an absolute [1] 44/22 an answer [2] 7/15 60/17 an authenticated [1] 63/3 an awful [1] 48/21 an early [2] 89/19 104/14 an enormous [1] 6/12 an equivalent [1] 166/17 an expert [1] 179/7 an explanation [1] 60/1 an extremely [1] 46/5 an iceberg [1] 93/15 an iceberg' [1] 92/9 an important [1] 16/23 an official's [1] 116/7 an opportunity [1] 39/17 an ordinary [1] 142/5 an organisation [1] 48/21 an update [2] 115/3 185/22 announced [1] 133/12 announcement [1] 66/22 announces [1] 153/7 Announcing [1] 102/7 annoying [1] 97/22 another [16] 18/18 18/22 24/25 32/1 49/23 74/24 79/17 122/20 123/10 128/8 137/18 146/21 167/10 173/12 179/24 185/7 answer [24] 3/1 7/15 7/16 18/22 29/16 29/21 29/22 30/4 40/24 41/6 41/6 51/6 60/17 66/15 85/6	85/12 85/15 111/12 111/13 122/18 128/20 129/22 163/14 179/10 answered [3] 40/20 40/25 67/14 answering [1] 66/24 answers [4] 27/23 29/23 85/19 141/9 Anthony [1] 71/16 Anthony Townsend [1] 71/16 anticipated [2] 84/7 117/19 anxious [3] 52/12 54/4 90/14 any [125] 2/24 3/1 6/6 6/7 7/19 8/3 9/12 10/13 11/17 11/18 11/24 11/25 12/5 12/22 13/13 16/15 17/13 20/13 21/4 21/6 21/24 22/25 30/16 31/18 31/19 32/10 32/13 32/17 33/14 33/17 34/1 40/4 40/12 43/8 45/22 48/6 48/7 57/24 62/18 64/4 66/21 67/5 67/5 68/6 69/7 69/14 70/13 71/25 72/3 72/4 73/24 76/6 77/1 79/7 82/8 83/1 84/3 90/20 94/16 96/4 96/22 99/16 99/19 100/11 102/13 103/16 103/19 106/9 108/2 111/23 114/4 114/16 115/17 117/2 117/14 117/18 121/14 121/22 123/18 125/14 130/23 133/1 134/19 136/16 137/17 139/23 145/2 156/6 157/3 157/8 157/20 158/9 159/15 160/7 160/20 161/1 162/11 163/5 163/21 164/7 166/13 166/15 167/7 167/11 167/12 167/14 170/9 170/15 173/9 174/2 176/23 178/8 178/8 180/1 180/8 183/22 183/25 187/6 187/17 187/25 188/6 189/13 192/10 193/8 193/11 anyone [4] 57/22 57/23 142/4 172/10 anything [19] 3/4 17/5 33/17 39/15 44/10 57/25 68/11 73/13 78/23 81/23 94/19 100/6 137/13 156/3 183/9 183/17 183/17	187/8 190/17 anyway [2] 20/5 179/16 apart [2] 5/22 43/15 appalling [1] 69/12 apparent [2] 8/9 182/14 apparently [4] 41/10 46/9 141/15 174/16 appear [16] 51/1 51/8 62/4 64/19 88/3 104/5 114/15 115/12 124/19 124/22 125/15 133/15 176/5 177/14 180/9 180/11 appeared [2] 97/1 165/18 appears [15] 35/12 70/18 71/18 83/16 88/9 95/14 98/13 99/18 106/16 124/16 129/12 130/11 132/15 162/15 170/8 appended [3] 53/19 131/14 152/14 Applied [1] 15/17 applies [4] 58/1 93/20 93/21 157/25 apply [3] 93/17 148/17 191/12 appointed [2] 1/8 33/24 appreciate [6] 62/12 62/21 62/23 71/1 102/11 140/1 appreciated [1] 193/12 appreciating [1] 67/15 approach [11] 75/4 75/7 76/25 77/2 77/14 78/5 91/14 91/18 106/7 108/23 140/9 approached [1] 192/8 appropriate [8] 88/8 88/21 135/6 152/9 159/24 160/9 160/16 161/19 appropriately [1] 30/4 approval [7] 19/25 51/5 85/9 85/9 85/14 125/7 134/16 approve [3] 21/20 60/21 60/21 approved [3] 106/18 132/19 134/15 approves [1] 90/5 approving [2] 58/13 136/19 approximate [1] 59/1 approximately [1] 50/14	April [11] 108/3 109/9 110/3 110/8 110/17 111/24 112/21 112/24 113/9 113/12 115/3 archiving [2] 27/16 28/8 are [122] 4/13 12/14 22/21 26/25 27/17 34/14 37/10 37/13 37/23 38/3 38/20 38/23 43/4 44/1 44/14 47/9 48/11 50/12 51/8 51/15 51/22 51/23 52/12 53/18 54/4 54/19 54/22 57/21 57/22 59/16 59/23 60/4 67/10 69/16 70/20 73/4 74/10 77/20 79/1 79/3 79/11 79/13 80/8 81/3 82/22 85/24 86/6 86/17 86/18 87/3 87/15 88/14 88/14 88/24 91/14 92/12 93/11 95/5 96/14 98/5 98/7 99/8 101/22 104/2 106/24 109/3 109/6 109/10 109/12 111/7 118/8 118/10 118/20 119/23 120/3 120/8 120/9 123/18 125/1 125/11 125/19 126/1 126/4 126/7 127/18 129/22 130/19 131/14 141/12 141/15 141/21 144/20 151/2 151/21 151/23 152/9 152/11 152/23 153/23 154/24 155/7 155/10 155/10 155/25 156/1 156/16 160/14 161/7 161/21 165/10 170/17 170/25 172/4 173/19 173/21 174/9 175/24 177/9 179/14 179/21 182/13 185/19 area [6] 13/14 15/24 16/14 17/14 29/2 159/25 areas [14] 1/18 5/4 13/1 13/9 13/25 14/12 16/3 16/8 16/12 16/16 19/21 22/4 157/6 167/7 aren't [1] 79/12 arguably [1] 12/21 arguing [1] 170/2 argument [1] 71/20 argument's [1] 189/6 arguments [4] 66/7 80/5 95/5 182/1 arise [4] 6/17 29/18	54/2 71/1 arises [1] 137/8 arm [1] 10/4 arose [10] 16/25 22/12 71/4 74/12 75/16 97/3 137/6 171/23 171/23 176/16 around [4] 23/19 96/20 146/9 167/15 arrange [2] 52/24 174/15 arranged [1] 184/13 arrangement [1] 22/1 arrangements [4] 84/15 85/10 94/6 131/21 arrived [3] 10/15 17/19 26/19 arrives [2] 100/19 189/11 article [2] 135/11 149/13 articulating [1] 93/12 as [275] ascertain [1] 164/20 ascertained [1] 45/12 ascertaining [1] 104/13 aside [2] 8/25 88/2 ask [42] 2/22 7/7 18/2 20/15 24/11 30/5 31/13 36/7 40/9 40/16 45/17 57/13 72/24 73/3 81/20 91/16 95/13 100/7 102/17 103/23 104/1 122/22 142/18 144/25 147/17 149/8 150/7 154/25 161/15 162/23 166/14 174/17 174/21 175/10 178/19 184/4 187/1 188/6 188/21 188/24 192/23 193/14 asked [58] 2/22 14/4 19/7 22/21 27/9 27/21 27/24 33/6 33/19 38/2 39/20 40/12 40/22 42/1 45/11 48/15 48/17 51/9 52/21 54/22 55/3 57/25 59/23 60/20 67/1 67/12 70/25 90/8 90/13 90/19 101/20 110/4 114/14 116/23 116/25 119/5 119/23 126/7 134/13 144/15 145/23 146/11 153/12 157/8 158/18 158/23 158/23 159/2 160/12 161/22 164/24 166/14 174/15 175/24 179/8 184/2 185/20 189/23
----------	---	--	---	--	---

<p>A</p> <p>asking [6] 3/6 114/16 123/18 148/16 159/3 165/2</p> <p>asks [2] 143/17 143/22</p> <p>aspect [3] 10/5 47/10 192/16</p> <p>aspects [4] 19/17 53/2 120/8 173/9</p> <p>assist [3] 4/13 21/25 125/12</p> <p>Assistant [1] 98/23</p> <p>Association [2] 54/8 61/9</p> <p>assume [1] 79/3</p> <p>assumed [2] 27/10 152/7</p> <p>assurances [1] 139/13</p> <p>assure [1] 187/18</p> <p>attach [6] 41/18 56/3 84/12 115/18 124/24 145/2</p> <p>attached [11] 40/4 72/15 110/15 117/10 121/22 123/20 124/25 141/5 143/16 152/22 185/12</p> <p>attend [2] 25/14 60/10</p> <p>attended [1] 117/25</p> <p>attending [7] 150/16 154/4 154/10 154/21 155/4 162/4 174/10</p> <p>attending physicians [1] 154/21</p> <p>attention [17] 20/14 21/9 26/16 27/18 54/10 89/24 107/22 138/4 138/21 144/10 160/25 161/1 169/7 170/6 170/25 182/7 183/22</p> <p>attitude [2] 135/10 137/9</p> <p>attitudes [2] 48/11 88/23</p> <p>attract [1] 66/13</p> <p>attracted [1] 97/21</p> <p>August [22] 90/4 93/25 94/13 94/25 96/2 97/11 97/12 98/13 98/14 98/18 99/10 115/8 115/14 116/20 121/6 121/9 122/12 122/13 123/17 132/11 185/6 185/24</p> <p>Australia [4] 123/6 123/9 126/19 128/10</p> <p>authenticated [1] 63/3</p>	<p>author [1] 111/10</p> <p>authored [1] 33/9</p> <p>Authorities [6] 142/19 142/25 143/17 143/20 143/22 145/23</p> <p>authority [4] 15/23 25/14 98/6 172/9</p> <p>Authority's [1] 25/15</p> <p>availability [3] 101/25 176/10 187/17</p> <p>available [20] 44/11 44/23 47/21 47/23 50/12 52/13 74/15 76/4 78/14 80/23 86/23 91/6 102/21 106/15 109/4 118/1 123/18 158/4 160/8 189/9</p> <p>aviation [1] 45/24</p> <p>avoid [3] 86/13 150/11 153/25</p> <p>avoiding [1] 157/21</p> <p>awaiting [1] 99/8</p> <p>aware [37] 18/21 21/20 22/6 31/10 31/11 31/12 33/15 34/22 44/7 47/1 56/11 67/12 72/15 73/24 82/4 113/3 124/21 151/25 156/2 157/11 160/6 161/5 163/8 171/11 171/14 171/17 173/17 173/20 173/22 174/6 176/17 178/23 179/1 182/20 182/21 183/5 185/12</p> <p>awareness [3] 18/19 113/20 114/2</p> <p>away [2] 25/18 86/12</p> <p>awful [2] 48/21 145/7</p> <p>B</p> <p>babies [1] 123/7</p> <p>back [56] 24/11 26/9 28/19 30/8 36/13 38/4 38/19 42/10 42/11 43/2 43/11 43/17 52/7 53/1 57/5 58/2 67/15 77/5 77/19 79/14 89/13 96/25 107/22 110/21 111/14 111/25 113/6 114/14 120/15 124/2 126/11 127/4 130/23 132/10 132/11 138/3 138/11 142/21 146/6 147/16 151/3 153/14 153/20 156/14 163/24 164/11 167/20 170/7 171/6 171/15 172/3 174/3 174/18 177/25 179/11 182/25</p> <p>background [15] 1/21</p>	<p>1/24 6/13 29/14 29/15 29/16 41/6 51/14 54/15 56/13 75/6 109/21 116/18 143/25 183/1</p> <p>backing [1] 192/11</p> <p>bad [2] 104/17 137/19</p> <p>badly [1] 176/19</p> <p>balance [11] 45/9 46/5 46/19 70/5 175/2 177/4 177/5 177/7 177/11 177/12 177/15</p> <p>balanced [2] 95/5 164/10</p> <p>ban [2] 97/23 191/9</p> <p>Baroness [4] 66/25 158/6 178/19 191/21</p> <p>Baroness Masham [3] 158/6 178/19 191/21</p> <p>based [5] 72/22 91/8 113/16 139/22 178/4</p> <p>basic [1] 150/4</p> <p>basically [2] 163/16 176/20</p> <p>basis [10] 13/13 31/7 47/12 99/15 143/13 144/11 152/7 172/5 172/9 181/1</p> <p>batch [1] 138/13</p> <p>Bateman [3] 132/25 133/7 133/22</p> <p>be [298]</p> <p>be imposed [1] 95/21</p> <p>bear [1] 58/5</p> <p>bearing [6] 47/3 88/21 90/15 103/1 136/25 161/25</p> <p>bears [1] 81/7</p> <p>became [5] 28/12 32/13 50/22 50/23 53/9</p> <p>because [79] 2/12 4/23 5/10 5/25 10/1 10/7 16/2 17/18 17/20 18/4 18/14 18/21 19/5 19/5 20/2 20/16 21/15 23/5 23/13 25/10 25/16 26/2 26/10 27/12 29/21 30/20 40/16 41/13 44/5 44/9 46/16 46/21 48/10 48/14 49/16 51/23 55/11 58/2 59/17 62/6 67/20 69/22 70/2 71/6 74/24 85/16 93/5 97/14 97/22 99/21 104/18 105/8 107/10 108/12 109/20 110/22 111/9 114/4 136/1 137/18 137/22 138/21 142/24 146/10 148/17 154/24 161/4 161/22</p>	<p>162/17 163/24 164/3 167/5 172/25 173/2 176/9 185/24 186/3 191/10 192/13</p> <p>become [7] 8/9 44/6 55/13 95/8 118/13 124/21 126/7</p> <p>becomes [1] 102/21</p> <p>becoming [3] 18/6 138/17 182/13</p> <p>been [149] 4/23 5/14 8/11 8/16 11/15 14/4 21/6 21/14 21/18 22/6 22/10 27/4 27/5 27/25 27/25 28/1 28/16 29/14 31/22 34/22 35/2 36/22 39/18 40/7 40/18 42/1 42/4 43/7 43/9 43/11 45/23 46/11 47/6 50/3 51/25 52/20 59/6 62/5 63/6 65/24 66/9 66/18 67/20 68/12 69/24 70/18 70/23 71/19 72/17 72/21 72/22 75/13 77/16 79/17 80/10 83/10 88/12 90/15 96/7 97/4 97/4 98/13 99/7 99/12 99/21 100/8 100/9 101/20 102/4 102/8 103/3 103/14 104/9 104/22 104/25 105/12 106/6 106/22 109/20 111/5 111/6 111/23 113/17 114/17 117/17 117/18 117/21 118/16 118/22 120/3 123/20 124/8 125/16 126/20 128/9 131/19 132/11 132/12 133/4 135/12 136/2 144/3 144/5 145/3 145/23 146/25 147/13 148/13 150/15 150/25 154/16 154/18 157/22 158/3 159/2 159/16 159/24 160/15 161/19 165/12 165/13 166/18 166/19 168/5 168/5 168/11 169/1 171/16 171/16 174/4 176/7 179/5 179/15 180/19 181/25 181/25 182/10 182/15 182/18 183/14 183/20 184/13 184/15 185/8 186/8 189/19 189/23 190/6 190/18</p> <p>been advising [1] 70/18</p> <p>been found [1] 27/4</p> <p>before [46] 2/22 13/11</p>	<p>21/15 21/24 24/3 25/9 27/14 29/15 30/5 33/23 43/13 43/21 57/2 58/10 71/11 75/21 78/18 96/15 107/21 108/4 109/5 111/24 112/3 113/23 115/2 115/11 116/4 131/8 134/24 137/22 138/1 138/18 140/7 146/21 147/18 148/25 151/5 155/2 156/8 163/4 167/24 175/9 182/15 190/4 192/1 192/5</p> <p>began [2] 83/9 84/4</p> <p>begin [1] 25/20</p> <p>beginning [9] 6/1 22/3 29/10 33/18 36/2 83/9 101/21 123/12 146/22</p> <p>behalf [9] 94/25 100/12 100/15 112/21 114/9 122/8 130/14 132/6 145/4</p> <p>behind [1] 183/15</p> <p>being [103] 4/14 4/16 4/22 5/23 12/17 19/7 30/24 32/19 32/20 33/23 34/10 34/24 37/13 40/2 40/3 40/13 40/14 42/22 42/25 43/22 43/23 44/13 44/15 44/16 49/1 51/9 55/3 55/5 56/16 59/23 60/20 64/19 66/19 67/12 67/13 68/6 69/14 70/11 71/6 71/18 71/21 72/5 73/16 74/1 79/12 81/9 83/21 85/4 86/16 87/4 87/22 88/20 90/18 91/17 92/8 92/15 92/16 93/3 96/19 103/12 105/1 106/9 108/3 109/11 109/17 110/4 114/2 120/1 121/11 123/15 123/16 123/22 128/1 140/4 140/22 142/10 144/23 145/4 152/23 153/10 159/12 164/7 164/21 165/1 166/12 169/12 171/12 171/18 172/25 173/1 173/19 174/1 175/4 177/13 178/5 179/8 180/1 180/25 181/13 187/8 187/22 188/7 190/8</p> <p>believe [18] 4/12 24/13 32/22 33/19 44/4 47/22 48/6 48/7 74/11 86/21 115/25</p>	<p>123/18 126/22 127/17 157/23 169/10 170/13 179/15</p> <p>believed [3] 47/11 52/2 82/3</p> <p>Bell [2] 72/10 72/10</p> <p>below [5] 39/4 80/12 85/24 126/2 159/13</p> <p>benefit [3] 60/14 79/6 107/14</p> <p>besides [1] 87/3</p> <p>best [8] 27/6 54/20 76/23 77/23 80/2 91/2 102/16 120/18</p> <p>better [3] 15/18 82/18 191/7</p> <p>between [27] 2/16 7/22 9/16 18/3 22/23 23/7 24/15 31/13 32/19 33/14 34/18 34/24 35/25 40/1 40/2 62/5 72/20 74/10 98/25 99/19 125/21 126/5 136/7 144/1 147/7 154/13 184/13</p> <p>beyond [2] 12/3 178/9</p> <p>bill [1] 14/5</p> <p>biological [3] 19/1 170/18 172/13</p> <p>bisexual [1] 146/1</p> <p>bit [5] 24/9 24/14 76/9 141/15 175/24</p> <p>bits [1] 179/18</p> <p>black [1] 26/16</p> <p>blamed [1] 148/9</p> <p>bleeding [3] 48/20 176/14 180/6</p> <p>blissfully [1] 172/18</p> <p>blood [187] 10/3 11/14 11/22 13/22 15/21 15/21 15/22 15/22 16/4 16/4 17/5 17/5 17/20 17/20 18/7 18/7 18/7 31/21 31/21 33/14 33/14 33/24 33/25 35/15 35/18 36/1 36/1 37/18 41/1 42/15 42/25 43/23 44/13 44/18 46/17 48/18 50/4 50/11 50/16 51/17 51/19 52/11 52/13 52/15 53/11 53/15 54/1 54/25 55/12 56/9 56/18 56/24 58/19 58/19 58/19 58/20 59/10 59/10 59/13 59/15 59/24 60/5 60/10 60/13 63/4 65/21 65/23 65/24 66/12 67/1 69/11 70/3 70/16 72/25 75/18</p>
---	---	--	--	---	---

<p>B</p> <p>blood... [112] 76/2 78/19 78/22 78/25 79/20 80/22 80/24 82/1 82/6 82/24 88/7 88/25 92/10 92/14 92/14 92/15 92/18 92/21 92/21 93/2 93/7 93/13 93/18 93/21 97/24 98/1 102/4 102/5 102/9 102/9 102/14 102/15 102/18 106/1 108/19 111/1 111/3 111/4 113/6 114/6 115/11 116/13 116/23 117/1 117/3 117/15 118/16 118/21 119/3 119/19 123/7 123/16 123/16 123/17 123/19 125/25 126/7 126/8 127/22 128/24 129/11 131/6 133/11 134/5 134/12 134/13 135/12 138/13 139/8 139/14 141/14 142/5 142/7 143/9 143/12 143/14 143/24 144/5 145/22 145/24 146/4 148/1 148/6 148/11 150/20 152/5 152/6 152/6 152/8 152/10 152/13 152/15 153/8 154/7 159/5 159/5 159/9 159/9 159/23 163/17 166/11 168/3 168/23 168/23 169/22 169/22 172/8 172/16 175/4 180/5 184/16 184/16</p> <p>blood' [1] 81/16</p> <p>blood,' [1] 149/5</p> <p>Bloom [3] 48/25 49/4 49/9</p> <p>Bloom's [1] 49/6</p> <p>board [2] 93/18 130/4</p> <p>bodies [3] 12/18 61/10 151/14</p> <p>body [2] 187/25 193/5</p> <p>Bolitho [3] 65/10 80/10 81/12</p> <p>borne [1] 80/11</p> <p>boss [1] 5/9</p> <p>both [34] 2/1 4/7 4/8 5/7 6/14 13/25 15/10 24/9 24/15 45/1 47/23 64/12 68/19 69/3 76/14 82/4 90/22 91/5 94/17 95/20 102/25 118/13 139/12 140/13 140/16 141/13 145/6 145/6 146/2 146/15</p>	<p>147/9 164/20 165/7 169/22</p> <p>bottom [20] 13/7 35/9 39/2 39/6 55/18 84/18 85/20 85/22 110/24 123/3 123/14 125/21 127/25 142/10 159/19 159/20 174/24 175/11 175/13 191/8</p> <p>bound [1] 12/15</p> <p>bow [1] 82/16</p> <p>box [2] 7/12 7/12</p> <p>boxes [2] 26/16 97/2</p> <p>BPL [8] 15/22 17/9 25/23 38/12 44/9 170/14 187/2 187/5</p> <p>BPLL0007247 [1] 101/18</p> <p>brackets [1] 187/12</p> <p>branch [4] 124/25 125/18 133/16 148/15</p> <p>breadth [1] 19/14</p> <p>break [15] 57/2 57/18 57/19 57/21 58/8 58/11 114/20 114/23 140/3 141/19 156/8 156/9 167/18 167/22 182/15</p> <p>breaks [1] 58/1</p> <p>Brian [2] 93/19 135/1</p> <p>brief [9] 10/19 29/7 29/22 39/21 39/22 85/7 85/12 85/15 141/11</p> <p>briefed [1] 49/1</p> <p>briefing [27] 25/6 29/6 29/13 29/19 33/20 34/6 39/11 40/8 41/4 41/11 41/12 41/24 42/6 42/7 43/10 44/6 66/15 97/17 100/18 100/20 128/22 182/25 185/3 185/5 185/23 185/24 186/11</p> <p>briefings [8] 7/7 14/3 21/25 22/8 22/10 27/3 177/21 180/8</p> <p>briefly [2] 58/12 108/15</p> <p>briefs [2] 4/7 4/8</p> <p>bring [2] 68/3 126/22</p> <p>British [1] 2/3</p> <p>broad [3] 35/2 35/3 43/4</p> <p>broadly [6] 4/15 19/20 24/20 101/9 166/22 183/15</p> <p>brought [10] 16/4 20/1 21/9 26/15 82/22 101/3 144/10 170/6 171/25 181/14</p> <p>BT [1] 14/5</p>	<p>built [1] 16/19</p> <p>bulk [1] 8/5</p> <p>bureaucratic [2] 132/19 136/20</p> <p>business [1] 5/1</p> <p>busy [1] 48/12</p> <p>but [234]</p> <p>by [147] 1/7 3/6 7/14 10/16 13/10 13/12 13/18 15/10 16/21 16/25 17/17 17/25 18/1 19/23 20/24 20/25 24/24 28/2 30/15 31/23 33/9 35/12 35/13 35/15 35/24 38/16 40/21 41/19 42/2 42/15 43/10 44/14 48/25 49/18 50/4 50/14 51/17 52/9 52/20 52/23 53/7 53/10 53/24 54/3 54/5 54/23 54/25 56/6 56/7 56/9 56/16 58/15 58/18 58/24 59/9 61/17 62/24 63/7 64/20 65/24 66/10 68/23 71/7 71/7 72/18 72/21 72/22 73/16 73/24 77/25 79/12 80/5 80/23 81/9 82/6 83/12 83/14 83/20 85/3 85/24 88/20 90/24 94/13 95/21 96/4 97/18 97/24 99/13 102/14 103/14 106/18 108/16 108/18 109/11 112/9 112/25 116/16 117/1 117/19 117/21 119/15 122/20 123/16 124/8 124/25 125/16 126/20 130/7 130/23 131/19 136/22 140/12 140/15 141/10 145/4 148/13 149/18 150/1 151/13 152/1 152/8 152/14 157/22 158/9 159/16 160/13 161/8 161/20 161/20 163/7 165/2 167/11 167/14 168/25 171/12 171/19 174/1 176/21 178/5 179/9 180/19 181/8 183/2 188/18 190/19 191/25 192/17</p>	<p>157/14</p> <p>call-out [1] 91/6</p> <p>call-up [7] 75/6 75/19 77/24 79/7 80/6 83/3 86/1</p> <p>called [7] 10/16 11/9 48/21 48/25 59/18 67/20 148/11</p> <p>came [22] 7/10 8/17 8/24 10/18 10/19 14/11 23/8 45/7 49/4 49/6 100/3 100/4 103/11 107/22 121/1 135/5 147/5 151/5 161/12 162/11 177/21 192/11</p> <p>can [167] 3/6 4/13 6/23 11/18 12/24 13/3 13/6 14/23 15/11 15/14 16/7 16/15 17/16 18/2 21/2 21/25 22/12 30/5 30/8 31/13 33/12 34/5 36/14 37/11 37/21 39/14 39/22 40/3 41/14 42/10 45/16 49/25 55/15 55/15 58/15 59/9 59/25 60/7 60/18 60/23 64/24 65/13 67/25 69/13 70/23 70/24 71/2 73/21 74/5 74/16 75/13 77/25 78/23 79/7 80/10 81/11 82/11 82/12 82/14 82/15 82/23 84/3 84/10 84/18 84/24 85/4 85/13 86/17 86/22 87/21 89/22 89/24 91/10 91/25 94/13 94/24 95/25 97/13 98/12 98/16 100/24 101/24 102/11 102/16 102/20 103/16 105/6 105/16 110/8 110/10 110/19 110/25 111/12 111/13 111/24 112/20 114/7 115/7 116/4 116/10 120/8 121/5 121/17 122/3 122/22 123/4 123/14 124/10 124/23 125/22 126/24 127/18 129/7 129/14 130/4 130/20 131/22 132/1 133/1 136/16 138/10 138/10 138/11 140/11 140/22 140/24 141/22 144/16 145/17 147/9 147/23 148/3 148/20 149/18 151/8 152/23 153/9 153/20 155/2 156/14 156/19 157/14</p>	<p>157/15 161/13 163/14 166/13 166/15 166/16 167/5 168/13 170/4 173/24 174/17 175/9 178/13 183/23 183/24 184/3 187/4 187/8 187/18 187/22 187/23 188/10 192/10 192/22 193/18</p> <p>can't [28] 11/21 17/18 21/17 25/1 39/16 39/19 40/6 48/11 77/15 88/12 92/23 93/22 97/5 103/19 107/11 111/16 116/9 133/18 136/6 154/19 154/22 162/16 166/21 179/2 180/3 180/20 187/9 189/12</p> <p>cancelling [1] 181/2</p> <p>cannot [16] 8/2 8/2 41/9 80/20 81/14 106/9 108/2 120/24 121/2 134/13 136/5 158/9 159/15 164/5 165/7 189/17</p> <p>capacity [3] 2/11 2/19 2/24</p> <p>card [1] 75/19</p> <p>cards [9] 75/6 77/24 79/7 80/6 80/19 80/24 83/3 86/1 91/6</p> <p>career [2] 2/14 6/2</p> <p>carefully [3] 30/3 66/14 68/21</p> <p>carriers [2] 118/22 146/5</p> <p>carry [2] 50/10 52/14</p> <p>carrying [2] 35/16 118/19</p> <p>case [18] 7/6 7/24 23/3 26/15 36/25 37/16 45/4 48/13 81/1 86/21 88/9 94/12 96/11 111/18 137/14 156/9 162/16 164/5</p> <p>cases [15] 36/16 36/18 36/22 44/16 51/25 52/3 59/6 66/9 66/18 82/5 118/6 134/6 135/12 139/14 168/20</p> <p>Cash [1] 73/9</p> <p>Cashman [3] 124/12 125/11 125/12</p> <p>cast [1] 12/19</p> <p>catch [1] 136/2</p> <p>catching [1] 134/24</p> <p>categories [2] 155/13 155/25</p> <p>category [1] 155/12</p> <p>causal [1] 35/25</p>	<p>cause [6] 26/6 26/7 37/6 37/6 102/12 191/11</p> <p>caused [6] 52/9 58/24 87/6 97/25 117/14 123/8</p> <p>causing [1] 44/2</p> <p>CBLA [1] 15/23</p> <p>CBLA0000043 [1] 168/9</p> <p>cc [4] 84/18 97/14 105/8 110/20</p> <p>cc Mr Joyce [1] 110/20</p> <p>cc'd [1] 112/22</p> <p>CDSC [1] 169/24</p> <p>ceasing [1] 191/4</p> <p>censuses [2] 14/2 16/10</p> <p>cent [5] 38/13 46/17 86/2 137/17 176/9</p> <p>central [5] 15/22 36/24 141/12 154/20 172/8</p> <p>centre [12] 15/17 36/23 37/17 48/22 69/1 75/22 76/3 138/18 148/22 168/15 170/11 172/7</p> <p>centre's [2] 148/14 148/18</p> <p>centres [15] 63/13 77/4 79/9 91/7 102/22 103/13 108/17 108/23 115/5 116/17 117/22 117/22 117/25 131/23 144/2</p> <p>certain [16] 18/18 31/21 38/1 39/19 40/17 58/25 114/1 117/7 136/21 136/22 152/10 157/20 175/17 179/4 180/10 182/9</p> <p>certainly [18] 3/3 10/15 10/21 11/23 14/7 25/2 26/1 27/11 59/11 61/18 67/9 103/3 103/23 121/3 167/19 182/23 186/7 187/23</p> <p>cetera [7] 1/20 34/17 97/24 137/1 142/10 154/21 163/20</p> <p>CH [1] 84/14</p> <p>chain [1] 174/11</p> <p>chaired [1] 48/25</p> <p>chairmen's [2] 25/15 25/16</p> <p>chance [2] 59/12 142/4</p> <p>change [6] 21/7 80/21 81/16 121/15 136/18</p>
(54) blood... - change					

<p>C</p> <p>change... [1] 192/1</p> <p>changes [9] 74/9 101/23 120/9 126/10 127/10 127/12 130/4 131/8 141/7</p> <p>changing [1] 146/16</p> <p>characterised [1] 191/7</p> <p>characteristics [1] 88/22</p> <p>chasing [4] 133/16 134/19 139/2 139/2</p> <p>chat [3] 12/12 47/22 48/10</p> <p>check [6] 63/24 99/4 105/16 128/7 132/10 133/1</p> <p>Chief [19] 9/5 9/13 9/19 10/14 10/18 11/6 11/9 22/22 33/6 48/18 134/1 134/8 158/17 158/21 158/25 159/3 159/12 174/11 174/12</p> <p>Christmas [2] 140/3 140/12</p> <p>Christopher [1] 7/6</p> <p>chronological [1] 71/12</p> <p>chronologically [1] 96/13</p> <p>chronology [3] 49/18 97/6 129/6</p> <p>circular [7] 123/23 142/20 142/24 143/7 143/17 143/20 143/22</p> <p>circulated [3] 43/9 73/17 139/8</p> <p>circumstances [5] 87/3 159/8 160/10 164/19 179/4</p> <p>civil [13] 6/10 7/4 9/7 9/9 12/3 21/1 21/18 106/10 124/5 188/19 189/24 192/3 192/4</p> <p>civil servants [1] 189/24</p> <p>clarified [3] 168/5 168/6 169/1</p> <p>Clarke [56] 3/17 5/21 13/15 17/18 18/5 18/6 19/10 22/24 47/15 47/24 50/23 62/16 64/20 65/5 65/14 66/6 68/1 68/3 69/3 70/23 73/16 74/2 75/2 77/15 80/15 89/23 90/19 94/23 94/23 94/25 95/14 97/9 97/16 98/10 98/14 99/19 102/7 106/13 106/18</p>	<p>113/3 121/20 122/8 122/12 122/17 128/20 128/21 129/1 130/19 131/21 133/8 135/4 140/10 140/10 141/22 147/11 147/17</p> <p>Clarke's [12] 62/15 85/9 97/12 98/19 99/9 105/9 106/16 124/14 131/4 133/16 134/3 141/24</p> <p>classified [2] 28/22 28/25</p> <p>clear [11] 36/8 46/6 60/25 64/2 95/25 111/8 118/18 122/16 148/10 164/14 180/12</p> <p>clearance [2] 125/10 134/3</p> <p>cleared [1] 131/6</p> <p>clearer [1] 149/4</p> <p>clearly [2] 82/16 165/22</p> <p>clinical [9] 6/19 8/19 9/23 10/2 47/6 47/9 89/1 181/12 181/13</p> <p>clinician [2] 48/25 154/14</p> <p>clinicians [10] 71/7 156/12 159/22 160/2 160/8 160/17 161/16 162/4 162/19 182/10</p> <p>clinics [1] 106/17</p> <p>close [1] 129/23</p> <p>closely [3] 22/9 50/22 93/23</p> <p>closer [1] 129/19</p> <p>clot [1] 59/15</p> <p>clotting [2] 35/20 118/9</p> <p>clue [1] 34/20</p> <p>CMO [2] 10/12 61/25</p> <p>CMO's [1] 9/22</p> <p>CMOs [1] 134/1</p> <p>co [4] 32/18 54/7 102/5 139/20</p> <p>co-operate [1] 139/20</p> <p>co-operation [2] 54/7 102/5</p> <p>co-ordination [1] 32/18</p> <p>coagulate [1] 180/6</p> <p>coagulation [3] 150/12 154/1 155/5</p> <p>coalescing [1] 173/16</p> <p>cohort [2] 51/12 166/19</p> <p>cohorts [3] 155/3 155/10 193/3</p> <p>Colindale [1] 170/13</p> <p>colleague [1] 90/19</p> <p>colleagues [13] 17/25</p>	<p>46/21 47/4 47/12 63/12 64/4 84/13 127/9 137/3 139/20 141/3 163/23 192/18</p> <p>colleagues' [1] 161/1</p> <p>collecting [1] 183/18</p> <p>collection [2] 183/19 183/21</p> <p>collegial [1] 12/16</p> <p>column [1] 147/21</p> <p>come [46] 8/1 9/24 10/2 13/5 20/13 21/5 21/24 27/17 29/5 30/5 34/15 36/13 37/20 38/4 38/19 43/2 43/8 43/17 49/11 51/5 52/7 53/1 62/2 63/14 70/22 71/11 74/20 75/18 77/18 96/5 109/9 113/6 124/2 124/15 127/23 130/23 138/3 151/3 158/6 160/20 162/9 164/11 167/20 179/11 184/7 192/10</p> <p>comes [3] 111/25 151/12 192/6</p> <p>coming [9] 8/6 33/12 36/5 56/25 163/22 165/23 173/16 184/1 189/7</p> <p>command [1] 174/11</p> <p>comment [10] 30/6 30/16 82/11 82/13 92/8 117/19 140/6 153/19 167/5 173/12</p> <p>commented [8] 26/17 61/5 94/4 97/21 112/24 121/9 130/17 142/2</p> <p>commenting [2] 96/21 143/3</p> <p>comments [8] 45/22 77/18 121/23 131/13 141/2 141/22 147/9 147/10</p> <p>Commission [1] 14/21</p> <p>committed [1] 151/19</p> <p>Committee [11] 53/10 53/12 53/20 129/11 149/22 150/1 152/1 160/4 170/18 171/12 173/3</p> <p>committees [3] 8/23 12/20 12/23</p> <p>Commons [9] 3/23 4/19 18/15 23/11 23/12 23/15 30/19 31/9 47/16</p> <p>Communicable [4] 36/23 37/17 168/15 170/10</p>	<p>communication [1] 174/4</p> <p>communications [1] 190/5</p> <p>community [2] 36/10 64/5</p> <p>comparative [1] 13/18</p> <p>compare [1] 126/6</p> <p>compared [1] 28/11</p> <p>comparison [1] 125/1</p> <p>competing [2] 164/10 173/18</p> <p>complementary [2] 10/11 69/21</p> <p>complemented [1] 10/1</p> <p>complete [4] 112/6 145/9 166/3 190/20</p> <p>completed [1] 99/8</p> <p>completely [3] 21/13 68/5 172/20</p> <p>completeness [2] 79/21 94/22</p> <p>complex [2] 19/21 179/14</p> <p>comply [1] 165/5</p> <p>comprehensive [1] 107/19</p> <p>comprise [1] 24/21</p> <p>conceivable [1] 187/18</p> <p>conceive [1] 8/3</p> <p>concentrate [8] 37/1 37/2 38/9 38/13 39/4 152/20 176/6 177/18</p> <p>concentrates [12] 51/23 118/14 173/1 180/15 180/24 181/5 181/19 182/7 183/5 186/18 186/25 191/4</p> <p>concentrating [1] 17/4</p> <p>concept [2] 4/14 4/16</p> <p>concern [24] 33/16 51/11 51/11 61/6 62/12 62/22 62/23 64/7 68/18 78/8 79/7 83/19 83/22 92/24 102/11 103/25 109/16 123/8 128/13 129/23 132/16 167/10 182/3 193/12</p> <p>concerned [12] 21/3 28/22 45/8 62/18 84/2 93/5 97/24 103/7 136/1 141/16 155/14 160/3</p> <p>concerns [14] 51/13 64/4 65/15 102/4 107/12 109/11 115/11 116/13 121/14 134/4 137/3 139/8 163/24</p>	<p>173/19</p> <p>conclusion [2] 168/21 189/12</p> <p>conclusions [3] 170/23 170/24 171/3</p> <p>conclusive [2] 52/5 102/10</p> <p>condensed [1] 182/19</p> <p>condition [1] 167/10</p> <p>conference [1] 110/13</p> <p>confident [1] 60/14</p> <p>confirm [1] 144/18</p> <p>confirmed [3] 51/25 99/14 122/11</p> <p>confirming [1] 142/22</p> <p>conflict [1] 137/19</p> <p>conformity [1] 53/7</p> <p>connected [1] 93/6</p> <p>connection [1] 17/20</p> <p>cons [1] 82/20</p> <p>conscious [1] 83/8</p> <p>consequences [3] 63/19 69/12 117/16</p> <p>consider [11] 59/23 109/4 110/4 118/25 148/18 160/12 161/23 162/18 166/1 173/4 182/8</p> <p>consider themselves [1] 148/18</p> <p>considerable [1] 34/17</p> <p>consideration [2] 103/17 159/3</p> <p>considerations [2] 164/10 191/12</p> <p>considered [13] 4/25 36/12 85/24 131/15 157/22 159/24 160/15 161/19 163/25 164/7 165/3 165/4 165/14</p> <p>considering [2] 37/23 182/12</p> <p>considers [1] 78/22</p> <p>consist [1] 29/13</p> <p>consistency [5] 32/19 75/3 76/25 77/2 77/14</p> <p>consistent [7] 41/2 94/14 104/4 104/14 116/15 119/21 119/25</p> <p>constituencies [1] 30/21</p> <p>constituency [1] 193/4</p> <p>constitute [1] 15/9</p> <p>consult [1] 22/13</p> <p>consultant [7] 11/10 11/13 11/18 11/25 48/17 61/24 83/5</p> <p>consultation [2] 20/22 84/12</p> <p>consultations [1]</p>	<p>141/10</p> <p>consuming [1] 15/13</p> <p>contacted [1] 164/23</p> <p>contacts [1] 146/3</p> <p>contain [1] 42/16</p> <p>containing [1] 29/13</p> <p>contaminate [1] 163/19</p> <p>contaminated [8] 35/14 42/25 43/23 44/13 44/19 55/13 93/2 163/19</p> <p>contamination [1] 44/2</p> <p>contemporaneous [2] 64/13 177/23</p> <p>content [22] 39/21 57/8 85/15 91/3 95/3 99/14 109/12 115/12 117/4 120/10 121/23 122/14 129/1 130/18 131/21 132/9 140/14 140/16 141/18 144/20 144/24 170/22</p> <p>contents [2] 77/25 107/12</p> <p>context [8] 20/15 61/17 64/21 104/15 104/18 108/6 128/9 155/18</p> <p>continual [2] 25/3 147/6</p> <p>continuation [1] 180/14</p> <p>continue [9] 5/3 42/21 102/12 165/21 176/6 180/21 189/21 190/14 191/18</p> <p>continued [5] 118/3 148/5 188/20 189/8 189/25</p> <p>continues [2] 60/2 118/18</p> <p>continuing [1] 152/19</p> <p>contracted [2] 63/4 123/12</p> <p>contracting [3] 51/22 111/4 118/9</p> <p>contributed [1] 181/24</p> <p>Contributions [1] 16/11</p> <p>control [2] 28/25 81/4</p> <p>convenience [1] 152/15</p> <p>conventional [1] 9/9</p> <p>conversation [5] 47/13 62/8 67/8 67/12 189/13</p> <p>conveyed [1] 139/18</p> <p>convinced [1] 83/2</p> <p>cope [1] 20/5</p>
--	--	---	--	--	--

<p>C</p> <p>copied [19] 18/16 19/8 31/22 61/12 61/12 71/18 97/13 105/7 106/12 110/8 110/18 110/19 124/14 132/1 133/1 133/2 135/24 142/15 153/10</p> <p>copies [2] 100/17 100/18</p> <p>copy [7] 13/5 18/18 50/6 96/4 106/14 151/10 152/22</p> <p>core [1] 22/5</p> <p>correct [29] 1/12 2/18 3/12 3/18 8/15 19/11 19/20 36/3 46/24 67/24 68/5 72/13 75/23 76/5 76/15 85/19 93/22 96/16 96/18 120/20 124/7 126/9 130/22 132/15 181/23 184/20 184/24 185/10 191/15</p> <p>corrected [1] 190/18</p> <p>correctly [2] 75/1 77/9</p> <p>correspondence [5] 179/12 192/15 192/16 193/19 193/19</p> <p>correspondents [1] 113/18</p> <p>correspondingly [1] 151/20</p> <p>cost [5] 50/13 57/9 115/22 119/7 144/13</p> <p>costs [1] 119/11</p> <p>couched [1] 78/2</p> <p>could [62] 14/10 22/16 22/19 24/5 24/15 24/17 25/5 26/17 30/2 36/7 42/11 47/21 48/16 53/23 59/20 61/9 63/1 63/24 64/6 68/24 69/2 69/2 69/5 70/8 75/24 77/8 78/15 80/25 86/7 87/1 87/5 89/18 94/16 96/7 96/9 98/4 99/20 100/8 100/9 101/5 104/4 104/16 108/19 114/3 126/22 131/10 136/13 140/5 155/22 155/22 163/9 163/10 166/17 173/5 174/4 174/18 178/11 178/21 179/15 181/23 186/23 194/1</p> <p>couldn't [5] 7/15 8/7 26/7 145/7 172/1</p> <p>Council [18] 53/1 53/2 53/11 63/7 65/25 110/12 110/24 112/10</p>	<p>113/1 119/16 149/16 149/22 151/2 152/2 156/22 158/13 161/14 162/1</p> <p>counter [3] 175/2 175/5 182/1</p> <p>counter-risk [2] 175/2 175/5</p> <p>counterproductive [1] 129/24</p> <p>countries [4] 130/6 130/10 150/14 183/21</p> <p>country [5] 51/24 56/24 98/6 164/24 176/10</p> <p>country's [1] 169/25</p> <p>couple [2] 15/12 100/3</p> <p>course [17] 6/18 10/7 20/9 21/6 25/13 45/5 53/3 69/18 73/22 83/8 89/1 107/17 113/21 156/10 170/14 172/4 192/14</p> <p>cover [4] 16/13 122/13 133/5 185/6</p> <p>coverage [3] 64/6 97/20 111/20</p> <p>covered [2] 4/2 130/7</p> <p>covering [3] 56/18 113/12 157/5</p> <p>crisis [3] 17/15 32/24 191/11</p> <p>criteria [5] 20/13 21/3 21/17 37/3 182/17</p> <p>criticism [1] 119/1</p> <p>criticisms [1] 113/17</p> <p>cropped [3] 13/21 24/10 25/7</p> <p>crops [1] 30/24</p> <p>Cross [1] 152/14</p> <p>crucial [1] 165/25</p> <p>cryoprecipitate [7] 178/14 178/21 178/23 179/4 179/8 181/2 185/15</p> <p>CSM [2] 180/20 182/12</p> <p>CSMB [2] 180/20 182/13</p> <p>Cumming [1] 151/7</p> <p>Cumming's [1] 153/3</p> <p>Cunningham [1] 110/17</p> <p>Cunningham's [3] 110/14 113/12 114/12</p> <p>cure [1] 34/21</p> <p>curious [1] 169/21</p> <p>current [5] 108/16 108/19 115/20 117/6 131/14</p> <p>currently [3] 37/23</p>	<p>152/20 156/2</p> <p>customary [1] 85/13</p> <p>D</p> <p>daily [1] 36/18</p> <p>damage [6] 66/21 69/7 69/15 70/12 175/6 176/15</p> <p>damaging [1] 164/4</p> <p>dangers [3] 111/3 112/18 176/13</p> <p>dare [2] 165/11 190/15</p> <p>data [2] 43/12 192/11</p> <p>database [1] 16/20</p> <p>date [18] 48/1 55/15 57/5 60/25 65/1 90/8 90/11 101/24 109/24 117/6 132/10 136/1 136/4 139/2 139/3 142/21 153/13 171/6</p> <p>date: [1] 145/13</p> <p>date: 1 February 1985 [1] 145/13</p> <p>dated [15] 41/15 55/17 64/24 72/9 84/10 96/1 100/12 102/1 105/7 106/14 110/17 124/11 127/8 128/4 129/9</p> <p>dates [3] 95/25 96/10 97/5</p> <p>David [1] 188/16</p> <p>Davies [5] 124/12 124/23 126/13 127/8 140/15</p> <p>Davies' [5] 130/16 131/8 132/7 132/13 139/11</p> <p>day [22] 16/25 16/25 17/4 19/17 19/17 19/23 19/24 20/7 23/20 24/18 24/20 24/21 25/6 29/10 29/11 41/1 48/12 76/20 140/23 192/17 193/25 194/7</p> <p>day's [1] 24/23</p> <p>days [11] 8/13 26/22 40/7 44/25 57/10 83/20 100/3 128/16 130/13 137/22 162/10</p> <p>deal [17] 4/24 5/13 14/11 17/10 20/6 25/10 45/21 90/19 97/3 135/3 136/21 156/13 157/13 158/13 184/7 190/25 192/16</p> <p>dealing [24] 1/18 5/6 5/12 7/10 9/20 9/20 10/5 10/25 13/24 17/2 18/20 19/23 21/10</p>	<p>21/13 21/14 25/21 26/13 46/22 101/13 111/17 135/9 147/12 157/18 167/6</p> <p>dealing with [1] 9/20</p> <p>dealings [4] 10/13 11/17 12/23 32/13</p> <p>deals [5] 38/15 127/20 129/25 145/14 145/15</p> <p>dealt [3] 8/18 20/25 171/18</p> <p>Dear [1] 62/7</p> <p>death [7] 123/10 126/19 175/7 185/13 185/17 186/20 187/14</p> <p>deaths [2] 118/6 185/16</p> <p>debate [5] 24/12 29/4 83/17 164/6 181/24</p> <p>debated [2] 83/21 159/16</p> <p>debates [2] 1/19 7/10</p> <p>debating [1] 8/22</p> <p>December [16] 105/1 108/13 131/2 132/6 132/22 133/6 133/21 134/17 135/10 139/1 139/5 140/22 140/25 141/24 142/1 146/10</p> <p>December '83 [1] 108/13</p> <p>December 1983 [1] 146/10</p> <p>decide [3] 20/11 89/10 101/1</p> <p>decided [5] 8/4 116/6 116/7 144/9 191/9</p> <p>decision [12] 21/21 21/22 51/2 55/3 75/24 99/12 101/5 143/18 163/5 171/12 172/15 173/20</p> <p>decisions [9] 19/24 24/1 30/15 32/19 32/20 89/1 157/9 163/10 172/16</p> <p>decisive [1] 170/2</p> <p>decline [1] 78/19</p> <p>dedicated [1] 17/14</p> <p>deeply [1] 20/8</p> <p>defeat [1] 78/17</p> <p>defensible [1] 46/25</p> <p>defer [1] 6/2</p> <p>deferential [2] 5/19 5/24</p> <p>deficiency [1] 152/5</p> <p>defined [1] 166/19</p> <p>definite [1] 77/1</p> <p>DEFINITELY [1] 60/11</p> <p>degree [9] 33/16 49/16 64/16 69/4 70/4</p>	<p>90/15 91/22 137/15 147/14</p> <p>degrees [1] 179/21</p> <p>delay [8] 34/17 34/24 90/16 120/25 131/9 136/6 136/9 140/4</p> <p>delayed [1] 90/18</p> <p>delegated [1] 5/13</p> <p>delivered [1] 93/3</p> <p>demonstrated [1] 70/9</p> <p>department [93] 1/10 2/8 3/7 4/1 4/10 4/22 5/3 5/7 6/15 6/22 7/18 7/23 8/20 8/21 9/1 9/4 9/14 10/16 10/17 11/1 12/9 12/11 17/24 18/24 22/14 24/11 24/18 25/21 26/9 26/19 27/16 28/13 29/16 31/16 31/23 32/9 33/5 46/24 47/7 48/12 48/14 50/12 52/21 53/6 54/24 55/20 56/8 56/16 62/1 63/18 72/12 95/22 97/19 101/7 102/2 103/14 104/5 107/6 107/16 113/19 118/25 121/2 123/23 134/11 141/16 146/20 147/6 148/10 148/15 154/11 156/3 160/1 160/6 160/9 160/16 160/19 161/20 162/2 162/20 164/12 164/19 164/23 166/23 167/3 167/14 168/3 168/18 170/1 171/19 178/6 182/11 193/5 193/12</p> <p>department's [5] 24/13 38/22 144/13 148/22 191/16</p> <p>departmental [1] 71/7</p> <p>departments [8] 5/24 6/25 8/5 25/2 27/11 28/12 28/15 31/19</p> <p>depend [1] 16/17</p> <p>depended [1] 16/19</p> <p>dependent [1] 12/8</p> <p>depending [1] 25/24</p> <p>Deputies [1] 150/3</p> <p>deputy [2] 148/19 159/12</p> <p>describe [1] 5/9</p> <p>described [8] 34/14 43/1 43/23 46/9 51/9 113/1 137/5 177/4</p> <p>describes [1] 34/11</p> <p>description [2] 138/12 175/8</p> <p>designed [2] 92/17</p>	<p>166/7</p> <p>desirable [5] 54/16 61/8 120/24 133/13 141/8</p> <p>despite [2] 40/8 148/6</p> <p>despondency [1] 75/9</p> <p>detail [32] 13/18 19/16 19/20 20/2 20/6 31/5 32/12 35/7 37/20 39/16 39/19 49/7 49/16 63/10 67/11 85/14 101/19 126/6 141/7 146/7 154/23 162/13 166/5 169/3 170/7 171/20 172/2 181/7 187/6 188/6 189/12 190/9</p> <p>detailed [5] 85/6 117/7 119/22 170/21 192/2</p> <p>details [4] 27/2 32/22 119/10 186/23</p> <p>detect [3] 37/12 125/24 172/21</p> <p>detecting [1] 118/22</p> <p>deter [1] 131/17</p> <p>determinate [1] 44/24</p> <p>developed [3] 59/16 118/22 138/12</p> <p>developing [2] 162/24 163/1</p> <p>development [1] 59/8</p> <p>developments [9] 56/19 119/12 125/5 126/15 127/14 134/10 136/3 139/24 185/19</p> <p>DHSC000 [1] 77/19</p> <p>DHSC00002251 [1] 129/8</p> <p>DHSC0000435 [1] 128/17</p> <p>DHSC0001511 [1] 64/23</p> <p>DHSC0002071 [1] 190/22</p> <p>DHSC0002229 [2] 41/14 71/15</p> <p>DHSC0002239 [1] 108/7</p> <p>DHSC0002309 [26] 34/7 49/21 55/16 57/3 58/14 60/24 97/11 98/18 100/12 112/20 113/8 115/7 121/5 122/3 122/25 130/13 131/1 132/5 132/22 135/18 139/1 140/24 141/23 143/4 151/6 153/1</p> <p>DHSC0002311 [1] 145/11</p> <p>DHSC0002321 [7]</p>
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<p>D</p> <p>DHSC0002321... [7] 61/19 74/16 76/19 77/7 80/9 81/11 110/7</p> <p>DHSC0002323 [1] 124/10</p> <p>DHSC0002327 [6] 74/4 84/9 90/1 93/25 94/24 133/20</p> <p>DHSC0002337 [1] 185/1</p> <p>DHSC0002482 [1] 144/16</p> <p>DHSC0006401 [1] 101/25</p> <p>DHSS [10] 4/2 26/13 31/23 71/17 72/15 73/6 95/9 151/16 159/21 162/12</p> <p>diagnosed [2] 34/25 40/3</p> <p>diagnosis [4] 34/20 37/4 37/5 63/4</p> <p>dialogue [2] 48/9 88/12</p> <p>Diana [1] 43/16</p> <p>Diana Walford [1] 43/16</p> <p>diary [8] 24/23 24/24 25/1 25/5 45/13 47/25 99/22 99/24</p> <p>did [56] 1/17 3/24 5/16 6/2 6/5 6/9 8/4 10/13 10/21 11/17 11/20 12/5 12/22 16/17 18/23 23/1 24/10 31/2 32/1 32/12 32/14 40/6 40/16 40/17 44/6 45/25 46/1 46/7 47/18 48/13 55/13 60/21 65/18 70/21 75/5 91/18 93/2 101/9 114/4 119/4 124/15 124/19 132/18 136/20 148/17 148/17 160/6 164/14 170/13 176/2 176/12 183/9 183/17 184/25 188/2 193/3</p> <p>didn't [56] 6/1 6/6 8/6 23/5 23/14 23/15 23/16 25/9 32/13 46/2 62/22 64/17 71/1 72/2 82/14 90/12 90/17 91/23 92/13 92/25 93/5 109/9 115/13 117/16 121/14 121/16 130/9 137/10 137/16 147/13 154/12 156/3 156/6 157/5 160/13 160/20 165/9 165/10</p>	<p>165/11 165/14 165/15 165/16 171/2 174/16 176/6 177/18 177/19 178/8 178/10 179/10 180/4 180/7 180/11 183/14 192/9 192/13</p> <p>die [1] 63/3</p> <p>died [2] 123/7 123/12</p> <p>differences [2] 125/20 126/4</p> <p>different [26] 1/20 8/20 13/25 21/2 21/13 22/7 31/3 69/20 79/5 94/21 97/5 98/5 98/5 101/20 104/18 108/12 112/9 112/16 113/13 144/2 167/17 171/4 182/1 183/10 183/13 192/5</p> <p>differently [1] 174/5</p> <p>differing [2] 88/17 88/22</p> <p>difficult [8] 20/4 23/13 46/5 84/5 86/25 104/17 154/22 158/2</p> <p>difficulties [1] 171/23</p> <p>difficulty [1] 70/5</p> <p>dig [2] 20/8 20/11</p> <p>digest [2] 8/8 30/1</p> <p>diligent [1] 28/18</p> <p>direct [4] 12/22 14/16 157/24 159/21</p> <p>directed [3] 21/21 113/15 121/20</p> <p>direction [3] 24/14 26/20 160/21</p> <p>directive [1] 165/19</p> <p>directly [6] 10/23 11/17 67/25 110/9 111/23 165/12</p> <p>director [3] 61/23 72/24 148/19</p> <p>directors [35] 37/23 38/2 48/22 50/5 52/12 52/21 54/4 54/7 66/2 68/9 72/19 80/1 80/4 87/25 88/18 88/24 89/8 89/14 94/16 95/4 95/10 98/2 99/8 101/1 101/4 102/6 103/22 107/1 108/21 109/3 129/17 138/18 141/15 172/6 172/7</p> <p>directors' [6] 88/19 89/16 91/4 95/19 100/17 102/23</p> <p>disabilities [1] 14/25</p> <p>disadvantage [1] 82/24</p> <p>disadvantages [3] 86/24 87/16 88/5</p> <p>disagree [3] 94/19</p>	<p>96/19 147/25</p> <p>disagreed [1] 172/22</p> <p>disappointing [1] 121/4</p> <p>disclosed [1] 148/7</p> <p>discourage [4] 50/9 65/20 69/22 119/2</p> <p>discouraged [1] 52/16</p> <p>discover [3] 27/25 114/4 114/5</p> <p>discovered [1] 28/2</p> <p>discovery [1] 44/25</p> <p>discretion [6] 89/10 89/16 91/4 95/4 95/20 102/23</p> <p>discrimination [2] 61/11 71/21</p> <p>discriminatory [1] 53/24</p> <p>discuss [4] 39/17 45/12 79/8 187/25</p> <p>discussed [10] 36/9 39/14 85/24 108/15 131/11 180/10 181/13 187/22 188/7 190/8</p> <p>discussing [1] 109/1</p> <p>discussion [15] 21/11 62/5 67/21 68/2 73/8 76/6 76/11 76/12 99/6 99/18 103/19 129/13 149/7 187/4 189/17</p> <p>discussions [5] 12/15 72/3 82/19 91/9 103/16</p> <p>disease [23] 34/12 34/19 35/10 35/11 36/23 37/17 51/19 51/22 56/24 58/21 59/21 60/4 60/5 60/16 102/14 118/7 118/9 121/11 126/1 144/25 168/15 170/10 185/18</p> <p>diseases [1] 112/13</p> <p>dismissed [1] 88/14</p> <p>disorders [1] 48/20</p> <p>disseminate [1] 54/9</p> <p>dissuaded [1] 118/20</p> <p>distance [2] 42/3 93/23</p> <p>distribute [3] 95/4 101/11 116/24</p> <p>distributed [19] 50/14 52/23 55/5 75/5 76/23 80/23 80/24 83/18 106/11 108/16 109/17 117/21 119/8 122/15 143/13 143/23 145/23 146/21 149/11</p> <p>distributing [4] 79/6 106/17 111/7 131/23</p> <p>distribution [45] 53/7</p>	<p>54/25 56/9 63/14 74/14 75/4 81/4 82/17 84/15 85/11 85/21 85/23 86/11 87/17 87/24 88/8 89/12 90/22 90/25 94/5 94/17 95/21 99/5 99/15 101/7 102/21 103/5 108/22 109/16 116/16 117/1 117/13 118/24 119/21 120/1 120/13 120/17 120/18 123/24 125/7 134/14 140/7 144/1 144/8 146/17</p> <p>distribution's [1] 99/7</p> <p>District [1] 25/15</p> <p>division [13] 18/24 65/9 80/11 84/13 84/14 124/9 125/18 131/20 139/10 139/20 139/21 139/23 140/25</p> <p>divisions [4] 38/22 55/20 65/10 141/4</p> <p>do [84] 6/10 13/13 23/6 23/22 24/14 27/15 28/3 28/10 28/19 28/20 29/24 31/18 32/16 32/17 40/11 40/11 44/15 46/2 48/14 48/25 49/9 65/10 67/12 67/16 68/6 70/17 72/4 73/13 75/8 76/6 76/10 76/12 76/25 78/1 80/1 82/7 82/8 83/3 91/2 91/5 91/21 94/11 97/2 97/23 98/6 100/1 100/2 100/6 101/2 104/9 108/4 119/5 135/17 136/9 136/13 142/18 145/1 155/2 156/3 157/3 157/23 159/23 160/8 160/23 164/20 165/17 165/17 167/15 169/12 170/4 170/6 170/9 173/7 174/2 176/23 179/20 180/1 180/21 188/6 189/8 191/11 192/25 193/22 194/2</p> <p>do' [1] 102/19</p> <p>Docs [1] 97/23</p> <p>doctor [4] 130/8 154/15 168/2 176/18</p> <p>doctors [7] 12/14 54/9 79/8 148/9 148/14 154/12 170/1</p> <p>document [19] 41/7 49/23 61/18 71/13 84/8 106/4 108/5 124/14 126/12 136/18</p>	<p>138/1 142/15 147/19 168/8 170/16 171/2 183/1 183/1 186/9</p> <p>documentation [6] 7/8 8/10 8/12 64/13 107/19 177/23</p> <p>documented [1] 175/5</p> <p>documents [21] 26/24 27/17 42/4 49/18 62/3 62/14 65/7 68/12 73/19 81/8 96/8 98/17 103/11 106/24 107/7 107/23 129/6 136/23 151/18 185/8 190/6</p> <p>does [22] 2/25 7/20 36/19 51/8 74/21 77/12 80/18 81/10 83/19 83/22 91/15 94/13 95/8 106/15 109/13 111/13 136/9 152/18 153/8 169/21 170/3 182/3</p> <p>doesn't [7] 61/2 74/20 96/2 104/5 114/15 124/22 141/17</p> <p>doing [10] 20/7 46/24 65/19 78/21 99/23 101/5 107/2 107/20 137/22 179/6</p> <p>domestic [2] 69/11 88/7</p> <p>don't [115] 3/4 5/16 7/19 13/16 23/18 23/18 23/23 24/15 26/10 27/9 27/9 28/7 28/7 29/23 31/24 32/10 32/12 32/16 32/22 40/9 41/23 42/5 42/9 43/7 48/6 48/7 49/3 49/7 49/10 51/6 65/11 65/12 67/7 67/11 68/11 68/13 70/24 71/25 72/6 72/24 73/15 73/17 74/1 76/12 82/11 82/11 82/12 84/3 91/25 96/2 96/9 99/24 100/1 100/21 104/15 104/19 105/13 106/20 111/12 111/13 111/22 116/21 120/11 121/3 125/13 125/14 126/24 128/5 128/7 135/18 137/2 142/14 144/25 147/25 149/8 149/12 160/15 160/23 161/3 161/4 161/18 162/11 162/23 163/14 163/21 164/22 165/16 165/23 167/5 167/6 167/12 169/10 169/10 169/14</p>	<p>170/15 172/22 174/8 177/2 177/22 179/15 183/16 183/24 183/25 184/1 184/9 185/23 188/5 188/8 189/11 190/8 190/13 192/7 193/6 193/8 193/10</p> <p>Donald [1] 10/22</p> <p>donate [7] 54/1 59/24 117/9 144/5 148/5 148/17 149/5</p> <p>donated [1] 168/23</p> <p>donating [7] 52/16 53/23 78/22 148/1 148/24 150/22 166/10</p> <p>donating' [1] 53/17</p> <p>donation [12] 50/12 54/12 56/24 78/18 79/2 86/13 87/2 87/5 87/11 87/12 102/14 114/6</p> <p>donations [5] 35/22 69/23 70/3 118/17 138/13</p> <p>done [18] 40/13 40/14 55/8 64/15 66/4 67/23 77/1 77/3 77/3 94/12 94/13 113/19 123/15 125/18 142/10 154/13 155/22 165/9</p> <p>donor [24] 49/11 49/15 49/15 78/14 78/15 78/16 78/18 86/1 86/3 86/23 87/4 87/10 117/2 117/25 118/16 123/22 127/22 129/2 130/3 138/12 143/24 144/11 148/25 183/7</p> <p>donors [81] 35/16 37/18 37/24 51/12 51/24 52/13 52/17 53/15 53/19 53/23 58/20 59/19 59/19 59/23 60/4 60/9 60/12 60/18 62/25 64/7 66/11 66/19 69/22 74/15 75/10 75/17 78/1 78/24 79/4 80/3 86/7 86/12 86/25 87/5 87/7 90/24 102/4 103/12 106/1 108/17 108/19 111/1 111/3 116/22 117/15 117/19 117/22 117/24 118/1 118/11 118/19 119/2 119/5 119/6 119/20 120/11 123/17 125/25 126/6 126/7 127/23 129/19 131/7 131/16 131/24 133/11 135/13 141/13 142/22 143/14</p>
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<p>D</p> <p>donors... [11] 145/24 146/4 148/12 148/13 150/20 152/5 152/13 153/8 154/7 166/8 166/10</p> <p>donors' [10] 38/2 104/12 115/11 116/13 134/5 134/12 139/8 143/9 143/12 145/22</p> <p>double [1] 105/16</p> <p>double-check [1] 105/16</p> <p>doubt [10] 10/2 21/5 39/18 42/20 51/6 64/14 73/20 98/15 133/1 140/17</p> <p>doubtful [2] 99/20 113/4</p> <p>down [32] 3/15 3/19 15/19 17/10 20/8 20/11 23/8 25/23 29/14 35/9 55/17 62/9 63/11 84/18 85/20 88/15 100/3 100/5 101/3 103/14 105/16 124/17 124/18 126/25 127/11 127/21 134/7 138/1 148/20 153/9 157/12 170/22</p> <p>dozen [1] 13/25</p> <p>Dr [86] 8/13 9/2 11/3 11/8 11/15 11/17 11/20 12/19 33/4 33/10 36/5 39/13 41/13 41/15 41/22 41/23 43/6 48/17 55/19 56/6 56/11 61/21 61/25 62/3 62/5 62/6 63/16 65/6 65/7 65/9 72/10 72/10 72/10 72/11 72/21 72/23 73/9 74/13 74/13 74/18 75/12 76/18 76/20 77/21 78/12 79/12 80/14 81/12 81/24 83/5 83/11 103/2 103/9 108/9 108/12 109/2 109/11 122/25 128/19 128/19 129/10 129/10 131/3 133/6 134/17 139/4 141/10 146/14 148/19 160/4 168/1 168/18 168/21 169/16 169/24 170/4 170/8 171/1 171/3 171/8 180/18 180/23 181/8 183/2 186/19 187/8</p> <p>Dr Abrams [3] 128/19 129/10 131/3</p>	<p>Dr Abrams' [3] 133/6 134/17 139/4</p> <p>Dr Bell [2] 72/10 72/10</p> <p>Dr Cash [1] 73/9</p> <p>Dr Field [1] 168/18</p> <p>Dr Galbraith's [3] 168/21 170/8 171/8</p> <p>Dr Gunson [12] 11/17 11/20 48/17 61/21 62/6 63/16 72/21 74/13 75/12 83/5 109/2 160/4</p> <p>Dr Harold Gunson [1] 11/15</p> <p>Dr Harris [1] 129/10</p> <p>Dr McClelland [1] 72/23</p> <p>Dr Oliver [13] 61/25 62/5 65/6 65/9 74/13 74/18 76/20 77/21 78/12 79/12 80/14 81/12 81/24</p> <p>Dr Oliver's [1] 76/18</p> <p>Dr Owen [2] 186/19 187/8</p> <p>Dr Patricia [1] 148/19</p> <p>Dr Scott [1] 72/10</p> <p>Dr Smithies [5] 109/11 122/25 128/19 141/10 146/14</p> <p>Dr Spence Galbraith [2] 168/1 169/24</p> <p>Dr Walford [27] 8/13 9/2 11/3 11/8 12/19 33/4 33/10 36/5 39/13 41/13 41/15 41/22 41/23 43/6 56/6 62/3 65/7 72/11 83/11 103/9 108/12 169/16 171/3 180/18 180/23 181/8 183/2</p> <p>Dr Walford's [5] 56/11 103/2 108/9 170/4 171/1</p> <p>Dr Walford's explained [1] 55/19</p> <p>draft [27] 50/6 52/25 53/8 53/13 55/5 57/13 58/13 59/4 71/10 71/11 72/21 72/22 74/7 85/5 109/2 109/5 122/23 125/8 126/14 131/14 141/7 141/12 143/16 144/20 145/12 191/24 192/8</p> <p>drafted [5] 66/7 66/14 95/11 124/25 183/1</p> <p>drafting [2] 83/25 192/2</p> <p>drafts [1] 192/5</p> <p>draw [3] 54/10 138/21</p>	<p>152/16</p> <p>drawing [2] 160/25 170/25</p> <p>drawn [3] 169/7 182/7 183/22</p> <p>drug [5] 35/15 35/17 38/18 146/1 191/6</p> <p>drugs [1] 146/2</p> <p>dry [1] 70/3</p> <p>Dudley [1] 66/25</p> <p>Dudley's [1] 40/20</p> <p>due [8] 6/17 21/6 53/3 69/3 73/21 88/25 146/9 184/18</p> <p>dumping [1] 188/23</p> <p>during [8] 14/16 79/2 87/11 89/14 95/19 103/17 151/17 162/11</p> <p>dying [1] 176/18</p>	<p>E</p> <p>each [9] 10/1 12/25 23/11 48/8 70/5 96/19 96/22 101/1 144/11</p> <p>earlier [23] 11/8 33/4 33/20 42/24 43/12 65/7 69/10 74/7 77/5 81/8 82/19 98/9 99/10 99/12 101/5 103/10 103/21 119/14 135/17 136/11 137/14 139/4 163/25</p> <p>earliest [1] 61/7</p> <p>early [11] 32/23 34/18 40/7 42/14 43/5 44/25 54/19 89/19 104/14 106/2 162/10</p> <p>easier [1] 148/4</p> <p>easily [1] 163/14</p> <p>easy [1] 98/8</p> <p>education [4] 112/10 113/1 113/22 119/16</p> <p>Edwards [2] 100/19 100/21</p> <p>EEC [1] 165/20</p> <p>effect [3] 117/2 134/14 164/1</p> <p>effective [4] 86/11 89/11 119/25 141/13</p> <p>effectively [10] 4/24 61/15 72/11 96/20 125/16 139/18 162/1 164/13 178/4 179/23 171/14 171/17 21/8 21/20 22/13 26/13 28/2 42/6 51/18 60/5 78/15 79/18 116/9 130/7 138/2 141/17 156/7 163/5 170/10</p> <p>elaborate [1] 44/14</p> <p>elapse [1] 40/1</p>	<p>elapsed [1] 115/15</p> <p>elected [1] 30/22</p> <p>Election [1] 184/19</p> <p>elective [1] 181/2</p> <p>element [3] 7/18 77/14 145/3</p> <p>elements [6] 8/20 17/23 69/16 161/2 165/24 173/18</p> <p>eliminate [1] 118/17</p> <p>eliminating [1] 182/5</p> <p>else [4] 43/15 44/10 57/25 81/23</p> <p>elsewhere [1] 28/20</p> <p>embarrass [1] 91/15</p> <p>embarrassing [2] 78/16 78/20</p> <p>embarrassment [6] 78/23 79/10 86/14 87/6 87/13 90/23</p> <p>Embryology [1] 16/9</p> <p>emerge [1] 36/2</p> <p>emerged [4] 16/18 16/19 17/19 74/4</p> <p>emerges [2] 19/13 35/11</p> <p>emphasise [7] 66/8 66/11 66/17 67/2 70/19 71/5 134/10</p> <p>emphasising [1] 94/8</p> <p>empt [1] 54/5</p> <p>enabled [1] 48/1</p> <p>encompassed [1] 3/24</p> <p>encounters [1] 11/25</p> <p>encourage [2] 70/15 127/23</p> <p>encouraged [2] 29/22 160/21</p> <p>encouragement [1] 104/11</p> <p>end [10] 47/12 68/8 74/4 82/21 94/13 97/10 146/10 146/13 148/15 192/25</p> <p>endeavouring [1] 38/23</p> <p>ended [1] 4/21</p> <p>endorse [1] 125/3</p> <p>endorsement [1] 130/2</p> <p>engaged [1] 50/23</p> <p>England [3] 32/5 32/20 116/17</p> <p>English [1] 72/18</p> <p>enormous [5] 6/12 6/14 8/17 13/23 14/6</p> <p>enough [1] 40/8</p> <p>enquiries [1] 24/4</p> <p>ensue [2] 64/6 69/13</p> <p>ensure [23] 7/8 10/9 21/4 24/12 27/7 32/18</p>	<p>38/23 46/20 54/14 55/12 75/8 79/18 86/25 90/14 118/19 120/10 131/24 139/25 140/5 143/23 145/23 151/18 152/9</p> <p>ensuring [1] 136/22</p> <p>entering [2] 69/11 88/7</p> <p>entirely [5] 12/11 20/19 60/25 78/5 94/20</p> <p>entitled [2] 129/10 169/4</p> <p>entourage [1] 188/19</p> <p>entry [1] 47/25</p> <p>envisaged [2] 109/23 120/5</p> <p>epithet [1] 136/10</p> <p>Equally [1] 158/9</p> <p>equivalent [3] 3/22 47/15 166/17</p> <p>especially [1] 150/13</p> <p>essential [2] 82/21 144/9</p> <p>essentially [10] 9/3 19/18 34/6 61/14 70/10 90/14 96/17 128/20 166/6 190/19</p> <p>establish [2] 65/15 165/1</p> <p>established [2] 20/22 61/24</p> <p>establishment [1] 39/5</p> <p>Estate [1] 15/5</p> <p>estimated [1] 50/13</p> <p>et [7] 1/20 34/17 97/24 137/1 142/10 154/21 163/20</p> <p>et cetera [6] 1/20 34/17 97/24 137/1 154/21 163/20</p> <p>etc [4] 129/20 151/13 151/24 159/4</p> <p>Europe [14] 53/1 53/2 53/12 53/20 63/8 65/25 149/17 149/22 151/3 152/2 156/22 158/13 161/14 162/1 European [1] 162/8</p> <p>even [10] 28/4 85/14 91/14 95/3 100/4 136/3 137/12 169/25 172/18 173/19</p> <p>evening [1] 26/12</p> <p>event [10] 62/18 78/15 99/19 100/11 111/24 114/16 115/17 125/14 130/23 133/1</p> <p>events [1] 134/24</p> <p>eventual [1] 101/24</p>	<p>eventuate [1] 44/16</p> <p>ever [10] 10/13 11/17 12/22 27/9 49/1 49/9 75/21 167/13 183/22 184/2</p> <p>every [10] 7/18 20/6 46/25 123/22 143/24 164/23 172/2 172/11 192/15 192/17</p> <p>everybody [2] 49/18 193/7</p> <p>everyone [2] 78/20 168/7</p> <p>everyone's [1] 161/5</p> <p>everything [5] 4/2 7/25 30/1 85/18 135/5</p> <p>evidence [24] 2/23 37/7 38/20 40/24 51/16 52/5 52/8 57/21 57/24 57/24 62/15 71/25 103/2 108/18 110/4 160/11 163/3 171/1 181/8 183/4 186/11 188/15 189/3 189/4</p> <p>evident [2] 8/15 88/19</p> <p>exact [1] 183/16</p> <p>exactly [12] 2/1 21/2 21/17 25/24 39/20 64/16 82/3 104/3 114/18 128/4 128/14 179/2</p> <p>examination [1] 52/19</p> <p>examining [1] 150/25</p> <p>example [13] 5/6 8/11 11/5 12/13 14/4 27/4 29/8 30/25 32/20 53/18 78/17 176/24 180/18</p> <p>examples [2] 20/16 173/25</p> <p>except [1] 9/25</p> <p>exception [1] 78/1</p> <p>excessive [1] 101/12</p> <p>exercise [2] 107/20 117/12</p> <p>exhibiting [1] 104/13</p> <p>existed [1] 167/14</p> <p>existing [1] 189/21</p> <p>expect [2] 41/3 162/2</p> <p>expectation [1] 16/15</p> <p>expected [8] 16/13 22/3 86/2 162/12 171/15 172/10 179/16 186/5</p> <p>expenditure [2] 20/18 51/4</p> <p>experience [14] 1/14 1/16 2/2 5/2 5/16 5/24 5/25 6/5 6/8 28/20 30/23 95/7 116/12 137/7</p>
---	---	--	---	--	---	---

E	79/4 92/19 99/7 100/7 107/2 110/9 113/16 129/17 130/13 139/3 145/2 162/5 180/16 factor [36] 35/20 35/21 37/1 38/9 38/13 41/19 42/19 42/21 44/22 46/7 46/14 51/20 51/23 56/20 59/18 59/20 118/14 137/16 138/14 150/12 152/19 154/1 155/6 164/5 165/21 175/19 178/15 178/22 180/4 180/15 180/24 181/19 185/14 186/18 186/24 190/15 factor VIII [30] 35/21 37/1 38/9 38/13 41/19 42/19 42/21 44/22 46/7 46/14 51/20 51/23 56/20 59/18 59/20 118/14 137/16 138/14 152/19 164/5 165/21 175/19 178/15 178/22 180/4 180/15 180/24 181/19 185/14 186/18 factors [2] 164/2 189/19 facts [4] 58/21 179/14 182/20 188/18 factual [4] 31/7 117/4 117/7 144/6 failed [1] 119/1 failing [3] 63/6 148/10 157/6 fair [4] 55/6 133/15 160/11 190/12 fairly [9] 9/25 16/12 22/18 33/5 39/22 79/11 86/19 88/4 109/1 fairness [1] 189/14 fall [1] 117/14 fallout [1] 70/14 familiar [5] 4/14 4/15 6/24 11/23 28/12 familiarise [1] 22/3 family [2] 57/23 81/1 far [26] 16/6 16/15 17/16 34/4 36/25 57/24 62/18 70/23 79/15 85/13 97/21 122/5 135/25 136/12 156/1 157/11 160/6 161/5 161/7 173/23 176/17 178/13 182/23 187/17 188/1 192/10 fast [1] 7/5 favour [2] 129/18 129/20	favours [2] 90/22 113/14 FDA [4] 38/16 40/14 40/17 191/9 FDA's [1] 188/23 feared [2] 97/23 117/17 February [6] 108/8 109/25 145/13 146/15 146/19 146/22 February 1984 [2] 109/25 146/15 February 1985 [1] 146/22 fed [1] 48/12 feed [1] 89/13 feed-back [1] 89/13 feeding [1] 96/25 feel [2] 79/7 138/19 feeling [1] 137/6 feels [4] 78/19 90/23 113/20 153/5 fell [4] 12/7 16/3 17/21 29/2 fellow [3] 12/25 45/11 87/6 felt [12] 5/2 6/4 46/4 54/16 64/16 65/18 68/2 87/6 103/9 139/17 141/8 160/9 Fertilisation [1] 16/9 fever [1] 34/16 few [16] 29/24 31/25 41/3 57/10 59/6 66/9 66/18 87/18 91/15 101/22 106/4 117/25 128/16 130/3 130/13 156/4 field [7] 6/9 11/2 160/20 162/24 168/18 171/22 176/22 fields [2] 6/20 11/13 figure [3] 59/1 73/9 183/13 figures [2] 35/7 183/16 filled [2] 4/7 4/8 final [5] 53/9 101/17 139/22 141/10 192/8 finally [4] 78/25 145/1 145/2 146/21 Financial [1] 188/4 find [4] 49/20 91/13 126/25 170/6 fine [2] 57/11 58/1 finely [1] 95/5 finished [1] 192/6 Finsberg [1] 184/14 firm [2] 101/11 165/8 firmly [1] 187/16 first [52] 2/6 20/10 22/7 29/7 30/25 33/20	34/11 44/1 62/4 67/4 73/4 81/13 81/23 91/17 95/15 96/7 98/17 101/20 105/25 109/8 109/12 110/3 116/19 120/3 120/16 120/22 123/5 125/2 125/3 125/8 126/11 126/12 128/19 129/15 140/13 145/18 147/22 153/15 153/16 156/18 158/16 161/15 162/8 163/16 168/19 171/6 174/21 185/17 186/17 187/13 187/24 190/24 firsthand [1] 25/20 fit [2] 136/10 167/8 fits [1] 37/3 fitted [1] 29/11 five [2] 1/20 174/24 flag [4] 52/20 56/3 56/8 61/10 Fleming [1] 26/11 flight [1] 100/4 floating [1] 13/24 floor [1] 26/13 flow [1] 25/3 flying [1] 2/3 folder [3] 29/13 30/1 41/4 follow [3] 42/3 82/15 94/17 followed [1] 151/20 following [11] 62/8 76/20 84/25 96/12 96/13 96/22 98/25 164/20 170/23 171/1 194/7 follows [1] 161/12 Food [2] 38/18 191/6 foreign [2] 28/23 175/19 forgotten [1] 179/1 form [5] 18/22 141/23 171/4 192/6 192/8 forming [1] 77/1 forms [1] 179/6 formulated [1] 60/7 forthcoming [1] 140/3 Fortunately [1] 118/11 fortune [1] 136/24 forward [10] 8/24 20/1 75/13 100/13 121/1 127/24 133/14 160/20 161/12 162/15 found [4] 27/4 27/5 59/2 186/8 four [7] 1/20 25/2 29/10 29/12 63/11 169/8 175/13 four lines [1] 63/11	Fowler [11] 3/11 3/11 3/13 22/24 23/3 47/18 47/19 73/11 73/12 73/22 73/25 Fowler's [1] 73/4 frankly [3] 22/11 22/19 136/14 frequently [1] 183/20 friendly [1] 70/1 friends [1] 57/23 fringe [1] 61/10 fringe-like-gay [1] 61/10 froing [1] 147/6 from [218] front [2] 8/6 9/24 frustrating [1] 147/8 frustration [1] 145/4 full [4] 18/20 54/7 66/15 186/23 full-time [1] 18/20 fuller [1] 114/10 fully [7] 7/14 36/4 42/17 54/15 82/20 157/22 174/6 function [1] 7/1 fund [2] 52/24 53/6 fundamental [1] 163/7 funded [1] 55/5 funding [4] 50/19 51/1 54/23 56/7 Funds [1] 50/12 furor [1] 81/1 further [30] 12/19 22/15 37/8 39/15 40/9 40/12 56/17 60/18 73/7 90/17 90/18 106/10 108/2 113/14 115/14 124/17 124/18 126/19 127/9 128/9 134/7 141/5 144/12 147/19 148/20 153/9 157/3 157/12 165/4 175/10 fuss [1] 98/4 future [1] 133/14	16/20 18/19 22/1 24/7 31/8 33/18 37/25 42/14 78/3 92/4 93/4 93/13 130/2 141/6 153/19 162/18 173/13 177/3 180/3 184/18 generalisation [1] 17/4 generality [2] 166/25 167/5 generally [21] 4/14 17/22 23/8 23/25 33/23 33/23 47/7 92/9 92/14 92/22 93/21 128/13 137/10 159/12 164/21 167/1 167/13 170/9 170/12 173/10 191/22 generate [1] 69/2 generated [2] 14/6 30/15 generating [1] 136/23 generis [1] 32/7 Geoffrey [1] 184/14 Geoffrey Finsberg [1] 184/14 geographical [1] 32/2 get [32] 4/25 15/14 19/19 20/2 25/4 26/9 33/19 46/7 48/16 49/17 54/17 64/18 78/25 84/3 84/6 91/21 91/23 100/11 103/4 115/13 117/11 120/11 124/6 132/17 132/19 136/24 137/4 137/4 137/16 142/19 172/1 180/11 gets [1] 129/21 getting [8] 7/16 24/22 84/21 114/6 125/9 142/4 143/4 189/10 Ghagan [3] 98/20 98/21 98/21 Gillick [1] 81/1 give [18] 24/15 29/17 57/25 60/4 60/10 60/13 70/16 75/18 78/19 80/23 116/23 117/3 123/19 125/25 126/7 126/8 131/16 146/4 given [31] 5/14 32/25 35/7 40/18 42/3 42/19 43/10 47/7 47/7 57/24 59/1 59/13 60/17 67/17 69/24 71/6 89/1 89/10 103/17 123/22 128/21 138/14 142/17 164/21 167/13 170/7 176/21 177/20 180/25 181/8 185/24
----------	--	---	---	--	--

<p>G</p> <p>gives [1] 133/24</p> <p>giving [14] 42/5 57/21 65/21 66/12 79/19 80/21 81/16 82/1 82/6 102/18 111/4 118/20 119/3 163/17</p> <p>gleaned [1] 154/16</p> <p>Glenarthur [51] 1/4 1/4 1/6 1/8 13/4 20/15 38/20 41/20 56/11 57/7 58/10 61/20 63/16 65/5 66/24 67/2 67/4 75/3 77/11 77/13 85/1 96/5 96/18 99/17 112/11 113/11 113/24 115/2 121/8 126/17 128/7 132/7 138/4 140/11 144/19 147/2 147/25 149/10 153/3 153/12 156/2 157/8 160/12 161/4 167/24 168/12 169/7 175/22 184/11 188/19 193/14</p> <p>Glenarthur's [5] 76/24 113/16 127/3 185/3 193/23</p> <p>go [95] 7/22 13/6 13/14 14/19 16/7 20/25 23/5 24/10 25/5 25/24 26/8 26/8 26/11 27/2 29/20 29/25 34/9 36/21 42/12 63/10 63/24 64/23 67/15 71/8 72/7 74/3 74/5 74/6 75/25 77/5 77/19 80/19 81/11 84/18 84/24 86/5 87/21 94/6 95/11 99/9 101/11 101/18 109/19 110/16 110/18 110/21 110/22 110/24 111/14 112/5 112/6 115/7 116/4 116/10 122/3 122/24 123/14 124/18 124/22 125/20 126/11 127/6 131/1 132/5 132/22 133/20 134/7 138/11 138/25 141/21 141/23 143/19 145/17 146/8 147/8 149/21 150/5 153/20 153/22 156/23 158/15 158/25 159/19 163/24 166/8 169/2 169/3 170/20 170/21 171/6 178/19 178/20 182/25 185/1 188/9</p> <p>go-ahead [1] 99/9</p> <p>goes [11] 20/19 43/11 73/8 78/12 89/18 91/5 124/1 140/8 140/19</p>	<p>191/13 192/4</p> <p>going [54] 6/16 18/21 29/1 44/24 46/7 49/14 57/13 58/11 63/10 64/17 74/6 75/14 83/18 83/20 85/16 89/20 90/11 90/12 93/1 97/8 100/7 100/23 101/11 101/18 103/23 107/4 107/10 109/19 109/21 110/22 120/19 122/22 125/20 126/5 132/2 135/2 138/22 142/24 144/13 146/25 149/15 150/7 154/21 156/12 163/13 167/16 168/9 169/3 169/18 172/19 173/2 178/19 182/25 187/1</p> <p>gone [6] 10/23 27/22 95/2 103/14 122/20 174/11</p> <p>good [11] 1/3 26/6 26/7 46/1 57/17 91/21 104/10 104/16 105/15 137/11 179/18</p> <p>got [32] 13/21 14/13 20/10 22/19 28/1 28/5 47/4 47/23 65/1 67/4 72/13 75/21 79/19 83/7 85/21 85/25 97/6 98/15 99/25 100/4 100/24 101/17 104/5 104/6 111/9 140/12 141/20 145/1 146/20 158/19 177/5 192/21</p> <p>Government [11] 1/15 1/16 6/25 26/3 48/10 62/25 63/6 107/5 107/16 137/23 164/12</p> <p>Government's [1] 133/12</p> <p>governments [2] 150/8 155/10</p> <p>grateful [6] 107/15 108/24 125/8 139/19 140/5 143/15</p> <p>grave [1] 178/2</p> <p>great [5] 103/25 136/21 171/20 177/17 192/16</p> <p>greatest [4] 35/19 38/7 64/6 118/8</p> <p>greatly [1] 181/20</p> <p>ground [1] 6/3</p> <p>grounds [1] 83/1</p> <p>group [14] 11/12 50/10 52/14 78/24 79/4 87/10 123/21 129/2 129/7 129/12 129/13 130/11 131/11 145/15</p>	<p>groups [15] 53/16 53/24 54/14 117/8 126/1 126/4 131/17 144/4 146/3 146/4 150/21 151/24 152/11 161/13 172/8</p> <p>growing [3] 18/19 92/24 128/13</p> <p>Guardian [2] 135/11 147/23</p> <p>guidance [3] 65/23 159/4 160/10</p> <p>guidelines [2] 148/11 149/5</p> <p>Gunson [13] 11/15 11/17 11/20 48/17 61/21 62/6 63/16 72/21 74/13 75/12 83/5 109/2 160/4</p>	<p>165/11 166/1 166/1 168/5 168/5 170/1 170/15 175/2 176/7 177/5 180/3 180/19 180/21 181/25 184/5 184/12 184/14 184/14 184/15 184/18 185/14 187/24 190/6 192/13 192/17 192/25 193/17 193/19 193/25</p> <p>hadn't [3] 40/8 43/9 146/20</p> <p>haemophilia [30] 45/19 48/22 51/21 59/14 118/12 138/18 158/10 159/25 162/4 164/24 172/7 179/20 184/5 184/13 184/23 185/4 186/4 186/12 186/13 187/3 187/15 188/16 189/24 190/21 192/23 193/1 193/2 193/3 193/8 193/9</p> <p>haemophilic [14] 36/25 52/2 118/8 123/11 126/19 166/20 176/4 176/12 176/13 179/23 179/24 185/13 185/17 186/21</p> <p>haemophiliacs [31] 35/18 35/19 36/18 38/6 38/8 42/18 44/23 46/7 46/18 51/21 59/16 65/23 67/3 70/20 137/15 138/14 138/19 150/17 152/11 155/8 158/2 165/5 168/20 175/3 175/18 176/8 176/17 177/17 178/22 178/25 181/20</p> <p>haemorrhage [2] 175/6 176/25</p> <p>haemotherapy [2] 150/18 155/15</p> <p>Haiti [1] 141/11</p> <p>half [4] 13/25 21/15 85/20 167/20</p> <p>halfway [3] 81/13 127/11 170/22</p> <p>hand [10] 10/4 46/3 46/8 63/2 78/14 99/24 147/11 147/21 148/3 151/9</p> <p>handed [1] 79/19</p> <p>handicap [2] 13/20 14/23</p> <p>handle [4] 25/5 70/13 95/9 95/10</p> <p>handled [9] 21/5 65/17 68/21 73/16 89/19 113/2 159/12 161/2 166/2</p>	<p>handling [4] 1/18 68/25 82/17 85/17</p> <p>hands [1] 4/25</p> <p>handwriting [1] 151/9</p> <p>handwritten [4] 93/8 116/5 121/17 141/22</p> <p>happen [13] 48/13 70/8 93/1 94/13 126/18 165/9 165/10 165/11 165/14 165/15 165/16 174/16 192/13</p> <p>happened [13] 28/18 48/15 68/14 70/2 105/4 107/8 114/16 114/21 115/4 173/23 174/8 182/23 190/11</p> <p>happening [3] 59/12 120/8 146/8</p> <p>happens [1] 97/10</p> <p>happy [3] 46/21 132/11 132/13</p> <p>hard [1] 13/5</p> <p>hardly [1] 78/23</p> <p>Harold [1] 11/15</p> <p>Harris [3] 129/10 132/23 142/14</p> <p>has [77] 8/11 18/14 18/15 27/17 48/1 48/20 50/3 52/20 57/7 59/4 60/12 61/4 61/5 72/17 81/18 82/9 90/8 94/3 94/3 95/2 97/16 97/21 97/21 99/12 99/14 102/3 102/8 103/4 103/14 107/20 111/5 111/5 111/11 111/23 112/23 112/24 113/11 113/19 114/17 117/14 117/18 117/21 118/16 118/22 119/6 121/8 121/9 122/12 122/16 122/20 123/8 123/20 125/18 126/7 128/22 130/16 130/17 131/19 132/7 135/19 139/6 140/6 142/1 142/2 144/3 144/5 145/2 148/22 150/15 153/3 153/12 159/18 162/20 169/1 183/20 190/3 191/9</p> <p>hasn't [4] 103/6 105/12 185/8 186/8</p> <p>have [270]</p> <p>haven't [5] 27/24 97/6 105/15 115/13 191/23</p> <p>having [21] 2/4 7/4 63/12 68/9 68/14 78/18 80/23 111/9 118/1 127/13 128/21 133/4 146/6 164/4 165/22 170/9 172/21</p>	<p>175/14 176/23 183/24 193/1</p> <p>hazards [2] 150/18 155/15</p> <p>he [61] 3/24 5/10 5/23 5/25 11/21 22/2 25/5 47/21 47/22 62/6 62/16 63/9 63/11 66/7 66/8 75/3 77/11 77/12 78/19 78/21 78/22 78/24 80/14 80/15 80/18 81/4 81/5 82/12 82/15 87/12 90/5 90/8 90/22 95/1 96/3 98/22 98/23 98/23 99/12 99/14 113/13 113/14 113/20 114/8 114/10 128/22 128/23 129/3 140/17 147/12 147/13 147/14 148/25 149/1 149/4 149/5 153/5 154/17 169/3 189/5 189/11</p> <p>he's [2] 71/18 80/11</p> <p>head [3] 43/14 180/7 189/7</p> <p>heading [20] 24/13 37/13 37/22 38/6 39/7 51/14 52/25 53/21 58/17 85/21 110/10 110/25 117/4 118/3 118/23 119/12 123/15 134/9 156/20 158/17</p> <p>health [84] 1/10 1/21 2/9 3/10 3/16 4/1 4/15 5/7 5/9 5/11 6/8 8/21 8/21 9/4 13/19 14/1 14/9 14/14 14/21 14/21 15/14 16/2 17/14 17/15 17/22 17/23 18/24 25/14 25/15 27/16 31/16 31/23 32/8 32/15 32/24 36/24 37/25 47/15 54/21 55/11 55/21 62/2 65/3 65/8 67/10 72/12 73/12 95/22 102/2 102/8 104/12 106/13 112/10 113/1 119/16 133/5 135/5 141/4 142/19 142/25 143/7 143/16 143/17 143/20 143/22 145/22 147/4 148/10 148/16 149/3 150/18 155/15 164/3 166/24 167/1 167/3 168/2 168/14 168/18 169/23 170/1 170/11 176/8 177/16</p> <p>health and [1] 13/19</p> <p>Healthcare [1] 15/21</p>
--	---	--	---	--	---

H	52/15	how [43] 6/24 22/2 27/22 28/7 43/7 48/10 59/25 65/16 66/9 66/17 70/13 74/14 76/22 77/1 83/18 89/18 95/4 101/11 102/3 108/24 115/10 116/13 121/1 125/22 134/4 134/12 137/5 139/7 147/5 151/4 156/12 161/1 162/15 163/13 164/6 164/7 164/9 166/2 174/3 176/25 177/11 189/11 192/8	I came [3] 49/6 100/4 162/11	99/24 100/21 104/15 111/12 116/21 121/3 126/24 128/5 128/7 135/18 137/2 144/25 147/25 149/8 149/12 160/23 162/11 163/14 163/21 164/22 165/23 167/5 167/6 167/12 169/10 169/10 170/15 174/8 177/22 183/16 183/24 183/25 184/1 184/9 188/5 188/8 190/13 192/7 193/6 193/8 193/10	I met [1] 158/10
hear [2] 18/5 18/5	highlighted [1] 161/9	I can [23] 12/24 15/11 21/2 30/5 70/23 73/21 80/10 82/11 82/12 84/3 89/24 91/25 102/11 111/13 126/24 157/14 163/14 167/5 170/4 173/24 178/13 183/24 192/10	I ended [1] 4/21	I might [3] 12/12 93/6 193/14	
heard [5] 9/2 11/8 48/20 83/11 188/15	highly [3] 120/21 133/13 171/22	I can ... let [1] 105/16	I endorse [1] 125/3	I must [2] 80/17 82/18	
hearing [2] 3/13 13/19	him [5] 6/3 9/23 11/23 65/11 73/20	I can't [22] 11/21 17/18 21/17 25/1 39/16 40/6 88/12 92/23 93/22 103/19 111/16 116/9 133/18 136/6 154/22 162/16 166/21 179/2 180/3 180/20 187/9 189/12	I ever [2] 27/9 184/2	I myself [1] 64/2	
heart [1] 167/2	himself [1] 5/23	I cannot [12] 8/2 8/2 81/14 106/9 108/2 120/24 121/2 136/5 159/15 164/5 165/7 189/17	I explored [1] 180/23	I need [1] 149/8	
heat [2] 39/3 142/8	his [19] 23/4 25/17 62/2 73/13 73/15 76/25 78/21 80/12 85/11 99/12 118/17 134/2 139/11 169/4 169/4 169/5 188/17 188/19 189/10	I certainly [1] 186/7	I felt [3] 6/4 46/4 64/16	I note [1] 57/17	
heat-treated [1] 39/3	hit [1] 167/11	I confirmed [1] 122/11	I filled [1] 4/8	I personally [2] 78/4 159/2	
HEC [1] 112/25	hm [10] 35/5 56/15 74/19 86/4 86/15 104/23 109/7 112/14 133/9 185/21	I could [6] 24/15 30/2 36/7 104/16 179/15 181/23	I first [1] 33/20	I pick [1] 157/16	
held [5] 73/8 91/9 170/19 176/10 178/15	hold [3] 30/12 129/1 187/16	I couldn't [3] 7/15 26/7 145/7	I follow [1] 42/3	I picked [1] 128/6	
helicopter [2] 1/25 2/1	home [17] 2/10 2/20 28/23 31/16 31/23 32/8 62/11 64/9 71/13 71/17 71/23 72/3 72/4 72/12 75/25 79/16 180/25	I covered [1] 4/2	I generally [1] 23/8	I played [1] 67/8	
helicopters [1] 2/3	homes [1] 86/8	I dare [2] 165/11 190/15	I got [3] 13/21 47/4 47/23	I presume [1] 186/7	
help [6] 10/20 22/20 43/4 69/13 71/3 108/6	homosexual [10] 35/13 53/22 53/24 54/8 54/14 64/5 112/19 129/20 146/1 148/13	I detect [1] 172/21	I had [19] 1/16 1/19 6/13 12/10 23/6 25/2 25/10 26/4 26/6 30/1 71/8 76/23 106/2 137/21 162/9 170/15 180/3 181/25 187/24	I probably [3] 25/9 33/19 40/8	
helpful [1] 67/19	homosexuals [15] 36/17 39/7 50/10 50/18 51/11 52/1 52/14 54/11 71/21 88/23 123/21 148/2 148/5 148/16 148/23	I did [14] 6/2 8/4 10/21 11/20 32/12 32/14 40/6 40/16 40/17 44/6 114/4 124/19 170/13 176/2	I have [7] 3/3 8/2 43/15 98/6 100/9 189/23 190/17	I probed [1] 39/18	
helping [1] 27/25	honestly [9] 20/5 27/9 28/19 39/19 77/15 104/19 136/13 165/17 166/21	I didn't [9] 6/1 23/5 32/13 62/22 90/12 178/10 179/10 180/7 183/14	I haven't [3] 27/24 97/6 105/15	I raised [1] 82/22	
helps [1] 97/9	hope [2] 72/13 95/8	I do [14] 27/15 28/20 67/12 67/16 76/12 78/1 100/2 155/2 157/3 159/23 160/8 160/23 165/17 170/6	I recall [5] 65/11 154/11 165/21 169/12 188/1	I rationalised [1] 137/24	
hence [1] 180/6	hopefully [2] 139/22 140/19	I don't [80] 5/16 7/19 23/18 23/18 23/23 24/15 26/10 27/9 28/7 28/7 32/10 32/12 32/22 40/9 41/23 42/9 43/7 48/6 48/7 49/3 49/7 49/10 51/6 65/11 67/7 68/11 68/13 70/24 71/25 72/6 72/24 73/15 73/17 76/12 82/11 82/11 82/12 84/3 91/25	I refer [1] 76/21	I read [3] 80/3 183/12 192/19	
Henry [5] 10/18 10/22 33/7 33/21 39/10	hospital [4] 15/4 25/23 39/8 59/13	I agree [1] 115/20	I remember [5] 13/19 36/5 47/20 179/8 187/23	I realise [1] 13/16	
hepatitis [2] 44/3 44/7	hospitals [2] 14/15 17/8	I agreed [2] 99/4 175/24	I respect [1] 83/6	I really [1] 136/13	
her [6] 36/7 39/17 148/22 169/16 179/11 179/11	hostages [1] 136/23	I am [8] 80/22 83/2 95/3 113/4 122/16 146/25 157/20 179/1	I said [4] 33/20 58/10 83/22 137/14	I recall [5] 65/11 154/11 165/21 169/12 188/1	
here [24] 45/1 46/4 53/5 67/19 69/14 70/21 75/16 76/10 81/24 91/4 97/7 109/11 114/16 118/7 124/10 130/21 134/22 136/18 141/21 145/4 145/17 160/14 188/21 191/12	hour [2] 21/15 167/20	I answered [2] 40/20 67/14	I see [3] 41/25 106/12 132/4	I refer [1] 76/21	
hereditary [1] 2/4	House [30] 1/17 2/6 3/21 3/23 4/8 4/18 4/19 4/24 7/9 12/13 18/14 18/15 23/12 23/14 23/16 25/12 26/2 26/11 26/12 26/14 26/21 29/9 29/25 30/19 31/2 31/3 31/9 45/21 47/16 179/9	I appreciate [5] 62/12 62/21 62/23 71/1 140/1	I should [11] 5/2 29/17 79/21 104/7 107/14 109/1 112/5 139/19 140/5 142/13 143/15	I remember [5] 13/19 36/5 47/20 179/8 187/23	
heterosexual [1] 35/13	hour [2] 21/15 167/20	I arrived [2] 10/15 17/19	I simply [6] 90/12 96/11 97/5 100/6 154/19 179/15	I respect [1] 83/6	
Hewitt [1] 148/19	hierarchy [10] 3/8 3/9 4/4 5/20 9/1 9/4 12/4 12/5 18/11 62/1	I asked [2] 39/20 48/15	I stood [1] 6/3	I said [4] 33/20 58/10 83/22 137/14	
Hewlett [10] 124/12 124/23 126/13 127/8 130/16 131/8 132/7 132/13 139/11 140/15	hierarchies [1] 9/3	I assumed [1] 27/10	I succeeded [1] 2/6	I say [8] 45/5 57/20 70/7 95/13 98/9 110/22 151/3 186/13	
Hewlett-Davies [1] 127/8	hierarchy [10] 3/8 3/9 4/4 5/20 9/1 9/4 12/4 12/5 18/11 62/1	I attach [5] 41/18 56/3 84/12 115/18 124/24	I suggested [1] 76/14	I see [3] 41/25 106/12 132/4	
Hewlett-Davies' [1] 139/11	high [16] 35/4 38/24 53/16 60/12 69/22 78/24 79/4 86/12 87/10 117/8 119/2 120/10 123/19 123/21 144/4 166/10	I became [1] 32/13	I support [1] 121/11	I shall [1] 53/1	
hierarchies [1] 9/3	high-risk [8] 38/24 53/16 69/22 86/12 117/8 119/2 120/10 166/10	I began [1] 84/4	I suppose [4] 4/21 5/9 63/1 93/6	I should [11] 5/2 29/17 79/21 104/7 107/14 109/1 112/5 139/19 140/5 142/13 143/15	
hierarchy [10] 3/8 3/9 4/4 5/20 9/1 9/4 12/4 12/5 18/11 62/1	highest [2] 50/10	I believed [1] 47/11	I suspect [5] 62/17 93/22 134/23 135/1 174/8	I simply [6] 90/12 96/11 97/5 100/6 154/19 179/15	

I	I will [3] 151/3 158/19 188/21	identical [2] 74/7 179/24	incidence [1] 176/24	136/14	insist [1] 98/6
I think... [78] 49/17 49/23 50/24 56/13 58/3 58/12 61/1 61/2 61/18 62/13 63/21 65/8 68/22 72/9 72/10 73/15 74/12 77/13 81/3 83/22 92/4 92/9 93/4 93/11 94/5 97/9 98/15 98/19 99/20 99/24 101/16 102/25 103/8 103/10 104/17 106/25 108/5 111/15 113/3 114/14 114/19 120/17 120/25 124/13 125/7 125/19 126/16 128/6 128/13 129/16 130/14 131/4 132/11 135/16 137/23 139/9 140/13 142/18 144/20 147/9 156/16 161/5 165/16 168/1 171/14 171/16 172/21 173/12 182/9 182/14 183/3 184/8 184/15 184/22 189/6 191/6 193/17 193/22	I wish [1] 172/3	identifiable [1] 45/25	incidents [2] 138/8 138/16	influenced [1] 88/20	insofar [1] 2/15
I won't [4] 33/2 35/7 150/5 181/7	I won't [4] 33/2 35/7 150/5 181/7	identified [10] 14/15 26/23 45/2 46/12 72/20 86/16 86/20 146/19 148/13 161/13	include [3] 1/17 19/21 123/20	inform [4] 138/20 150/16 154/4 154/20	instance [1] 185/17
I worked [1] 23/8	I would [20] 7/25 10/23 14/3 25/25 28/3 29/19 29/25 40/18 40/21 44/21 62/9 108/24 142/8 142/20 158/3 162/8 162/12 171/25 179/10 192/9	identifying [1] 155/3	included [3] 11/13 14/20 175/6	informal [1] 12/15	instances [3] 15/12 27/12 31/25
I would [20] 7/25 10/23 14/3 25/25 28/3 29/19 29/25 40/18 40/21 44/21 62/9 108/24 142/8 142/20 158/3 162/8 162/12 171/25 179/10 192/9	I wouldn't [1] 171/14	if [215]	including [6] 14/14 88/22 93/18 123/6 144/1 157/22	information [86] 8/3 8/17 12/6 12/10 13/23 18/18 20/4 20/10 25/4 28/17 28/22 32/24 33/7 33/8 34/10 37/8 37/19 39/9 40/19 50/3 52/12 53/15 53/19 54/6 54/10 54/20 54/24 56/8 60/18 78/3 79/16 80/11 80/20 84/13 89/13 97/18 97/19 99/13 106/10 106/25 124/9 125/17 131/15 131/19 133/24 138/22 139/10 139/21 139/23 140/25 150/20 152/13 154/7 154/15 155/12 155/13 155/13 155/14 155/25 156/11 157/13 157/25 158/4 158/11 159/6 160/2 160/7 160/17 161/16 162/3 162/20 163/3 164/21 165/1 165/4 166/4 167/1 174/1 174/3 174/10 176/20 176/23 178/4 178/9 182/20 183/25	instead [1] 100/14
I'd [14] 4/23 26/12 33/15 33/17 40/6 45/19 45/20 45/23 47/21 48/17 91/8 96/17 172/3 179/1	I'll [9] 32/1 43/17 45/5 63/14 128/7 145/10 147/17 184/7 192/23	ii [4] 90/8 157/16 157/18 159/6	incorporate [1] 85/2	information [86] 8/3 8/17 12/6 12/10 13/23 18/18 20/4 20/10 25/4 28/17 28/22 32/24 33/7 33/8 34/10 37/8 37/19 39/9 40/19 50/3 52/12 53/15 53/19 54/6 54/10 54/20 54/24 56/8 60/18 78/3 79/16 80/11 80/20 84/13 89/13 97/18 97/19 99/13 106/10 106/25 124/9 125/17 131/15 131/19 133/24 138/22 139/10 139/21 139/23 140/25 150/20 152/13 154/7 154/15 155/12 155/13 155/13 155/14 155/25 156/11 157/13 157/25 158/4 158/11 159/6 160/2 160/7 160/17 161/16 162/3 162/20 163/3 164/21 165/1 165/4 166/4 167/1 174/1 174/3 174/10 176/20 176/23 178/4 178/9 182/20 183/25	instructions [1] 159/4
I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	iii [3] 157/15 157/25 159/7	incorporated [1] 85/5	insufficient [1] 87/1	intention [1] 52/17
I wouldn't [1] 171/14	I'd [14] 4/23 26/12 33/15 33/17 40/6 45/19 45/20 45/23 47/21 48/17 91/8 96/17 172/3 179/1	illness [2] 2/13 59/15	incorporates [1] 141/7	informal [1] 12/15	instruments [1] 151/16
I'd [14] 4/23 26/12 33/15 33/17 40/6 45/19 45/20 45/23 47/21 48/17 91/8 96/17 172/3 179/1	I'll [9] 32/1 43/17 45/5 63/14 128/7 145/10 147/17 184/7 192/23	imagine [2] 79/13 181/11	incorrect [1] 190/17	information [86] 8/3 8/17 12/6 12/10 13/23 18/18 20/4 20/10 25/4 28/17 28/22 32/24 33/7 33/8 34/10 37/8 37/19 39/9 40/19 50/3 52/12 53/15 53/19 54/6 54/10 54/20 54/24 56/8 60/18 78/3 79/16 80/11 80/20 84/13 89/13 97/18 97/19 99/13 106/10 106/25 124/9 125/17 131/15 131/19 133/24 138/22 139/10 139/21 139/23 140/25 150/20 152/13 154/7 154/15 155/12 155/13 155/13 155/14 155/25 156/11 157/13 157/25 158/4 158/11 159/6 160/2 160/7 160/17 161/16 162/3 162/20 163/3 164/21 165/1 165/4 166/4 167/1 174/1 174/3 174/10 176/20 176/23 178/4 178/9 182/20 183/25	insurance [1] 16/11
I'll [9] 32/1 43/17 45/5 63/14 128/7 145/10 147/17 184/7 192/23	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	immediately [4] 87/11 87/25 141/19 147/15	increase [3] 44/11 113/19 118/5	insured [3] 81/17 81/25 191/10	interaction [3] 22/25 170/10 170/15
I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	immune [1] 152/4	increased [2] 113/22 181/1	intended [3] 81/17 81/25 191/10	interactions [1] 190/21
I'll [9] 32/1 43/17 45/5 63/14 128/7 145/10 147/17 184/7 192/23	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	immunohaematology [1] 53/11	incubation [2] 39/25 51/19	intention [1] 52/17	interest [7] 56/21 78/4 84/5 90/20 137/1 151/23 173/10
I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	imperial [3] 176/3 176/11 177/22	incumbent [1] 164/19	interested [2] 12/13 173/8	interests [6] 54/21 55/11 80/2 135/8 151/17 171/23
I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	implement [1] 143/18	indeed [14] 1/24 2/24 28/2 31/15 44/25 67/9 70/7 83/4 89/23 96/14 149/14 163/22 171/11 177/17	internal [4] 65/2 186/12 186/14 189/10	international [3] 151/14 151/16 151/23
I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	implementation [1] 19/18	index [1] 30/2	international [3] 151/14 151/16 151/23	interpreted [1] 53/23
I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20 100/23 101/18 105/15 107/4 107/10 109/19 110/21 114/1 122/22 125/13 125/20 126/5 126/25 127/2 129/5 132/18 132/25 133/7 135/18 136/7 138/22 146/7 149/15 150/7 156/1 156/3 156/12 157/11 164/16 167/16 168/7 168/9 169/2 169/18 170/20 170/24 172/9 173/9 173/14 176/17 176/17 178/19 179/7 182/1 182/25 187/1 187/6 187/9 189/9 189/18 190/2	implications [6] 86/18 86/19 87/19 88/3 89/4 119/7	indicate [2] 83/16 117/13	interrelationship [1] 31/13	interrupted [1] 124/8
I'm [79] 11/20 15/1 21/2 23/25 28/16 29/9 36/9 40/6 40/16 40/17 42/9 49/3 49/6 49/10 49/15 57/13 63/10 68/14 69/17 72/6 74/6 76/14 77/5 77/15 83/7 89/20 100/6 100/20					

<p>I</p> <p>investigating... [1] 26/25</p> <p>invitation [1] 75/18</p> <p>invite [4] 89/24 138/4 155/2 156/12</p> <p>inviting [1] 162/17</p> <p>involve [3] 18/23 47/18 151/16</p> <p>involved [31] 6/20 10/2 10/7 13/21 18/6 18/11 19/15 19/20 22/9 31/20 42/5 45/23 45/23 46/4 50/22 64/22 81/22 83/12 104/5 104/6 104/8 138/19 147/15 155/5 162/13 171/21 172/2 174/14 182/18 183/14 193/8</p> <p>involved in [1] 83/12</p> <p>involvement [6] 21/12 32/10 32/23 83/8 83/17 193/17</p> <p>involving [3] 98/14 139/14 186/3</p> <p>Ireland [3] 31/15 32/6 32/11</p> <p>irritated [1] 81/3</p> <p>is: [1] 153/19</p> <p>is: we [1] 153/19</p> <p>isn't [3] 96/13 103/13 109/23</p> <p>issue [65] 8/1 11/1 17/2 17/7 17/19 20/9 21/14 27/15 39/14 42/19 43/2 44/7 49/11 50/17 50/21 50/24 51/9 51/10 52/7 54/19 56/22 61/6 71/4 74/12 75/15 76/8 76/11 81/8 81/22 83/9 83/10 86/1 88/25 93/7 98/12 103/3 103/17 103/19 111/20 111/25 112/8 113/6 116/12 116/14 116/19 119/15 119/19 122/24 123/23 138/25 142/17 142/21 143/16 148/10 150/24 157/19 159/4 167/6 188/21 188/22 189/17 190/8 190/20 190/25 193/15</p> <p>issued [2] 65/24 111/3</p> <p>issues [38] 6/13 6/17 8/10 9/23 10/2 13/17 14/8 14/16 15/11 16/18 16/19 16/20 16/24 18/6 21/4 22/5 22/11 22/12 22/17</p> <p>23/20 24/10 25/19 26/4 26/24 27/3 33/25 36/13 45/6 53/21 109/11 159/4 159/16 167/13 176/16 181/9 181/12 183/22 191/14</p> <p>issuing [3] 62/23 143/8 149/4</p> <p>it's [102] 4/20 8/15 9/16 13/4 30/8 41/14 42/12 48/9 49/17 51/2 55/23 58/14 60/25 61/19 61/21 61/25 63/21 64/24 68/14 69/13 71/16 72/9 72/9 73/21 74/6 76/18 79/14 80/10 81/21 84/8 84/10 84/18 87/17 88/18 90/2 91/21 97/11 97/12 97/13 97/14 97/14 99/23 100/7 100/15 101/19 101/22 101/25 102/4 102/20 102/25 105/7 105/8 105/9 108/8 108/13 109/16 109/19 110/7 110/7 110/8 110/17 110/22 111/8 111/24 113/8 113/9 113/9 120/21 120/24 121/3 122/4 122/20 123/1 124/12 127/2 127/6 128/4 129/10 129/14 130/9 130/20 132/23 135/10 135/17 135/20 136/8 136/15 146/20 147/20 148/4 153/16 155/3 162/10 168/8 168/11 168/12 168/14 168/17 171/22 175/21 187/24 189/3</p> <p>it's explained [1] 130/9</p> <p>italics [2] 149/24 175/24</p> <p>item [1] 147/22</p> <p>its [18] 45/18 50/9 66/1 84/21 85/10 96/3 106/11 107/12 116/21 117/1 117/8 120/25 154/20 158/10 168/9 170/21 189/7 193/4</p> <p>itself [5] 116/4 152/24 162/3 179/21 186/2</p> <p>ITV [1] 128/21</p> <p>iv [1] 129/15</p> <p>J</p> <p>Janet [1] 124/12</p> <p>Janet Hewlett-Davies [1] 124/12</p>	<p>January [6] 142/12 143/3 143/5 144/17 144/22 145/1</p> <p>Jenkins [1] 193/20</p> <p>job [2] 22/12 24/21</p> <p>john [11] 3/22 4/12 47/17 47/18 47/24 80/17 111/15 111/17 147/10 149/3 184/14</p> <p>John Patten [1] 111/17</p> <p>John Patten's [2] 111/15 147/10</p> <p>joined [3] 3/8 33/5 137/23</p> <p>joint [3] 1/9 3/24 175/6</p> <p>joints [2] 176/15 180/6</p> <p>journey [1] 62/11</p> <p>Joyce [26] 7/6 41/15 42/2 55/23 57/4 61/12 71/19 84/19 90/3 97/14 105/8 110/9 110/20 113/9 114/9 115/9 115/10 132/2 133/2 135/22 143/6 144/17 145/5 151/10 153/2 185/2</p> <p>judge [1] 104/17</p> <p>July [36] 1/1 2/7 40/21 40/24 41/15 41/22 49/24 55/18 56/25 57/5 57/8 61/1 61/5 61/21 64/22 64/24 66/25 67/6 71/13 72/9 74/4 74/17 74/23 76/7 76/21 80/8 80/14 81/12 83/7 84/11 85/1 101/21 153/1 153/4 170/19 171/7</p> <p>June [10] 1/11 2/17 33/4 35/25 56/12 83/11 118/6 149/17 150/2 152/2</p> <p>June 1983 [2] 35/25 149/17</p> <p>June 1987 [1] 2/17</p> <p>junior [6] 4/10 4/12 4/16 13/18 19/5 149/3</p> <p>just [121] 2/22 4/13 6/23 12/14 13/11 14/12 17/19 19/13 20/14 21/25 23/19 24/5 24/17 28/3 30/5 30/5 30/19 31/13 33/18 34/9 35/23 42/10 43/21 45/16 45/19 49/20 49/25 50/20 50/22 52/6 55/15 56/4 57/2 57/20</p>	<p>58/12 59/19 61/17 62/13 63/24 67/15 69/5 70/17 70/21 74/5 76/16 79/21 81/20 82/14 88/2 89/24 91/16 92/12 93/7 93/11 94/20 94/22 95/25 97/9 98/16 101/24 104/9 105/16 107/25 108/5 109/8 111/10 112/5 116/4 122/6 124/17 126/11 127/18 128/16 132/17 137/22 138/4 138/10 138/11 138/21 140/11 142/18 145/10 145/13 146/8 147/18 147/24 148/20 149/18 150/6 150/25 151/4 153/9 153/17 153/20 155/2 156/7 156/19 156/24 157/12 161/3 166/3 166/22 167/15 168/7 168/13 169/2 169/8 170/20 176/20 178/11 179/13 182/6 182/22 184/3 184/10 185/22 187/3 189/11 189/14 190/20 192/15</p> <p>justifiable [1] 46/24</p> <p>justify [1] 137/12</p> <p>K</p> <p>Kaposi's [1] 34/19</p> <p>keen [6] 80/16 84/2 84/5 114/2 137/4 190/6</p> <p>keep [6] 14/6 14/7 14/10 16/21 16/23 80/16</p> <p>keeping [3] 7/17 28/13 86/11</p> <p>Kenneth [8] 3/17 5/21 9/18 47/15 47/24 65/5 77/15 102/7</p> <p>Kenneth Stowe [1] 9/18</p> <p>kept [2] 28/6 114/15</p> <p>key [10] 15/24 16/20 38/1 73/9 75/7 78/5 78/7 80/16 94/10 169/24</p> <p>killer [1] 144/25</p> <p>kind [6] 7/21 11/24 22/25 25/22 186/5 191/23</p> <p>Kingdom [6] 32/4 48/22 55/13 93/3 152/19 183/7</p> <p>know [105] 5/25 7/25 12/15 16/23 21/9 23/18 25/3 25/7 25/9</p>	<p>25/11 27/9 27/12 27/15 28/3 28/7 28/7 28/20 28/20 30/1 30/19 31/11 32/16 32/17 32/22 36/10 40/11 40/25 42/5 43/7 45/3 47/9 48/15 51/6 58/10 64/17 70/18 73/13 73/17 81/20 82/5 82/8 82/11 82/12 85/17 90/11 90/12 90/17 93/1 93/5 96/2 96/9 99/23 100/6 103/2 104/19 108/9 111/22 120/25 121/3 135/18 136/13 137/2 137/10 147/11 147/16 161/8 161/10 162/23 163/17 165/16 165/17 167/8 167/9 167/11 167/12 167/15 168/1 168/11 171/17 171/21 171/24 172/25 173/15 174/9 176/14 176/18 179/10 180/4 180/10 180/20 182/19 182/22 182/23 183/9 183/14 183/16 183/17 184/1 185/23 189/4 189/11 190/15 193/4 193/6 193/8</p> <p>knowing [1] 166/14</p> <p>knowingly [1] 60/15</p> <p>knowledge [11] 6/8 13/13 33/18 33/22 34/1 39/23 138/8 138/16 152/7 176/21 176/21</p> <p>known [10] 15/18 34/21 40/8 58/24 60/3 94/12 118/15 135/15 158/3 163/24</p> <p>knows [3] 12/18 59/7 168/7</p> <p>L</p> <p>Laboratories [2] 15/23 172/8</p> <p>laboratory [11] 10/3 11/22 15/15 15/22 16/2 36/24 37/11 52/10 168/14 169/23 170/11</p> <p>lack [2] 5/16 6/5</p> <p>lacking [1] 158/12</p> <p>ladder [1] 6/2</p> <p>Lady [2] 40/20 179/9</p> <p>language [3] 60/7 139/17 177/22</p> <p>large [12] 20/3 20/4 65/22 70/1 118/10 150/12 154/1 157/19</p>	<p>183/7 183/8 193/7 193/10</p> <p>largely [1] 73/16</p> <p>last [24] 25/8 37/2 43/21 58/22 69/5 70/17 71/22 76/9 79/22 96/14 99/16 111/2 112/10 114/7 115/23 125/23 150/23 158/7 159/14 174/24 175/13 175/20 184/3 191/3</p> <p>late [3] 97/2 103/18 193/25</p> <p>latency [3] 34/23 35/1 39/25</p> <p>later [20] 2/14 38/19 40/24 45/7 52/7 53/13 57/14 77/18 77/18 88/10 100/4 109/22 110/1 128/16 130/13 138/3 147/16 158/6 169/9 192/24</p> <p>latest [2] 99/4 130/2</p> <p>lawyer [1] 5/23</p> <p>lawyers [3] 27/24 57/23 107/5</p> <p>lax [2] 108/20 109/15</p> <p>lay [1] 144/6</p> <p>lead [3] 60/20 62/25 87/4</p> <p>leaders [1] 54/13</p> <p>leading [2] 168/2 169/25</p> <p>leaflet [195]</p> <p>leaflet 'AIDS' [1] 145/21</p> <p>leaflet's [1] 146/21</p> <p>leaflets [14] 49/12 66/23 79/6 101/12 106/17 109/4 112/25 115/4 115/23 117/14 117/24 134/14 136/19 166/12</p> <p>learn [5] 6/12 6/16 6/17 14/6 25/19</p> <p>learning [3] 14/24 22/12 49/1</p> <p>learnt [1] 6/18</p> <p>least [12] 28/11 28/13 34/21 104/10 162/2 171/7 173/17 174/2 177/16 177/25 178/25 189/25</p> <p>leave [3] 43/21 89/15 142/9</p> <p>leaves [1] 88/2</p> <p>leaving [2] 8/25 79/3</p> <p>led [1] 20/11</p> <p>left [9] 19/18 28/17 29/24 91/3 95/19 115/2 147/21 148/3</p>
--	--	---	---	---

<p>L</p> <p>left... [1] 180/12</p> <p>left-hand [2] 147/21 148/3</p> <p>legacy [1] 15/11</p> <p>legal [2] 107/6 107/16</p> <p>length [1] 40/1</p> <p>lengthy [2] 192/7 193/24</p> <p>less [6] 6/24 120/24 137/19 137/19 173/4 182/5</p> <p>lesser [2] 46/9 46/15</p> <p>let [12] 25/18 28/5 29/7 49/20 57/20 60/20 63/24 66/2 68/9 68/13 105/16 158/16</p> <p>let's [5] 71/12 91/20 98/16 110/2 132/10</p> <p>letter [20] 17/2 61/20 71/16 74/13 158/5 168/12 168/19 170/8 171/8 173/25 178/18 190/2 191/15 191/19 191/21 191/23 191/23 192/4 192/7 192/21</p> <p>letters [1] 192/10</p> <p>letting [1] 82/24</p> <p>level [10] 3/15 7/17 8/18 11/1 19/16 20/2 23/1 32/16 84/1 181/13</p> <p>levels [1] 171/18</p> <p>liaison [2] 7/22 31/19</p> <p>liberty [1] 192/1</p> <p>licensing [2] 18/25 19/1</p> <p>life [4] 21/16 176/8 181/5 193/10</p> <p>life-threatening [1] 181/5</p> <p>light [9] 12/19 47/6 95/6 99/13 125/4 126/15 127/13 139/13 141/2</p> <p>like [25] 9/18 10/3 12/16 12/20 17/5 18/8 27/5 33/17 47/21 59/7 61/10 66/8 74/20 100/6 100/17 114/8 114/10 120/17 122/4 133/18 142/9 161/9 180/7 182/2 192/12</p> <p>likely [15] 6/17 18/21 21/7 29/15 29/18 30/16 44/16 52/9 54/2 61/1 138/17 163/18 164/3 180/5 180/5</p> <p>limited [2] 67/17 80/1</p> <p>line [8] 52/6 61/15 72/17 81/13 130/18</p>	<p>131/19 145/19 178/12</p> <p>lines [7] 9/19 63/9 63/11 125/23 174/4 174/25 175/13</p> <p>lines read [1] 125/23</p> <p>link [3] 9/16 33/14 35/25</p> <p>list [5] 29/17 88/4 129/22 153/10 171/20</p> <p>listed [2] 126/1 126/4</p> <p>listen [1] 30/3</p> <p>listening [1] 107/15</p> <p>lists [2] 145/25 173/25</p> <p>literature [1] 52/23</p> <p>little [10] 3/6 45/16 117/18 142/18 156/8 184/4 187/1 188/22 192/24 193/14</p> <p>lives [3] 176/3 176/12 177/16</p> <p>local [1] 129/20</p> <p>locally [1] 130/8</p> <p>located [4] 41/9 42/5 105/12 185/8</p> <p>London [4] 23/7 148/2 148/5 148/14</p> <p>long [21] 26/10 39/19 68/14 83/14 83/24 101/10 101/15 103/4 103/8 104/15 121/3 122/16 122/17 127/5 136/12 136/12 136/17 138/18 145/8 147/3 193/25</p> <p>longer [3] 14/10 120/5 120/7</p> <p>look [84] 6/21 8/9 13/2 13/5 13/11 14/12 19/7 21/24 24/1 27/2 33/8 35/9 40/23 41/13 42/10 49/14 49/25 51/14 55/16 55/17 57/2 57/13 57/14 58/12 61/17 64/10 64/21 68/15 69/5 70/17 70/24 74/20 76/18 77/8 80/9 85/22 93/10 93/24 98/16 101/21 105/6 107/22 108/4 110/2 112/20 113/5 113/23 114/20 115/11 121/17 122/22 124/10 124/17 125/19 125/21 127/25 128/5 128/25 129/5 139/12 142/13 147/21 147/21 149/8 149/24 151/4 153/9 156/12 156/17 157/12 168/8 168/13 170/16 171/2 173/17 174/24 178/17 178/20</p>	<p>179/12 182/13 186/9 187/10 191/1 193/18</p> <p>looked [30] 7/3 8/12 13/17 17/17 17/25 33/3 56/4 56/14 62/3 69/10 96/23 103/10 103/21 106/4 120/16 120/17 125/4 127/13 140/16 146/6 147/14 156/25 166/5 168/10 170/20 171/3 180/17 183/24 190/4 191/20</p> <p>looking [28] 8/11 8/15 31/5 45/12 46/12 69/17 79/14 83/19 88/9 97/5 99/21 104/15 109/8 123/1 126/14 147/16 149/18 163/12 170/3 170/7 171/15 171/20 172/3 174/3 174/9 177/25 178/18 191/22</p> <p>looks [5] 111/19 121/25 122/4 122/6 133/18</p> <p>loomed [1] 193/10</p> <p>loop [1] 130/23</p> <p>loosely [1] 26/3</p> <p>Lord [74] 1/4 1/4 1/6 1/8 3/11 3/13 13/4 18/5 18/5 20/15 38/20 41/20 47/18 56/11 57/7 58/10 61/20 62/14 63/15 65/5 66/24 67/2 67/4 68/1 68/3 73/22 75/3 76/24 77/11 77/13 85/1 94/23 95/14 96/5 96/18 97/9 98/9 98/14 99/17 112/11 113/11 113/16 113/24 115/2 121/8 126/17 127/3 128/7 128/20 128/21 132/7 138/4 140/10 140/11 144/19 147/2 147/17 147/25 149/10 153/3 153/12 156/2 157/8 160/12 161/4 167/24 168/12 169/7 175/22 184/11 188/19 193/14</p> <p>Lord Clarke [1] 95/14</p> <p>Lord Fowler [4] 3/11 3/13 47/18 73/22</p> <p>Lord Glenarthur [49] 1/4 1/4 1/6 1/8 13/4 20/15 38/20 41/20 56/11 58/10 61/20 65/5 66/24 67/2 67/4 75/3 77/11 77/13 85/1 96/5 96/18 99/17 112/11 113/11 113/24</p>	<p>115/2 121/8 126/17 128/7 132/7 138/4 140/11 144/19 147/2 147/25 149/10 153/3 153/12 156/2 157/8 160/12 161/4 167/24 168/12 169/7 175/22 184/11 188/19 193/14</p> <p>Lord Glenarthur's [5] 76/24 113/16 127/3 185/3 193/23</p> <p>Lords [22] 1/17 2/7 3/22 4/8 4/19 4/24 5/1 7/9 12/13 18/15 23/16 25/12 26/2 26/13 26/21 29/9 29/25 31/2 31/3 45/21 67/14 179/9</p> <p>loss [1] 34/16</p> <p>lot [14] 6/18 8/10 19/7 24/9 31/7 48/21 69/1 83/25 95/2 103/19 110/1 120/5 120/7 135/24</p> <p>lots [7] 10/19 25/13 28/5 45/2 48/11 147/12 172/4</p> <p>low [5] 75/7 78/5 78/7 80/16 94/10</p> <p>low-key [1] 75/7</p> <p>lunch [2] 114/20 115/2</p> <p>Luncheon [1] 114/25</p> <p>Lupton [1] 151/7</p>	<p>79/23 109/13 129/6 131/14 138/13 157/16 162/14 163/23 173/20 189/8</p> <p>makes [1] 172/17</p> <p>making [7] 9/6 19/17 30/18 45/22 73/6 127/12 165/13</p> <p>malaise [1] 34/16</p> <p>male [4] 35/12 50/9 52/14 148/25</p> <p>manage [1] 48/16</p> <p>managing [1] 138/19</p> <p>Manchester [1] 61/23</p> <p>manner [1] 117/20</p> <p>manufacturers [1] 42/23</p> <p>many [18] 6/3 6/7 6/24 19/21 27/14 27/14 35/22 37/3 45/24 48/8 59/7 59/19 80/1 87/3 109/3 135/2 173/15 183/25</p> <p>March [12] 2/9 38/15 40/17 42/24 43/3 188/20 188/24 189/8 189/19 191/17 193/16 193/16</p> <p>March 1983 [1] 38/15</p> <p>MARK [1] 1/6</p> <p>marked [1] 191/10</p> <p>market [1] 38/25</p> <p>marks [2] 91/10 145/3</p> <p>Masham [4] 158/6 178/19 179/9 191/21</p> <p>massive [1] 5/7</p> <p>material [13] 1/19 7/21 8/6 8/16 14/11 19/7 28/4 83/19 107/12 112/12 114/5 114/21 122/7</p> <p>materials [1] 180/11</p> <p>matter [29] 20/13 22/4 22/9 56/25 60/23 61/2 62/10 63/18 79/8 82/17 83/18 89/2 104/24 107/2 107/22 110/5 137/8 143/10 148/25 151/5 160/13 161/7 162/5 163/6 166/25 182/10 187/22 188/1 190/19</p> <p>mattered [1] 163/4</p> <p>matters [32] 4/24 5/14 9/21 12/6 13/2 14/3 18/12 19/6 20/18 20/21 24/3 24/4 25/6 26/13 26/14 47/10 60/9 66/12 83/20 110/23 115/3 116/21 117/7 123/2 124/2 128/8 128/15 135/6</p>	<p>144/7 149/7 156/7 174/13</p> <p>may [40] 8/9 11/23 26/9 37/7 51/16 51/21 52/2 54/11 57/23 57/25 60/5 60/25 62/24 67/25 73/6 79/3 79/5 79/24 91/12 99/17 102/9 102/12 102/17 103/3 108/20 109/4 118/19 129/17 134/25 138/19 139/12 146/5 147/13 151/25 154/18 168/12 173/13 177/23 178/17 191/20</p> <p>maybe [4] 23/6 32/16 58/18 137/1</p> <p>McClelland [1] 72/23</p> <p>McKessack [1] 111/15</p> <p>me [62] 3/4 5/24 7/4 7/9 7/14 8/1 10/19 10/19 17/21 18/1 23/13 25/10 27/25 29/7 30/23 36/6 39/17 42/15 42/20 43/1 43/8 43/9 43/10 43/12 43/16 44/5 46/20 49/20 57/20 63/24 72/13 74/1 75/1 77/9 83/22 84/2 96/18 99/3 100/24 101/10 105/16 106/7 111/14 111/17 126/22 135/8 136/20 147/16 154/9 155/3 158/16 159/16 160/20 161/20 163/22 165/12 169/13 173/12 181/14 192/6 192/9 192/17</p> <p>mean [17] 2/12 5/17 7/19 12/11 13/16 13/24 15/1 27/24 44/14 44/15 44/24 78/10 82/4 126/18 137/21 166/11 189/6</p> <p>meaning [2] 41/18 133/19</p> <p>means [5] 35/13 82/12 89/11 112/16 164/25</p> <p>meant [3] 1/18 19/17 82/8</p> <p>meantime [1] 130/12</p> <p>Meanwhile [1] 56/21</p> <p>measure [5] 47/3 55/6 62/24 102/16 147/4</p> <p>measures [3] 32/18 63/6 150/9</p> <p>meat [1] 25/20</p> <p>mechanism [2] 7/17 84/21</p> <p>MED [2] 84/13 131/3</p>
---	---	---	---	--	--

M	mental [6] 13/19 13/19 14/14 14/20 14/21 14/23 mention [2] 96/11 141/11 mentioned [3] 74/1 169/12 182/14 mentions [1] 130/5 merit [1] 153/5 message [8] 81/18 82/9 111/9 112/16 112/21 128/2 139/18 144/18 met [8] 11/23 33/21 49/9 158/10 172/6 172/7 172/9 172/14 method [25] 35/14 63/13 74/14 85/25 86/10 86/16 87/17 87/24 87/25 88/5 88/5 88/8 88/14 98/3 98/7 101/7 109/16 111/6 119/21 120/13 120/16 120/18 144/1 146/16 164/7 methods [4] 76/14 85/23 90/22 94/17 Microbiological [1] 15/18 middle [5] 83/11 109/25 154/10 161/2 165/25 Middlesex [1] 39/8 might [50] 5/9 12/12 13/14 17/7 17/9 17/9 20/20 22/5 24/17 25/22 28/16 29/5 31/22 36/11 40/1 41/12 42/1 42/16 43/11 43/14 44/16 46/12 57/14 69/3 70/3 76/23 77/1 79/15 87/12 88/16 91/24 92/20 93/6 106/21 107/8 109/20 124/2 128/9 129/24 153/5 159/16 162/18 164/10 172/23 173/3 179/25 179/25 182/15 183/13 193/14 mild [1] 179/22 military [3] 1/24 2/1 2/2 million [2] 115/23 166/12 mind [19] 14/11 16/20 30/18 43/11 44/20 47/3 58/5 79/6 80/21 81/16 81/16 88/21 90/15 91/18 103/1 136/25 141/17 161/25 177/24	minds [1] 173/16 minimise [9] 56/23 64/7 66/16 66/21 69/7 69/14 70/11 102/13 173/5 minimised [1] 163/9 minimising [7] 82/25 150/19 155/21 162/6 164/15 180/24 182/4 minister [48] 2/15 3/16 5/8 5/12 7/22 7/23 14/17 18/10 18/19 19/8 20/2 20/19 20/25 22/2 23/24 24/6 24/18 32/14 46/4 47/14 64/20 65/2 65/14 67/9 67/21 68/18 81/9 84/25 85/17 102/8 106/13 116/7 121/20 122/7 133/5 134/19 135/4 139/3 149/3 161/10 169/21 172/1 174/2 184/15 185/12 186/23 187/18 192/12 minister's [10] 25/4 62/12 62/23 84/14 85/8 133/22 139/3 140/16 141/1 150/2 ministerial [38] 1/14 2/11 2/14 2/24 3/7 5/16 6/2 6/5 6/21 6/25 12/7 15/16 17/13 17/25 19/25 21/12 21/16 21/22 23/1 23/19 23/21 25/17 28/14 32/16 46/21 47/4 64/4 83/17 84/1 84/6 85/14 109/10 125/5 126/15 127/14 136/7 162/9 192/18 ministers [76] 4/10 4/16 5/5 5/19 6/7 9/15 9/24 12/25 13/18 18/17 19/15 20/14 20/17 21/3 21/20 22/24 23/11 30/14 30/17 30/20 31/9 31/12 45/11 48/8 50/22 51/5 51/8 53/13 53/20 54/22 56/20 65/18 75/14 78/5 79/24 82/20 82/23 83/24 84/5 85/3 87/22 96/19 111/2 116/11 116/19 116/25 119/23 125/16 133/24 134/15 135/22 136/21 136/21 143/7 143/10 144/9 149/22 150/1 151/15 151/24 152/1 160/21 160/24 162/14 165/8	165/12 165/24 166/1 166/2 172/1 173/17 173/21 174/6 174/14 182/17 182/20 ministers' [7] 50/18 56/6 76/22 82/16 115/19 143/15 147/7 minor [5] 20/21 86/19 119/7 119/10 131/13 minute [55] 21/11 25/8 33/2 33/3 41/15 55/17 64/9 72/8 74/17 76/21 82/13 82/22 90/2 97/8 98/9 99/10 99/16 100/12 105/7 108/8 110/7 110/11 110/14 110/16 112/23 113/11 115/8 121/6 122/4 122/13 124/11 126/12 127/8 128/18 129/9 130/14 130/16 132/8 133/6 134/17 135/11 139/2 139/4 141/24 144/21 146/14 151/7 153/3 156/24 157/5 169/15 178/17 185/1 185/6 189/11 minute's [1] 92/16 minuted [1] 23/22 minutes [8] 27/4 29/11 29/24 41/3 84/7 170/17 172/11 180/17 Miss [3] 100/19 100/21 111/15 Miss McKessack [1] 111/15 missed [1] 179/19 missing [4] 26/25 27/17 27/22 185/25 mistaken [1] 135/18 misunderstanding [2] 54/3 54/5 mitigate [1] 46/13 mix [1] 15/10 Mm [10] 35/5 56/15 74/19 86/4 86/15 104/23 109/7 112/14 133/9 185/21 Mm-hm [10] 35/5 56/15 74/19 86/4 86/15 104/23 109/7 112/14 133/9 185/21 Mmm [1] 18/13 mode [1] 95/20 moderate [1] 179/22 modes [1] 95/21 modest [3] 51/2 74/10 88/4 moment [9] 13/21 23/25 33/10 93/11 108/4 151/4 164/22 167/17 184/9	moments [2] 106/4 156/4 Monday [1] 25/11 Mondays [1] 23/5 money [3] 10/7 20/18 128/23 monitor [1] 117/1 monitoring [1] 117/12 month [16] 16/18 16/18 53/13 83/9 89/11 95/17 101/10 104/21 109/22 120/6 122/6 122/20 123/13 142/21 167/24 171/9 months [13] 36/20 95/5 100/14 100/15 100/25 101/3 101/12 106/3 111/8 111/9 111/11 122/5 146/11 months' [2] 91/13 111/5 mood [2] 30/15 31/1 more [67] 5/5 5/18 5/21 5/23 8/9 9/9 10/22 13/25 20/20 20/21 22/14 23/13 30/23 31/4 31/6 31/24 44/10 45/8 45/8 45/16 46/22 54/1 59/8 59/16 60/3 61/1 61/9 66/8 67/25 77/14 79/1 84/3 88/8 91/19 93/23 94/23 97/9 101/13 108/21 109/4 111/11 116/15 119/21 119/25 125/6 134/14 136/3 137/21 138/17 139/18 142/18 146/25 147/15 160/18 163/21 163/24 164/4 166/22 170/9 170/12 172/24 172/25 182/12 182/14 182/14 187/1 191/20 Moreover [1] 66/1 morning [9] 1/3 1/3 21/11 25/11 26/18 26/22 138/3 164/11 194/1 morning's [2] 41/20 57/18 mortality [2] 34/21 35/4 most [16] 4/9 22/9 26/1 59/12 65/20 86/11 88/20 89/11 89/25 95/13 110/22 116/24 144/3 172/15 179/17 187/23 mounting [1] 61/7 move [7] 2/12 2/22 53/24 91/23 147/18 149/15 167/16	moved [2] 2/10 108/12 moving [1] 137/4 MP [1] 3/22 Mr [160] 4/9 13/15 13/15 17/18 17/18 18/4 18/11 19/10 22/24 22/24 22/25 41/15 42/2 47/19 50/23 50/23 55/18 55/23 57/4 57/5 60/23 61/4 61/4 61/12 61/14 62/16 64/20 65/6 65/8 65/10 65/14 66/6 67/23 69/3 69/4 70/23 71/17 71/19 73/4 73/11 73/16 73/25 74/2 74/17 75/2 80/10 80/15 81/12 82/18 82/22 84/10 84/19 85/9 89/23 89/23 90/3 90/3 90/19 93/10 93/24 94/1 94/3 94/8 94/23 94/25 96/4 96/25 97/12 97/14 97/15 97/15 97/16 98/19 98/19 99/9 99/14 99/19 105/8 105/9 105/9 106/13 106/16 106/18 108/13 110/9 110/14 110/17 110/20 111/22 112/21 112/23 113/3 113/9 113/12 113/14 114/9 114/12 115/8 115/9 115/10 115/18 121/8 121/20 122/8 122/12 122/13 122/17 124/12 124/14 124/15 125/11 125/12 126/21 127/15 129/1 130/14 130/19 131/3 131/4 131/21 132/2 132/23 133/2 133/8 133/16 133/21 134/3 135/4 135/22 136/2 140/10 140/14 141/1 141/22 141/24 141/25 142/14 142/14 143/5 143/6 144/17 144/19 144/23 145/5 145/6 147/11 149/3 151/7 151/7 151/10 153/2 153/3 185/2 185/2 189/1 189/3 189/4 189/10 190/2 193/20 Mr Bolitho [3] 65/10 80/10 81/12 Mr Cashman [3] 124/12 125/11 125/12 Mr Clarke [35] 13/15 17/18 19/10 22/24
----------	--	--	--	--	--

M	Mr Watters [3] 189/1 189/10 190/2	43/14 44/20 46/20 47/4 47/12 61/6 62/10 64/4 64/6 67/13 69/17 70/20 75/1 76/13 77/9 77/18 79/5 81/16 82/22 83/23 91/8 91/22 92/8 92/23 95/23 98/23 101/12 103/7 105/10 106/12 116/9 124/19 124/25 126/23 135/24 137/3 137/9 144/18 147/9 160/25 161/11 162/9 162/12 163/23 167/7 170/6 173/10 173/14 176/20 176/20 177/19 177/21 179/3 182/24 184/1 185/6 192/18 193/10 193/23	164/2 181/6 190/15 necessity [1] 65/15 need [44] 6/4 8/4 8/7 18/17 22/6 35/21 44/10 54/10 59/17 64/14 68/3 72/24 75/7 75/8 76/22 79/23 79/24 90/24 94/11 100/1 100/21 108/15 108/21 109/4 109/13 117/8 118/3 118/10 118/18 121/14 125/5 125/8 127/22 128/5 134/10 139/12 140/1 142/18 144/25 146/15 149/8 161/11 184/9 189/21 needed [8] 19/25 20/8 20/11 65/22 66/15 68/20 149/10 165/4 needles [1] 35/14 needn't [1] 182/18 needs [2] 64/15 179/25 negative [2] 88/15 108/22 negatives [1] 87/16 Neither [1] 124/18 net [1] 82/25 never [11] 8/13 8/14 8/17 8/24 28/9 82/13 107/13 161/12 173/23 182/23 192/21 Nevertheless [1] 102/11 new [14] 14/20 19/5 22/2 36/18 46/4 70/9 98/1 116/12 124/6 140/4 142/25 143/8 143/11 145/21 New York [2] 70/9 98/1 Newcastle [1] 123/11 newly [1] 34/12 news [3] 80/25 123/6 128/10 next [37] 3/15 3/19 14/19 14/23 15/4 15/17 16/7 17/8 18/5 34/14 36/21 37/18 38/15 52/4 62/15 84/24 87/21 89/5 112/7 113/23 115/7 117/4 119/6 128/15 128/25 129/25 140/23 144/12 145/17 153/22 158/25 159/19 186/20 187/10 189/15 190/25 193/23 NHS [4] 15/5 15/9 15/10 37/2 nice [1] 47/21	night [3] 20/7 23/9 97/2 no [91] 1/13 1/21 1/23 10/2 11/4 11/7 11/7 11/24 12/2 12/10 13/16 16/24 16/24 17/3 19/3 21/5 23/23 24/19 25/10 34/3 34/21 37/11 38/1 38/23 39/16 39/18 41/10 42/19 43/15 48/4 49/3 52/5 52/10 52/17 59/7 60/1 62/20 64/14 66/19 71/10 71/23 72/2 73/20 74/22 76/12 77/21 82/11 82/14 84/8 87/18 91/21 94/20 100/9 101/22 102/10 103/19 103/25 104/8 121/16 123/4 124/18 129/17 130/4 133/1 136/15 140/17 149/23 151/20 161/9 163/3 165/10 169/11 169/12 170/14 172/12 173/8 176/2 177/2 177/2 178/10 178/21 179/23 180/13 181/11 186/1 187/6 187/9 187/11 187/19 188/8 192/10 no-one [2] 25/10 59/7 Nolan's [1] 132/8 non [3] 34/15 113/21 175/9 non-alarmist [1] 113/21 non-specific [1] 34/15 non-treatment [1] 175/9 none [3] 1/23 34/3 106/24 nonetheless [2] 173/5 187/16 nor [2] 136/13 169/12 normal [4] 2/2 18/14 48/9 151/17 normally [2] 185/14 186/2 Norman [3] 3/10 23/3 73/12 Norman Fowler [1] 23/3 North [1] 148/14 Northern [3] 31/14 32/6 32/10 not [221] note [25] 56/12 57/17 64/23 64/25 71/18 93/8 107/7 107/15 107/19 109/19 114/10 121/17 121/25 122/25	133/24 138/5 141/14 153/9 153/17 157/5 165/17 171/1 185/20 186/11 186/14 noted [3] 26/17 105/15 162/13 notes [2] 7/13 83/23 nothing [8] 12/16 59/7 65/19 66/4 93/2 139/16 162/20 181/18 notice [4] 66/14 66/17 69/19 95/12 notices [1] 136/19 notification [1] 80/5 notifications [1] 117/23 November [21] 104/25 105/7 123/1 124/4 124/11 127/9 127/16 127/20 128/5 128/16 128/18 129/9 130/12 130/17 131/12 132/8 132/8 135/16 135/21 146/13 147/23 November 1983 [1] 146/13 now [88] 3/11 12/25 14/24 21/24 29/1 33/2 40/10 43/15 45/3 47/25 48/17 49/11 50/20 65/1 66/4 67/4 69/9 71/10 71/25 74/12 76/11 77/12 83/7 83/7 83/19 92/3 94/22 97/16 98/8 103/10 106/6 106/24 109/25 111/8 111/11 114/23 117/6 119/5 120/2 120/18 122/12 123/22 124/6 125/11 125/14 125/14 125/17 129/21 131/2 132/11 132/12 133/20 136/3 136/8 139/6 140/16 142/12 144/3 146/24 149/12 149/15 156/1 159/15 159/18 161/13 163/12 163/15 165/7 166/21 168/1 169/6 170/3 172/3 172/21 174/3 174/17 179/1 180/3 182/3 182/22 182/25 184/1 185/16 187/1 187/7 188/8 188/21 193/24 number [25] 8/12 9/23 10/16 11/9 12/14 12/17 13/17 14/15 18/6 20/16 26/23 36/16 44/15 59/2 62/2 86/24 105/14 117/14 118/11 124/1 150/4
	Mr Watters' [2] 189/3 189/4	82/22 83/23 91/8 91/22 92/8 92/23 95/23 98/23 101/12 103/7 105/10 106/12 116/9 124/19 124/25 126/23 135/24 137/3 137/9 144/18 147/9 160/25 161/11 162/9 162/12 163/23 167/7 170/6 173/10 173/14 176/20 176/20 177/19 177/21 179/3 182/24 184/1 185/6 192/18 193/10 193/23	needed [8] 19/25 20/8 20/11 65/22 66/15 68/20 149/10 165/4 needles [1] 35/14 needn't [1] 182/18 needs [2] 64/15 179/25 negative [2] 88/15 108/22 negatives [1] 87/16 Neither [1] 124/18 net [1] 82/25 never [11] 8/13 8/14 8/17 8/24 28/9 82/13 107/13 161/12 173/23 182/23 192/21 Nevertheless [1] 102/11 new [14] 14/20 19/5 22/2 36/18 46/4 70/9 98/1 116/12 124/6 140/4 142/25 143/8 143/11 145/21 New York [2] 70/9 98/1 Newcastle [1] 123/11 newly [1] 34/12 news [3] 80/25 123/6 128/10 next [37] 3/15 3/19 14/19 14/23 15/4 15/17 16/7 17/8 18/5 34/14 36/21 37/18 38/15 52/4 62/15 84/24 87/21 89/5 112/7 113/23 115/7 117/4 119/6 128/15 128/25 129/25 140/23 144/12 145/17 153/22 158/25 159/19 186/20 187/10 189/15 190/25 193/23 NHS [4] 15/5 15/9 15/10 37/2 nice [1] 47/21	noted [3] 26/17 105/15 162/13 notes [2] 7/13 83/23 nothing [8] 12/16 59/7 65/19 66/4 93/2 139/16 162/20 181/18 notice [4] 66/14 66/17 69/19 95/12 notices [1] 136/19 notification [1] 80/5 notifications [1] 117/23 November [21] 104/25 105/7 123/1 124/4 124/11 127/9 127/16 127/20 128/5 128/16 128/18 129/9 130/12 130/17 131/12 132/8 132/8 135/16 135/21 146/13 147/23 November 1983 [1] 146/13 now [88] 3/11 12/25 14/24 21/24 29/1 33/2 40/10 43/15 45/3 47/25 48/17 49/11 50/20 65/1 66/4 67/4 69/9 71/10 71/25 74/12 76/11 77/12 83/7 83/7 83/19 92/3 94/22 97/16 98/8 103/10 106/6 106/24 109/25 111/8 111/11 114/23 117/6 119/5 120/2 120/18 122/12 123/22 124/6 125/11 125/14 125/14 125/17 129/21 131/2 132/11 132/12 133/20 136/3 136/8 139/6 140/16 142/12 144/3 146/24 149/12 149/15 156/1 159/15 159/18 161/13 163/12 163/15 165/7 166/21 168/1 169/6 170/3 172/3 172/21 174/3 174/17 179/1 180/3 182/3 182/22 182/25 184/1 185/16 187/1 187/7 188/8 188/21 193/24 number [25] 8/12 9/23 10/16 11/9 12/14 12/17 13/17 14/15 18/6 20/16 26/23 36/16 44/15 59/2 62/2 86/24 105/14 117/14 118/11 124/1 150/4	
	Mr Williams [5] 108/13 115/18 133/21 142/14 143/5	82/22 83/23 91/8 91/22 92/8 92/23 95/23 98/23 101/12 103/7 105/10 106/12 116/9 124/19 124/25 126/23 135/24 137/3 137/9 144/18 147/9 160/25 161/11 162/9 162/12 163/23 167/7 170/6 173/10 173/14 176/20 176/20 177/19 177/21 179/3 182/24 184/1 185/6 192/18 193/10 193/23	needed [8] 19/25 20/8 20/11 65/22 66/15 68/20 149/10 165/4 needles [1] 35/14 needn't [1] 182/18 needs [2] 64/15 179/25 negative [2] 88/15 108/22 negatives [1] 87/16 Neither [1] 124/18 net [1] 82/25 never [11] 8/13 8/14 8/17 8/24 28/9 82/13 107/13 161/12 173/23 182/23 192/21 Nevertheless [1] 102/11 new [14] 14/20 19/5 22/2 36/18 46/4 70/9 98/1 116/12 124/6 140/4 142/25 143/8 143/11 145/21 New York [2] 70/9 98/1 Newcastle [1] 123/11 newly [1] 34/12 news [3] 80/25 123/6 128/10 next [37] 3/15 3/19 14/19 14/23 15/4 15/17 16/7 17/8 18/5 34/14 36/21 37/18 38/15 52/4 62/15 84/24 87/21 89/5 112/7 113/23 115/7 117/4 119/6 128/15 128/25 129/25 140/23 144/12 145/17 153/22 158/25 159/19 186/20 187/10 189/15 190/25 193/23 NHS [4] 15/5 15/9 15/10 37/2 nice [1] 47/21	noted [3] 26/17 105/15 162/13 notes [2] 7/13 83/23 nothing [8] 12/16 59/7 65/19 66/4 93/2 139/16 162/20 181/18 notice [4] 66/14 66/17 69/19 95/12 notices [1] 136/19 notification [1] 80/5 notifications [1] 117/23 November [21] 104/25 105/7 123/1 124/4 124/11 127/9 127/16 127/20 128/5 128/16 128/18 129/9 130/12 130/17 131/12 132/8 132/8 135/16 135/21 146/13 147/23 November 1983 [1] 146/13 now [88] 3/11 12/25 14/24 21/24 29/1 33/2 40/10 43/15 45/3 47/25 48/17 49/11 50/20 65/1 66/4 67/4 69/9 71/10 71/25 74/12 76/11 77/12 83/7 83/7 83/19 92/3 94/22 97/16 98/8 103/10 106/6 106/24 109/25 111/8 111/11 114/23 117/6 119/5 120/2 120/18 122/12 123/22 124/6 125/11 125/14 125/14 125/17 129/21 131/2 132/11 132/12 133/20 136/3 136/8 139/6 140/16 142/12 144/3 146/24 149/12 149/15 156/1 159/15 159/18 161/13 163/12 163/15 165/7 166/21 168/1 169/6 170/3 172/3 172/21 174/3 174/17 179/1 180/3 182/3 182/22 182/25 184/1 185/16 187/1 187/7 188/8 188/21 193/24 number [25] 8/12 9/23 10/16 11/9 12/14 12/17 13/17 14/15 18/6 20/16 26/23 36/16 44/15 59/2 62/2 86/24 105/14 117/14 118/11 124/1 150/4	
	Mr Windsor [1] 141/25	82/22 83/23 91/8 91/22 92/8 92/23 95/23 98/23 101/12 103/7 105/10 106/12 116/9 124/19 124/25 126/23 135/24 137/3 137/9 144/18 147/9 160/25 161/11 162/9 162/12 163/23 167/7 170/6 173/10 173/14 176/20 176/20 177/19 177/21 179/3 182/24 184/1 185/6 192/18 193/10 193/23	needed [8] 19/25 20/8 20/11 65/22 66/15 68/20 149/10 165/4 needles [1] 35/14 needn't [1] 182/18 needs [2] 64/15 179/25 negative [2] 88/15 108/22 negatives [1] 87/16 Neither [1] 124/18 net [1] 82/25 never [11] 8/13 8/14 8/17 8/24 28/9 82/13 107/13 161/12 173/23 182/23 192/21 Nevertheless [1] 102/11 new [14] 14/20 19/5 22/2 36/18 46/4 70/9 98/1 116/12 124/6 140/4 142/25 143/8 143/11 145/21 New York [2] 70/9 98/1 Newcastle [1] 123/11 newly [1] 34/12 news [3] 80/25 123/6 128/10 next [37] 3/15 3/19 14/19 14/23 15/4 15/17 16/7 17/8 18/5 34/14 36/21 37/18 38/15 52/4 62/15 84/24 87/21 89/5 112/7 113/23 115/7 117/4 119/6 128/15 128/25 129/25 140/23 144/12 145/17 153/22 158/25 159/19 186/20 187/10 189/15 190/25 193/23 NHS [4] 15/5 15/9 15/10 37/2 nice [1] 47/21	noted [3] 26/17 105/15 162/13 notes [2] 7/13 83/23 nothing [8] 12/16 59/7 65/19 66/4 93/2 139/16 162/20 181/18 notice [4] 66/14 66/17 69/19 95/12 notices [1] 136/19 notification [1] 80/5 notifications [1] 117/23 November [21] 104/25 105/7 123/1 124/4 124/11 127/9 127/16 127/20 128/5 128/16 128/18 129/9 130/12 130/17 131/12 132/8 132/8 135/16 135/21 146/13 147/23 November 1983 [1] 146/13 now [88] 3/11 12/25 14/24 21/24 29/1 33/2 40/10 43/15 45/3 47/25 48/17 49/11 50/20 65/1 66/4 67/4 69/9 71/10 71/25 74/12 76/11 77/12 83/7 83/7 83/19 92/3 94/22 97/16 98/8 103/10 106/6 106/24 109/25 111/8 111/11 114/23 117/6 119/5 120/2 120/18 122/12 123/22 124/6 125/11 125/14 125/14 125/17 129/21 131/2 132/11 132/12 133/20 136/3 136/8 139/6 140/16 142/12 144/3 146/24 149/12 149/15 156/1 159/15 159/18 161/13 163/12 163/15 165/7 166/21 168/1 169/6 170/3 172/3 172/21 174/3 174/17 179/1 180/3 182/3 182/22 182/25 184/1 185/16 187/1 187/7 188/8 188/21 193/24 number [25] 8/12 9/23 10/16 11/9 12/14 12/17 13/17 14/15 18/6 20/16 26/23 36/16 44/15 59/2 62/2 86/24 105/14 117/14 118/11 124/1 150/4	
	Mr Winstanley [4] 97/15 99/14 105/9 185/2	82/22 83/23 91/8 91/22 92/8 92/23 95/23 98/23 101/12 103/7 105/10 106/12 116/9 124/19 124/25 126/23 135/24 137/3 137/9 144/18 147/9 160/25 161/11 162/9 162/12 163/23 167/7 170/6 173/10 173/14 176/20 176/20 177/19 177/21 179/3 182/24 184/1 185/6 192/18 193/10 193/23	needed [8] 19/25 20/8 20/11 65/22 66/15 68/20 149/10 165/4 needles [1] 35/14 needn't [1] 182/18 needs [2] 64/15 179/25 negative [2] 88/15 108/22 negatives [1] 87/16 Neither [1] 124/18 net [1] 82/25 never [11] 8/13 8/14 8/17 8/24 28/9 82/13 107/13 161/12 173/23 182/23 192/21 Nevertheless [1] 102/11 new [14] 14/20 19/5 22/2 36/18 46/4 70/9 98/1 116/12 124/6 140/4 142/25 143/8 143/11 145/21 New York [2] 70/9 98/1 Newcastle [1] 123/11 newly [1] 34/12 news [3] 80/25 123/6 128/10 next [37] 3/15 3/19 14/19 14/23 15/4 15/17 16/7 17/8 18/5 34/14 36/21 37/18 38/15 52/4 62/15 84/24 87/21 89/5 112/7 113/23 115/7 117/4 119/6 128/15 128/25 129/25 140/23 144/12 145/17 153/22 158/25 159/19 186/20 187/10 189/15 190/25 193/23 NHS [4] 15/5 15/9 15/10 37/2 nice [1] 47/21	noted [3] 26/17 105/15 162/13 notes [2] 7/13 83/23 nothing [8] 12/16 59/7 65/19 66/4 93/2 139/16 162/20 181/18 notice [4] 66/14 66/17 69/19 95/12 notices [1] 136/19 notification [1] 80/5 notifications [1] 117/23 November [21] 104/25 105/7 123/1 124/4 124/11 127/9 127/16 127/20 128/5 128/16 128/18 129/9 130/12 130/17 131/12 132/8 132/8 135/16 135/21 146/13 147/23 November 1983 [1] 146/13 now [88] 3/11 12/25 14/24 21/24 29/1 33/2 40/10 43/15 45/3 47/25 48/17 49/11 50/20 65/1 66/4 67/4 69/9 71/10 71/25 74/12 76/11 77/12 83/7 83/7 83/19 92/3 94/22 97/16 98/8 103/10 106/6 106/24 109/25 111/8 111/11 114/23 117/6 119/5 120/2 120/18 122/12 123/22 124/6 125/11 125/14 125/14 125/17 129/21 131/2 132/11 132/12 133/20 136/3 136/8	

<p>N</p> <p>number... [4] 168/10 170/24 185/15 188/12</p> <p>numbered [1] 129/15</p> <p>numbers [4] 36/18 66/10 88/23 117/2</p> <p>Nurse [1] 10/18</p> <hr/> <p>O</p> <p>oath [1] 1/5</p> <p>objection [1] 71/24</p> <p>objective [8] 65/19 66/20 69/7 69/9 69/14 70/11 78/17 88/6</p> <p>objectives [1] 69/21</p> <p>obliquely [1] 112/1</p> <p>obscured [2] 81/18 82/10</p> <p>observation [2] 28/10 30/18</p> <p>observed [1] 74/9</p> <p>obtain [3] 60/18 89/13 190/7</p> <p>obtained [2] 42/22 59/18</p> <p>obvious [8] 20/17 81/18 82/10 87/19 87/25 88/6 102/25 136/16</p> <p>obviously [14] 15/23 23/10 31/4 36/13 41/21 68/12 95/2 128/12 129/3 150/23 166/5 172/14 179/19 185/22</p> <p>occasion [3] 41/13 87/5 172/14</p> <p>occasionally [2] 9/25 10/15</p> <p>occasions [3] 10/21 168/11 181/6</p> <p>occur [1] 58/2</p> <p>occurred [3] 52/1 59/4 176/25</p> <p>occurrence [2] 34/18 35/17</p> <p>October [5] 104/25 105/10 106/14 122/4 131/7</p> <p>October 1983 [1] 106/14</p> <p>odd [2] 12/12 170/6</p> <p>off [8] 55/23 67/22 122/5 125/16 135/6 172/15 192/22 192/22</p> <p>offending [1] 51/12</p> <p>offer [1] 10/20</p> <p>offered [2] 117/24 160/10</p> <p>offering [1] 142/7</p> <p>office [63] 1/16 2/10</p>	<p>4/22 6/15 6/23 7/2 7/3 7/3 7/20 8/4 8/14 8/25 10/24 12/4 16/10 16/22 22/13 22/14 23/12 24/22 24/25 26/19 28/14 28/17 28/23 28/24 31/14 31/14 31/15 36/6 55/25 64/9 71/14 71/17 71/23 72/3 73/18 83/23 95/9 97/13 97/13 98/19 98/22 105/8 105/9 106/12 110/19 111/23 112/22 121/7 130/21 131/4 132/2 133/2 133/8 133/16 133/22 139/4 141/1 141/25 142/15 143/6 185/2</p> <p>office's [2] 14/1 72/5</p> <p>officer [18] 9/5 9/13 9/18 9/19 10/8 10/14 11/6 11/9 22/22 33/6 48/18 158/18 158/21 158/25 159/3 159/13 174/12 174/12</p> <p>Officer's [2] 134/1 134/8</p> <p>Officers [1] 159/17</p> <p>offices [4] 31/19 32/8 136/7 147/7</p> <p>official [10] 2/25 3/3 7/11 7/17 8/18 47/1 48/4 48/6 84/1 121/2</p> <p>official's [2] 7/12 116/7</p> <p>officials [40] 10/19 12/8 19/16 19/19 22/8 23/2 29/20 42/1 48/7 54/13 54/19 63/17 63/17 65/18 68/2 68/19 71/7 85/1 89/7 89/12 99/5 115/25 116/25 118/25 119/18 157/22 160/13 160/18 160/25 161/8 162/13 168/17 173/17 174/1 178/5 182/15 186/3 190/16 190/19 191/25</p> <p>offing [2] 66/3 68/10</p> <p>often [8] 10/24 12/21 22/17 25/17 26/21 29/12 151/23 176/25</p> <p>oh [2] 171/5 173/20</p> <p>OK. [1] 142/11</p> <p>okay [8] 57/15 76/17 105/5 105/18 138/24 155/1 171/5 188/14</p> <p>Oliver [13] 61/25 62/5 65/6 65/9 74/13 74/18 76/20 77/21 78/12 79/12 80/14 81/12</p>	<p>81/24</p> <p>Oliver's [1] 76/18</p> <p>once [2] 28/17 123/24</p> <p>one [110] 5/9 5/22 7/11 9/19 10/4 10/5 10/17 12/15 13/24 14/10 16/19 16/20 17/7 17/25 18/10 18/14 18/15 18/18 18/22 20/20 21/9 22/12 22/15 22/16 22/17 23/3 24/2 24/7 24/8 24/10 24/14 24/22 24/25 25/10 25/17 25/18 26/16 26/17 26/19 27/13 31/22 36/25 41/21 43/13 46/3 46/6 46/6 51/2 51/13 52/1 55/19 59/7 59/19 61/25 63/3 65/9 66/2 68/8 69/5 73/21 79/16 83/23 88/2 98/3 98/6 103/10 105/11 108/5 111/13 118/15 120/15 125/15 126/1 126/4 126/10 128/8 133/11 137/19 138/2 138/22 139/8 142/21 147/19 150/7 151/3 154/3 154/10 154/20 154/24 154/25 159/15 161/3 161/5 161/6 164/20 165/18 165/25 167/6 168/17 169/25 172/1 172/15 172/15 177/11 181/16 187/24 188/21 191/22 192/13 193/24</p> <p>one's [5] 14/7 14/10 16/20 24/22 192/14</p> <p>ones [3] 13/20 57/16 182/22</p> <p>only [23] 5/21 10/15 33/15 44/18 46/16 59/11 63/3 67/7 78/13 80/22 83/3 83/10 93/16 118/12 131/13 142/3 148/25 170/5 170/25 171/22 176/9 181/23 185/15</p> <p>onset [1] 34/19</p> <p>onwards [1] 184/9</p> <p>open [1] 119/1</p> <p>operate [2] 7/20 139/20</p> <p>operates [1] 28/8</p> <p>operation [4] 11/5 54/7 80/16 102/5</p> <p>opinion [2] 73/24 83/6</p> <p>opinions [1] 88/19</p> <p>opportunities [1] 48/8</p> <p>opportunity [5] 23/11</p>	<p>39/17 97/3 140/6 144/5</p> <p>oppose [1] 189/25</p> <p>opposed [2] 20/25 44/3</p> <p>option [3] 65/19 86/22 137/18</p> <p>options [4] 98/7 174/7 182/10 182/21</p> <p>or [196]</p> <p>oral [7] 22/8 29/19 41/11 41/12 42/6 66/24 189/3</p> <p>order [8] 6/16 7/8 10/10 16/24 71/12 86/13 177/4 177/6</p> <p>ordered [1] 141/9</p> <p>ordinarily [1] 51/5</p> <p>ordinary [2] 59/12 142/5</p> <p>ordination [1] 32/18</p> <p>organisation [4] 17/8 48/21 193/9 193/11</p> <p>organisations [2] 48/23 148/9</p> <p>original [5] 125/1 132/12 139/9 182/25 187/16</p> <p>originally [1] 43/9</p> <p>other [68] 2/24 5/24 8/5 9/20 10/1 10/19 10/21 11/18 12/5 14/3 16/8 17/23 18/16 21/22 23/6 23/12 25/2 25/18 26/14 27/11 28/12 28/15 30/14 30/17 42/1 43/5 43/16 46/8 46/12 47/25 48/9 49/7 52/11 62/14 63/2 63/12 70/6 76/3 79/2 83/24 87/3 88/13 119/12 124/1 131/17 135/2 137/20 147/10 147/12 155/16 160/22 165/12 167/12 167/13 176/3 177/15 178/15 179/6 180/8 182/11 183/2 185/19 187/25 191/14 192/16 193/8 193/11 193/18</p> <p>other's [1] 96/22</p> <p>others [15] 16/17 20/20 28/5 60/14 79/3 113/18 117/24 132/1 135/24 143/5 144/15 151/10 162/11 167/7 171/21</p> <p>otherwise [5] 82/1 142/11 151/19 165/2 192/21</p> <p>ought [8] 64/18 165/9 171/25 173/17 173/20</p>	<p>173/22 174/12 174/14 our [18] 21/21 62/8 79/25 80/15 82/19 83/5 91/14 91/18 97/2 108/19 125/7 130/7 152/21 153/7 153/13 161/11 163/23 189/21</p> <p>ourselves [3] 91/13 91/22 107/18</p> <p>out [56] 4/3 16/1 26/20 35/7 39/18 50/2 55/3 63/9 64/18 66/1 67/10 77/21 77/24 78/14 78/20 79/25 80/11 80/19 81/7 82/22 83/2 86/6 86/24 90/4 91/5 91/6 97/6 102/19 104/15 105/25 117/6 119/4 124/6 132/17 132/19 134/17 136/1 136/4 137/4 140/19 142/9 143/25 144/6 150/5 153/10 162/19 163/15 163/16 168/21 169/3 169/16 170/24 179/19 182/17 191/15 192/1</p> <p>outcome [2] 45/18 114/17</p> <p>outlined [1] 99/16</p> <p>outside [2] 23/12 187/25</p> <p>outweighed [1] 90/24</p> <p>outweighs [1] 187/17</p> <p>over [25] 4/23 8/12 14/8 15/5 16/17 29/25 36/19 37/5 37/18 59/3 63/11 86/5 110/16 116/10 122/6 125/19 136/22 143/19 150/5 169/2 169/8 170/20 184/21 191/13 192/9</p> <p>overall [5] 17/24 30/25 44/20 123/1 136/9</p> <p>overlap [1] 18/3</p> <p>overlapping [1] 12/21</p> <p>overnight [1] 2/12</p> <p>overprinted [1] 148/22</p> <p>overran [1] 29/12</p> <p>overreaction [1] 70/2</p> <p>oversight [1] 18/23</p> <p>overwhelmingly [1] 20/17</p> <p>Owen [2] 186/19 187/8</p> <p>own [15] 6/3 6/14 45/13 47/25 67/16 75/25 79/8 83/8 86/7 89/12 89/25 94/15 152/16 153/7 186/13</p>	<p>owned [1] 15/10</p> <p>owned by [1] 15/10</p> <hr/> <p>P</p> <p>package [1] 182/19</p> <p>page [83] 13/6 13/7 14/19 15/6 16/7 30/3 30/10 30/11 30/12 35/9 37/18 42/12 55/18 55/23 59/3 63/11 63/25 74/5 84/24 85/21 86/5 87/21 105/19 105/21 110/16 110/18 110/21 110/25 112/6 112/7 116/10 121/18 123/3 123/4 123/14 124/17 124/18 125/19 125/22 126/11 126/12 127/2 127/6 127/25 142/6 142/10 143/19 144/12 145/17 147/22 149/21 150/6 153/22 156/18 156/19 156/23 158/15 158/16 158/19 158/20 158/21 158/25 159/1 159/19 159/20 169/2 170/20 170/22 171/6 174/22 174/24 175/11 175/13 175/21 178/11 184/8 188/9 188/11 189/15 189/16 191/3 191/8 191/13</p> <p>page 110 [2] 158/16 158/20</p> <p>page 111 [1] 159/1</p> <p>page 112 [2] 158/15 159/20</p> <p>page 12 [1] 13/6</p> <p>Page 18 [2] 30/11 30/12</p> <p>page 24 [1] 42/12</p> <p>page 26 [1] 63/25</p> <p>page 3 [1] 125/22</p> <p>page 41 [1] 174/22</p> <p>page 45 [1] 175/11</p> <p>page 46 [1] 156/19</p> <p>page 47 [2] 156/18 156/23</p> <p>page 52 [1] 175/21</p> <p>page 53 [1] 178/11</p> <p>page 54 [1] 184/8</p> <p>page 56 [2] 188/9 188/11</p> <p>page 58 [2] 105/19 105/21</p> <p>page 62 [2] 127/2 127/6</p> <p>pages [1] 168/13</p> <p>painfully [1] 146/7</p> <p>painstaking [1] 49/16</p> <p>painted [1] 181/15</p>
--	--	--	--	--	--

<p>P</p> <p>pair [1] 4/25</p> <p>panic [1] 62/24</p> <p>paper [17] 21/11 26/15 33/9 34/6 36/6 39/18 49/22 50/1 50/1 56/3 56/14 67/11 76/13 77/6 93/8 169/4 169/11</p> <p>papers [21] 3/5 27/7 27/10 27/13 28/25 33/16 34/5 42/20 43/8 45/2 46/10 49/7 67/23 73/17 76/13 91/8 103/21 106/6 160/24 183/12 183/25</p> <p>para [1] 105/22</p> <p>paragraph [110] 13/4 30/11 34/11 34/14 36/21 37/21 38/15 38/21 39/3 39/6 42/12 42/13 43/21 45/7 52/4 58/17 58/23 62/4 63/22 64/1 66/5 68/8 68/15 69/6 69/19 70/17 71/22 73/2 74/24 77/22 79/22 86/9 86/9 89/5 89/6 92/5 95/15 99/11 100/16 105/14 105/17 105/23 105/24 108/1 109/8 110/25 111/19 112/8 112/11 113/2 113/23 114/7 114/11 115/21 115/24 117/13 119/13 119/14 119/22 120/1 123/5 123/10 126/14 127/2 127/6 127/11 127/21 128/19 128/25 129/15 129/25 133/3 133/10 133/23 134/9 138/5 138/15 139/6 142/9 142/13 142/16 143/21 143/25 144/2 144/8 156/23 156/24 157/12 157/15 157/16 157/18 159/1 159/14 159/20 161/17 161/18 168/19 168/22 174/22 175/11 175/20 175/21 178/12 186/20 187/10 188/12 188/13 189/16 190/24 191/3</p> <p>paragraph 1 [3] 111/19 133/23 143/21</p> <p>paragraph 10 [1] 115/21</p> <p>paragraph 13.3 [2] 42/12 42/13</p> <p>paragraph 13.4 [1] 45/7</p>	<p>paragraph 16.4 [2] 63/22 64/1</p> <p>paragraph 16.5 [1] 69/19</p> <p>paragraph 2 [9] 68/8 73/2 74/24 117/13 123/10 139/6 142/13 143/25 187/10</p> <p>paragraph 2.3 [1] 13/4</p> <p>paragraph 20.4 [1] 92/5</p> <p>paragraph 25.12 [1] 174/22</p> <p>Paragraph 29.2 [1] 175/11</p> <p>paragraph 3 [7] 66/5 69/6 99/11 133/10 138/5 138/15 144/2</p> <p>paragraph 31.3 [1] 156/24</p> <p>paragraph 31.4 [1] 156/23</p> <p>paragraph 36 [1] 175/20</p> <p>paragraph 39.2 [1] 178/12</p> <p>paragraph 4 [3] 110/25 134/9 144/8</p> <p>Paragraph 41.1 [1] 188/13</p> <p>paragraph 41.2 [1] 189/16</p> <p>paragraph 43.1 [1] 105/24</p> <p>Paragraph 43.2 [1] 105/17</p> <p>paragraph 46.2 [1] 127/2</p> <p>paragraph 5 [3] 89/6 112/8 113/2</p> <p>paragraph 6 [1] 119/22</p> <p>paragraph 6.6 [1] 30/11</p> <p>paragraph 7 [1] 119/13</p> <p>Paragraph 9 [1] 119/14</p> <p>paragraph 98.1 [1] 159/1</p> <p>paragraph 99.4 [2] 159/20 161/18</p> <p>paragraphs [2] 184/8 190/25</p> <p>parallel [2] 9/3 9/19</p> <p>paraphrase [1] 100/23</p> <p>paraphrasing [2] 156/3 164/16</p> <p>Parker [10] 55/18 57/5 65/6 71/17 74/17</p>	<p>82/22 84/10 90/3 96/25 115/8</p> <p>Parker's [6] 61/4 65/8 80/17 82/18 94/3 122/13</p> <p>Parliament [6] 18/22 29/1 30/22 48/9 71/2 71/4</p> <p>Parliamentary [20] 1/9 3/19 3/21 3/25 4/17 4/20 13/8 14/3 14/13 25/6 25/25 29/3 29/4 29/8 29/8 40/19 40/23 40/25 42/7 167/25</p> <p>part [18] 4/20 15/15 17/17 19/4 19/12 67/8 68/18 93/13 95/13 112/11 128/8 130/21 134/22 137/5 137/6 158/7 169/24 173/10</p> <p>partially [1] 5/21</p> <p>participants [1] 41/22</p> <p>particular [65] 3/5 4/17 6/7 6/8 8/3 9/13 10/13 11/2 12/5 13/1 13/1 13/14 14/9 16/18 16/24 17/2 17/7 17/13 17/15 20/9 21/10 24/12 25/19 27/14 27/15 30/17 31/18 40/4 44/4 48/13 50/1 51/22 67/5 68/13 83/10 87/5 90/10 96/22 103/16 105/13 111/18 122/23 135/4 137/13 142/17 149/13 150/7 150/10 151/4 155/12 156/6 157/9 160/19 160/20 164/5 167/6 167/10 171/2 176/22 176/23 178/17 183/9 189/10 190/10 193/2</p> <p>particularly [13] 6/9 6/19 26/5 28/23 30/19 113/15 135/8 138/8 138/16 160/25 161/2 165/25 193/25</p> <p>parties [2] 12/20 12/23</p> <p>partly [1] 97/22</p> <p>parts [3] 4/1 91/16 98/5</p> <p>party [4] 39/5 110/12 110/24 129/18</p> <p>passage [1] 67/17</p> <p>passages [2] 156/16 175/10</p> <p>passed [2] 111/11 159/18</p> <p>passing [1] 64/7</p>	<p>past [1] 36/19</p> <p>patient [9] 37/3 63/3 118/15 123/11 123/11 154/14 154/16 164/24 185/13</p> <p>patients [32] 48/19 59/2 59/14 60/15 63/1 65/22 118/8 118/11 138/20 138/22 148/7 152/6 154/13 155/5 155/6 158/1 158/12 159/7 159/8 159/22 160/17 163/3 163/8 164/8 164/14 164/22 166/4 166/20 167/13 176/4 176/12 176/13</p> <p>Patricia [1] 148/19</p> <p>Patten [32] 3/22 4/9 4/12 13/15 17/18 18/11 22/25 47/17 47/18 47/24 50/23 60/23 61/4 61/14 67/23 69/4 89/23 94/1 94/8 96/4 111/17 112/21 112/23 113/14 126/21 130/14 136/2 140/14 144/19 144/23 145/6 149/3</p> <p>Patten's [9] 18/4 93/10 93/24 111/15 111/22 124/15 127/15 147/10 184/14</p> <p>pattern [2] 35/11 77/16</p> <p>pausing [7] 35/23 50/20 52/6 62/13 88/2 104/9 185/7</p> <p>pay [1] 50/13</p> <p>payroll [1] 26/4</p> <p>pecking [1] 16/24</p> <p>peer [1] 2/4</p> <p>pejorative [2] 5/17 7/19</p> <p>Penrose [1] 43/13</p> <p>pensions [2] 16/11 25/8</p> <p>people [30] 4/13 7/7 9/23 10/12 10/17 10/25 12/12 19/23 25/3 44/16 59/8 60/13 70/15 79/1 82/1 82/6 91/15 91/24 96/12 102/17 103/24 104/2 123/6 129/22 146/3 153/10 163/16 164/2 174/5 193/2</p> <p>people's [1] 84/1</p> <p>per [7] 18/20 38/13 46/17 86/2 120/1 137/17 176/9</p> <p>perceive [1] 147/13</p> <p>perception [3] 30/15</p>	<p>30/24 135/9</p> <p>perennial [1] 134/23</p> <p>perfect [2] 46/6 167/17</p> <p>perfectly [2] 47/5 192/20</p> <p>performed [1] 3/22</p> <p>performing [1] 72/11</p> <p>perhaps [18] 19/12 24/17 28/14 29/21 57/17 62/14 64/3 66/10 79/1 81/7 91/19 97/10 100/23 145/6 173/13 192/5 192/24 194/1</p> <p>peril [4] 91/23 137/15 175/18 176/18</p> <p>perilous [1] 173/21</p> <p>period [22] 4/23 5/1 12/22 14/8 34/23 34/23 39/25 51/19 89/11 89/14 94/18 95/17 100/14 101/15 103/18 104/21 106/2 109/23 115/14 147/3 162/11 179/2</p> <p>Permanent [2] 9/17 10/8</p> <p>permission [1] 116/14</p> <p>permitted [1] 57/22</p> <p>persistent [1] 188/2</p> <p>person [2] 51/18 187/15</p> <p>person's [1] 102/15</p> <p>personal [4] 45/13 47/25 99/21 157/3</p> <p>personally [3] 41/23 78/4 159/2</p> <p>perspective [5] 6/21 15/25 28/11 124/5 187/21</p> <p>perspectives [1] 88/17</p> <p>persuade [5] 116/22 189/5 190/10 190/13 190/14</p> <p>persuaded [1] 80/5</p> <p>persuaded' [1] 188/18</p> <p>persuasion [1] 187/16</p> <p>persuasive [1] 79/11</p> <p>pertaining [1] 38/1</p> <p>pharmaceutical [1] 19/1</p> <p>phrase [2] 176/11 183/19</p> <p>physical [2] 15/8 52/19</p> <p>physicians [6] 150/16 154/4 154/10 154/21 155/4 162/4</p> <p>pick [13] 45/5 74/16 85/20 105/3 107/21</p>	<p>109/9 118/1 127/18 129/14 157/16 158/16 193/18 194/1</p> <p>picked [3] 68/22 128/6 128/15</p> <p>Picking [1] 81/13</p> <p>picture [2] 109/9 181/15</p> <p>piece [5] 8/3 34/5 93/8 106/21 149/13</p> <p>pieces [2] 174/1 192/21</p> <p>pile [1] 135/6</p> <p>piles [1] 26/14</p> <p>pilot [2] 1/25 2/1</p> <p>pinpoint [1] 48/1</p> <p>pitched [1] 22/19</p> <p>place [13] 20/10 23/5 32/18 45/13 64/22 78/15 83/17 99/18 103/3 130/12 171/11 172/5 184/25</p> <p>plain [2] 173/13 180/16</p> <p>planning [2] 81/2 163/15</p> <p>plasma [22] 35/16 35/22 36/11 37/1 38/10 38/24 44/11 46/14 51/24 59/18 118/10 138/13 150/12 154/1 157/19 157/21 183/19 183/21 188/20 189/9 193/16 193/16</p> <p>play [1] 14/4</p> <p>played [1] 67/8</p> <p>please [10] 1/4 58/14 63/25 96/18 110/14 121/22 126/23 157/13 174/19 194/3</p> <p>pm [5] 114/24 115/1 167/21 167/23 194/6</p> <p>PN [1] 66/16</p> <p>point [28] 1/13 4/3 7/14 7/22 26/9 31/22 33/12 35/24 37/12 42/17 45/7 50/7 57/17 71/23 79/19 79/24 95/15 96/21 104/6 114/19 124/22 146/20 150/23 170/14 173/15 177/3 180/2 190/5</p> <p>points [8] 79/5 79/11 79/13 79/23 82/21 85/2 88/15 96/15</p> <p>policies [2] 19/18 151/19</p> <p>policy [12] 1/18 5/3 9/6 13/9 13/14 19/17 21/7 92/17 118/1 139/20 175/25 175/25</p> <p>political [5] 30/15</p>
---	---	--	--	---	---

<p>P</p> <p>political... [4] 31/1 31/4 31/6 171/23</p> <p>politician [1] 5/22</p> <p>politics [2] 134/23 136/25</p> <p>pool [3] 157/19 183/3 183/11</p> <p>pooled [4] 35/22 36/11 51/24 118/10</p> <p>pools [5] 150/13 154/2 183/7 183/8 183/10</p> <p>pools' [1] 157/21</p> <p>poorer [1] 28/15</p> <p>population [6] 14/2 16/10 70/1 86/3 88/22 117/2</p> <p>portfolio [4] 13/2 19/22 20/3 32/15</p> <p>Porton [3] 15/19 17/10 25/23</p> <p>Porton Down [2] 15/19 17/10</p> <p>portrayed [1] 163/13</p> <p>pose [1] 67/25</p> <p>posed [4] 54/3 58/25 59/4 60/17</p> <p>poses [1] 3/2</p> <p>posing [1] 58/15</p> <p>position [11] 2/8 99/4 160/1 166/3 173/6 173/11 174/6 174/6 190/11 190/12 191/16</p> <p>positive [8] 56/22 91/14 91/17 91/19 91/25 108/22 118/18 134/14</p> <p>positively [1] 78/14</p> <p>possibilities [3] 150/18 155/21 180/23</p> <p>possibility [5] 39/3 70/13 71/20 103/11 183/20</p> <p>possible [26] 53/22 54/6 54/13 55/9 61/7 63/2 63/9 63/19 64/18 82/24 85/23 87/23 92/18 94/6 100/7 102/13 102/14 118/16 118/22 119/13 125/9 140/2 150/11 153/25 162/6 182/3</p> <p>possibly [9] 7/15 15/18 22/16 34/24 62/14 78/24 112/9 126/18 188/18</p> <p>post [13] 11/15 22/2 33/12 33/24 34/2 42/24 83/10 108/12 167/25 169/8 171/9</p>	<p>171/9 193/16</p> <p>post-March [1] 42/24</p> <p>postponing [1] 181/2</p> <p>potential [11] 34/23 51/12 54/18 68/19 90/23 93/13 108/17 150/17 153/8 155/15 182/21</p> <p>potentially [5] 4/4 51/12 85/18 116/22 163/18</p> <p>powerful [3] 79/11 79/13 149/9</p> <p>PQ [1] 66/25</p> <p>PR [1] 55/23</p> <p>PR/OFF [1] 55/23</p> <p>practicable [1] 119/2</p> <p>practical [5] 159/11 166/13 166/15 170/5 176/2</p> <p>practicalities [1] 136/25</p> <p>practice [1] 151/17</p> <p>practices [3] 103/24 104/12 183/18</p> <p>practising [4] 50/9 123/21 146/1 148/23</p> <p>practitioners [1] 158/1</p> <p>pre [7] 15/11 54/5 188/20 189/8 189/19 191/17 193/16</p> <p>pre-1948 [1] 15/11</p> <p>pre-empt [1] 54/5</p> <p>pre-March [5] 188/20 189/8 189/19 191/17 193/16</p> <p>precautions [1] 152/9</p> <p>precede [1] 29/6</p> <p>precise [1] 96/9</p> <p>precisely [9] 18/17 63/20 70/15 81/17 81/25 82/12 83/18 92/23 109/18</p> <p>precursor [1] 178/14</p> <p>predominantly [1] 35/12</p> <p>prefer [1] 75/3</p> <p>preference [1] 76/24</p> <p>preferred [1] 88/1</p> <p>preparation [3] 42/7 151/18 152/10</p> <p>prepared [16] 24/23 35/21 38/9 50/4 52/20 53/10 56/6 72/21 72/22 84/12 95/3 97/17 150/12 154/1 191/24 191/25</p> <p>preparing [1] 186/11</p> <p>presence [2] 37/25 102/15</p> <p>present [14] 11/21</p>	<p>38/8 41/24 48/7 61/2 65/1 67/9 80/3 102/16 129/4 133/4 152/7 188/25 190/16</p> <p>present at [1] 67/9</p> <p>presentation [2] 139/16 141/6</p> <p>presentational [1] 47/10</p> <p>presented [1] 142/22</p> <p>presents [1] 178/20</p> <p>press [29] 30/16 33/23 64/6 66/3 66/14 66/16 68/9 68/20 68/23 69/19 69/24 85/6 95/9 95/12 97/17 97/20 102/1 110/13 126/20 127/16 127/19 128/3 133/25 134/2 134/8 136/19 137/1 145/9 145/12</p> <p>pressure [2] 21/16 151/24</p> <p>presumably [12] 51/4 55/24 66/17 73/11 74/23 76/7 91/11 95/6 113/24 136/4 140/19 186/16</p> <p>presume [1] 186/7</p> <p>pretty [3] 88/6 128/4 162/10</p> <p>prevalent [3] 118/7 130/6 130/10</p> <p>prevent [8] 37/14 56/17 69/11 93/2 121/10 123/15 152/18 166/10</p> <p>preventing [1] 88/7</p> <p>prevention [2] 112/25 152/4</p> <p>previous [2] 1/21 110/21</p> <p>previously [2] 119/8 184/14</p> <p>primary [1] 132/16</p> <p>prime [1] 13/20</p> <p>Principal [7] 57/4 71/19 84/22 90/3 96/24 113/10 115/9</p> <p>principally [1] 65/23</p> <p>principle [1] 163/6</p> <p>principled [1] 166/16</p> <p>principles [1] 150/4</p> <p>print [1] 124/6</p> <p>printed [2] 123/22 166/12</p> <p>printing [12] 50/13 52/24 84/15 85/9 94/5 99/7 115/22 131/10 131/22 140/4 140/7 144/14</p> <p>prior [4] 1/14 34/1</p>	<p>87/2 87/11</p> <p>priority [2] 16/16 116/2</p> <p>prisons [1] 183/19</p> <p>privacy [1] 75/24</p> <p>private [47] 6/15 6/23 7/2 7/3 7/5 7/20 8/14 8/25 10/24 12/3 16/22 22/13 22/14 24/25 24/25 28/14 28/17 41/16 55/25 77/25 97/12 98/19 98/22 98/23 105/8 105/9 111/16 111/23 112/22 115/9 116/9 121/6 124/15 124/19 130/20 131/4 132/2 133/2 133/8 133/16 133/22 135/24 139/3 141/1 141/25 143/6 185/2</p> <p>privately [1] 79/8</p> <p>privatising [1] 14/5</p> <p>privy [1] 109/21</p> <p>proactive [3] 24/8 24/16 91/19</p> <p>proactively [2] 24/3 160/13</p> <p>probably [34] 7/5 7/11 14/24 20/7 24/19 24/22 25/9 28/6 33/19 36/9 40/8 56/13 58/24 62/13 62/15 72/8 77/13 85/16 97/2 97/4 102/25 103/8 111/12 114/19 116/20 128/8 135/4 137/6 156/16 164/11 167/17 183/3 184/3 191/6</p> <p>probed [1] 39/18</p> <p>problem [5] 54/3 93/13 133/13 134/22 134/23</p> <p>problems [1] 87/18</p> <p>procedure [1] 136/19</p> <p>proceed [6] 47/3 47/8 86/13 87/12 99/15 170/5</p> <p>process [10] 11/24 22/18 27/20 29/6 31/18 92/23 124/5 132/19 166/17 172/18</p> <p>produce [3] 134/11 140/1 182/1</p> <p>produced [11] 27/13 46/16 83/13 102/4 118/10 140/15 140/23 149/11 166/6 182/16 183/6</p> <p>producing [1] 139/21</p> <p>product [3] 46/14 59/17 187/20</p> <p>production [7] 56/19</p>	<p>119/15 125/7 141/19 150/14 166/17 178/15</p> <p>products [59] 10/3 11/22 15/21 15/22 16/5 17/5 17/21 18/7 19/2 31/22 33/14 36/1 38/24 41/1 42/16 42/23 42/24 42/25 43/3 43/23 44/13 44/19 46/17 51/20 56/18 58/19 59/10 92/10 92/15 92/21 93/7 93/13 93/18 93/21 102/9 123/16 150/12 150/15 152/6 152/10 154/1 155/6 157/19 157/21 159/6 159/9 159/23 168/4 168/23 168/25 169/22 170/18 172/13 172/16 175/5 184/16 187/11 188/23 190/1</p> <p>professional [2] 7/4 154/17</p> <p>Professor [4] 48/25 49/4 49/6 49/9</p> <p>Professor Bloom [3] 48/25 49/4 49/9</p> <p>Professor Bloom's [1] 49/6</p> <p>professors [1] 171/20</p> <p>programme [1] 112/12</p> <p>projected [1] 186/24</p> <p>prolonged [1] 83/16</p> <p>promiscuous [5] 52/14 112/19 113/15 148/16 148/18</p> <p>promise [1] 142/7</p> <p>promotional [1] 52/23</p> <p>proof [1] 102/10</p> <p>proper [1] 47/5</p> <p>properly [2] 21/5 177/6</p> <p>properties [1] 15/8</p> <p>prophylactic [1] 181/1</p> <p>proportion [3] 44/18 93/16 193/7</p> <p>proposal [5] 95/16 100/13 100/25 104/20 112/15</p> <p>propose [1] 188/5</p> <p>proposed [9] 29/17 39/8 57/8 62/9 72/16 84/16 85/10 87/16 143/20</p> <p>proposes [1] 53/14</p> <p>proposing [2] 170/21 190/3</p> <p>proposition [1] 162/18</p>	<p>pros [1] 82/20</p> <p>protracted [1] 132/18</p> <p>prove [1] 42/16</p> <p>provide [10] 7/13 20/14 42/2 53/15 106/25 150/20 154/7 155/12 160/16 186/23</p> <p>provided [19] 12/9 33/8 34/6 34/10 37/8 42/20 49/22 50/6 75/19 97/18 106/9 108/3 155/4 159/6 165/1 165/5 166/19 168/11 178/5</p> <p>provides [1] 34/20</p> <p>providing [5] 20/10 42/19 43/18 46/13 46/16</p> <p>provision [6] 9/14 52/22 161/15 163/2 166/4 167/1</p> <p>provoke [1] 70/2</p> <p>PRSE [1] 168/8</p> <p>PRSE0000049 [1] 72/7</p> <p>PRSE0002251 [1] 127/19</p> <p>PS [6] 94/1 99/1 112/23 130/14 130/19 144/19</p> <p>public [36] 15/14 16/2 17/14 17/15 17/21 17/22 20/18 21/4 30/14 30/23 31/10 32/24 33/16 36/24 45/22 46/23 54/21 55/11 56/21 61/6 78/3 89/19 92/24 113/20 113/22 114/2 135/9 135/10 147/4 166/24 167/1 168/2 168/14 169/23 170/1 170/11</p> <p>publication [15] 50/19 54/20 54/23 56/7 61/8 71/24 75/7 90/8 90/11 102/7 106/11 140/20 145/20 153/7 153/13</p> <p>publication by [1] 54/23</p> <p>publicity [17] 65/16 66/14 68/16 68/20 78/9 78/10 83/1 84/15 89/18 92/25 94/10 97/22 112/12 124/25 125/18 133/25 139/13</p> <p>Publicity: [1] 111/1 111/1</p> <p>published [4] 68/4 102/3 106/1 108/18</p> <p>publishing [1] 54/5</p> <p>pulling [1] 192/20</p>
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<p>P</p> <p>purely [4] 5/17 9/21 20/25 83/1</p> <p>purity [1] 46/3</p> <p>purpose [9] 49/25 50/1 50/9 63/15 82/3 82/5 169/19 178/1 186/10</p> <p>purposes [4] 61/2 125/1 178/20 188/25</p> <p>pursuant [1] 125/17</p> <p>pursue [1] 113/21</p> <p>pursued [1] 117/25</p> <p>put [28] 5/14 24/2 26/20 29/14 32/1 33/2 55/15 56/20 60/15 66/1 70/4 88/15 91/10 100/13 101/24 105/20 107/6 108/6 127/3 141/18 145/3 145/10 163/4 169/18 173/6 187/13 188/10 190/3</p> <p>putting [4] 75/13 82/6 91/22 107/16</p>	<p>158/24 161/22 186/16</p> <p>quicker [1] 149/11</p> <p>quickest [1] 125/9</p> <p>quickly [4] 54/6 55/8 64/15 146/25</p> <p>quite [35] 15/13 19/7 20/4 20/5 22/17 26/10 49/17 64/2 67/19 68/23 68/25 77/23 79/2 79/5 84/4 110/1 111/8 121/1 127/5 136/5 136/17 147/5 147/13 163/13 165/22 166/21 170/6 179/14 183/20 187/24 189/4 189/9 189/11 192/7 193/23</p> <p>quizzed [1] 66/19</p> <p>quotation [1] 145/3</p> <p>quote [1] 68/13</p> <p>quoting [1] 66/10</p>	<p>32/3 86/2 138/17 163/5</p> <p>reached [2] 170/23 192/9</p> <p>reacted [1] 81/5</p> <p>reacting [1] 24/7</p> <p>reaction [6] 54/1 63/2 73/5 74/2 76/13 139/11</p> <p>reactive [4] 24/2 24/7 24/9 24/16</p> <p>read [24] 8/7 17/1 33/15 35/7 66/8 68/12 78/18 80/3 80/21 81/15 86/7 87/2 87/10 89/20 117/24 125/23 148/4 148/20 150/5 168/9 183/12 192/6 192/9 192/19</p> <p>reading [2] 70/10 81/7</p> <p>reads [2] 59/5 78/21</p> <p>ready [1] 123/24</p> <p>real [3] 31/5 32/13 173/18</p> <p>realise [2] 13/16 82/1</p> <p>realises [1] 149/1</p> <p>reality [1] 31/8</p> <p>really [26] 7/3 10/12 15/8 20/8 20/20 22/7 44/20 46/19 63/16 69/16 70/7 70/12 81/21 91/14 91/17 104/25 120/15 136/13 145/13 147/24 154/22 162/17 166/3 173/6 179/14 185/22</p> <p>reason [17] 4/21 46/1 51/8 78/21 79/17 87/7 90/10 94/16 136/6 136/17 140/9 165/15 166/13 166/15 166/16 172/24 192/12</p> <p>reasonable [3] 119/1 165/7 192/20</p> <p>reasonably [2] 4/25 182/19</p> <p>reasons [11] 23/15 23/17 79/2 79/5 81/19 82/10 109/20 120/25 137/12 140/17 169/4</p> <p>reassurance [4] 42/22 47/4 47/23 190/7</p> <p>reassured [1] 152/12</p> <p>rebuild [1] 44/8</p> <p>recall [81] 11/19 11/21 12/24 16/6 16/15 17/16 17/18 21/2 21/17 26/10 31/18 33/13 40/6 40/9 41/23 42/25 43/22 49/1 49/7 49/9 49/10 65/10 65/11 65/11</p>	<p>67/7 68/11 68/13 70/24 73/15 74/1 76/6 76/10 76/12 76/12 85/13 92/23 100/2 103/16 103/19 111/16 116/9 116/19 117/23 119/6 120/24 149/12 154/11 154/19 157/3 160/23 161/3 161/4 163/21 164/6 165/21 165/23 169/10 169/12 169/14 170/9 173/24 176/23 177/2 178/13 179/20 180/3 183/23 183/24 183/25 187/4 187/8 187/22 188/1 188/6 188/8 189/17 190/8 192/7 192/10 193/1 193/11</p> <p>recalled [1] 76/24</p> <p>receive [6] 120/22 131/24 159/9 163/11 177/18 177/19</p> <p>received [15] 6/11 21/25 27/23 37/1 39/9 43/5 72/16 83/4 86/25 96/3 107/23 118/13 183/1 185/14 185/15</p> <p>receiving [6] 78/2 118/12 123/7 152/6 155/7 160/1</p> <p>recent [7] 125/4 126/15 133/25 134/6 136/3 139/24 187/14</p> <p>recently [1] 191/9</p> <p>reception [1] 117/1</p> <p>recipients [6] 35/18 150/17 152/11 154/5 154/11 155/7</p> <p>recognised [2] 34/12 36/1</p> <p>recollect [3] 108/2 136/5 136/6</p> <p>recollection [9] 27/6 44/12 45/17 67/5 67/5 67/16 68/6 82/18 100/9</p> <p>recommend [2] 89/7 119/18</p> <p>recommendation [31] 53/3 54/17 89/5 89/15 120/6 149/23 151/25 152/3 152/8 152/15 152/18 152/22 152/24 153/5 153/18 153/20 157/1 157/7 157/14 158/14 161/14 162/1 162/14 164/13 164/17 165/6 165/8 165/13 166/7 169/5 180/22</p> <p>recommendations [16] 121/12 149/16</p>	<p>149/19 150/6 151/2 151/13 151/22 153/23 156/22 157/20 163/22 165/18 180/18 180/19 188/24 191/7</p> <p>recommendations ...' [1] 121/12</p> <p>recommended [8] 63/7 65/25 115/21 118/23 119/17 120/9 127/10 155/11</p> <p>recommending [2] 70/19 168/3</p> <p>Recommends [1] 150/8</p> <p>reconcile [1] 98/8</p> <p>reconsidered [1] 141/3</p> <p>record [6] 28/13 48/5 48/6 65/13 186/1 186/5</p> <p>record-keeping [1] 28/13</p> <p>recorded [3] 87/17 174/9 185/16</p> <p>recording [1] 179/13</p> <p>records [2] 33/6 121/7</p> <p>Red [1] 152/14</p> <p>redevelopment [2] 38/11 44/9</p> <p>redraft [1] 132/13</p> <p>redrafted [2] 117/10 132/12</p> <p>redrafting [1] 83/25</p> <p>reduce [1] 155/23</p> <p>reduced [2] 59/25 125/23</p> <p>reducing [1] 182/4</p> <p>refer [14] 30/2 64/9 74/21 76/21 77/12 147/19 156/24 158/5 160/4 174/25 178/17 190/2 190/24 192/22</p> <p>refer to [1] 174/25</p> <p>reference [41] 37/16 37/19 38/11 39/2 39/4 49/21 62/16 62/19 68/16 73/11 73/20 77/2 78/7 80/12 84/9 85/4 88/16 89/3 91/17 92/2 93/25 99/6 99/9 100/20 115/22 119/13 123/5 126/18 126/22 127/15 128/1 130/9 134/7 135/17 144/23 145/18 166/11 175/20 186/19 186/20 188/15</p> <p>referred [10] 6/22 12/17 68/7 76/10 114/11 126/14 129/13 175/14 181/16 183/3</p> <p>referring [4] 73/18</p>	<p>80/4 92/19 153/6</p> <p>refers [18] 36/22 63/12 71/20 99/2 100/21 105/10 107/19 119/14 123/10 127/9 127/12 127/22 128/21 133/3 145/18 168/18 186/17 191/5</p> <p>reflect [3] 84/1 93/22 161/15</p> <p>reflected [2] 74/13 150/24</p> <p>reflecting [3] 91/19 111/11 166/6</p> <p>reflection [5] 75/12 81/10 81/22 113/25 160/11</p> <p>refrain [7] 50/11 53/16 53/23 54/12 102/18 148/24 150/22</p> <p>regard [2] 14/17 60/12</p> <p>regarded [2] 62/24 193/6</p> <p>regarding [2] 159/7 172/16</p> <p>regards [1] 9/13</p> <p>regime [1] 28/24</p> <p>regional [34] 25/14 50/4 52/20 63/13 66/2 68/8 72/19 72/23 75/21 88/17 89/8 91/3 95/10 100/25 102/5 102/22 103/13 103/22 107/1 108/16 109/2 115/5 116/16 117/21 129/16 129/17 131/23 142/19 142/25 143/17 143/20 143/22 145/22 172/6</p> <p>Regions [3] 88/21 89/12 145/21</p> <p>registered [1] 119/5</p> <p>regular [11] 11/5 11/25 22/21 22/23 22/25 23/17 59/17 89/13 172/5 172/9 172/14</p> <p>regularly [1] 172/6</p> <p>regulations [5] 38/15 40/15 40/17 43/3 191/5</p> <p>reinforce [1] 63/16</p> <p>reinforcing [2] 63/17 112/15</p> <p>rejected [2] 79/1 87/4</p> <p>rejection [1] 87/8</p> <p>related [4] 77/14 167/11 187/14 193/13</p> <p>relates [2] 50/18 51/10</p> <p>relating [4] 17/7 17/10 18/7 123/2</p>
<p>Q</p> <p>qualified [4] 171/22 173/10 181/25 182/2</p> <p>qualms [1] 121/14</p> <p>quarter [2] 21/12 167/20</p> <p>queries [1] 95/10</p> <p>query [1] 24/11</p> <p>question [51] 7/15 20/15 27/24 29/4 29/8 29/14 29/22 30/3 40/19 40/20 40/23 41/1 41/6 42/8 43/17 45/20 46/19 51/7 58/15 58/22 58/25 59/3 60/17 64/19 66/15 66/19 67/13 67/14 67/25 70/24 70/25 75/17 85/6 85/12 85/15 93/12 103/11 104/1 105/15 125/22 137/14 138/22 140/10 145/15 149/16 156/11 163/2 179/8 184/2 186/22 191/4</p> <p>questioned [4] 52/18 60/9 66/12 103/12</p> <p>questioning [4] 37/24 104/11 129/19 129/24</p> <p>questions [24] 1/7 1/19 3/1 7/10 29/9 29/10 29/12 29/18 36/7 38/1 40/9 40/12 40/22 90/13 94/23 104/2 129/22 129/23 141/9 158/18 158/23</p>	<p>R</p> <p>R Windsor [1] 140/24</p> <p>radical [3] 172/25 173/4 182/6</p> <p>radically [2] 101/19 101/22</p> <p>radio [1] 90/20</p> <p>raise [5] 24/3 61/10 121/14 160/13 186/17</p> <p>raised [11] 64/20 81/9 82/22 98/12 109/11 112/8 159/16 161/8 173/19 187/8 189/19</p> <p>ran [2] 9/19 32/7</p> <p>range [5] 16/7 16/12 21/8 98/2 135/2</p> <p>rapid [1] 22/18</p> <p>rapidly [3] 101/14 162/24 163/1</p> <p>rate [3] 35/4 36/14 36/17</p> <p>rather [22] 13/14 13/15 14/10 23/25 24/3 24/8 44/10 46/22 67/22 81/9 81/23 87/13 92/22 97/20 108/22 109/22 132/19 137/19 144/24 160/22 173/9 193/24</p> <p>rationale [1] 183/15</p> <p>rationalised [1] 137/24</p> <p>re [4] 109/2 109/5 134/10 141/9</p> <p>re-draft [2] 109/2 109/5</p> <p>re-emphasise [1] 134/10</p> <p>re-ordered [1] 141/9</p> <p>reach [6] 8/14 8/14</p>	<p>173/18</p> <p>realise [2] 13/16 82/1</p> <p>realises [1] 149/1</p> <p>reality [1] 31/8</p> <p>really [26] 7/3 10/12 15/8 20/8 20/20 22/7 44/20 46/19 63/16 69/16 70/7 70/12 81/21 91/14 91/17 104/25 120/15 136/13 145/13 147/24 154/22 162/17 166/3 173/6 179/14 185/22</p> <p>reason [17] 4/21 46/1 51/8 78/21 79/17 87/7 90/10 94/16 136/6 136/17 140/9 165/15 166/13 166/15 166/16 172/24 192/12</p> <p>reasonable [3] 119/1 165/7 192/20</p> <p>reasonably [2] 4/25 182/19</p> <p>reasons [11] 23/15 23/17 79/2 79/5 81/19 82/10 109/20 120/25 137/12 140/17 169/4</p> <p>reassurance [4] 42/22 47/4 47/23 190/7</p> <p>reassured [1] 152/12</p> <p>rebuild [1] 44/8</p> <p>recall [81] 11/19 11/21 12/24 16/6 16/15 17/16 17/18 21/2 21/17 26/10 31/18 33/13 40/6 40/9 41/23 42/25 43/22 49/1 49/7 49/9 49/10 65/10 65/11 65/11</p>	<p>70/24 73/15 74/1 76/6 76/10 76/12 76/12 85/13 92/23 100/2 103/16 103/19 111/16 116/9 116/19 117/23 119/6 120/24 149/12 154/11 154/19 157/3 160/23 161/3 161/4 163/21 164/6 165/21 165/23 169/10 169/12 169/14 170/9 173/24 176/23 177/2 178/13 179/20 180/3 183/23 183/24 183/25 187/4 187/8 187/22 188/1 188/6 188/8 189/17 190/8 192/7 192/10 193/1 193/11</p> <p>recalled [1] 76/24</p> <p>receive [6] 120/22 131/24 159/9 163/11 177/18 177/19</p> <p>received [15] 6/11 21/25 27/23 37/1 39/9 43/5 72/16 83/4 86/25 96/3 107/23 118/13 183/1 185/14 185/15</p> <p>receiving [6] 78/2 118/12 123/7 152/6 155/7 160/1</p> <p>recent [7] 125/4 126/15 133/25 134/6 136/3 139/24 187/14</p> <p>recently [1] 191/9</p> <p>reception [1] 117/1</p> <p>recipients [6] 35/18 150/17 152/11 154/5 154/11 155/7</p> <p>recognised [2] 34/12 36/1</p> <p>recollect [3] 108/2 136/5 136/6</p> <p>recollection [9] 27/6 44/12 45/17 67/5 67/5 67/16 68/6 82/18 100/9</p> <p>recommend [2] 89/7 119/18</p> <p>recommendation [31] 53/3 54/17 89/5 89/15 120/6 149/23 151/25 152/3 152/8 152/15 152/18 152/22 152/24 153/5 153/18 153/20 157/1 157/7 157/14 158/14 161/14 162/1 162/14 164/13 164/17 165/6 165/8 165/13 166/7 169/5 180/22</p> <p>recommendations [16] 121/12 149/16</p>	<p>151/13 151/22 153/23 156/22 157/20 163/22 165/18 180/18 180/19 188/24 191/7</p> <p>recommendations ...' [1] 121/12</p> <p>recommended [8] 63/7 65/25 115/21 118/23 119/17 120/9 127/10 155/11</p> <p>recommending [2] 70/19 168/3</p> <p>Recommends [1] 150/8</p> <p>reconcile [1] 98/8</p> <p>reconsidered [1] 141/3</p> <p>record [6] 28/13 48/5 48/6 65/13 186/1 186/5</p> <p>record-keeping [1] 28/13</p> <p>recorded [3] 87/17 174/9 185/16</p> <p>recording [1] 179/13</p> <p>records [2] 33/6 121/7</p> <p>Red [1] 152/14</p> <p>redevelopment [2] 38/11 44/9</p> <p>redraft [1] 132/13</p> <p>redrafted [2] 117/10 132/12</p> <p>redrafting [1] 83/25</p> <p>reduce [1] 155/23</p> <p>reduced [2] 59/25 125/23</p> <p>reducing [1] 182/4</p> <p>refer [14] 30/2 64/9 74/21 76/21 77/12 147/19 156/24 158/5 160/4 174/25 178/17 190/2 190/24 192/22</p> <p>refer to [1] 174/25</p> <p>reference [41] 37/16 37/19 38/11 39/2 39/4 49/21 62/16 62/19 68/16 73/11 73/20 77/2 78/7 80/12 84/9 85/4 88/16 89/3 91/17 92/2 93/25 99/6 99/9 100/20 115/22 119/13 123/5 126/18 126/22 127/15 128/1 130/9 134/7 135/17 144/23 145/18 166/11 175/20 186/19 186/20 188/15</p> <p>referred [10] 6/22 12/17 68/7 76/10 114/11 126/14 129/13 175/14 181/16 183/3</p> <p>referring [4] 73/18</p>	<p>80/4 92/19 153/6</p> <p>refers [18] 36/22 63/12 71/20 99/2 100/21 105/10 107/19 119/14 123/10 127/9 127/12 127/22 128/21 133/3 145/18 168/18 186/17 191/5</p> <p>reflect [3] 84/1 93/22 161/15</p> <p>reflected [2] 74/13 150/24</p> <p>reflecting [3] 91/19 111/11 166/6</p> <p>reflection [5] 75/12 81/10 81/22 113/25 160/11</p> <p>refrain [7] 50/11 53/16 53/23 54/12 102/18 148/24 150/22</p> <p>regard [2] 14/17 60/12</p> <p>regarded [2] 62/24 193/6</p> <p>regarding [2] 159/7 172/16</p> <p>regards [1] 9/13</p> <p>regime [1] 28/24</p> <p>regional [34] 25/14 50/4 52/20 63/13 66/2 68/8 72/19 72/23 75/21 88/17 89/8 91/3 95/10 100/25 102/5 102/22 103/13 103/22 107/1 108/16 109/2 115/5 116/16 117/21 129/16 129/17 131/23 142/19 142/25 143/17 143/20 143/22 145/22 172/6</p> <p>Regions [3] 88/21 89/12 145/21</p> <p>registered [1] 119/5</p> <p>regular [11] 11/5 11/25 22/21 22/23 22/25 23/17 59/17 89/13 172/5 172/9 172/14</p> <p>regularly [1] 172/6</p> <p>regulations [5] 38/15 40/15 40/17 43/3 191/5</p> <p>reinforce [1] 63/16</p> <p>reinforcing [2] 63/17 112/15</p> <p>rejected [2] 79/1 87/4</p> <p>rejection [1] 87/8</p> <p>related [4] 77/14 167/11 187/14 193/13</p> <p>relates [2] 50/18 51/10</p> <p>relating [4] 17/7 17/10 18/7 123/2</p>

<p>R</p> <p>relation [26] 14/20 18/12 31/21 32/11 32/19 37/9 39/5 40/14 41/1 44/4 67/13 73/9 75/4 92/17 105/14 119/10 156/6 157/9 159/21 162/6 166/3 175/15 177/12 185/20 187/3 192/23</p> <p>relationship [3] 17/22 44/8 154/13</p> <p>relatively [4] 19/5 66/17 74/10 119/7</p> <p>release [5] 69/24 85/6 102/1 145/9 145/12</p> <p>released [1] 66/23</p> <p>relevant [6] 2/15 3/16 26/24 30/3 43/15 113/20</p> <p>reliable [1] 125/24</p> <p>reliably [1] 159/15</p> <p>reliance [1] 6/14</p> <p>reliant [1] 6/10</p> <p>rely [2] 152/20 192/13</p> <p>relying [1] 179/17</p> <p>remain [1] 142/7</p> <p>remainder [1] 9/1</p> <p>remained [1] 2/8</p> <p>remember [28] 13/19 15/12 25/1 31/24 32/10 32/12 36/5 39/14 39/16 39/19 40/3 47/20 67/11 67/12 76/25 77/15 88/12 97/6 106/9 154/22 158/2 158/9 179/2 179/8 180/1 180/20 187/23 189/12</p> <p>remind [2] 183/2 184/10</p> <p>reminded [1] 16/21</p> <p>reminder [1] 149/9</p> <p>remote [3] 21/14 59/12 142/4</p> <p>removing [1] 86/12</p> <p>repeat [1] 66/18</p> <p>replace [1] 178/22</p> <p>replaced [1] 179/6</p> <p>replacement [1] 128/1</p> <p>replies [1] 139/4</p> <p>reply [2] 17/1 192/20</p> <p>report [4] 16/9 97/24 142/21 185/12</p> <p>reported [4] 36/16 36/22 59/6 66/18</p> <p>reporting [6] 9/5 9/9 10/12 37/16 52/3 135/12</p> <p>reports [3] 101/4 116/11 168/20</p>	<p>represent [1] 39/22</p> <p>representatives [3] 30/21 158/11 186/4</p> <p>reprint [1] 108/25</p> <p>reprinted [2] 128/1 143/12</p> <p>reproduced [1] 116/1</p> <p>request [7] 34/4 39/10 53/22 54/16 60/8 126/6 148/23</p> <p>requested [3] 41/19 60/4 100/19</p> <p>require [2] 24/10 63/3</p> <p>required [7] 21/12 21/19 22/15 52/18 60/24 108/25 131/24</p> <p>requisite [1] 162/19</p> <p>reread [1] 165/22</p> <p>rescheduled [1] 184/18</p> <p>research [8] 15/18 39/6 39/7 56/19 110/12 110/23 185/20 188/5</p> <p>researched [1] 33/17</p> <p>resentment [1] 62/25</p> <p>reserving [1] 181/5</p> <p>resolution [4] 52/25 53/8 53/9 53/13</p> <p>resolutions [1] 151/13</p> <p>resource [5] 86/18 86/19 87/19 88/3 89/3</p> <p>respect [4] 37/25 83/6 150/10 181/25</p> <p>respective [1] 32/8</p> <p>respects [3] 6/3 7/20 173/22</p> <p>respond [1] 24/2</p> <p>responded [2] 57/10 122/6</p> <p>responding [3] 81/12 96/20 166/24</p> <p>response [25] 29/3 34/4 39/10 57/3 76/18 90/4 93/10 93/24 94/25 96/1 96/3 96/4 96/5 106/12 106/16 106/21 113/5 121/5 133/17 134/20 144/16 153/1 159/11 188/25 190/9</p> <p>responses [4] 89/25 96/14 100/18 133/12</p> <p>responsibilities [9] 4/21 5/13 7/1 12/7 12/21 15/16 18/25 19/14 19/22</p> <p>responsibility [19] 5/11 6/13 10/9 13/1 13/9 15/24 16/4 16/8 16/14 17/13 22/5 29/3</p>	<p>32/3 92/13 92/14 136/15 167/8 169/22 184/21</p> <p>responsible [4] 52/22 60/13 88/24 184/15</p> <p>rest [3] 6/15 7/23 22/11</p> <p>restrict [1] 2/25</p> <p>results [2] 117/11 117/12</p> <p>retain [1] 141/11</p> <p>retained [2] 27/8 27/10</p> <p>retains [1] 141/6</p> <p>return [1] 138/23</p> <p>returned [1] 26/18</p> <p>returning [1] 138/25</p> <p>revealing [2] 128/22 128/23</p> <p>Reverend [2] 190/22 191/16</p> <p>Reverend Tanner [2] 190/22 191/16</p> <p>revert [1] 144/24</p> <p>review [2] 111/7 117/11</p> <p>reviewed [2] 105/1 146/9</p> <p>reviewing [1] 99/12</p> <p>revise [1] 125/3</p> <p>revise' [1] 127/13</p> <p>revised [35] 71/10 71/11 74/3 85/1 85/5 116/14 119/19 121/23 122/14 123/20 124/24 125/2 125/15 130/17 131/6 131/10 132/9 132/17 133/11 134/4 134/11 134/16 139/7 139/17 140/1 140/14 141/5 143/11 143/23 144/3 144/10 144/14 144/21 145/21 149/10</p> <p>revision [5] 115/10 115/19 119/24 133/4 134/9</p> <p>rewrite [2] 125/18 130/5</p> <p>RHAs [1] 142/19</p> <p>RICHARDS [1] 1/7</p> <p>rife [1] 66/4</p> <p>right [52] 8/23 11/1 11/4 13/2 15/9 16/5 24/14 26/20 28/15 35/23 47/2 47/8 48/4 55/2 64/12 67/18 68/17 68/22 71/1 75/15 78/7 91/1 97/1 98/16 101/8 101/9 109/19 114/19 132/10 132/16 136/24 137/2 151/9 154/24 156/1</p>	<p>156/10 157/7 161/7 163/12 165/10 165/19 171/5 171/13 176/8 176/9 177/17 180/15 181/8 184/12 186/2 190/9 191/22</p> <p>right-hand [1] 151/9</p> <p>rightly [4] 4/3 61/7 68/23 181/15</p> <p>rights [2] 53/24 53/25</p> <p>risk [95] 35/19 36/11 38/7 38/24 42/15 42/18 42/25 43/22 44/13 44/15 44/20 44/22 44/23 45/2 45/9 45/24 46/1 46/5 46/6 46/9 46/11 46/13 46/13 46/15 46/19 50/10 51/22 52/15 53/16 54/11 56/23 59/1 60/6 60/15 64/7 65/21 67/2 67/13 69/22 69/22 70/3 70/8 70/20 71/5 71/8 78/24 79/4 82/6 86/12 87/4 87/10 87/13 90/23 102/13 102/18 111/4 116/22 117/8 118/8 119/2 120/10 123/19 123/21 126/1 127/23 131/17 137/9 137/10 137/14 137/21 144/4 145/25 146/4 148/6 149/1 150/21 155/23 162/17 163/25 164/3 164/9 166/10 168/5 168/25 173/6 174/25 175/2 175/5 177/1 177/12 177/14 178/2 181/17 182/4 187/18</p> <p>risks [34] 43/18 45/22 45/25 59/25 69/4 91/24 125/23 137/11 150/19 155/16 155/19 155/21 159/5 159/7 159/22 160/7 162/5 162/7 163/8 163/9 164/1 164/15 164/15 168/5 175/9 175/15 176/7 177/4 177/6 177/16 179/25 182/5 182/13 182/18</p> <p>role [22] 3/22 3/24 4/17 5/3 5/13 9/12 10/20 14/4 18/4 18/15 18/23 23/24 24/6 30/20 31/14 72/11 158/17 158/21 158/24 166/22 166/23 184/15</p> <p>roles [1] 13/8</p> <p>Ron [1] 62/7</p> <p>roughly [1] 96/20</p>	<p>round [3] 47/22 93/9 160/22</p> <p>route [2] 103/14 163/7</p> <p>routine [1] 52/19</p> <p>row [1] 183/19</p> <p>RTCs [3] 119/4 119/7 141/15</p> <p>RTDs [5] 72/18 85/24 89/7 109/2 116/23</p> <p>S</p> <p>sacrosanct [1] 154/14</p> <p>safe [1] 4/25</p> <p>safer [1] 42/24</p> <p>safety [10] 18/7 33/25 88/25 92/15 92/17 137/7 160/5 170/19 171/13 173/3</p> <p>saga [1] 145/10</p> <p>said [39] 19/12 19/14 23/13 30/24 33/20 37/6 39/22 41/3 47/12 56/1 58/10 58/14 69/14 69/20 71/2 75/6 83/22 85/18 88/18 91/11 91/25 92/3 100/15 102/8 103/1 107/11 137/14 148/18 149/2 149/4 155/19 156/4 156/25 172/25 182/13 183/4 186/21 187/21 190/17</p> <p>sake [2] 79/21 94/22</p> <p>same [12] 61/15 66/22 68/25 77/3 79/24 96/20 103/9 128/4 139/2 147/14 157/25 191/11</p> <p>sarcoma [1] 34/20</p> <p>satisfied [1] 129/3</p> <p>satisfy [2] 78/5 162/3</p> <p>saw [10] 62/2 74/12 82/13 88/20 103/22 106/25 107/13 119/14 139/16 146/14</p> <p>say [73] 9/16 13/7 13/12 14/14 24/5 24/19 26/21 28/3 30/13 31/11 39/13 39/21 41/11 42/13 43/13 43/22 45/5 55/6 57/20 63/21 63/23 63/25 68/5 70/7 75/2 76/9 76/22 77/10 90/21 92/7 95/13 98/9 100/15 104/7 104/16 105/24 106/8 107/14 107/25 110/22 112/5 114/7 124/13 127/7 127/11 142/3 142/13 146/24 151/3 156/2 157/2 157/15 157/18</p>	<p>159/1 159/10 159/14 159/15 159/20 161/17 163/23 165/11 169/14 173/20 175/1 175/15 176/1 178/12 178/20 186/13 189/14 189/15 190/15 191/8</p> <p>saying [10] 46/23 47/20 57/10 78/23 81/24 91/4 93/20 136/3 136/22 179/10 says [43] 36/15 37/2 37/22 52/4 57/6 58/17 61/3 62/6 64/25 69/6 71/22 72/14 73/3 74/25 76/20 80/18 82/9 82/15 84/24 85/22 95/1 98/24 109/15 113/10 114/9 115/17 116/10 121/18 122/10 124/23 128/4 128/25 131/5 138/7 138/15 142/5 142/16 153/11 158/7 170/23 185/11 189/1 191/19</p> <p>scale [1] 179/23</p> <p>scare [1] 98/4</p> <p>scaremongering [1] 66/16</p> <p>scenario [1] 181/19</p> <p>science [1] 179/7</p> <p>scientific [7] 6/19 8/19 15/4 47/9 179/14 180/8 183/14</p> <p>score [1] 38/3</p> <p>Scotland [11] 2/16 23/7 31/15 32/6 32/12 32/14 32/21 73/10 99/23 100/3 130/5</p> <p>Scott [2] 72/10 98/21</p> <p>Scottish [7] 31/14 31/15 31/23 32/8 72/12 72/18 72/23</p> <p>scratch [1] 191/24</p> <p>screen [14] 13/6 33/2 42/11 99/25 105/20 135/20 145/10 148/12 161/18 169/18 174/19 184/10 188/10 190/3</p> <p>screening [3] 118/21 142/8 145/15</p> <p>se [1] 18/20</p> <p>season [1] 95/8</p> <p>seat [1] 2/7</p> <p>SEB [2] 84/13 131/3</p> <p>second [18] 37/21 58/16 74/5 77/22 86/22 100/16 110/18 112/6 123/3 123/4 126/13 128/3 133/3 142/16 149/21 168/21 170/16 178/12</p>
---	---	---	--	---	--

<p>S</p> <p>secondary [1] 35/14</p> <p>secondly [2] 109/15 165/2</p> <p>Secretaries [2] 96/24 124/15</p> <p>Secretaries' [1] 124/19</p> <p>secretary [39] 1/9 3/9 3/20 3/21 3/25 4/15 4/18 5/6 5/11 7/5 9/17 10/8 13/8 13/10 13/12 14/13 18/25 23/3 24/24 24/25 25/1 25/1 25/16 41/16 57/5 71/19 73/12 73/18 84/22 90/3 98/23 111/16 113/10 115/9 115/9 116/9 135/24 166/23 167/25</p> <p>Secrets [2] 2/25 3/3</p> <p>section [1] 35/6</p> <p>secure [1] 92/17</p> <p>secured [1] 54/7</p> <p>security [10] 1/10 1/22 2/9 4/1 4/5 5/8 8/22 14/1 14/9 102/2</p> <p>see [115] 8/4 10/18 13/6 14/19 14/23 15/14 16/7 18/4 34/9 36/14 37/21 39/4 41/14 41/25 49/23 49/25 58/13 58/15 58/22 60/7 60/23 61/20 62/13 63/11 64/24 65/13 67/18 72/14 74/6 75/13 77/21 79/3 79/21 79/22 80/10 81/11 82/14 84/10 84/18 84/24 85/4 86/17 86/22 87/21 89/22 90/17 91/10 94/24 97/13 98/12 102/20 105/6 106/12 110/8 110/10 110/14 110/19 110/25 111/24 112/20 114/7 115/7 115/23 116/4 116/5 116/8 116/10 119/12 120/8 121/5 121/17 121/22 122/3 122/22 122/24 123/5 123/15 124/20 124/23 125/22 126/13 129/7 129/19 130/5 130/20 132/1 132/4 136/16 138/10 138/11 140/22 140/24 141/22 143/4 143/19 144/16 145/17 146/8 147/9 147/23 150/6 151/8</p>	<p>152/23 156/19 162/10 166/11 167/9 168/13 170/22 171/6 172/10 177/22 188/2 189/7 189/14</p> <p>seeing [3] 18/16 93/15 169/15</p> <p>seek [4] 21/21 76/22 85/14 164/20</p> <p>seeking [2] 44/6 85/8</p> <p>seeks [5] 56/6 84/14 115/19 116/13 134/3</p> <p>seem [14] 35/19 36/19 67/20 80/5 92/25 101/9 106/15 108/20 124/4 132/18 136/5 136/20 165/7 170/3</p> <p>seemed [7] 44/21 101/14 132/20 154/9 176/2 192/19 193/5</p> <p>seems [10] 36/17 52/9 61/8 77/16 94/14 106/7 120/20 124/8 133/19 163/12</p> <p>seen [40] 20/16 45/19 49/8 49/18 56/22 57/7 61/4 61/14 61/19 65/6 72/1 72/9 79/16 79/18 80/20 81/15 81/21 84/8 91/9 93/17 94/3 97/16 112/23 113/11 121/8 122/12 130/16 132/7 139/6 142/1 153/3 153/18 160/24 169/18 172/3 172/22 172/24 180/17 186/10 186/10</p> <p>selected [4] 150/16 154/4 154/11 155/7</p> <p>self [9] 38/12 40/13 40/16 127/20 150/14 186/18 187/2 187/5 191/1</p> <p>self-sufficiency [9] 38/12 40/13 40/16 127/20 150/14 186/18 187/2 187/5 191/1</p> <p>send [3] 7/13 119/4 163/15</p> <p>sending [1] 83/2</p> <p>senior [4] 5/5 10/16 10/19 159/17</p> <p>sensationalist [2] 68/24 78/10</p> <p>sense [12] 5/17 7/19 46/25 129/6 157/16 161/21 167/11 173/10 179/21 181/12 189/13 193/1</p> <p>sensible [4] 83/3 113/21 121/10 154/9</p>	<p>sensitive [3] 53/21 64/3 137/2</p> <p>sensitively [1] 113/2</p> <p>sensitivities [1] 82/4</p> <p>sensitivity [4] 50/17 51/10 54/18 142/17</p> <p>sent [26] 4/22 8/16 36/7 43/9 43/12 55/4 68/12 71/10 71/19 75/17 77/24 83/13 93/9 110/2 117/22 122/7 130/14 132/13 133/4 139/2 152/23 158/5 163/15 178/18 185/6 192/22</p> <p>sentence [7] 37/2 43/22 58/23 69/6 112/10 115/24 159/14</p> <p>separate [5] 4/4 4/4 119/15 138/2 149/15</p> <p>separately [1] 161/14</p> <p>September [21] 2/16 3/14 45/14 49/14 100/13 102/1 102/20 103/5 104/20 104/25 106/1 106/2 114/14 116/20 122/1 158/11 184/25 185/4 189/18 190/20 190/22</p> <p>September 1983 [1] 106/2</p> <p>September 1986 [1] 2/16</p> <p>sequence [1] 96/23</p> <p>sequencing [1] 96/1</p> <p>series [3] 40/22 171/24 192/5</p> <p>serious [9] 12/16 44/25 46/8 60/15 137/15 144/24 175/3 176/7 181/6</p> <p>seriousness [1] 174/14</p> <p>servant [1] 7/5</p> <p>servants [8] 12/3 21/1 21/18 106/10 124/5 189/24 192/3 192/4</p> <p>servants' [1] 188/19</p> <p>serves [2] 75/1 77/9</p> <p>service [28] 6/10 9/7 9/9 15/15 15/15 16/3 50/16 55/1 56/10 58/20 61/24 65/25 66/21 67/1 69/8 69/15 70/4 70/12 73/1 113/7 116/25 127/22 129/11 134/13 141/14 168/14 169/23 170/12</p> <p>services [9] 3/10 6/9 15/4 17/23 55/21 65/9 141/4 152/16 167/3</p> <p>services 1 [1] 55/21</p>	<p>session [5] 79/2 117/25 128/22 129/21 130/8</p> <p>sessions [4] 78/14 78/15 86/12 86/23</p> <p>set [18] 16/1 39/18 42/18 50/2 55/3 62/9 67/10 86/6 86/24 105/25 134/16 143/25 150/4 153/10 169/16 170/24 172/11 191/15</p> <p>sets [6] 63/9 90/4 102/19 168/21 169/3 185/7</p> <p>setting [4] 12/16 77/21 145/14 182/17</p> <p>several [2] 36/20 166/19</p> <p>severe [1] 179/22</p> <p>severity [1] 179/22</p> <p>sexual [8] 38/2 52/18 60/9 66/12 66/20 103/24 104/12 146/2</p> <p>sexually [1] 112/12</p> <p>shakier [1] 187/13</p> <p>shall [1] 53/1</p> <p>shared [1] 174/1</p> <p>sharing [1] 174/4</p> <p>she [11] 22/2 36/7 42/1 66/25 83/12 83/14 108/9 109/15 127/12 149/1 154/17</p> <p>she'd [1] 36/7</p> <p>she's [1] 126/14</p> <p>sheet [1] 192/11</p> <p>short [4] 14/7 58/8 167/22 175/8</p> <p>short-term [1] 14/7</p> <p>shortage [1] 97/25</p> <p>shorten [1] 29/21</p> <p>shorthand [1] 69/2</p> <p>shortly [5] 49/24 56/20 64/10 107/21 150/7</p> <p>should [84] 5/2 20/21 20/22 21/22 29/17 34/7 52/13 52/16 52/17 53/14 55/8 59/19 59/24 61/9 65/17 66/1 66/10 66/17 66/22 67/2 70/19 71/4 72/15 74/15 78/19 79/21 80/22 81/15 89/10 89/19 90/19 94/6 95/10 101/2 101/6 104/1 104/7 104/24 104/25 107/14 109/1 109/5 109/17 111/3 112/5 113/3 113/21 116/1 116/2 116/7 119/5 125/8 130/7</p>	<p>132/20 136/17 139/19 140/5 140/6 141/12 142/13 143/12 143/13 143/15 144/5 146/24 148/24 149/5 153/4 153/19 155/3 156/17 156/25 159/8 159/8 161/2 162/15 164/23 166/2 167/2 168/24 174/10 174/15 185/12 190/16</p> <p>shouldn't [3] 70/16 82/2 82/7</p> <p>show [2] 147/24 174/20</p> <p>showing [1] 63/15</p> <p>shuffle [1] 2/12</p> <p>sic [1] 108/2</p> <p>side [11] 4/2 5/8 8/21 9/6 9/22 68/3 121/2 148/3 151/9 177/11 177/15</p> <p>sign [2] 67/22 192/6</p> <p>signed [7] 2/24 3/3 125/16 135/6 161/25 164/12 192/17</p> <p>significance [5] 21/19 40/4 145/2 145/13 183/10</p> <p>significant [7] 14/16 34/23 139/24 170/16 172/15 173/25 191/20</p> <p>significantly [1] 144/4</p> <p>silly [1] 95/8</p> <p>similar [7] 2/10 65/23 72/11 74/7 81/1 97/25 191/10</p> <p>SIMON [1] 1/6</p> <p>simply [11] 1/18 8/13 20/1 28/3 30/20 90/12 96/11 97/5 100/6 154/19 179/15</p> <p>since [8] 35/20 36/3 58/18 83/10 118/9 122/5 123/17 179/3</p> <p>single [6] 20/6 46/25 101/7 172/2 179/23 192/17</p> <p>sir [15] 9/18 10/18 10/22 10/22 33/7 33/21 39/10 57/17 93/19 107/14 114/20 135/1 135/20 167/16 193/23</p> <p>Sir Brian [2] 93/19 135/1</p> <p>Sir Donald Acheson [1] 10/22</p> <p>Sir Henry [4] 10/22 33/7 33/21 39/10</p> <p>Sir Henry Yellowlees [1] 10/18</p>	<p>sit [2] 47/21 193/24</p> <p>situation [3] 39/11 78/16 138/20</p> <p>six [8] 95/4 95/17 100/14 100/25 101/10 101/12 111/8 111/11</p> <p>size [1] 183/10</p> <p>sizes [2] 183/3 183/11</p> <p>skid [1] 183/19</p> <p>sliding [1] 179/23</p> <p>slightly [10] 31/2 69/20 74/3 81/18 82/10 99/20 111/25 138/2 164/16 167/16</p> <p>slip [4] 66/2 68/9 68/13 82/24</p> <p>slow [2] 118/5 136/20</p> <p>small [22] 11/12 36/12 43/1 43/24 44/14 44/15 44/17 44/18 45/3 67/3 67/13 70/21 70/21 71/5 71/8 93/16 101/22 130/3 164/1 164/3 177/14 177/14</p> <p>smaller [1] 166/19</p> <p>Smithies [6] 108/9 109/11 122/25 128/19 141/10 146/14</p> <p>so [298]</p> <p>social [17] 1/10 1/22 2/9 2/20 3/10 3/25 4/5 5/8 6/9 8/21 14/1 14/9 17/23 23/15 23/17 102/2 167/3</p> <p>society [24] 45/20 54/8 158/10 184/5 184/13 184/23 185/4 186/4 186/12 187/3 187/15 187/19 188/16 188/17 189/2 189/24 190/6 190/10 190/21 192/23 193/1 193/4 193/5 193/9</p> <p>Society's [4] 186/13 187/21 190/5 190/12</p> <p>solely [2] 17/5 44/1</p> <p>solid [1] 47/11</p> <p>some [73] 7/20 10/1 11/12 12/19 15/12 16/16 18/12 19/6 20/14 21/5 22/11 23/17 24/1 25/7 26/9 27/2 27/3 27/4 28/6 28/11 30/6 31/12 33/22 36/13 37/4 37/8 37/20 38/13 43/11 43/14 45/5 49/16 57/14 62/10 64/4 75/3 76/3 86/17 98/15 99/18 103/21 108/23 117/22 119/7 119/10</p>
--	--	---	--	--	--

<p>S</p> <p>some... [28] 124/2 126/20 135/16 137/3 137/11 139/12 141/9 141/21 147/10 158/18 158/23 158/24 162/3 164/25 166/5 170/14 173/18 173/21 178/24 179/13 179/18 180/19 181/25 182/17 182/21 186/5 186/21 193/18</p> <p>somebody's [1] 2/13</p> <p>somehow [2] 164/23 189/7</p> <p>someone [5] 34/24 40/2 40/2 72/13 81/22</p> <p>something [19] 10/3 17/1 17/10 20/24 21/19 29/2 29/5 34/1 55/8 91/21 94/11 94/12 135/9 147/1 161/10 163/14 163/18 167/2 183/12</p> <p>sometimes [5] 8/5 20/17 23/2 26/7 26/7</p> <p>somewhat [2] 83/16 113/13</p> <p>somewhere [1] 28/6</p> <p>soon [7] 33/5 64/18 80/25 94/6 108/25 109/1 140/2</p> <p>sorry [14] 32/1 49/20 63/23 71/11 112/6 122/16 126/12 127/1 129/5 142/13 157/15 158/16 158/18 168/9</p> <p>sort [12] 9/17 17/24 23/1 25/20 26/20 27/15 29/23 69/25 103/20 176/15 189/6 192/11</p> <p>sorts [1] 173/11</p> <p>sought [4] 50/18 72/5 134/17 190/10</p> <p>Soumik [21] 13/3 30/8 34/7 41/14 42/12 58/14 63/25 77/20 105/20 112/6 127/3 135/19 148/3 153/22 156/15 156/19 157/13 174/18 175/13 184/10 188/10</p> <p>sounds [2] 68/1 116/6</p> <p>sources [4] 12/6 118/14 154/17 178/8</p> <p>speak [7] 3/9 3/15 10/21 45/1 107/11 121/1 140/13</p> <p>speaking [4] 24/20 101/9 183/15 193/6</p> <p>special [4] 14/14 17/8</p> <p>23/4 25/23</p> <p>specialised [1] 159/25</p> <p>specific [7] 8/9 21/24 24/1 29/2 34/15 34/19 152/10</p> <p>specifically [3] 92/10 92/16 92/19</p> <p>specifics [1] 30/6</p> <p>speculation [2] 66/4 159/17</p> <p>speech [1] 91/10</p> <p>Spence [2] 168/1 169/24</p> <p>spending [1] 128/23</p> <p>spent [4] 1/14 17/4 20/6 26/2</p> <p>spite [2] 54/18 187/14</p> <p>split [1] 24/15</p> <p>spoke [3] 97/16 122/11 193/2</p> <p>spoken [1] 63/12</p> <p>spread [6] 35/10 35/14 37/14 56/17 75/9 167/15</p> <p>spreading [1] 65/21</p> <p>spring [1] 103/18</p> <p>spring/summer [1] 103/18</p> <p>staff [1] 24/24</p> <p>stage [17] 5/18 38/19 40/12 40/24 46/10 52/7 57/16 57/21 72/6 83/15 87/14 93/1 103/15 163/25 170/13 171/14 171/25</p> <p>stages [1] 76/16</p> <p>stand [1] 146/6</p> <p>standards [1] 157/7</p> <p>stark [2] 170/7 181/16</p> <p>start [7] 3/6 49/20 149/18 156/11 156/19 193/24 194/3</p> <p>start with [1] 156/11</p> <p>starting [1] 89/25</p> <p>starts [3] 58/15 192/2 192/4</p> <p>state [29] 1/9 2/16 3/9 3/20 3/21 3/25 4/15 4/18 5/6 5/12 9/17 13/8 13/10 13/12 14/13 19/1 19/8 23/3 25/16 32/14 39/23 47/14 65/3 67/21 73/12 104/14 133/5 166/23 168/1</p> <p>State's [1] 73/18</p> <p>statement [68] 5/17 13/3 16/2 19/4 19/12 23/14 26/23 27/20 28/10 28/21 30/7 30/8 39/21 41/2 42/11</p> <p>63/21 64/13 69/17 74/9 85/5 85/12 89/20 90/6 92/3 92/5 97/17 102/25 105/11 105/19 105/21 107/5 107/11 107/25 124/13 126/17 126/23 127/3 127/19 128/3 128/6 134/2 134/8 146/24 156/13 156/14 156/17 158/15 158/24 161/18 169/6 169/14 169/19 171/10 172/21 173/14 174/17 174/18 174/21 178/1 178/11 180/9 180/12 181/17 183/4 184/9 188/9 189/15 189/16</p> <p>statements [6] 21/4 125/5 126/16 126/20 127/16 147/8</p> <p>statements' [1] 127/14</p> <p>states [10] 38/14 38/18 45/1 59/3 66/1 150/8 154/3 168/4 183/6 183/18</p> <p>STD [1] 106/17</p> <p>steady [1] 118/5</p> <p>step [2] 56/22 173/1</p> <p>steps [14] 37/13 53/14 56/16 98/5 119/2 121/10 150/9 153/24 155/11 155/22 156/6 162/3 173/5 182/6</p> <p>sticking [1] 107/25</p> <p>still [12] 23/7 37/4 43/14 92/12 93/5 109/4 128/16 142/3 144/20 148/1 161/17 178/23</p> <p>stitch [1] 29/23</p> <p>stock [1] 189/22</p> <p>stocks [3] 191/10 191/17 192/22</p> <p>stood [1] 6/3</p> <p>stopped [2] 175/19 188/3</p> <p>stopping [4] 173/1 175/25 180/25 182/6</p> <p>story [3] 82/15 95/9 96/13</p> <p>Stowe [1] 9/18</p> <p>strain [1] 61/9</p> <p>strange [1] 170/3</p> <p>stream [1] 7/6</p> <p>strength [1] 66/6</p> <p>strengthen [1] 117/8</p> <p>strengthened [1] 128/2</p> <p>strengthening [3] 120/9 128/9 146/15</p> <p>stresses [1] 146/3</p> <p>strict [1] 28/24</p> <p>strike [2] 111/14 169/21</p> <p>stringent [1] 163/21</p> <p>strong [8] 26/6 67/10 73/6 128/22 128/23 147/11 149/13 180/21</p> <p>stronger [2] 109/13 131/19</p> <p>strongly [3] 66/9 125/6 170/2</p> <p>structure [3] 3/7 6/22 9/10</p> <p>structured [1] 174/5</p> <p>studied [1] 77/25</p> <p>stuff [4] 8/19 43/14 101/13 171/17</p> <p>style [1] 141/6</p> <p>sub [7] 105/22 105/23 129/25 157/15 157/16 157/18 175/21</p> <p>sub-para [1] 105/22</p> <p>sub-paragraph [5] 129/25 157/15 157/16 157/18 175/21</p> <p>Sub-paragraph 43.2 [1] 105/23</p> <p>subcommittee [5] 2/20 20/21 160/5 170/18 172/13</p> <p>subject [9] 21/13 22/4 22/9 64/25 78/3 97/21 99/16 141/9 152/3</p> <p>subjects [1] 1/20</p> <p>submission [41] 49/22 56/18 57/7 61/4 72/16 72/16 75/14 82/23 83/13 84/6 84/12 85/8 89/22 94/3 95/16 105/10 105/13 106/14 106/15 106/20 108/2 108/6 109/10 110/2 113/12 114/12 115/18 116/4 116/11 116/14 120/15 121/9 121/22 122/12 125/17 139/9 142/1 143/7 160/23 165/11 182/16</p> <p>submissions [5] 20/16 24/2 24/7 31/21 105/12</p> <p>submit [1] 151/15</p> <p>submitted [2] 53/12 57/16</p> <p>subparagraph [1] 158/8</p> <p>subsequently [7] 27/12 49/8 93/9 124/21 131/9 138/12 179/11</p> <p>substance [3] 2/23</p> <p>90/20 185/23</p> <p>substantial [4] 9/22 13/17 19/23 21/7</p> <p>substantive [1] 120/22</p> <p>substitute [1] 109/5</p> <p>succeeded [2] 2/4 2/6</p> <p>successful [2] 111/6 114/10</p> <p>successor [1] 108/10</p> <p>such [33] 11/2 16/22 16/22 19/22 21/19 24/19 34/16 34/19 51/20 52/11 54/1 54/5 54/16 60/15 64/2 110/23 129/21 147/3 150/15 150/17 152/11 155/7 158/1 159/5 159/7 160/16 165/13 174/13 176/11 177/22 182/12 182/21 190/1</p> <p>suddenly [2] 176/3 176/11</p> <p>suffer [2] 175/3 181/20</p> <p>suffering [4] 51/18 59/2 59/14 59/20</p> <p>sufficiency [9] 38/12 40/13 40/16 127/20 150/14 186/18 187/2 187/5 191/1</p> <p>sufficient [2] 113/19 131/16</p> <p>suggest [11] 72/1 122/15 127/15 142/20 147/1 157/5 164/22 169/11 172/23 177/24 190/6</p> <p>suggested [15] 42/15 57/9 76/14 81/5 87/22 94/10 102/8 106/2 106/16 119/3 121/24 126/10 130/4 131/19 182/22</p> <p>suggesting [2] 101/2 172/10</p> <p>suggestion [6] 102/12 106/18 158/9 165/23 178/21 184/22</p> <p>suggestions [1] 163/22</p> <p>suggestive [1] 37/7</p> <p>suggests [1] 116/15</p> <p>sui [1] 32/7</p> <p>sui generis [1] 32/7</p> <p>suitable [2] 116/24 118/21</p> <p>summarised [1] 182/19</p> <p>summary [2] 181/22 184/12</p> <p>summer [1] 103/18</p>	<p>Sunday [1] 23/8</p> <p>supplementary [2] 29/18 29/23</p> <p>supplied [3] 99/13 106/6 158/1</p> <p>supply [9] 33/24 33/25 38/22 55/12 69/12 88/7 145/20 152/21 191/11</p> <p>support [7] 7/9 80/17 121/11 125/9 188/4 188/20 189/25</p> <p>suppose [4] 4/21 5/9 63/1 93/6</p> <p>supposition [2] 79/14 86/10</p> <p>sure [18] 11/20 21/2 28/16 36/9 40/16 49/6 77/5 77/23 80/22 82/19 100/20 126/25 132/18 132/25 133/18 145/7 189/9 189/18</p> <p>surgeries [1] 181/3</p> <p>surgical [1] 181/6</p> <p>surprised [1] 173/14</p> <p>surprises [2] 167/12 173/12</p> <p>surprising [1] 172/17</p> <p>surrounding [2] 65/16 139/14</p> <p>Surveillance [4] 36/23 37/17 168/15 170/11</p> <p>surveys [2] 14/2 16/10</p> <p>susceptible [1] 59/16</p> <p>suspect [8] 54/11 62/17 78/20 93/22 134/23 135/1 148/24 174/8</p> <p>suspected [1] 87/7</p> <p>suspension [2] 187/11 187/19</p> <p>sworn [1] 1/6</p> <p>symptoms [6] 34/14 34/16 34/18 38/1 104/4 104/14</p> <p>syndrome [1] 152/5</p> <p>system [14] 11/4 11/24 15/15 27/16 28/8 28/19 31/18 78/25 114/6 116/16 120/1 132/20 167/14 174/15</p> <p>systems [2] 27/7 32/17</p>	<p>T</p> <p>tabbed [1] 30/2</p> <p>take [39] 1/5 5/6 23/4 29/7 45/25 46/1 47/5 55/3 57/19 58/11 61/9 63/6 71/12 73/21</p>			
--	---	--	--	--	--

T	14/24 15/1 73/5 165/19 termed [2] 112/18 191/5 terms [29] 2/14 7/4 7/21 8/25 9/25 17/21 25/22 32/3 33/24 35/2 35/3 39/25 42/14 43/4 44/12 48/19 71/2 77/21 88/6 92/20 114/21 153/14 159/11 162/24 166/22 166/24 170/21 173/13 179/24 test [12] 37/11 52/11 52/11 60/1 92/12 102/15 118/21 119/13 125/24 128/24 145/16 148/12 tests [1] 142/8 text [11] 85/2 90/5 96/3 134/4 134/15 134/16 139/17 139/23 141/3 141/5 143/19 texts [1] 85/11 than [42] 5/24 6/24 10/22 13/14 13/15 23/25 24/3 24/8 28/15 30/23 31/24 42/24 43/5 44/10 46/15 46/22 47/25 49/7 67/22 81/9 81/23 87/13 91/19 92/22 93/23 94/23 101/14 108/22 109/22 120/5 120/24 137/19 142/18 144/24 149/11 160/22 164/4 176/3 182/6 183/2 187/13 193/24 thank [7] 58/6 77/19 135/21 137/25 188/11 194/4 194/5 that [864] that's [85] 2/18 3/12 3/18 15/8 19/11 39/9 43/13 48/10 55/19 56/4 56/25 60/20 60/24 61/12 65/2 65/5 66/16 67/24 68/5 70/12 76/5 78/8 80/8 80/12 82/5 83/5 84/21 86/16 88/9 89/22 91/24 92/4 95/16 95/23 96/16 97/1 98/9 99/2 104/20 105/11 105/15 106/4 110/1 111/10 112/25 114/19 120/18 121/20 122/11 125/11 126/10 127/5 127/15 129/16 130/19 131/3 131/8 132/1 132/2 132/15 134/1 137/2 139/8 142/19	142/24 143/3 144/19 146/10 147/1 149/9 153/14 154/24 165/19 172/17 173/2 175/8 178/3 178/4 181/22 184/24 185/7 185/10 185/22 187/21 191/19 their [38] 10/20 11/2 22/4 30/20 37/25 42/23 50/11 52/15 52/18 53/25 54/1 54/5 66/20 75/19 75/25 79/8 80/2 86/7 87/6 87/7 88/21 89/1 89/12 116/23 116/24 117/23 118/21 119/3 119/5 136/23 138/20 152/16 159/22 164/3 171/22 179/25 187/16 193/12 them [40] 6/19 7/11 14/10 18/2 23/5 25/5 26/18 26/20 26/20 28/2 75/19 76/4 79/3 79/19 118/1 118/17 123/18 126/6 141/23 142/20 142/23 148/17 151/3 155/7 160/24 163/13 164/24 170/15 173/22 174/21 177/6 179/17 179/25 182/5 189/5 189/7 190/13 190/18 192/25 193/13 theme [1] 52/6 themselves [8] 8/22 22/3 32/7 80/2 95/11 148/18 149/19 155/6 then [265] then the [1] 39/6 then through [1] 10/25 Therapies [1] 15/5 there [216] there'd [1] 126/20 there's [61] 4/4 27/3 33/2 33/3 36/25 37/13 37/16 37/19 38/11 39/2 47/10 48/4 52/25 57/21 58/25 59/3 59/22 59/25 60/1 68/15 71/13 71/25 72/20 75/12 75/13 87/18 88/4 88/16 89/3 91/10 94/24 95/15 97/8 99/6 99/9 108/5 110/16 112/8 112/15 115/22 116/18 117/10 127/18 127/25 129/13 134/6 134/7 136/16 140/14 144/23 145/9 149/7 150/4 150/6 167/9 169/11 170/24 183/25 186/11 186/19	186/19 thereby [1] 65/21 therefore [16] 4/9 68/20 73/6 80/17 82/21 89/7 96/2 113/20 115/13 118/17 133/13 139/19 142/9 169/15 173/22 187/19 these [47] 14/8 18/12 19/21 23/4 34/18 36/13 40/7 44/25 47/9 66/7 69/4 70/20 77/17 79/23 83/20 84/4 84/7 94/22 101/12 117/13 134/10 134/14 138/8 138/16 146/3 147/11 150/19 151/18 155/21 156/7 159/16 160/24 161/21 162/13 165/24 168/25 170/17 171/3 172/2 173/11 173/15 173/21 174/13 179/13 181/12 182/13 182/17 they [101] 7/6 7/7 7/9 7/16 10/1 10/11 12/14 13/11 18/21 19/25 19/25 21/8 22/5 23/1 23/15 23/16 23/18 23/23 28/1 28/6 28/18 30/21 30/22 30/22 32/7 34/15 35/21 43/7 46/7 46/22 48/11 54/11 54/14 54/22 57/22 58/2 59/17 59/23 60/5 60/5 60/10 60/14 70/16 75/21 75/24 76/2 79/3 79/12 79/18 79/19 80/1 82/2 85/16 87/6 88/14 88/14 88/20 88/25 95/20 101/1 102/17 103/23 104/1 104/13 107/7 109/5 117/24 118/2 118/9 123/18 125/25 125/25 127/18 129/16 129/19 129/20 130/9 131/14 136/23 136/24 137/16 138/20 146/4 148/6 148/15 148/17 151/21 155/10 160/21 163/9 171/21 171/25 176/7 177/18 177/19 181/11 181/13 188/1 188/2 190/13 192/22 they're [2] 13/12 101/4 they've [1] 27/22 thing [13] 16/23 24/20 29/7 45/25 83/3 91/2 103/20 111/13 128/4 137/4 138/10 173/12	176/16 things [28] 5/8 9/22 21/8 23/6 24/12 25/4 25/7 28/1 31/2 31/5 48/10 68/22 77/17 84/4 107/21 129/14 135/2 136/22 147/12 147/12 155/22 171/24 172/2 173/11 173/15 176/18 179/13 180/7 think [178] 3/4 4/20 6/10 7/24 9/16 11/20 14/24 17/24 19/4 20/20 22/7 23/2 23/18 23/22 23/23 24/15 27/9 27/10 27/17 28/2 28/16 31/8 32/11 33/3 33/9 34/4 36/3 40/11 40/21 41/2 41/12 41/12 45/19 47/20 49/17 49/23 50/24 51/13 56/13 57/25 58/3 58/12 60/5 61/1 61/1 61/2 61/18 62/13 63/21 63/24 65/8 68/22 69/16 70/24 71/1 71/25 72/9 72/10 73/15 74/12 77/13 78/1 79/23 80/2 81/3 81/10 82/12 83/22 84/3 85/16 91/25 92/3 92/4 92/9 93/4 93/11 93/19 94/5 94/20 95/6 97/1 97/9 98/15 98/19 99/20 99/24 100/21 101/16 101/17 102/17 102/25 103/8 103/10 104/9 104/15 104/17 106/25 107/7 108/5 110/3 111/12 111/13 111/15 113/3 114/14 114/19 116/21 120/17 120/25 121/17 124/13 124/21 125/7 125/19 125/25 126/16 126/24 128/5 128/6 128/7 128/13 129/16 130/14 131/4 132/11 134/19 135/16 136/10 137/9 137/23 139/9 140/13 142/15 142/18 144/20 147/9 147/25 149/8 149/12 156/16 159/23 160/8 160/15 160/18 160/23 161/4 161/5 161/19 162/8 162/11 163/14 165/16 166/13 166/14 166/16 166/16 167/5 167/7 168/1 170/15 171/14 171/16 172/21 172/22 173/12 177/22 182/9 182/14	183/3 183/12 184/8 184/15 184/22 189/6 190/13 191/6 193/17 193/22 thinking [1] 44/18 thinks [2] 120/15 153/4 third [10] 68/15 127/21 139/21 140/18 140/23 141/20 150/23 166/6 183/21 188/4 this [307] those [64] 12/23 16/16 21/6 23/10 23/21 25/22 26/22 31/19 41/9 43/5 43/16 45/5 53/16 62/1 65/1 65/7 65/20 68/25 79/7 79/11 79/13 79/15 86/18 87/15 91/20 96/11 107/4 107/14 111/4 116/22 119/3 119/6 126/4 127/18 135/12 137/3 137/22 145/25 147/14 150/5 150/13 150/21 151/2 153/23 154/3 154/9 155/5 155/25 160/8 160/10 161/1 162/19 163/9 164/9 164/18 165/7 170/25 174/9 179/22 181/9 182/3 182/5 183/22 193/7 though [9] 3/24 68/1 79/14 111/19 113/17 116/6 121/25 122/7 190/8 thought [20] 8/2 21/18 38/7 46/10 60/23 62/9 62/10 66/7 71/3 78/4 83/14 91/2 92/23 131/18 148/15 151/24 171/25 177/1 178/1 192/19 thoughts [2] 96/25 174/3 thousand [1] 166/20 thousands [1] 35/22 threatening [1] 181/5 threats [2] 166/24 167/2 three [17] 24/24 29/15 96/8 97/4 100/14 101/3 104/21 106/3 109/22 111/9 120/6 125/23 135/16 146/10 161/1 165/24 174/20 three-month [1] 109/22 through [43] 5/1 8/16 10/24 10/25 22/13 24/12 24/17 26/16
----------	---	--	---	---	---

T	51/15 53/5 53/18 114/17 127/2 133/7 158/3 177/11 179/2 183/17 tomorrow [15] 45/6 58/3 138/3 164/11 184/7 187/2 188/22 191/2 191/21 192/24 193/15 193/22 194/1 194/3 194/4 too [10] 68/14 73/5 83/14 103/8 104/17 108/20 109/15 129/23 136/12 144/19 took [13] 2/7 22/2 45/13 64/22 84/5 121/3 122/17 130/12 136/12 136/21 167/25 169/8 184/21 top [24] 3/8 14/6 14/7 14/19 16/21 16/23 37/18 55/23 64/25 67/15 72/14 87/21 93/8 111/15 116/5 121/18 135/5 138/11 142/5 147/22 168/13 175/21 189/15 189/16 topic [15] 17/24 18/20 21/10 44/5 73/25 110/9 138/2 147/18 149/15 167/17 184/3 186/17 188/4 191/1 193/23 topics [1] 186/16 tossing [1] 23/19 total [1] 86/3 totally [1] 21/14 touch [1] 7/17 touching [1] 179/16 towards [5] 39/2 85/22 97/10 137/9 174/24 Townsend [1] 71/16 trace [1] 118/16 traced [1] 115/14 trail [1] 169/11 train [1] 62/10 transfusion [67] 11/14 35/15 35/19 35/25 48/19 50/4 50/16 51/17 52/12 52/21 53/11 54/4 54/25 56/10 58/18 58/20 59/9 61/23 63/5 63/13 65/24 66/2 66/21 67/1 68/9 69/8 69/15 70/4 70/12 72/19 72/24 72/25 75/21 76/2 79/9 79/25 80/4 88/17 89/8 91/3 99/8 101/1 102/5 102/22 103/13 103/22	107/1 108/17 108/19 108/21 109/3 113/6 115/5 116/17 117/21 123/8 129/11 129/16 129/17 131/23 134/13 141/14 142/5 144/2 148/14 152/16 172/6 transfusions [2] 59/13 139/15 transit [1] 23/7 transmissibility [1] 108/18 transmissible [2] 118/20 152/8 transmission [7] 42/15 56/23 102/13 133/25 152/4 168/25 174/25 transmission in [1] 133/25 transmit [2] 51/21 59/21 transmits [1] 149/1 transmitted [8] 35/12 51/17 58/18 59/9 102/9 112/13 121/11 123/16 transmitting [2] 50/11 52/15 treat [1] 46/17 treated [1] 39/3 treating [3] 154/12 154/16 155/5 treatment [14] 43/19 48/19 51/20 118/12 159/9 159/24 162/5 163/10 175/4 175/9 178/24 180/25 180/25 187/17 treatments [1] 142/8 trial [14] 89/11 89/14 94/17 95/17 100/14 101/10 104/21 106/2 109/22 111/5 114/11 114/17 115/4 120/6 tried [3] 106/20 164/25 190/13 trouble [5] 46/8 91/13 107/4 136/22 181/7 troubled [1] 45/8 true [3] 9/16 135/1 142/3 try [7] 44/21 55/12 69/11 90/14 93/2 126/24 166/10 trying [8] 25/4 27/25 34/5 50/20 69/25 136/2 189/5 190/14 Tuesday [1] 25/11 turn [10] 30/2 32/23 72/22 123/3 123/4 162/18 163/2 174/17	175/9 178/11 turned [2] 76/2 189/6 turning [1] 45/21 TV [1] 90/20 tweaking [1] 147/7 twelve [1] 59/14 two [31] 9/3 13/20 22/7 29/15 63/9 65/14 69/16 70/5 74/10 85/23 91/16 96/14 109/10 118/12 120/8 122/5 125/15 125/21 126/5 137/18 139/14 155/3 155/10 155/25 156/16 161/13 164/9 173/25 175/10 185/19 190/25 twofold [1] 155/14 type [1] 42/24 typed [2] 93/9 141/23 typical [2] 24/18 24/20 typically [1] 29/5	4/18 9/17 14/13 167/25 undergo [1] 52/19 underlined [1] 94/7 underlying [2] 188/22 193/15 underneath [1] 149/25 understand [39] 1/13 11/4 25/20 34/5 48/4 50/21 55/2 64/12 67/18 68/17 69/10 69/13 71/3 75/15 77/9 78/8 84/4 88/11 91/1 94/1 104/21 126/16 132/16 140/2 140/11 161/21 169/6 170/4 171/10 172/4 176/13 177/6 179/16 181/9 185/8 186/1 189/2 190/7 191/22 understandable [1] 20/19 understandably [3] 8/18 67/17 68/23 understanding [20] 9/10 9/12 16/1 22/1 27/21 32/2 33/13 43/18 44/17 72/4 95/23 103/7 105/11 176/5 177/15 177/19 179/3 179/20 180/3 180/13 understands [1] 18/10 understatement [1] 147/2 understood [13] 7/14 15/3 22/16 35/24 36/2 36/4 42/17 75/1 82/20 96/17 171/19 176/14 193/12 undertaken [3] 54/9 166/18 177/5 undertakes [1] 167/4 undertakings [1] 151/22 undue [1] 79/9 unequivocally [1] 66/11 unfavourably [1] 81/5 unfortunately [1] 42/4 unhappily [1] 126/24 unidentified [1] 52/10 uniform [1] 116/15 uniformity [1] 87/24 uniformly [1] 119/25 United [11] 32/4 45/1 48/22 55/13 93/3 152/19 154/3 168/4 183/6 183/7 183/18 United Kingdom [3]	32/4 55/13 93/3 United States [5] 45/1 154/3 168/4 183/6 183/18 units' [1] 41/19 unknowingly [1] 146/5 unknown [2] 37/7 175/15 unless [5] 26/5 26/6 91/14 137/11 162/23 unlike [1] 171/7 unnecessarily [1] 101/10 unnecessary [1] 75/9 unsatisfactory [1] 120/21 unsurprisingly [1] 169/15 until [21] 2/9 26/21 32/13 38/12 57/19 60/3 60/3 108/3 111/24 114/23 115/14 118/21 125/24 129/2 131/10 134/15 140/4 158/19 168/4 168/25 194/7 Untreated [1] 176/16 up [71] 4/22 6/2 7/13 9/9 13/6 13/21 14/11 16/19 22/2 24/10 25/8 29/5 30/3 30/24 34/2 45/5 45/21 51/24 62/2 68/23 70/3 73/21 74/16 75/6 75/19 76/2 77/24 79/7 80/6 80/19 80/24 81/13 83/3 85/20 86/1 93/9 103/11 105/3 105/20 107/21 108/20 109/6 109/9 115/23 118/2 118/6 127/4 127/18 128/6 128/15 129/1 129/14 134/24 136/2 141/23 145/10 145/14 152/16 156/14 157/16 158/16 161/25 164/12 167/25 169/8 171/8 171/9 174/11 174/17 193/18 194/1 update [7] 115/3 115/13 117/11 120/22 134/6 144/6 185/22 updated [1] 114/15 updating [1] 112/12 upon [13] 6/10 10/16 12/8 13/13 16/17 44/14 72/22 96/22 135/12 139/22 154/24 161/15 164/19 uprating [1] 25/8 upsetting [1] 64/5
----------	---	--	---	--	---

(75) through... - upsetting

<p>U</p> <p>urgency [7] 55/6 63/18 64/17 94/8 137/8 143/11 147/14</p> <p>urgent [3] 60/24 125/6 134/3</p> <p>urgently [1] 134/18</p> <p>us [33] 4/13 6/24 19/4 19/13 21/25 24/17 41/2 42/21 42/22 43/3 43/4 45/6 45/16 55/19 58/2 68/25 69/13 71/3 78/6 97/4 99/11 104/24 114/4 118/14 125/12 135/3 140/17 145/6 147/15 177/11 189/7 190/14 191/4</p> <p>USA [8] 35/6 37/1 59/7 59/14 63/7 152/20 168/24 191/10</p> <p>usage [1] 186/24</p> <p>use [17] 38/8 150/11 153/25 165/21 168/24 176/11 178/24 179/4 180/14 180/24 181/1 188/20 189/18 189/21 189/25 191/9 191/17</p> <p>used [21] 15/1 23/4 25/14 26/3 26/15 35/15 37/11 69/2 76/14 85/17 91/20 101/13 108/23 109/6 129/21 136/10 138/13 152/14 176/6 178/3 183/20</p> <p>useful [1] 171/16</p> <p>usefully [1] 181/24</p> <p>user [1] 70/1</p> <p>user-friendly [1] 70/1</p> <p>using [4] 15/1 36/10 90/22 98/3</p> <p>usually [1] 34/17</p> <p>utterly [1] 19/15</p>	<p>124/24 125/2 130/7 134/11 139/7 139/10 139/11 139/18 139/22 140/7 140/13 140/15 140/18 140/19 140/23 141/20</p> <p>versions [4] 57/14 125/15 125/21 126/5</p> <p>very [62] 5/21 10/15 10/24 12/8 13/20 13/21 16/17 19/6 20/20 21/3 25/7 26/5 28/18 28/24 30/14 31/24 31/24 32/6 35/3 35/4 36/5 42/14 44/18 44/24 44/24 45/3 45/24 46/1 46/8 47/20 50/22 51/2 51/6 52/9 58/6 60/12 67/3 67/7 70/21 71/5 71/8 80/16 80/16 81/3 81/5 87/18 93/5 93/16 104/10 107/15 113/2 114/22 136/20 149/13 167/2 171/16 177/14 177/17 178/2 178/24 187/24 188/1</p> <p>vi [1] 127/7</p> <p>via [1] 84/21</p> <p>vice [1] 31/24</p> <p>vice versa [1] 31/24</p> <p>victims [2] 118/5 118/13</p> <p>view [29] 27/14 47/1 47/5 50/17 54/19 56/21 61/6 71/23 76/7 77/1 90/9 91/8 91/22 92/13 101/13 104/13 108/17 113/13 113/16 113/25 125/3 134/19 137/21 153/13 154/18 160/14 161/11 173/2 174/13</p> <p>viewpoint [1] 188/17</p> <p>views [16] 5/19 67/10 72/5 73/13 73/15 76/22 84/2 94/15 98/2 99/16 103/20 128/23 147/11 169/16 170/4 174/3</p> <p>VIII [31] 35/21 37/1 38/9 38/13 41/19 42/19 42/21 44/22 46/7 46/14 51/20 51/23 56/20 59/18 59/20 118/14 137/16 138/14 152/19 164/5 165/21 175/19 178/15 178/22 180/4 180/15 180/24 181/19 185/14 186/18 186/25</p> <p>VIII concentrates [1]</p>	<p>186/25</p> <p>virtually [1] 7/24</p> <p>virus [6] 37/7 44/2 52/10 58/24 146/5 148/7</p> <p>visit [2] 25/23 170/13</p> <p>visited [3] 11/22 28/9 170/14</p> <p>visits [3] 25/13 25/18 25/22</p> <p>vital [1] 115/25</p> <p>volume [2] 20/3 192/14</p> <p>voluminous [1] 28/4</p> <p>voluntary [1] 127/22</p> <p>volunteering [1] 117/3</p> <p>volunteers [1] 131/18</p> <p>vote [2] 26/4 26/4</p> <p>W</p> <p>wait [1] 158/19</p> <p>Walden [1] 151/8</p> <p>Wales [4] 32/5 32/11 32/20 116/17</p> <p>Walford [28] 8/13 9/2 11/3 11/8 12/19 33/4 33/10 36/5 39/13 41/13 41/15 41/22 41/23 43/6 43/16 56/6 62/3 65/7 72/11 83/11 103/9 108/12 169/16 171/3 180/18 180/23 181/8 183/2</p> <p>Walford's [6] 55/19 56/11 103/2 108/9 170/4 171/1</p> <p>walk [1] 78/20</p> <p>want [25] 13/5 25/19 32/23 49/11 61/17 75/5 78/6 80/18 85/17 90/17 91/16 92/12 97/23 105/3 107/21 114/4 114/5 130/9 147/18 154/25 156/7 172/23 174/20 188/24 193/14</p> <p>wanted [13] 7/25 25/17 26/8 45/23 46/20 67/21 73/2 90/10 101/2 130/6 136/24 173/4 186/16</p> <p>wanting [1] 115/3</p> <p>wants [3] 58/20 81/4 140/17</p> <p>War [1] 16/10</p> <p>warning [6] 66/1 112/18 117/8 131/16 148/1 163/16</p> <p>warnings [1] 148/6</p> <p>Warnock [1] 16/8</p> <p>wary [1] 142/7</p>	<p>was [494]</p> <p>was one [1] 5/22</p> <p>was through [1] 10/24</p> <p>wasn't [17] 7/14 18/20 31/11 58/11 63/19 74/1 104/8 124/18 161/5 161/6 161/9 170/5 170/7 173/8 173/11 173/14 173/19</p> <p>Watters [4] 188/16 189/1 189/10 190/2</p> <p>Watters' [2] 189/3 189/4</p> <p>way [45] 5/10 5/14 5/15 8/17 8/23 8/24 10/11 21/21 26/11 31/3 32/2 33/17 35/20 43/10 46/6 47/2 47/8 61/17 68/24 68/25 69/24 69/25 70/6 76/3 77/3 77/23 78/2 78/2 80/22 81/4 106/10 109/17 116/24 119/9 122/15 124/6 128/8 137/23 141/17 160/22 164/7 170/5 177/21 181/23 184/1</p> <p>ways [7] 22/7 46/12 94/21 162/6 163/8 164/15 182/4</p> <p>we [374]</p> <p>we'd [3] 91/9 97/3 115/2</p> <p>we'll [33] 18/4 18/4 21/5 24/1 27/2 33/8 34/9 36/13 37/20 40/23 43/2 49/23 57/19 62/13 63/11 64/10 64/21 76/16 76/22 77/18 84/6 114/20 126/13 126/25 143/19 158/6 164/10 167/19 168/7 179/12 191/1 193/22 194/2</p> <p>we're [9] 8/1 49/14 107/15 109/25 120/2 131/2 133/20 142/12 178/18</p> <p>we've [20] 9/2 14/13 20/16 56/4 56/14 61/24 65/1 65/6 83/7 85/21 85/25 99/25 101/17 140/12 141/20 145/1 150/24 166/4 180/9 192/12</p> <p>week [11] 8/13 9/2 11/8 17/7 17/9 17/9 18/5 33/4 62/15 65/8 171/1</p> <p>weekend [1] 25/9</p> <p>weeks [4] 29/15 83/20</p>	<p>135/16 169/8</p> <p>weigh [2] 82/23 177/6</p> <p>weight [2] 34/16 88/25</p> <p>weighty [1] 19/6</p> <p>well [35] 2/2 4/1 5/4 7/11 8/23 9/10 11/23 20/7 21/8 23/10 28/16 36/5 44/8 47/11 47/20 66/8 73/20 77/5 87/12 88/9 90/2 98/4 101/17 102/11 110/1 112/5 114/22 118/14 136/5 138/19 167/19 175/5 176/14 187/24 194/2</p> <p>Welsh [1] 31/14</p> <p>went [8] 2/6 26/16 28/19 83/23 89/22 137/13 176/19 192/1</p> <p>were [226]</p> <p>weren't [10] 73/24 103/23 109/21 136/23 157/8 160/12 166/14 173/6 181/11 181/13</p> <p>West [1] 148/15</p> <p>West End [1] 148/15</p> <p>what [170] 6/16 7/12 7/21 8/23 9/12 11/9 12/8 13/11 14/12 15/10 16/17 16/19 18/3 18/16 19/13 20/13 20/20 20/24 21/2 21/17 21/22 22/1 23/24 24/6 24/13 24/17 24/20 25/21 26/3 27/6 27/15 27/21 27/22 28/18 28/20 29/5 30/10 30/24 32/1 32/2 33/8 33/13 33/15 34/9 36/4 39/17 39/20 40/13 40/14 41/3 43/17 44/14 44/21 45/16 45/17 46/23 46/23 47/12 51/15 56/4 57/20 58/13 58/22 67/18 69/10 71/2 72/17 72/21 73/2 73/17 75/12 76/6 79/22 80/1 81/17 81/24 81/25 82/3 82/5 82/12 87/22 88/12 88/16 88/20 90/11 91/1 91/11 91/18 92/23 93/1 93/11 93/15 93/16 93/20 95/14 97/10 97/23 97/23 98/6 98/7 98/12 99/23 100/11 100/20 101/1 101/4 102/19 103/1 104/19 105/3 106/21 107/1 107/7 107/7 109/19 109/21</p>	<p>114/17 114/20 115/4 119/14 120/8 120/24 122/24 123/15 124/10 126/18 135/8 136/2 136/6 137/22 142/10 143/3 146/8 156/3 158/2 162/3 163/10 164/7 164/21 165/1 165/7 165/9 165/17 165/18 166/6 168/7 172/17 172/23 172/24 175/14 175/17 176/12 176/19 176/25 179/2 179/10 179/20 179/24 180/23 183/4 185/23 188/12 189/1 189/2 189/9 189/14 190/17 191/16 191/19 193/3</p> <p>what's [9] 4/17 7/1 18/21 68/6 82/8 91/10 112/18 186/21 191/5</p> <p>whatever [7] 22/9 77/3 101/15 163/7 164/9 165/14 178/4</p> <p>whatsoever [1] 64/14</p> <p>when [51] 7/9 10/15 10/21 11/21 14/11 17/18 18/5 22/1 24/10 26/17 26/19 28/19 33/20 45/8 48/11 48/15 48/15 60/10 66/12 68/7 69/3 70/10 75/17 79/4 79/19 80/18 80/23 81/5 82/9 90/12 100/19 103/10 117/24 120/2 122/6 147/14 151/21 153/6 156/2 158/10 167/9 169/8 171/22 176/11 177/25 178/18 187/13 191/20 191/22 192/8 193/18</p> <p>whenever [2] 58/2 97/2</p> <p>where [23] 6/3 12/13 23/7 27/13 28/1 28/21 32/14 45/24 50/21 60/18 64/17 68/7 80/8 95/1 113/5 120/9 127/7 130/6 132/20 137/7 140/12 150/14 153/9</p> <p>wherever [4] 26/8 137/8 150/11 153/25</p> <p>whether [52] 4/18 11/21 12/3 17/17 22/21 25/2 29/3 32/17 37/23 40/3 40/6 40/11 41/23 43/8 59/7 59/23 68/18 75/17 75/25 76/2 89/19 92/12 95/20 96/3 98/15</p>
---	--	---	---	--	---

W	9/17 9/23 11/2 12/12 18/19 27/24 31/5 36/25 41/16 42/5 43/4 43/7 43/15 50/10 51/18 51/18 52/14 52/21 54/9 54/11 58/25 60/13 61/23 65/10 65/20 65/22 70/18 70/18 70/21 72/23 77/12 79/3 79/7 79/15 81/22 82/1 96/12 102/17 118/19 119/4 119/7 123/11 123/18 125/12 131/23 132/25 135/12 135/13 135/22 138/12 144/4 146/2 147/15 154/12 154/15 155/3 155/6 160/19 168/2 170/25 171/19 171/21 175/3 183/13 184/14 193/7 whoever [1] 57/22 whoever's [1] 129/18 whole [6] 21/8 29/17 39/11 138/10 171/24 179/16 wholly [1] 104/18 whom [2] 10/17 152/20 whose [1] 83/5 why [29] 20/19 27/22 50/21 51/8 58/16 59/23 69/13 71/3 72/4 78/12 90/10 91/25 94/16 111/16 111/22 121/3 122/17 130/9 136/12 136/17 147/24 149/10 156/9 165/8 165/16 166/16 178/3 189/4 192/12 wide [7] 16/12 17/3 66/13 68/16 90/24 117/20 123/8 widely [2] 163/24 182/12 widespread [3] 54/2 113/18 138/17 will [56] 3/13 6/24 7/21 13/5 38/2 38/4 38/14 38/19 38/23 52/7 53/16 53/19 54/22 56/11 56/20 58/2 58/12 59/8 59/15 60/9 61/20 63/2 72/13 77/19 78/20 78/25 79/23 80/1 80/25 81/3 94/23 95/6 95/13 95/16 95/19 107/17 107/20 108/4 108/5 108/25 114/22 116/19 123/22 123/23 131/24 138/2 140/3 140/17	141/18 150/21 151/3 158/19 171/1 181/20 187/19 188/21 Williams [5] 108/13 115/18 133/21 142/14 143/5 Williams' [1] 121/8 Windsor [2] 140/24 141/25 Winstanley [4] 97/15 99/14 105/9 185/2 wise [1] 79/17 wiser [1] 182/15 wish [4] 130/4 151/25 172/3 188/2 wished [2] 69/1 118/2 wishes [1] 82/16 wishing [1] 152/16 with [255] with administration [1] 9/20 withdrawal [2] 168/3 181/19 withdrawing [1] 87/13 withdrawn [1] 168/24 within [24] 9/3 12/7 12/9 12/11 16/3 18/24 22/14 27/16 28/13 28/14 29/2 57/10 63/17 72/12 107/17 121/2 142/21 146/19 147/6 160/18 168/18 171/18 179/22 182/11 without [6] 7/16 23/2 73/18 78/23 79/9 192/20 WITN5282001 [6] 13/4 30/9 105/21 127/4 156/15 188/11 WITN5282011 [1] 105/6 WITN5282014 [1] 142/12 witness [6] 42/10 63/21 124/13 156/13 184/9 188/9 witnesses [1] 57/20 women [1] 146/2 won't [7] 6/7 33/2 35/7 81/20 95/21 150/5 181/7 word [5] 36/3 101/15 136/18 137/2 178/3 worded [1] 125/6 wording [3] 132/9 144/24 146/16 words [6] 70/20 91/20 149/24 155/16 164/1 164/16 work [8] 7/1 14/20 18/23 83/13 95/2 103/2 167/3 192/2	worked [3] 9/23 10/11 23/8 working [14] 12/20 12/23 26/14 39/5 110/12 110/24 129/2 129/7 129/12 129/13 129/18 130/11 131/11 172/8 works [1] 187/2 world [1] 183/21 worried [1] 46/20 worry [3] 65/12 100/22 125/14 worse [1] 137/19 worst [1] 94/12 worth [1] 179/13 would [175] 1/4 7/7 7/8 7/9 7/11 7/25 8/1 8/4 8/13 10/4 10/23 11/4 11/15 14/3 14/9 14/24 16/16 18/16 20/1 20/6 20/24 21/3 21/13 21/18 21/21 22/2 22/10 22/24 24/14 24/21 24/23 25/5 25/18 25/24 25/25 27/10 28/3 29/5 29/6 29/7 29/13 29/19 29/25 34/22 40/11 40/18 40/21 41/3 41/11 43/7 43/7 44/19 44/21 47/20 50/14 51/1 51/5 53/7 53/25 54/1 54/12 55/2 56/22 60/14 62/4 62/9 64/19 66/4 66/8 66/11 66/13 66/15 66/24 67/20 68/5 68/16 69/1 69/13 69/23 70/4 70/23 72/8 74/20 75/3 75/18 78/1 78/4 78/4 79/17 81/23 82/1 84/8 85/17 86/11 86/18 87/15 87/23 88/12 89/7 89/12 91/2 91/5 93/17 93/19 97/1 97/4 100/17 101/1 103/3 104/9 108/24 114/8 114/10 115/12 118/25 120/21 124/4 125/14 131/17 133/15 136/5 137/12 139/20 140/18 142/8 142/20 146/13 149/4 151/19 154/16 154/17 157/21 157/23 158/3 159/17 159/23 160/9 160/15 161/19 162/2 162/8 162/12 163/5 164/18 165/13 166/18 166/24 167/8 171/16 171/25 172/10 175/3 176/5 176/7 177/3 177/14	177/24 179/5 179/10 180/9 180/11 181/24 182/9 184/22 186/5 186/7 187/15 189/19 190/18 191/11 191/17 191/21 191/25 192/9 192/21 wouldn't [5] 9/24 61/18 171/14 186/9 190/9 writing [3] 27/20 80/14 178/1 written [14] 22/10 29/7 39/9 42/6 67/19 92/16 92/16 97/6 121/25 126/24 151/8 170/1 191/23 192/12 wrong [8] 72/13 84/9 96/18 100/24 137/13 139/16 176/19 177/23 wrongly [2] 87/7 181/16 wrote [5] 168/2 179/11 189/2 189/5 190/21 Y yardstick [1] 20/24 year [7] 1/15 1/17 111/2 120/2 120/22 140/4 146/21 years [5] 27/14 45/24 88/10 91/20 147/16 Yellowlees [4] 10/18 10/22 33/7 39/10 yes [255] Yes I would [1] 68/5 yesterday [6] 62/3 62/8 83/12 148/8 149/4 193/25 yesterday's [1] 98/25 yet [4] 52/10 57/25 96/5 150/15 York [2] 70/9 98/1 you [579] you'd [9] 21/14 33/6 33/22 35/24 72/1 120/5 120/17 146/11 172/22 you'll [3] 10/2 24/19 61/14 you're [10] 2/4 53/5 62/18 65/6 71/1 96/24 101/2 114/16 132/13 185/19 you've [18] 6/22 19/4 19/12 19/13 26/23 33/5 45/12 74/9 98/15 106/20 107/10 130/23 153/18 177/4 177/5 181/16 183/4 193/19 your [190] 1/24 2/14	2/23 2/23 3/1 5/16 6/21 6/23 9/10 9/12 12/7 12/25 13/3 13/5 15/16 16/1 16/1 16/22 18/3 18/23 19/4 19/12 21/9 23/24 24/6 26/23 27/6 27/18 27/20 28/10 29/2 30/7 31/14 32/2 32/3 32/23 33/13 33/24 34/2 34/4 38/20 39/10 39/21 39/22 40/24 41/2 41/16 42/10 43/17 44/12 44/17 45/11 45/13 45/17 47/15 47/25 52/8 57/2 57/4 57/7 63/17 63/21 64/13 67/16 70/10 71/19 74/9 76/7 76/21 80/21 81/7 81/16 81/21 82/18 83/8 84/21 89/24 89/25 90/2 90/3 90/4 92/3 92/5 94/15 96/15 96/24 96/25 97/13 98/22 99/21 100/12 100/15 102/25 104/20 105/8 105/11 105/19 107/5 107/5 107/11 107/22 107/25 110/19 111/9 112/22 112/23 113/5 113/9 113/11 113/25 114/9 115/8 120/5 121/5 121/6 122/12 124/13 125/3 125/9 126/16 128/6 130/20 132/2 132/5 132/16 133/2 136/15 137/6 137/6 138/4 138/21 139/7 139/17 139/19 142/1 142/15 143/6 144/16 144/21 145/4 146/24 153/1 153/18 156/13 156/17 158/15 158/24 160/11 161/11 161/18 167/25 169/6 169/7 169/8 169/14 169/19 171/9 171/9 171/10 172/21 174/5 174/6 174/17 174/20 176/5 177/15 177/24 178/1 178/11 179/20 180/5 180/9 180/12 181/17 182/7 183/4 183/4 183/22 184/8 185/2 186/11 188/9 188/25 189/14 189/16 190/9 190/20 191/15 192/1 192/2 yourself [5] 10/13 72/3 137/13 160/14 191/24
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Z

zoom [2] 148/3
148/20