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?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

A. Absolutely.

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

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

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

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

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

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

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

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

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

A. No, no.

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

A. Yes.

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

A. Yes.

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

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

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

advisers?

A. No, not at all.

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

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

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

A. Not that I can recall.

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

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

"My roles as Parliamentary Secretary of State.

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

Just before we look at what they actually were, you say they're allocated by the Secretary of State. Do you have any knowledge of the basis upon which a particular policy area might go to you rather than Mr Patten or to Mr Clarke rather than you or --

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

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

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

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

A. Yes.

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

A. Yes.

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

A. Yes. I mean, I'm using the term that was used at the time.

Q. Yes, absolutely. Understood.

"Hospital Scientific Services" the next, "Alternative Therapies", "The NHS Estate" over the page?

A. Yes.

Q. So that's really the physical properties that constitute the NHS; is that right?

A. Yes. It was a mix of both what were owned by the NHS and also the pre-1948 legacy issues, of which I can remember a couple of instances, some of which were quite time consuming.

Q. Then we can see we get to "The Public Health Laboratory Service". So that system service was part of your ministerial responsibilities.

Next, then, "The Centre for Applied Microbiological Research", possibly better known as it facility at Porton Down?

A. Yes.

Q. "Healthcare Exports", then "Blood, Blood Products, the Blood Products Laboratory (BPL) and the Central Blood Laboratories Authority (CBLA)", which obviously is the key area of responsibility from the Inquiry's perspective.

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

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

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

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

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

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

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

a meeting about or to read something about or reply to a letter which was dealing with that particular issue, or so on, but it was wide. But there was no generalisation that you spent a day concentrating solely on blood and blood products or anything like that.

Q. So one week there might be a particular issue relating the organisation of the special hospitals and the next week it might BPL, and the week after that you might have to deal with something relating to Porton Down, and so on?

A. Absolutely.

Q. Was there any particular ministerial responsibility for, either for public health, as a dedicated area, or for the particular public health crisis of AIDS, as far as you can recall?

A. Whether or not that was in part looked after by either Mr Clarke or Mr Patten, I can't recall, because when I arrived AIDS had just emerged as an issue and because of the connection of AIDS with blood and blood products it naturally fell to me. In terms of public health generally, and the relationship to public health to social services and to other elements of the Department, I think the sort of overall topic was looked after by one of my ministerial colleagues and

not by me.

Q. We can ask them.

To what extent was there an overlap between your role and Mr Patten's because we'll see -- and we'll hear next week when we hear from Lord Clarke -- Lord Clarke becoming involved in a number of issues relating to blood, blood products, blood safety and the like --

A. Yes.

Q. -- and one understands that as the minister in the hierarchy above you. But Mr Patten was involved from time to time in relation to some of these matters?

A. Mmm.

Q. Was that normal, that because one of you has the House of Lords role and one has the House of Commons that you would be copied into what the other was seeing?

A. Yes, precisely. There was a need for ministers to copy certain information to one another so that there was a general growing awareness for the Minister who wasn't dealing with the topic *per se* full-time to be aware of what's going on because they were likely to have to answer to Parliament in one form or another.

Q. Did your role involve oversight of the work of the Medicines Division within the Department of Health, so the licensing responsibilities of the Secretary of

State, the licensing of pharmaceutical and biological products?

A. No, not at all.

Q. I think you've told us in your statement that in part, because you were relatively junior and new and because there was some very weighty matters that you were being asked to look at, quite a lot of the material was then copied to the Minister of State --

A. Yes.

Q. -- Mr Clarke?

A. That's correct.

Q. You've said in your statement, and perhaps in part emerges from what you've just told us about the breadth of responsibilities you had, you said it was utterly impracticable for ministers to be involved in the level of detail to the extent that officials were and so meant day to day aspects of policy making and implementation of policies were essentially left to officials to get on with.

A. That is broadly correct, yes. The detail involved in so many of these complex areas, and I include all of my portfolio responsibilities were such that there was a substantial team of people dealing with it day by day and if there were important decisions to make, which they needed ministerial approval for, they were

brought forward. But it would simply be impractical for a minister to get to that level of detail because the portfolio was so large and the volume of information so large that it was quite difficult to cope with anyway, quite honestly, but if you had to deal with every single detail you would have spent all day doing it and probably all night as well.

But if you really needed to dig down deeply into a particular issue, then you were, of course, able to, providing you got the information in the first place which led you to decide that you needed to dig down into it.

Q. What was the criteria, if any, for a matter to come to the attention of ministers? Just to provide some context for the question, Lord Glenarthur, I ask it because we've seen a number of examples of submissions to ministers, sometimes on overwhelmingly obvious matters, huge amounts of expenditure of public money (entirely understandable why that goes to a minister), and others really very much more what one might think more minor matters: should there be a subcommittee established, should there be a consultation with so and so?

What was the yardstick by which something would go to a minister as opposed to be dealt with purely by

the civil servants?

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Could you just say again?

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

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

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

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

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

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

Q. So, in terms of those kind of visits, there might be a visit to BPL or Porton Down or a special hospital.

A. Yes, exactly, and that would go on and then, depending on Parliamentary activity, I would be -- almost

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

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

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

A. Yes.

Q. We'll look at some individual details again as we go through the issues but there's some of the briefings, for example, have not been found, some minutes have not been found, and the like.

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

A. I honestly don't know and I don't think I ever asked. I think I assumed that papers would be retained and, certainly, in other departments that I was in subsequently, I know because of various instances where papers were produced which indicated one had taken a particular view many, many years before on a particular issue. I do not know what the sort of archiving system was within the Department of Health.

Q. The fact that documents are missing, I think, has come to your attention --

A. Yes.

Q. -- through the process of writing your statement for the Inquiry. Have you asked what the understanding is as to how or why they've gone missing and, if so, what answers have you received?

A. I haven't asked the question. I mean, the lawyers who have been helping me have been trying to discover

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

Q. You do make an observation in your statement of a perspective that, at least compared to some of the other departments that you became familiar with, the record-keeping within the department, or at least within the ministerial private office, was perhaps poorer than other departments; is that right?

A. Well, I think it might have been, but I'm not sure. Once the information left my private office -- and they were very diligent -- what happened to it then, when it went back into the system, I honestly do not know. But what I do know from experience elsewhere, and as I've explained in my statement, where classified information was concerned, and this particularly was in the Home Office and the Foreign Office, there naturally was a very strict regime of control of classified papers.

Q. Now, if you were going to be in Parliament addressing something which fell within your specific area of responsibility, whether in response to a Parliamentary question or a Parliamentary debate or however something might come up, what typically would be the briefing process that would precede that?

A. The first thing would be a written brief. Let me take an example of a Parliamentary question. Parliamentary questions in the House of Lords, and I'm talking about the four questions at the beginning of the day -- which had, in my day, to be fitted into 20 minutes, it often overran to 25 -- there were four questions. The briefing would consist of a folder containing background -- the question, which had been put down two or three weeks before, background to it or likely background to it, the answer that the Department proposed that I should give, and a whole list of supplementary questions that were likely to arise.

Then I would have an oral briefing, invariably, with the necessary officials, to go through it, perhaps amend the answer, shorten it, because we were encouraged always to be brief and answer the question, don't stitch supplementary answers into the sort of the few minutes that you had left to do it, and I would then go over to the House of Lords and

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

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

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

A. What page?

Q. Page 18, paragraph 6.6.

A. Page 18. Hold on. 6.6.

Q. You say there:

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

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

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

political mood.

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

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

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

A. Yes.

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

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

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

A. England and Wales.

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

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

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

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

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

A. Yes.
Q. Now, there's a minute -- I won't put it on screen but there's a minute, I think we looked at it with Dr Walford earlier in the week -- of 22 June 1983, so fairly soon after you've joined the Department, which records you'd asked the Chief Medical Officer, Sir Henry Yellowlees, for information on AIDS.
We'll look at what information you were provided with, which was a paper I think authored by Dr Walford, in a moment.
A. Yes.
Q. But at that point in time, coming into the post, can you recall what your understanding was about AIDS and any link between AIDS and blood and blood products?
A. I was only aware of AIDS through what I'd read in the papers and a degree of public concern about it, but not in any way that I'd researched or anything like that, just -- it was general knowledge, beginning to get alarming, and I believe that I probably asked for that briefing on AIDS, as I said earlier, when I first met Sir Henry.
Q. So you'd have had some knowledge of AIDS from the press generally, the media generally, before being appointed to your post. In terms of the blood supply, issues about the safety of the blood supply, is that

something you had any knowledge of at all prior to taking up your post?
A. No, none at all.
Q. Then in response to your request, as far as I think we can understand from trying to piece together papers, you were provided with essentially a briefing paper.
Soumik, it should be at DHSC0002309_124.
A. Yes.
Q. So we'll just go through it to see what the initial information was that you were being provided with.
So the first paragraph describes AIDS as this "newly recognised disease".
A. Yes.
Q. The symptoms are then described in the next paragraph:
"[They] come on insidiously, with non-specific symptoms such as weight loss, fever, malaise [et cetera]. There is usually considerable delay between the occurrence of these early symptoms and the onset of the specific disease - such as Kaposi's sarcoma - which provides a clue to the diagnosis. The mortality is at least 40% and there is no known cure."
So you would have been aware from this of this latency period, this potential significant period of delay between possibly infection and someone being diagnosed with AIDS?

A. Latency, yes.
Q. In broad terms, you have been?
A. In very broad terms, yes.
Q. And of the very high mortality rate?
A. Mm-hm.
Q. There is then a section on AIDS in the USA and various figures there given. I won't read out the detail of that.
If we look then down the bottom of the page, Spread of ... Disease":
"The pattern which emerges, is of a disease which appears to be transmitted predominantly by male homosexual activity but also by heterosexual means. As a secondary method of spread, contaminated needles used by drug addicts and the transfusion of blood and plasma taken from donors carrying the AIDS agent, account for the occurrence of AIDS in intravenous drug abuse, haemophiliacs and recipients of blood transfusion. Haemophiliacs seem at greatest risk of acquiring AIDS in this way, since the clotting factor which they need (Factor VIII) is prepared from the pooled plasma from many thousands of donations."
So again, just pausing there, is it right that you'd have understood from that that by this point in time, June 1983, a causal link between the transfusion

of blood or blood products and AIDS was recognised?
A. It was beginning to emerge, as I understood it, but since the -- I think "aetiology" is the correct word, the -- what AIDS was was not fully understood, and there was -- I remember very well Dr Walford coming to the office to tell me -- to explain the paper that she'd sent so that I could ask her questions, and she gave an extremely clear explanation about it all, and I'm sure we probably discussed it, but the -- you know, the extent to which the community were using pooled plasma might be at risk, but also that it was considered then to be an extremely small --
Q. We'll obviously come back to some of these issues.
Then we can see, talking about the rate so it says:
"... although the number of AIDS cases reported in homosexuals seems to be increasing at a rate of 4-5 new cases daily, the numbers of haemophiliacs with AIDS ... does not seem to have altered over the past several months."
Then, if we go to the next paragraph, "AIDS in the UK", it refers to cases that had been reported to the Communicable Disease Surveillance Centre, the Central Public Health Laboratory, and an explanation that there's one case so far of a haemophiliac who had

received Factor VIII concentrate made from USA plasma and then NHS concentrate, and the last sentence says:

"Although this patient fits many of the criteria for the diagnosis of AIDS, there is still some uncertainty over the diagnosis."

Then "Cause of AIDS", it is then said cause is unknown, the evidence is suggestive it may be a virus, and then there is some further information provided in relation to that.

We are told:

"There is no laboratory test which can be used to detect AIDS" at that point in time.

Then there's a heading, "Steps which are being taken to prevent the spread of AIDS in the UK".

A. Yes.

Q. "Case reporting." There's reference again to the Communicable Disease Surveillance Centre and then, over the top of the next page, "Blood Donors". There's reference there to an information leaflet and we'll come on to that in some detail.

Then we can see the second paragraph under that heading says:

"The Directors are currently considering whether to introduce additional questioning for donors in respect of their general health or the presence of

certain key symptoms. No questions pertaining to donors' sexual habits will be asked -- the Directors are adamant on this score."

Again, we will come back to that.

A. Yes.

Q. Then we have a heading "Haemophiliacs":

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

Then there's reference to the redevelopment of BPL but that until national self-sufficiency is achieved some 50 per cent of Factor VIII concentrate will have to be imported mainly from the States. The next paragraph deals with the March 1983 regulations introduced by the FDA --

A. Yes.

Q. -- the Food and Drug Administration in the States. Again, we will come back to that at a later stage of your evidence, Lord Glenarthur, but you are told in this paragraph that:

"The Department's Medicines and Supply Divisions are endeavouring to ensure that there will be no 'dumping' of high-risk plasma products on the UK market ..."

A. Yes.

Q. There's then a reference towards the bottom of that paragraph to the possibility of heat-treated concentrate and then we see below that a reference to the establishment of a working party in relation to research, and then the bottom paragraph, under the heading "Homosexuals" talks about a research venture proposed at the Middlesex Hospital.

So that's the written information you received in response to your request to Sir Henry Yellowlees for a briefing on the whole situation?

A. Yes.

Q. Then you say you had a meeting with Dr Walford at which this issue was discussed. Can you remember anything further about that?

A. No, I can't remember the detail of the meeting but it was an opportunity for me to discuss with her what had been set out in the paper and, no doubt, I probed on certain detail but I honestly can't remember this long ago exactly what I asked.

Q. You say in your statement that this brief, the content of this brief, can fairly be said to represent your state of knowledge at that time.

A. Yes, absolutely.

Q. In terms of the incubation or latency period

between -- so the length of time that might elapse between someone actually being exposed and someone being diagnosed with AIDS -- can you remember whether you attached any particular significance to that at the time or --

A. I'm afraid I can't recall whether I did. I'd have been told about it but, in these early days, I probably hadn't known enough, despite this briefing, to ask further questions about it. I don't recall now.

Q. Do you know whether you -- or do you think you would have asked any further questions, again at this stage, about what was being done to achieve self-sufficiency or what was being done in relation to the FDA regulations?

A. I'm sure I did ask about self-sufficiency and because of the March '83 FDA regulations I'm certain I did, if not at that meeting, I would have been given information for the Parliamentary question which I answered Lady Dudley's question, which was on 14 July, I think it was, by memory, and I would have asked a series of questions then.

Q. We'll look at the actual Parliamentary question and answer on 14 July at a later stage of your evidence today but, as you know, you answered a Parliamentary

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

A. Yes.

Q. -- the answer and the background question and answer document.

A. Yes.

Q. But those cannot be located, so --

A. No, apparently not.

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

A. Yes.

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

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

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

Q. I see.

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

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

A. I'm afraid I don't.

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

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

were described to me as small."

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

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

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

A. Yes.

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

A. Yes.

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

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

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

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

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

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

A. Yes.

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

A. Yes.

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

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

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

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

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

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

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

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

A. John Patten, yes.

Q. -- john Patten. Did it involve Lord Fowler, Mr Fowler?

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

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

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

A. Yes.

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

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

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

A. Yes.

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

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

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

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

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

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

A. Yes.

Q. But here you're told that:

"If the Department were to fund the leaflet for distribution by the NBTS, this would be in conformity with a draft resolution ..."

It then became a final resolution:

"... prepared by the Committee of Experts on Blood Transfusion and Immunohaematology of the Council of Europe, which is to be submitted to the Committee of Ministers later this month. The draft resolution proposes that steps should be taken:

"'To provide all blood donors with information on AIDS so that those in high-risk groups will refrain from donating'."

Then you are told that an example of an information leaflet for donors will be appended for the Committee of Ministers in Europe.

Then we have a heading "Sensitive issues":

"It is possible that a request to homosexual donors to refrain from donating could be interpreted by homosexual rights groups as a discriminatory move which would infringe their rights as individuals

donate their blood. Such a reaction would be more likely to arise if there were widespread misunderstanding of the nature of the problem posed by AIDS and the Transfusion Directors are anxious to pre-empt such misunderstanding by publishing their information leaflet as quickly as possible. The Directors have secured the full co-operation of the Gay Medical Association - a society of homosexual doctors - who have undertaken to disseminate information on AIDS and to draw attention to the need for homosexuals who suspect they may be at risk from AIDS to refrain from donation. It would also be possible for officials to meet with leaders of the various homosexual groups to ensure that they were fully informed of the medical background to this request, if such a meeting were felt to be desirable."

Then we get to the "Recommendation":

"In spite of the potential sensitivity of the issue, officials are of the view that early publication of the information leaflet is in the best interests of the public health.

"Ministers are asked if they will agree:

"To the funding and publication by the Department of the information leaflet, for distribution by the [National Blood Transfusion

Service]."

So would it be right to understand that the decision you were being asked to take there set out is to agree to the leaflet -- and you were sent the draft -- being funded and distributed, and there was a measure of urgency, is it fair to say, in this?

A. Yes.

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

A. Absolutely.

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

A. Absolutely.

Q. Then, just so that we can put a date on this, can we look at DHSC0002309_024.

This is a minute dated, if we look down the bottom of the page, 1 July 1983, from Mr Parker in HS1, and Dr Walford's explained to us that's one of the administrative divisions of the Department of Health, services 1?

A. Yes.

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

A. Private office, yes.

Q. And it said:

"AIDS

"I attach a paper (flag A) ..."

That's what we've just looked at.

A. Yes.

Q. "... prepared by Dr Walford, which seeks Ministers' agreement to the funding and publication by the Department of an information leaflet on AIDS (flag B) [the leaflet] for distribution by the National Blood Transfusion Service.

"Lord Glenarthur will be aware from Dr Walford's note of 22 June ..."

And that, I think, is probably the background paper we've already looked at.

A. Mm-hm.

Q. "... of the steps being taken by the Department to prevent the spread of AIDS in the [UK] and a further submission covering the imports of blood products, developments in technology, research and UK production of Factor VIII will shortly be put to Ministers. Meanwhile, in view of the public interest in AIDS, the issue of the leaflet would be seen as a positive step to minimise the risk of the transmission of the disease through blood donation in this country."

So that's the matter coming to you on 1 July?

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

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

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

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

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

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

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

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

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

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

"Dear Ron,

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

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

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

A. I suspect it was.

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

A. No --

Q. "I appreciate" --

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

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

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

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

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

A. Precisely.

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

A. Sorry, say again.

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

paragraph 16.4:

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

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

A. Yes.

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

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

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

we've got the date. Then those present: MS(H), now that's the internal abbreviation for the Minister of State for Health --

A. Yes.

Q. -- so that's Kenneth Clarke; Lord Glenarthur, so you're there; Mr Parker; Dr Oliver, and we've seen those names from documents with Dr Walford earlier in the week. So Mr Parker's, I think, in the Health Services Division, Dr Oliver is in one of the medical divisions. Mr Bolitho, do you recall who that was?

A. I recall the name but I don't recall him at all.

Q. Don't worry.

Then we can see the record of the meeting.

"MS(H) [so the minister Mr Clarke] had two main concerns - to establish the necessity of a leaflet and to agree how the inevitable publicity surrounding it should be handled.

"2. Officials felt that Ministers did not have the option of doing nothing. The main objective of the leaflet was to discourage those who were most at risk from AIDS from giving blood and thereby spreading the infection to patients who needed large amounts of blood, principally haemophiliacs. Similar guidance had been issued by the American Blood Transfusion Service and the Council of Europe had recommended that

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

Then paragraph 3:

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

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

asked about the Blood Transfusion Service, Lord Glenarthur should emphasise that the risk to haemophiliacs was very small."

Now, first of all, Lord Glenarthur, have you got any recollection, any particular recollection of this meeting on 6 July?

A. Only very vague. I don't recall the nature of the conversation or the part that I played in it but I was certainly present at it, and indeed the Minister of Health had strong views, which are set out in this paper. I don't remember the detail of the conversation but I do remember being asked to be aware of the risk being small in relation to my question, the question I answered in the Lords.

Q. Then if we just go back to the top of it, appreciating as I do that your own independent recollection is understandably, given the passage of time, limited, is it right, however, to understand from what we see written here, which is quite a helpful account, that the meeting would seem to have been called because the Minister of State wanted to have a discussion about this rather than, as it were, sign it off on the papers as you and Mr Patten had done?

A. Yes, that's correct.

Q. And it may be I can pose this question more directly

to Lord Clarke, but it sounds as though there was a discussion in which officials felt it important to, as it were, bring Lord Clarke on side about the need for a leaflet to be published?

A. Yes I would say that's completely correct, yes.

Q. Then, do you have any recollection of what's being referred to when we talk about -- where it talks about, at the end of paragraph 2, "one of the Regional Transfusion Directors having let slip to the Press that a leaflet was in the offing"?

A. I don't recall anything about that at all. I've obviously read it in the documents that I've been sent but I don't recall that particular quote, "let slip", having happened. I'm afraid it's too long ago.

Q. Then if we look at the third paragraph, there's reference there to wide publicity. Again, would it be right to understand from this that there was a concern, whether on the part of the minister or officials or both, that this had the potential for adverse publicity in the press and therefore needed to be handled carefully?

A. Yes, I think that is absolutely right. Things picked up, quite understandably, and rightly, by the press could be sensationalist in a way and not express it in quite the same way that those of us handling it or at

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

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

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

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

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

Q. Yes, of course.

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

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

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

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

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

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

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

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

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

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

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

DHSC0002229_072.

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

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

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

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

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

A. No, I didn't.

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

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

Q. Then if we go to PRSE0000049.

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

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

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

So Regional Transfusion Directors.

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

Service version.

Then in paragraph 2, and this is what I wanted to ask you about, it says this:

"However we are informed that Mr Fowler's first reaction is that the term of this leaflet is too strong, and that the DHSS may therefore be making further amendments."

Then it goes on to talk about a discussion held with Dr Cash, again a key figure in relation to Scotland.

The Mr Fowler there is presumably a reference to Norman Fowler, to the Secretary of State for Health. Do you know anything about his views about the leaflet?

A. I don't recall his views on the leaflet. I think that was being largely handled by Mr Clarke and myself. I don't know to what extent the papers were circulated to the Secretary of State's office without referring to the documents.

Q. Well, no doubt if this is a reference to him and if it's an inaccurate one, I can take that up in due course with Lord Fowler.

A. Yes.

Q. But you weren't aware of any expression of opinion by Mr Fowler at the time on the topic of the leaflet?

"If my memory serves me correctly, I understood MS(H) [so Mr Clarke] to say at the meeting we had with Lord Glenarthur that he would prefer some consistency of approach in relation to the distribution of the leaflet but did not want it to be distributed with call-up cards. This was said against the background of the need for a low-key approach to the publication of the leaflet and the need to ensure that we do not spread unnecessary alarm and despondency amongst donors."

A. Yes.

Q. Then there's a reflection about what Dr Gunson had been putting forward, and we can see then there's going to be a submission to ministers.

So is it right to understand that the issue which arose and which is alluded to here was the question of whether, when donors were sent the invitation to come and give blood, the leaflet would be provided to them with their call-up card --

A. Yes.

Q. -- so before they ever got to the Regional Transfusion Centre?

A. Correct.

Q. So that they could take a decision in the privacy of their own home as to whether to go?

A. I wasn't. I don't recall it being mentioned to me. The main reaction was from Mr Clarke.

Q. So we then go to a slightly revised leaflet that emerged at the end of July DHSC0002327_117.

And if we just go to the second page, we can see -- and I'm not going to go through it, it's similar not identical to the earlier draft --

A. Yes.

Q. -- you've observed in your statement that the changes as between the two are relatively modest?

A. I believe so, yes.

Q. Now, an issue, however, arose, as I think we saw reflected in that letter from Dr Gunson to Dr Oliver, about the method of distribution of the leaflet, how it should be made available to donors.

We can pick that up at DHSC0002321_026.

This is a minute of 19 July from Mr Parker to Dr Oliver.

A. Mm-hm.

Q. It doesn't look like it would have come to you but it does refer to --

A. No.

Q. -- "the meeting", presumably the meeting of 6 July, or if not to another meeting, because in paragraph 2 it says:

A. Yes.

Q. Or whether they turned up to the Blood Transfusion Centre and the leaflet was in some way or other made available to them then?

A. That's correct.

Q. Again, do you recall any discussion about that or what your view was at the meeting, presumably the 6 July meeting, on that issue?

A. Say that last bit again.

Q. At the meeting that is referred to here, do you recall now the discussion about that issue?

A. No, I don't recall that discussion but I do recall, from the papers, my reaction to it on paper, which was that I suggested that both methods were used, if I'm correct.

Q. We'll just take it through in stages.

A. Okay.

Q. If we look at Dr Oliver's response, it's at DHSC0002321_027.

So this is the following day. Dr Oliver says:

"I refer to your minute of 19 July 1983. As you say, we'll need to seek Ministers' views on how the AIDS leaflet might best be distributed. I had recalled Lord Glenarthur's preference for a consistency of approach but do not remember his

forming any definite view on how this might be done."

Reference to a "consistency of approach", was that to, whatever was done, it was done the same way across all centres?

A. Well, I'm not sure. If you go back to the earlier paper.

Q. Yes, DHSC0002321_026.

A. Yes, if you could look at that.

"If my memory serves me correctly, I understand MS(H) to say at the meeting we had with Lord Glenarthur that he ..."

Now, who does "he" refer to? Is it Lord Glenarthur or is it MS(H)? I think probably the "consistency of approach" element was more related to Kenneth Clarke. I honestly can't remember, I'm afraid, but that seems to have been the pattern of these things.

But, yes, we'll come later to my later comments.

Q. We will. So if we then go back to DHSC000 -- thank you, Soumik, you are there already -- and so we then see Dr Oliver setting out in no uncertain terms, in the second paragraph:

"... I am quite sure that the best way is to sent out the leaflet with the call-up cards so that the contents can be studied by individuals in private.

I do not think donors would take exception to receiving a leaflet in this way, couched in the way it is as general information on a subject of public interest. I personally would have thought this would entirely satisfy the low key approach that Ministers and all of us want."

The reference there to "low key", is it right to understand that that's again about the concern about adverse publicity?

A. Adverse sensationalist publicity, I mean, yes, absolutely.

Q. And then Dr Oliver goes on to explain why:

"The only alternative is to make the leaflet available at donor sessions or positively hand it out at donor sessions. In either event it could place a donor in an impossibly embarrassing situation or defeat the objective of the leaflet. For example, if having read the leaflet before donation the donor feels he should decline to give blood it is embarrassing to walk out as everyone will suspect the reason for his doing so. If he reads the leaflet or considers it while actually donating blood, again he can hardly saying anything without embarrassment, and if he is in the high risk group of donors possibly infected blood will get into the system. Finally, and

perhaps more importantly, if people are rejected for donation during a session for quite other reasons others who see them leaving may assume they are in the high risk AIDS group of donors when in fact the reasons may be quite different. All this points in my mind to the benefit of distributing the leaflets with call-up cards so that those who feel any concern can discuss the matter privately with their own doctors or with the transfusion centres without undue embarrassment."

Those are fairly powerful persuasive points being made there by Dr Oliver, aren't they?

A. Yes. Those are powerful points. I imagine also, though, and again it's supposition, looking back that far, that there were those who might not have actually seen the information, the leaflet, at home for one reason or another and that it would have been wise to ensure that either they had seen the leaflet or it was handed to them when they got to the point of giving blood.

Q. Then for the sake of completeness I should just see what we see in the last paragraph:

"I think we will need to make these points to Ministers but at the same time we may need to point out that our ability to influence Transfusion

Directors is limited and many will do what they themselves think is in the best interests of their donors. At present the majority [and I read that as referring to the majority of transfusion directors] seem persuaded by the above arguments for notification with the call-up cards."

A. Yes.

Q. So that's where we are on 20 July.

If we then look at DHSC0002321_028. This is Mr Bolitho, and I've been informed, and I can see it's borne out of this, he's in the information division, so that's the reference to "ID" below his name.

A. Yes.

Q. 21 July he is writing to Dr Oliver:

"At our meeting with MS(H) [so Mr Clarke] he was very keen to keep the leaflet operation very low key. Therefore I must support John Parker's memory of the meeting when he says the MS(H) does not want the leaflet to go out with call up cards. The leaflet is an information leaflet and cannot be seen as a leaflet which you read and then change your mind about giving blood. I am sure that the only way it should be distributed is by having it available when you give blood. If this is distributed with call up cards, it will soon be in the news media and we could have

a similar furore to the Gillick case with family planning.

"I think MS(H) will be very irritated if we are not able to control distribution the way he wants it. He reacted very unfavourably when this was suggested at the meeting."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

A. Yes.

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

A. Yes.

Q. Then if we go to the next page we can see it says:

"Following the meeting with [the Minister] and

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

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

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

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

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

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

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

And then we've got method I:

"Issue of leaflet with donor call-up cards

"... expected to reach about 80 per cent of the total donor population."

A. Mm-hm.

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

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

Is paragraph (b). Paragraph (c):

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

A. Mm-hm.

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

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

Q. Then we can see that the second option is for the leaflet to be made available at donor sessions, and a number of disadvantages set out at (e), (f) and (g):

"... difficult to ensure all donors received

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

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

And (g):

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

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

A. Yes.

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

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

is to be preferred."

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

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

Q. I understand.

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

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

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

must, of course, be given to their clinical decisions in this matter."

Then there's reference to the resource implications.

So the recommendation in the next paragraph, paragraph 5:

"Officials would recommend, therefore, that RTDs [Regional Transfusion Directors]" --

A. Yes.

Q. -- "should be given the discretion to decide, for a trial 6 month period, the most effective means of distribution in their own Regions. Officials would be able to obtain regular feed-back information from Directors during this trial period."

So the recommendation ultimately is leave it to Directors' discretion?

A. Yes, it was.

Q. Then it goes on to talk about how publicity could be handled and whether there should be an early public statement, and so on, and I'm not going to read through that.

You can see that's the submission that went to you and to Mr Clarke and, indeed, to Mr Patten. If I can then just invite your attention to the responses, starting most importantly with your own,

DHSC0002327_120.

This is your -- well, it's a minute from Mr Joyce, your Principal Secretary, to Mr Parker 3 August 1983, but it sets out your response. So:

"(i) He approves the text of the leaflet and statement."

A. Yes.

Q. "(ii) He has asked if we have a publication date in view ..."

Was there a particular reason why you wanted to know what the publication date was going to be?

A. I didn't know when it was going to be so I simply asked the questions.

Q. Were you essentially anxious to try and ensure, bearing in mind there had already been a degree of not insignificant delay that --

A. Further you know, I didn't want to see that it was being further delayed.

Q. You asked a colleague if you or Mr Clarke should deal with any TV or radio interest. Then on the substance, you say this:

"He favours using both methods of distribution and feels that the risk of embarrassment to potential donors is outweighed by the need to achieve wide distribution."

Is it right to understand then that what you thought the best thing to do would be, although you were content for it to be left to Regional Transfusion Directors' discretion, you were saying here, actually, the ideal would be to do both, so it goes out with the call-out cards but is also then available in the centres?

A. Yes, that was my view, based on the papers that I'd seen and the discussions we'd held.

Q. Then we can see there's what's put in speech marks, so presumably a verbatim account of what you had said:

"We may be at the tip of an iceberg with AIDS and find ourselves in trouble in 18 months' time unless we are really positive in our approach -- even if it does embarrass a few 'gay' people."

I just want to ask you about two parts of that. The first, the reference to being really positive in our approach: what did you have in mind with that?

A. Proactive, perhaps more than positive, reflecting on the words that I used all those years ago. Yes, let's get on with it and do something but it's no good -- we were putting ourselves, in my view, in a degree of peril if we didn't get a move on with it and alert people to the risks that might be there. So that's why I said "be positive". I don't think I can add to

that.

Q. Then that reference to "tip of an iceberg with AIDS", now you said in your statement that you think you were talking about AIDS in general. I think that's at paragraph 20.4 of your statement.

A. 20.4. Yes.

Q. Yes, you say:

"My comment about being at the 'tip of an iceberg' was, I think, about AIDS generally, not specifically about blood products."

A. Yes.

Q. I just want to test with you whether you are still of that view. You didn't have responsibility for AIDS generally, you had responsibility for blood, blood products, blood safety, and this memo is being written, or this minute's being written specifically in relation to a policy designed to secure the safety of the blood. Was it not possible that you were actually referring specifically to the fact that you might be at the tip of an iceberg in terms of infection with AIDS through blood or blood products rather than AIDS generally?

A. I can't recall precisely what my thought process was at the time but there was growing public concern about AIDS. There was publicity about it and we didn't seem

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

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

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

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

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

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

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

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

where he says:

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

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

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

A. Yes.

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

A. That's my understanding.

Q. Then --

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

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

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

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

So, again, Mr Patten emphasising the urgency.

A. Yes.

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

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

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

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

Anything there that you disagree with?

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

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

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

MS RICHARDS: Yes.

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

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

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

A. That's correct.

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

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

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

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

A. Information Department, yes.

Q. "... on the rather alarmist press coverage this subject has so far attracted and has commented:

"'The publicity is annoying, partly because it is what I feared and what we do not want. "Docs Ban Gays' Blood" et cetera. I am concerned by the report that similar alarmist action caused a shortage of

blood in New York.

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

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

A. Yes.

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

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

A. Ghagan, yes, Scott Ghagan.

Q. Was he in your private office?

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

Q. It says:

"Following yesterday's meeting between MS(H) and

PS(L) ..."

That's an abbreviation that refers to you.

A. Me.

Q. "... I agreed to check the latest position on the distribution of the leaflet with officials."

Then there's a discussion about or a reference to the fact that printing and distribution's been completed and transfusion directors are awaiting the go-ahead. Then there's a reference to Mr Clarke's earlier minute of 2 August.

Paragraph 3 tells us that:

"[He] has been reviewing his earlier decision and in light of the information supplied by Mr Winstanley has confirmed that he is content to allow the distribution to proceed on the basis outlined above, subject to any last minute views which Lord Glenarthur may have."

So some discussion appears to have taken place in any event between you and Mr Clarke. You were, I think, slightly doubtful about whether there could have been a meeting because, looking at your personal diary --

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

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

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

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

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

Q. But, in any event, what we then get to DHSC0002309_036, is a minute on your behalf, dated 1 September 1983, in which you put forward a proposal for a trial period of three months instead of six months, and then you say, or it's said on your behalf in the second paragraph:

"[You] would like copies of the Directors' responses and copies of the briefing you have requested from Miss Edwards when this arrives."

I'm not sure what the reference to the briefing from Miss Edwards refers to but I don't think we need worry about that.

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

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

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

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

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

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

this is the press release, dated 1 September 1983:

"The Department of Health and Social Security has today published a leaflet -- "AIDS and how it concerns Blood Donors". It's been produced in co-operation with Regional Blood Transfusion Directors.

"Announcing publication, Kenneth Clarke, Minister for Health said: 'It has been suggested that AIDS may be transmitted in blood or blood products. There is no conclusive proof that this is so. Nevertheless I can well appreciate the concern that this suggestion may cause. We must continue to minimise any possible risk of transmission of the disease by blood donation but it is not possible to test a person's blood for the presence of AIDS. The best measure which can be taken at the present time is to ask people who think they may have AIDS or be at risk from it, to refrain from giving blood. This is what this leaflet sets out to do'."

So we can see from this it's on 1 September that the leaflet then becomes available for distribution in the Regional Transfusion Centres, in accordance with the Directors' discretion?

A. Yes.

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

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

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

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

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

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

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

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

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

A. Exactly.

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

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

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

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

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

A. Mm-hm.

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

being reviewed in December 1983?
A. Yes.
Q. So I want to pick up the narrative of what then happened?
A. Okay.
Q. If we look at WITN5282011 -- we can see this is a minute dated 23 November 1983, and it's copied to your private office, because it's cc Mr Joyce, and it's from Mr Clarke's private office to Mr Winstanley. It refers to a submission of 20 October, and my understanding from your statement is that that's one of the submissions that hasn't been located, so we don't have that particular submission?
A. Which paragraph number was that in relation to?
Q. That's a good question. I'm afraid I haven't noted down -- but I can ... let me just double-check. Paragraph 43.2.
A. Okay.
Q. Page 58 of your statement.
If we put that up on screen, Soumik, so the statement, again, is WITN5282001, page 58.
A. Yes, and sub-para?
Q. Sub-paragraph 43.2.
So you say in the paragraph 43.1:
"As set out above, the first AIDS leaflet for

blood donors was published on 1 September 1983. In early September 1983 I had suggested a trial period of three months ..."
That's the document we looked at a few moments ago.
"From the papers which have now been supplied to me, it seems that this was the approach adopted."
Then you say this:
"I cannot remember being provided with any further information from civil servants about the way it was distributed after its publication, although I see that my office was copied in to the response from the Minister for Health (Mr Clarke) to a submission dated 20 October 1983. A copy of the submission does not seem to be available, but it appears from Mr Clarke's response that it suggested distributing the leaflets in STD clinics ... a suggestion that was approved by Mr Clarke."
A. Yes.
Q. We don't have that submission, and so you've tried to piece together from the response what it might have been about.
A. Yes.
Q. Now, there are various documents, none of which I think you saw at the time, which provide information

about what it was regional transfusion directors were as a matter of fact doing.
A. Yes.
Q. I'm not going to trouble you with those. You explain in your statement that your lawyers, the Government legal department team, have put together a narrative note of what -- from the documents, of what they think might have happened.
A. Yes.
Q. I'm not going to take you through that because you've said in your statement you can't speak to the accuracy of its contents, and much of it concerns material you never saw at the time.
Sir, I should say, and for the benefit of those listening, that note -- we're very grateful to the Government legal department for putting it together, but we will of course, within the Inquiry team, be verifying for ourselves if it is an accurate and comprehensive note. It refers to documentation which the Inquiry has, so we will be doing that exercise.
So I want to pick things up shortly before the matter came back to your attention, and then look at the documents you received?
A. Yes.
Q. Just sticking with your statement, you say in

paragraph 43.3:
"I cannot recollect any further submission *(sic)* on the leaflet being provided until 17 April 1984 ..."
We will look at that in a moment. Before we do that, there's just, I think, one document that will help put that submission in context.
So DHSC0002239_015.
So a minute of 14 February 1984. It's from Alison Smithies, and we know she was Dr Walford's successor?
A. Yes.
Q. Because Dr Walford had moved to a different post in December '83, and it's addressed to Mr Williams:
"AIDS leaflet.
"We have briefly discussed the need for the current AIDS leaflet which is distributed by Regional Transfusion Centres to potential donors. In view of the published evidence of transmissibility of AIDS by blood transfusion, our current advice to donors could seem too lax. It may also be necessary to take up with the Transfusion Directors the need for more positive distribution rather than the negative approach that some of the Centres have used.
"I would be grateful for an indication of how soon a reprint of the leaflet will be required. If

this is fairly soon I should be discussing the re-draft with Dr Gunson and the RTDs [Regional Transfusion Directors]. If, however, there are many more leaflets still available we may need to consider whether we should substitute the re-draft before they are used up."

A. Mm-hm.

Q. So just looking at the first paragraph, and again this didn't come to you, you pick up the picture at April with a ministerial submission, but there are two issues or concerns being raised here by Dr Smithies, are there not? The first is the content of the leaflet: does it need to make made stronger?

A. Yes.

Q. Is it, as she says there, too lax? And, secondly, the distribution method, a concern expressed that it's not being distributed in the way that it should?

A. Precisely.

Q. It's right to note, and I'm not going to go into what the reasons might have been with you because you weren't privy to what was going on in the background, but this is rather later than the three-month trial period that you had envisaged, isn't it?

A. The date is --

Q. We're now in the middle of February 1984?

A. Yes, well, that's quite a lot later, yes.

Q. So let's then look at the submission that was sent in April of 1984 to you, which I think is the first evidence we have of you being asked to consider this matter again.

A. Yes.

Q. It's at DHSC0002321_044. It's a minute, of 17 April 1984. Again, we can see it's copied to Mr Joyce. The topic is not, in fact, directly the leaflet at all, and we can see the heading on the minute:

"Medical Research Council working party on AIDS: press conference ...

"1. Please see Mr Cunningham's minute attached."

Then if we go over the page there's a minute from Mr Cunningham dated 17 April 1984. Again, it's copied to you, so if we go to the second page -- or copied to your office -- we can see there "cc Mr Joyce".

If we go back to the previous page, I'm not going to go through most of it because, as I say, it's talking about matters such as the Medical Research Council working party, but if we go to the bottom of the page we can see paragraph 4, under the heading

"Publicity: blood donors":

"Ministers agreed last year that a leaflet should be issued to blood donors about the dangers of those at risk of contracting AIDS giving blood. There has been a 6 months' trial of this leaflet which has been successful. The leaflet and the method of distributing it are under review."

Now, it's not quite clear whether the six months is because your message about three months having got through to the author of this or whether that's just reflecting that six months or more has now passed. I don't think you can probably answer --

A. I don't think I can answer that, but one thing does strike me with this, and that is, if we go back to the top, I think this -- Miss McKessack was John Patten's Private Secretary, and I can't recall from this why John Patten was dealing with it and not me in this particular case.

Q. Yes, and it looks from paragraph 1 as though there was an issue of media coverage.

A. Yes.

Q. I don't know whether that explains why Mr Patten's private office has been directly addressed but, in any event, we can see it's taken until 17 April before the issue of a leaflet comes back, albeit slightly

obliquely --

A. Yes.

Q. -- before you?

A. Yes.

Q. Then if we go to -- well, I should say -- just to complete it -- go to the second page -- sorry, Soumik, the next page.

There's an issue raised in paragraph 5 about a different leaflet but a leaflet possibly by the Health Education Council -- this is the last sentence of that paragraph, Lord Glenarthur -- as part of a programme of updating publicity material on sexually transmitted diseases.

A. Mm-hm.

Q. So there's a proposal for, as it were, reinforcing the message but through a different means.

A. Yes.

Q. And warning of the dangers of what's there termed "promiscuous homosexual activity".

Then if we look at DHSC0002309_040, we can see the message on behalf of Mr Patten on 18 April, again cc'd to your private office, is:

"PS(H) [so Mr Patten] has seen your minute of 17 April and has commented:

"'Any leaflets on prevention by the HEC [that's

the Health Education Council] as described in paragraph 5 must be handled very sensitively, and I think that MS(H) [Mr Clarke] should be aware of this. I am doubtful."

Then we look at your response. This is where we come back to the issue of the Blood Transfusion Service leaflet.

It's at DHSC0002309_041.

It's 25 April 1984. It's from Mr Joyce, your Principal Secretary, and it says this:

"Lord Glenarthur has seen your minute of 17 April covering Mr Cunningham's submission.

"He takes a somewhat different view to [Mr Patten] ... in that he favours a further leaflet, directed particularly at promiscuous gays.

"Lord Glenarthur's view is based on the fact that there have been criticisms - though not widespread - from correspondents and others that the Department has not done sufficient to increase relevant public awareness. He therefore feels that we should pursue a sensible, non-alarmist course of increased public education."

Then, before we look at the next paragraph, Lord Glenarthur, that presumably is an accurate reflection of your view at the time?

A. I'm certain it was, yes.

Q. You were keen on there being as much public awareness as could be?

A. Yes, because I did not want to discover, or any of us want to discover, that there was infected material getting into the UK blood donation system.

Q. Then we can see in the last paragraph you say:

"He would like ..."

Or Mr Joyce says on your behalf:

"He would like a fuller note on the successful NBTS leaflet trial referred to at paragraph 4 of Mr Cunningham's submission."

A. Yes.

Q. So you actually asked back in September, I think, to be kept updated, and it doesn't appear that that happened, but, in any event, you're asking here to be told what the outcome of the trial has been?

A. Exactly, yes.

MS RICHARDS: I think that's probably the right point to break, sir, and then we'll look after lunch at what then happened in terms of the material.

SIR BRIAN LANGSTAFF: Yes, very well. We will take a break now until 2.00. 2.00.

(1.00 pm)

(Luncheon Adjournment)

(2.00 pm)

MS RICHARDS: Lord Glenarthur, before lunch we'd left matters with you on 25 April, wanting an update on what had happened with the trial of the leaflets in the Regional Transfusion Centres.

A. Yes.

Q. If we go next to DHSC0002309_044, we can see this is a minute of 10 August 1984 from Mr Parker to your Principal Secretary, Mr Joyce -- Private Secretary, Mr Joyce, "Revision of leaflet 'AIDS and How it Concerns Blood Donors'". Before we look at the content of it, it would appear that you then, therefore, didn't get the update or, if so, we haven't traced it until August, so a further period of time elapsed.

A. Yes.

Q. In any event, it says:

"I attach a submission from Mr Williams which seeks Ministers' agreement to the revision of the current AIDS leaflet. I agree with the action recommended in paragraph 10."

Then there's reference to the cost of printing up to 1.5 million leaflets and we see in the last sentence of that paragraph:

"Officials believe, however, that it is vital

that the AIDS leaflet should be reproduced and that it should be accorded this priority."

A. Yes.

Q. Just before we go to the submission itself, we can see handwritten on to the top "MS(H) to see". So it sounds as though whether you have decided or an official's decided that the minister should also see this.

A. Either my Private Secretary or I -- I can't recall.

Q. So if we go over the page, we can see it says:

"This submission reports to Ministers on the experience of the initial issue of the new leaflet 'AIDS and how it concerns blood donors' and seeks permission to issue a revised version. The submission also suggests a more uniform and consistent distribution system to be adopted by Regional Transfusion Centres in England and Wales."

Then there's the background:

"Ministers will recall that the first issue of the leaflet was in August 1983 [probably 1 September but I don't think that matters]. Its aim was to persuade those donors potentially at risk from AIDS not to give their blood. [RTDs] were asked to distribute it in the way most suitable to their individual service. Ministers asked officials to

monitor the distribution, its reception by the blood donor population and any effect on the numbers volunteering to give blood."

Then the next heading is "Factual content of leaflet":

"The current AIDS leaflet ... is now out of date in certain detailed factual matters, and there is a need to strengthen its warning to high-risk groups not to donate."

Then there's an attached redrafted leaflet. Then we get the update on the results of the review:

"Results ... from the monitoring exercise at paragraph 2 above indicate that distribution of these leaflets has not caused any fall in the number of blood donors ..."

So it didn't have the adverse consequences that have been feared, but:

"... there has been little if any adverse comment by donors. However there was, as anticipated, a wide variation in the manner in which the leaflet has been distributed by the Regional Transfusion Centres. At some Centres, all donors were sent the leaflet individually with their recall notifications. Others offered donors the leaflets to read when they attended a donor session, whilst a few Centres pursued

a policy of having them available for donors to pick up as they wished."

We then have the heading "Continued need for a leaflet":

"The slow but steady increase in AIDS victims in the [UK] (51 cases with 28 deaths up to 30 June 1984) indicates that the disease is prevalent here. Haemophiliac patients are at greatest risk of contracting the disease since the clotting agents they need are produced from plasma pooled from a large number of donors. Fortunately, of the UK patients receiving treatment for haemophilia, only two have become victims of AIDS and both had received Factor VIII concentrates from [US] sources, as well as the UK. It is known that one patient with AIDS in the UK has been a blood donor (it was possible to trace his donations and eliminate them). It is therefore clear that there continues to be a need for positive action to ensure that donors who may be carrying the transmissible agent for AIDS are dissuaded from giving their blood until a screening test suitable for detecting possible carriers has been developed ..."

Then we have the heading "Recommended distribution":

"Officials consider that the Department would be

open to criticism if it failed to take all reasonable practicable steps to discourage all high-risk donors from giving their blood. It is suggested all those RTCs who did not send out the leaflet individually to their registered donors should now be asked to do so at the next recall of those donors. This has relatively minor cost implications for some RTCs who have not previously distributed the leaflet in this way ..."

Then some details in relation to the minor costs.

Then we see the heading "Other developments", reference in paragraph 7 to a possible test. Paragraph 9 refers to what we saw earlier, the separate issue of the production of a leaflet by the Health Education Council.

Then "Recommended action":

"Officials recommend:

"the issue of the revised AIDS leaflet for blood donors and,

"a more consistent method of distribution as detailed at paragraph 6 ...

"Ministers are asked to agree to:

"the revision of the leaflet ...

"a more consistent and uniformly effective

distribution system being adopted as per paragraph 6."

So we're now nearly a year on from when the first leaflet had been agreed, are we not?

A. Yes.

Q. So a lot longer than you'd envisaged with your recommendation for a three-month trial?

A. A lot longer, yes.

Q. We can see there are two aspects of what was happening where changes are recommended, strengthening the content of that leaflet to ensure that high-risk donors don't get through --

A. Yes.

Q. -- and improving the method of distribution.

A. Yes.

Q. So, really, if one thinks back to that submission that you looked at in 1983, that first method of distribution, which I think you'd agreed looked like it was the best method of distribution, that's now going to be adopted nationally?

A. That seems to be correct, yes.

Q. Would you agree it's highly unsatisfactory that the first substantive update you receive is nearly a year on?

A. Yes, it's less than desirable but I cannot recall what the reasons were for its delay. I think, you know,

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

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

"Lord Glenarthur has seen Mr Williams' submission of 8 August and has commented:

"'We must take all sensible steps to prevent this disease being transmitted, and I support the recommendations ...'"

A. Yes.

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

A. No, I didn't.

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

"MS(H) ..."

So that's directed to the Minister, Mr Clarke?

A. Yes.

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

It looks as though that was a note written on

there on 14 September.

A. Yes.

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

A. Yes, it is.

Q. It says:

"We spoke and I confirmed that MS(H) [that's Mr Clarke] has now seen your submission of 8 August (under cover of Mr Parker's minute of 10 August) and is content for the leaflet to be revised and distributed in the way in which you suggest.

"I am sorry this has taken so long to clear."

So why it took that long is for Mr Clarke to answer, not you --

A. Yes.

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

A. Absolutely.

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

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

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

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

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

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

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

A. Yes.

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

A. Yes.

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

A. That is correct.

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

A. It appears not.

Q. We just look further down the page --

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

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

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

purposes of comparison are the original leaflet and the first revised version.

"I endorse your view that the first revise had to be looked at again in the light of recent developments and ministerial statements. The need is for a much more strongly worded leaflet and for urgent approval, production and distribution. I think our draft meets the first need, and should be grateful for your support in getting the quickest possible clearance."

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

A. I'm afraid I don't.

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

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

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

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

A. Yes.

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

A. Correct.

Q. That's one of the suggested changes.

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

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

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

A. Sorry.

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

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

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

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

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

And you say halfway down that paragraph:

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

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

A. Yes, I believe so.

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

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

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

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

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

A. Yes.

Q. It was obviously --

A. Generally growing concern, I think.

Q. Exactly.

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

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

If we then look at the next paragraph it says:

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

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

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

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

Then the next sub-paragraph deals with the

leaflet:

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

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

A. Yes.

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

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

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

A. Correct.

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

A. Yes.

Q. Then if we go to DHSC0002309_058.

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

It says:

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

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

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

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

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

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

A. Yes, I see it.

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

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

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

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

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

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

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

A. Yes.

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

no doubt we can check -- copied, in any event, to Mr Joyce, so copied to your private office.

It refers, in the second paragraph, to "a revision of the present leaflet" having been sent to the Minister of State for Health under cover of Dr Abrams' minute of 3 December.

Ah, yes, so I'm told Ms Bateman is in the private office of Mr Clarke.

A. Mm-hm.

Q. Then, paragraph 3:

"A revised leaflet for blood donors is one of the Government's announced responses to the AIDS problem. It is therefore highly desirable that action on this is taken forward in the near future."

So it would appear to be, is this fair, the HS branch chasing Mr Clarke's private office for a response?

A. It looks like it but I can't be absolutely sure. That seems to be the meaning of this.

Q. Then if we go to DHSC0002327_127, we're now at 20 December 1984. This is from Mr Williams in HS1 to Ms Bateman, so again to the minister's private office, at paragraph 1:

"This note gives Ministers information about recent publicity on AIDS transmission in the press

today, CMOs that's the [Chief Medical Officer's] interviews with the media and his press statement, and seeks MS(H)'s [so Mr Clarke's] urgent clearance of the revised text of the leaflet 'AIDS and how it concerns blood donors'."

Then there's an update on recent cases.

If you go further down, there's reference to the Chief Medical Officer's press statement. Then at paragraph 4, under the heading "Revision of Leaflet":

"These developments re-emphasise the need for the Department to produce the revised version of the leaflet 'AIDS and how it affects blood donors'. The National Blood Transfusion Service cannot be asked to effect a more positive distribution of these leaflets until Ministers have approved the text.

"MS(H)'s approval of the revised text (as set out in Dr Abrams' minute of 3 December 1984) is sought urgently."

I think on any view that is chasing the minister for a response?

A. Absolutely.

SIR BRIAN LANGSTAFF: Part of the problem here is, I suspect, a perennial problem in politics, which is that events have a habit of catching up before action may be taken.

A. I suspect that is absolutely true, Sir Brian. There were so many other things going on across the range of activities which all of us had to deal with, and probably Mr Clarke, in particular, as Minister for Health, that not everything came to the top of the pile of matters to be signed off at the appropriate time.

SIR BRIAN LANGSTAFF: What interests me, particularly in something which is dealing with public perception, public attitude, is that it's on 20 December that this minute from HS1A talks about the Guardian article then reporting upon the cases of those who had been blood donors but who had had AIDS.

A. Yes.

SIR BRIAN LANGSTAFF: But it was actually known about, I think, on 30 November, which is some three weeks earlier. We do have a reference to it. It's DHSC0002309_057, if I'm not mistaken. I don't know if Soumik has that.

MS RICHARDS: It's on the screen, sir.

SIR BRIAN LANGSTAFF: Thank you. This is 30 November. So this is to Ministers. Who is it to? Mr Joyce is the --

A. To my Private Secretary, copied to a lot of others.

SIR BRIAN LANGSTAFF: Yes. So this is -- so far as the

leaflet is concerned, if it was out of date because it was trying to catch up with what Mr Patten had been saying about recent developments, it was even now more out of date presumably?

A. Well, so it would seem but I cannot recollect quite what -- I can't recollect the reason for the delay between the various ministerial offices, I'm afraid. It's impossible now.

SIR BRIAN LANGSTAFF: Does the overall delay, do you think, fit the epithet "unconscionable" that you used earlier?

A. It was taking far too long and why it took so long I honestly do not know and nor could I really influence it, frankly.

SIR BRIAN LANGSTAFF: No, it's not your responsibility but you were there and you can see if there's any obvious reason why it should have taken quite so long to change a word here or there in a document.

A. The procedure for approving leaflets and press notices did seem to me to be very bureaucratic and slow and ministers, certain ministers, took a great deal of trouble over ensuring that by saying certain things in their documents they weren't generating hostages to fortune. They wanted to get it absolutely right, bearing in the mind the practicalities, the politics,

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

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

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

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

SIR BRIAN LANGSTAFF: Thank you.

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

A. Yes.

Q. -- which says:

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

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

Paragraph 3 says:

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

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

A. Okay.

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

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

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

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

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

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

A. Yes.

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

Mr Naysmith in the Minister's private office:

"In the light of MS(H)'s comments, we have reconsidered the text of this leaflet with colleagues from Medical and Health Services Divisions.

"The further revised text is attached. This retains the general direct style and presentation of the ID draft, but incorporates various detail changes that were felt to be desirable. We have also re-ordered the questions and answers. Subject to some final consultations by Dr Smithies on whether it is advisable to retain the brief mention of Haiti and Central Africa, we are agreed that this draft should be both effective and acceptable to donors and [the National Blood Transfusion Service]. (Note -- Apparently the Directors of the RTCs are a bit concerned about this, although the [Department] doesn't mind either way.)

"If MS(H) is content we will put the leaflet into production immediately after the break."

So we've got the third version of the leaflet here and then if we go to -- there are some handwritten comments from Mr Clarke but we can see them in typed up form if we go to DHSC0002309_064. This is a minute of 31 December 1984 from Mr Clarke's private office to Mr Windsor:

"MS(H) has seen your submission of 21 December and has commented:

"'Is it still true to say that there is only a remote chance of anyone getting AIDS from an ordinary blood transfusion, as it says at the top of page 2?

"I remain wary of offering to promise blood screening tests and heat treatments. I would therefore like to leave out the paragraph at the bottom of page 3 "What is being done" et cetera. Otherwise OK.'"

Then WITN5282014, we're now 2 January 1985, and if we look at paragraph 2 -- sorry, I should say this is from Mr Harris in HS1 to Mr Williams. I don't think this is a document copied to your office but the second paragraph says:

"Given the particular sensitivity of this issue, I think we need to do a little more than just ask the RHAs [that's the Regional Health Authorities] to get on with it. I would suggest a circular tell them to report back within one month of date of issue confirming all donors have had the leaflet presented to them ..."

That's because there was going to be a circular to the Regional Health Authorities introducing the new

leaflet?

A. Yes.

Q. So that's what this is commenting on, 2 January 1985. Then we see that getting to you at DHSC0002309_065, 3 January, for Mr Williams to, amongst others, Mr Joyce in your private office:

"Submission to Ministers -- Health Circular issuing leaflet 'AIDS -- Important new advice for blood donors'.

"1. Ministers have agreed that as a matter of urgency the revised leaflet 'AIDS -- Important new advice for blood donors' should be reprinted and that it should be distributed on an individual basis to all blood donors.

"2. I should be grateful for Ministers' agreement to the issue of the attached draft Health Circular which asks Regional Health Authorities to implement this decision."

If we go over the page, we'll see the text of a proposed circular to Regional Health Authorities, paragraph 1:

"This circular asks Regional Health Authorities to ensure that the revised leaflet ... is distributed individually to every blood donor."

"Background" is set out in paragraph 2,

including the variable distribution method between different transfusion centres. Paragraph 3:

"The leaflet has now been revised, most significantly in extending the high-risk groups who should not donate blood, and the opportunity has been taken to amend the lay out and update factual matters."

Then paragraph 4 talks about distribution:

"Ministers have decided that it is essential that the revised leaflet be brought to the attention of each donor on an individual basis."

This is further explained. The next page explains that the Department's going to meet the cost of printing the revised leaflet.

So you, amongst others, were asked to agree to that, and we can see your response, DHSC0002482_011, 15 January 1985 from Mr Joyce:

"This is to confirm my telephone message that Lord Glenarthur and PS(H), [so that's Mr Patten too, I think, still] are content with the draft as 'finally' revised accompanying your minute of 3 January ..."

Then there's a reference to Mr Patten being content to revert to the wording "serious" rather than "killer" disease. I don't need to ask you about that.

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

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

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

DHSC0002311_053.

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

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

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

"The leaflet lists those at risk from AIDS -

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

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

A. Yes.

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

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

A. Yes.

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

A. Yes.

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

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

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

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

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

It's HSOC0016001.

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

"Warning to gays still donating blood

"Homosexuals in London ..."

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

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

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

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

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

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

realises he is at risk or not, transmits AIDS,' she said.

"The junior health minister, Mr John Patten, said yesterday that he would be issuing clearer guidelines. 'Gays should not donate blood,' he added."

Then there's a discussion about various matters which I don't think I need ask you to look at.

That's a powerful reminder, is it not, Lord Glenarthur, of why the revised leaflet needed to be produced and distributed much quicker than it was?

A. Yes, I think it is. I don't recall now that particular article, but it is a very strong piece, indeed.

Q. I'm going to move now to a separate topic, the question of the recommendations of the Council of Europe from June 1983.

We can start just by looking at the recommendations themselves.

MACK0000307.

If we go to the second page:

"Council of Europe Committee of Ministers

"Recommendation No. R (83) 8"

Then if we look at the words in italics underneath the title:

"(Adopted by the Committee of Ministers on 23 June 1983 at the 361st meeting of the Minister's Deputies)"

There's then a number of basic principles set out, I won't read those aloud, but if we go over the page, we just see the recommendations -- and there's one I'm going to ask you about in particular shortly:

"Recommends the governments of member states:

"I. To take all necessary steps and measures with respect to [AIDS] and in particular:

"- to avoid wherever possible the use of coagulation factor products prepared from large plasma pools; this is especially important for those countries where self-sufficiency in the production of such products has not yet been achieved;

"- to inform attending physicians and selected recipients, such as haemophiliacs, of the potential health hazards of haemotherapy and the possibilities of minimising these risks;

"- to provide all blood donors with information on the [AIDS] so that those in risk groups will refrain from donating ..."

That last -- that third point, obviously, is then reflected in the issue of the leaflet that we've just been examining.

A. Yes.

Q. So those are the recommendations of the Council of Europe. As I say, I will come back to one of them, in particular, in a moment. If we then just look at how this matter came before you.

DHSC0002309_086.

So this is a minute from Mr Cumming to Mr Lupton and Mrs Walden, but then we can see, written on the right-hand side in handwriting:

"Copy to [amongst others] Mr Joyce."

A. Yes.

Q. So it comes to you.

"Recommendations, resolutions, etc by international bodies.

"1. From time to time we submit to Ministers international instruments which involve DHSS interests. It is normal practice during the preparation of these documents to ensure that the UK is not committed to policies which would not otherwise be followed, so that there is, correspondingly, no action to be taken if and when they are adopted.

"2. However, recommendations or undertakings in international agreements are often of interest to pressure groups etc and it is thought that Ministers may wish to be aware of Recommendation R(83)8 which

was adopted by the Committee of Ministers of the Council of Europe on 23 June 1983.

"3. The subject of the Recommendation is the prevention of transmission of acquired immune deficiency syndrome (AIDS) from affected blood donors to patients receiving blood or blood products. On the basis of present knowledge it is assumed that AIDS is transmissible by blood and the recommendation aims to ensure that appropriate precautions are taken in the preparation of certain blood products, that specific groups of recipients such as haemophiliacs are accordingly reassured.

"4. An information leaflet for blood donors used by the American Red Cross is appended to the Recommendation for the convenience of National Blood Transfusion Services wishing to draw up their own leaflet.

"5. The Recommendation does not prevent the United Kingdom from continuing to import factor VIII concentrate from the USA on whom we currently rely for about 50% of our supply.

"6. A copy of the Recommendation is attached."

So we can see that you are actually being sent the recommendation itself?

A. Yes.

Q. Your response at DHSC0002309_029, 22 July 1983, from Mr Joyce:

"Lord Glenarthur has seen Mr Cumming's minute of undated July and thinks we should accept the recommendation. He also feels there might be merit in referring to the 'European' advice when MS(H) announces the publication of our own leaflet to potential blood donors. Does MS(H) agree?"

We can just note if we look further down, where the list of people being copied in is set out, it says:

"Lord Glenarthur has asked if we have a publication date for our leaflet in view."

So that's back in -- in terms of the 1983 first --

A. It's the first leaflet, yes.

Q. I just note that.

So you've seen the recommendation and your general comment is: we should accept it?

A. Can we just go back to the recommendation again?

Q. Absolutely.

MACK0000307. Go to the next page, Soumik.

So those are the recommendations.

A. "... take all necessary steps ...

"- to avoid wherever possible the use of

coagulation factor products prepared from large plasma pools ..."

And the United States is one of those.

"- to inform attending physicians and selected recipients ..."

And:

"- to provide all blood donors with information on [AIDS] ..."

Yes, those all seemed to me to be sensible. The middle one, informing attending physicians and selected recipients, if I recall, the Department didn't actually advise doctors who were treating patients. That was done -- the relationship between the clinician and the patient was sacrosanct and the information which was necessary for the doctor who was treating the patient would have been gleaned from various professional sources which he or she would have had access to. So there may have been a view at the time, although I simply can't recall, that in all its -- that central one, to inform attending physicians, et cetera, was going to be difficult to achieve. But I can't really remember the detail.

Q. You are right to alight upon that one because that's the one I want to ask you about.

A. Okay.

Q. Before I do that, can I just invite you to agree with me that it's identifying two cohorts who should be provided with information: attending physicians, i.e. those involved in treating patients with coagulation factor products, and then the patients themselves who are receiving them; so selected recipients such as haemophiliacs.

A. Yes.

Q. So they are the two cohorts which Governments are recommended to take all necessary steps and in particular provide information to. Then the category of information or the categories of information that this is concerned with again is twofold: information about the potential health hazards of haemotherapy, so the risks, in other words.

A. Yes.

Q. And this is all in the context of AIDS, so it must be said it tends to be talking about the risks of AIDS.

A. Yes.

Q. And then the possibilities of minimising these risks, i.e. things that could be done, steps that could be taken to reduce the risk.

A. Yes.

Q. So those are the two categories of information.

Now you are absolutely right, as far as I'm currently aware, Lord Glenarthur, when you say the Department didn't do anything -- I'm paraphrasing what you said a few moments ago --

A. Yes.

Q. But it didn't take any particular steps in relation to either of these matters, and I just want to explore with you a little before we break for the afternoon break as to why that was the case and whether that was the right course to take.

So if we start with the question of information to clinicians. I'm going to invite you to look at how you deal with this in your witness statement.

So can we have the statement back up again, Soumik, WITN5282001.

Then there are, I think, probably two passages that we should look at in your statement. So the first is on page 47.

If we just start at page 46, Soumik, we can see the heading.

A. Yes.

Q. "Council of Europe Recommendations."

Then if we go to page 47, paragraph 31.4, you refer in paragraph 31.3 to the minute that we just looked at in which you said we should accept the

recommendation.

Then you say:

"I do not recall taking any further personal action."

You note that the covering minute didn't suggest there were areas in which the UK was failing to meet the standards of the recommendation, and it is right, Lord Glenarthur, you weren't asked to take any particular decisions in relation to that --

A. Yes.

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

Then if we look just further down this paragraph please, Soumik, you deal with the information recommendation, if I can call it that, in sub-paragraph (iii). You say -- actually, sorry, can I pick it up in sub-paragraph (ii) to make sense of it.

You say in sub-paragraph (ii), dealing with the issue about large plasma pool products:

"I am certain that any recommendations on avoiding products from 'large plasma pools' would have been fully considered by officials including medical advisers. I do not believe that I would have taken direct action myself;

"(iii) The same applies to information to be

supplied to practitioners and patients such as haemophiliacs. It is difficult to remember what I would have been told, or known, about the information available."

Then you refer to a letter that was sent to Baroness Masham. We'll come on to that later.

Then you says, in the last part of that subparagraph:

"Equally, I cannot remember any suggestion by the Haemophilia Society, when I met with its representatives on 8 September 1983, that information for patients was lacking."

So you deal expressly with the Council of Europe recommendation there.

Then if we go to page 112 of your statement -- sorry, let me pick it up, first of all, on page 110.

The heading there, "Role of the Chief Medical Officer", so you were asked some questions -- sorry, I will wait until you have got the page.

A. Page 110?

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

A. Yes.

Q. You were asked some questions -- or asked to address some questions in your statement about the role of the Chief Medical Officer and, if we go to the next page,

page 111, paragraph 98.1, you say:

"I have been asked whether I personally gave consideration to asking the [Chief Medical Officer] to issue guidance, advice or instructions, etc, on issues such as (i) the risks of infection from blood or blood products, (ii) the information to be provided to patients regarding such risks or (iii) the circumstances in which patients should or should not receive treatment with blood or blood products."

Then you say:

"In practical terms, the response to AIDS was generally ... being handled at [Deputy Chief Medical Officer] ... or ... below ..."

You say in the last sentence of that paragraph:

"I cannot reliably say now whether any one of these issues might have been raised or debated by me with Senior Medical Officers - it would be speculation now, after so much time has passed."

Then if we go to the bottom of the next page, bottom of page 112, paragraph 99.4 you say this:

"In relation to direct advice from the DHSS to clinicians (or their patients) about the risks of blood products, I do not think that this would have been considered appropriate. Again, the treatment of haemophilia was a specialised area of expertise, and

the Department was in the position of receiving information and advice from the clinicians concerned ..."

And you refer to Dr Gunson and the Committee on Safety of Medicines Subcommittee.

"As far as I am aware, the Department did not have any information about risks that was not available to those clinicians, and I do not think that the Department it would have felt it appropriate to have offered guidance in those circumstances."

So is this a fair reflection of your evidence, Lord Glenarthur: you weren't asked to consider this matter by officials, you didn't raise it proactively yourself and then you are here expressing the view that you don't think it would have been considered appropriate for the Department to provide such information to clinicians or patients?

A. I think it was more that the officials within the Department who were the experts in this particular field didn't come forward to me with any particular direction which they encouraged ministers to take, rather than the other way round.

I do not recall a submission, I don't think I've seen them amongst all these papers, from ministers -- from officials, particularly drawing to my attention,

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

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

A. There wasn't one.

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

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

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

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

A. By the Department necessarily, not by me.

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

A. Yes.

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

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

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

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

A. Yes.

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

A. Yes, it was: rapidly developing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

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

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

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

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

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

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

(3.14 pm)

(A short break)

(3.45 pm)

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

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

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

A. Yes.

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

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

has been clarified."

Then if we just go over the page, again I'm not going to go through it in detail, but he sets out in his paper entitled "Action on AIDS" his reasons for his recommendation.

Now, as I understand your statement, Lord Glenarthur, this was not drawn to your attention when you took up your post just over four weeks or so later?

A. I don't believe it was. I don't recall it at all.

Q. There's no paper trail to suggest that it was?

A. No, and nor do I recall it actually being mentioned to me.

Q. You say in your statement that you don't recall also, unsurprisingly therefore, seeing a minute from Dr Walford which set out her views.

A. Yes.

Q. I'm not going to put that on screen but you have seen it for the purpose of your statement?

A. Yes, I have.

Q. Does it strike you as curious that you as the Minister with responsibility both for blood and blood products and for the Public Health Laboratory Service, of which Dr Spence Galbraith and the CDSC was a key part, was not even informed that one of the country's leading

public health doctors had written to the Department arguing strongly for decisive action?

A. Looking at it now, it does seem strange, although I can understand Dr Walford's views that not to do it was the only practical way to proceed. But it wasn't brought to my attention. I do find it quite odd, looking back, that I wasn't given the stark detail that appears in Dr Galbraith's letter.

Q. More generally, do you recall having much or any interaction with either the Communicable Disease Surveillance Centre or the Public Health Laboratory Service more generally?

A. Not at that stage. I believe I did visit Colindale at some point and, of course, I visited BPL but, no, I don't think I had any interaction with them.

Q. Then if we look at a second significant document, ALCH0001710, these are the minutes of a meeting of the Subcommittee on Biological Products of the Committee on Safety of Medicines, held on 13 July 1983. We looked, if we just go over the page -- and I'm not proposing to go through this in terms of its detailed content, but we see, halfway down the page, that it says that "The following conclusions were reached", and there's a number of conclusions set out. I'm drawing attention to that only so that those who are

following Dr Walford's evidence this week will note that we didn't look at this particular document with Dr Walford but we looked at these conclusions in a different form.

A. Oh right, okay.

Q. If we go back to the first page, we see the date is 13 July 1983. So this is, unlike at least Dr Galbraith's letter, this after you have taken up your post, a month after you have taken up your post, and as I understand your statement again, you were not aware that this meeting was taking place or, indeed, that this decision was being taken by the Committee on Safety of Medicines; is that right?

A. I was not aware and I think, at that stage, I wouldn't necessarily have expected to. Looking back on it I think it would have been very useful to have been aware of it. But, you know, so much of this stuff was being dealt with at various levels within the Department by the experts who understood it all in great detail and, looking at this list of professors and others who were involved, they were all, you know, highly qualified in their field. It's only when difficulties arose or political interests arose or, you, know a whole series of things that, at that stage, I would have thought they ought to be brought

to ministers. But one couldn't, as a minister, get involved in every single detail on these things. Looking back on it now, I wish I'd seen this.

Q. I understand, of course, that there are lots of meetings that take place on a regular basis, the Regional Transfusion Directors met regularly, the Haemophilia Centre Directors met, various of the working groups and the Central Blood Laboratories Authority met on a regular basis and I'm not suggesting that anyone would have expected you to see every set of minutes.

A. No.

Q. This was the subcommittee on biological products obviously met on a regular occasion, but this was a one-off decision, one of the most significant decisions taken in 1983 regarding blood products. That's what makes it surprising, is it not, that you were blissfully unaware, even that this process was going on?

A. Yes, I was completely unaware.

Q. I detect, I think from your statement, that having now seen it, you don't think you'd have disagreed with it but what I want to suggest to you is that that might be all the more reason for you to have seen what was being said because, if you know that the more radical

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

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

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

Q. The Galbraith letter lists two examples of significant

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

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

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

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

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

A. Yes.

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

you say:

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

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

A. Yes.

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

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

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

A. Yes.

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

importation, and you say this:

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

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

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

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

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

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

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

purpose of writing your statement, you thought it was a very grave risk?
A. Yes, that's why I used the word.
Q. But that's based effectively on whatever information it was you were being provided with by officials in the Department?
A. Yes.
Q. And you didn't have any access to any sources of information beyond that?
A. No, I didn't.
Q. Could we then just turn in your statement to page 53, paragraph 39.2. You say in the second line:

"As far as I can recall, I was under the impression that cryoprecipitate was a precursor to the production of Factor VIII and held other impurities."

A. Yes.
Q. Then you refer to a particular minute, we may look at that when we're looking at the letter that was sent to Baroness Masham, but I'm not going to go ask you to look at it for presents purposes. You go on to say there was no suggestion that cryoprecipitate could replace Factor VIII for haemophiliacs.

Were you aware that cryoprecipitate was still in 1983 very much in use as a treatment for some haemophiliacs at least?

A. I am aware now. I'd forgotten that in the intervening period. I can't remember exactly what I was told at the time but my understanding since is that cryoprecipitate was of use in certain circumstances but it would have been impossible for it to have replaced the other forms of doing it.

So I'm not an expert on the science of cryoprecipitate and I remember being asked a question about it by Lady Masham in the House of Lords and saying I didn't know what the answer was and I would come back to her, and subsequently wrote to her.
Q. We'll look at that correspondence --
A. It is just worth recording that some of these things are really quite complex scientific and medical facts which I simply don't believe I could have been expected to understand, in whole anyway, touching on them, yes, but I was relying always on advice, most of which was extremely good advice although some bits were obviously missed out.
Q. Do you recall what your understanding of haemophilia itself was in the sense that there are various degrees of severity, mild, moderate, severe and within those a sliding scale, effectively, no single haemophiliac is identical to another haemophiliac in terms of what their needs might be or the risks to them might be.

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

a prophylactic basis, increased use of cryoprecipitate, cancelling or postponing elective surgeries --

A. Yes.

Q. -- reserving concentrates for the life-threatening occasions or the necessary serious surgical interventions. I won't trouble you with the detail of the evidence given by Dr Walford but is it right to understand that those issues were not explored with you?

A. No, they weren't explored at all. I imagine that these were, in a sense, clinical issues which were being discussed at a clinical level. They weren't brought to me at all.

Q. So the picture that was painted for you, rightly or wrongly, was the stark one that you've referred to in your statement of risk of AIDS, the magnitude of which was explained to you, as against an all-or-nothing scenario: withdrawal of Factor VIII concentrates and haemophiliacs will suffer greatly?

A. Yes --

Q. That's a summary --

A. That is correct. The only way that I could have usefully contributed to a debate on that would have been if I had been qualified in some respect to

counter it and produce different arguments, but I'm not qualified like that.

Q. Does it concern you now that those possible alternative ways of minimising or reducing risk, not necessarily eliminating them, risks? So those less radical steps than just stopping the importation of concentrates were not drawn to your attention for you to consider?

A. To a certain extent, yes, but I think it would have been a matter for the options that the clinicians and the other experts within the Department were considering -- and more widely, such as in CSM, and CSMB -- to have said, "Look, these risks are becoming more and more apparent" -- and I think I mentioned before the break that officials might have been wiser at the time to have produced a submission for ministers setting out all these criteria and some of the risks involved -- it needn't have been -- you know, a reasonably summarised and condensed package of information, so that ministers were aware of the facts and aware of some of the potential options, such as the ones you have you know suggested just now. But that, as far as I know, never happened, certainly not in my time.

Q. Now, I'm not going to go back to the original briefing

document, or background document, you received drafted by Dr Walford other than to remind you that it referred to pool sizes. And I think probably from what you've said in your statement and your evidence, you were aware, were you, that the concentrates that were produced from the United States and imported into the United Kingdom were made from large donor pools?

A. Large pools, yes.

Q. Did you know anything in particular about the actual size of the pools and the significance of different pool sizes?

A. I think I read in the papers 5,000 or something was the figure of different individuals who might have been involved in it. I didn't know the scientific rationale behind all that but -- broadly speaking, yes, but I don't know the exact figures.

Q. Did you know anything, were you told anything about the practices in the United States for collecting plasma, collection from prisons, the phrase "skid row" has been used quite frequently, possibility of collection of plasma from third world countries, were any of those issues ever drawn to your attention that you can recall?

A. Not that I can recall. I don't -- having looked at -- there's so many papers I don't recall any information

coming my way on that, and I don't know now whether I ever asked the question.

Q. Can I then, as probably a last topic for today, just ask you a little about the meeting with The Haemophilia Society in 1983 that you had?

A. Yes.

Q. I'll come on to the 1984 meeting tomorrow. You deal with this in paragraphs, I think -- page 54 of your witness statement onwards. I don't at the moment need it on screen, Soumik. That is just to remind you, Lord Glenarthur.

So, in summary, is this right that a meeting had been arranged between The Haemophilia Society and Geoffrey Finsberg who had previously had John Patten's role but had been, I think, the Minister responsible for blood and blood products --

A. Yes.

Q. -- and that had to be rescheduled due to the General Election?

A. Correct.

Q. Then you took over the responsibility and so the suggestion, I think, was made that you would then have the meeting with The Haemophilia Society?

A. That's correct.

Q. The meeting did take place on 8 September 1983. If we

go to DHSC0002337_050, this is a minute from Mr Winstanley to Mr Joyce, so to your private office:

"Briefing for Lord Glenarthur's meeting with The Haemophilia Society on 8 September 1983 ...

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

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

A. That's correct, yes.

Q. Then it says:

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

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

A. Mm-hm.

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

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

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

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

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

A. Yes.

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

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

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

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

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

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

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

"No suspension of imported products ..."

Then in brackets:

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

So that's said to be the Society's perspective. Can you recall that matter being discussed --

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

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

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

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

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

So can we put this on screen, Soumik? WITN5282001, page 56. Thank you.

A. What paragraph number?

Q. Paragraph 41.1.

A. Yes, okay.

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

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

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

what Mr Watters says there.
A. This is what the Society wrote, as I understand it.
Q. It's Mr Watters' oral evidence.
A. This is Mr Watters' evidence. So, you know, quite why he wrote it, that we were trying to persuade them, I mean, I think this sort of argument's turned it all on its head somehow. It was them coming to us to see that we continued to do it, to make the pre-March plasma available. So I'm not quite sure what Mr Watters is getting at in his particular internal minute. I just don't know quite how he arrives at that conclusion. But I can't remember the detail of the conversation in any sense.
Q. In fairness, just to see what you say in your statement about it, top of the next page, you say in your statement, paragraph 41.2, top of the page:
"... I cannot recall the discussion of the issue at the meeting on 8 September but I'm sure the use of pre-March factors would have been raised ..."
A. Yes.
Q. "... and our need to continue the use of existing stock.
"41.3 I have been asked whether I or civil servants 'persuaded' the Haemophilia Society to support, or at least not to oppose, the continued use

of such products."
Then you refer to a letter from Mr Watters. I'm not proposing to put it on screen, the Inquiry has looked it at before and we have it, but you have made the point that the Society's communications or documents suggest that the Society had been keen to obtain that reassurance. So as I understand it, though you don't recall the issue being discussed in detail, your response, is this right, is you wouldn't have sought to persuade the Society of a particular position although, as it happened, you agreed with the Society's position. Is that fair?
A. Yes. I don't think we tried to persuade them. They were trying to persuade us to continue to import the necessary factor and I dare say that if, you know, officials were present at the meeting that should I have said anything that was incorrect in what I was addressing them about that would have been corrected by officials on essentially a technical matter.
Q. Then just to complete the issue of your September interactions with The Haemophilia Society, you wrote to the Reverend Tanner on 28 September. DHSC0002071.
A. Yes.
Q. You refer to the meeting in the first paragraph. The next two paragraphs deal with the issue of

self-sufficiency, which we'll look at as a topic tomorrow.
Then the last paragraph on that page talks about the question of ceasing to import US concentrates, and then it refers to what's termed "Regulations" from the Food and Drug Administration -- I think probably better characterised as recommendations -- and then the bottom of the page you say:
"The FDA has recently decided not to ban the use of similar stocks intended for the USA marked because to do so would cause a crisis of supply. The same considerations apply here."
Then it goes on to talk, over the page, about other issues.
So is this correct: you set out in your letter to the Reverend Tanner what the Department's position was, which was that the use of pre-March stocks would continue?
A. That's what the letter says, yes.
Q. This may be more significant when we looked at the letter to Baroness Masham tomorrow but would it be right to understand, generally when one is looking at a letter of this kind, you haven't written the letter yourself from scratch. A draft is prepared for you and was prepared for you by officials which you would

be at liberty to change before it went out in your name, but the detailed drafting work starts with your civil servants?
A. The letter starts with the civil servants, it goes through perhaps a series of different drafts before it comes to me in finished form to read through and sign, and that was quite a lengthy letter. I don't recall how I approached the draft in final form when it reached me but I would have read it over. It didn't come with any -- as far as I can recall, no letters came with a sort of backing data sheet with "The reason why we've written it like this, Minister, is because", that didn't happen. One had to rely on one's memory and, of course, the volume of correspondence was huge not just on this but on every other aspect there was a great deal of correspondence which had to be signed every single day by me and all my ministerial colleagues.
So I read it through, thought it seemed a perfectly reasonable reply, without pulling it to pieces, otherwise we would never have got the letter off stocks, and sent it off. They can always refer.
Q. In relation to The Haemophilia Society, and I'll ask you perhaps tomorrow a little about a later meeting you had with them at the end of 1984, but do you

recall having a sense that The Haemophilia Society spoke for all people with haemophilia or particular cohorts of individuals with haemophilia? What did you know of the Society and, as it were, its constituency?

A. The Society seemed to be the body that the Department regarded as speaking for -- I don't know whether everybody but a large proportion of those who were involved with haemophilia. I don't know of any other organisation. It was The Haemophilia Society that loomed large in my life while I was there and I don't recall any other organisation. So I take it that the Department understood and appreciated their concern and related to them.

Q. Lord Glenarthur, I might want to ask you a little tomorrow about the underlying issue about the pre-March plasma and post March plasma, and the extent to which you had involvement in that but I think we can pick that up when we look at some other correspondence and correspondence you've had with Mr Jenkins.

A. Yes.

Q. We'll do that, I think, tomorrow.

Sir, my next topic for Lord Glenarthur's quite a lengthy one so, rather than start it now and sit late, particularly as we had a long day yesterday,

perhaps we could pick that up tomorrow morning?

SIR BRIAN LANGSTAFF: Yes, well, we'll do that. So if we aim to start then at 10.00 tomorrow, if you please. 10.00 tomorrow. Thank you.

A. Thank you.

(4.24 pm)

(Adjourned until 10.00 am the following day)

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