

Thursday, 29 July 2021

(10.00 am)

(Proceedings delayed)

(10.12 am)

MS RICHARDS: Sir, before I ask Lord Clarke further questions, you raised a question yesterday about the actual amount paid to the Macfarlane Trust in 1989. We have sought to ascertain what the answer is. I'm just going to put up a couple of documents and give you a couple more references. These aren't questions for Lord Clarke and we haven't troubled him with the material.

The short answer, and then I'll just show the documents, is that we understand that £24 million was what was paid to the Macfarlane Trust, calculated on the basis of 1,200 times 20,000. In fact, the documents show that there were then slightly more than 1,200 applications, and so there was a need for a small amount of further money. Some of that further money was paid out of interest, but there appears to have been one further request, or possibly more, to the Government for a small additional sum to ensure that those could be paid.

That, I think, was later in 1990 and 1991. The answer to the question of why the earlier materials

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So MACF0000002_022. These are the minutes of a meeting of the Macfarlane Trust on 22 March 1990. If we go to page 3. I'm sorry, I don't have -- thank you. If we look under the heading "Ex-gratia payment -- progress report":

"The administrator reported for formal record that negotiations had been completed shortly after the January meeting and the Macfarlane Special Payments Trust Deed had been engrossed on 29th January 1990. A Copy of the Deed had been sent to all Trustees. He further reported that, on the basis of the rate of expenditure forecast, the Government had paid the full £24 million in a single tranche and this had been received on 31st January."

That shows the actual sum transferred and the date of transfer.

If we then go to DHSC0003357_015, this is a minute to the -- I think it's the private office of the Minister of State for Health, who at that time was Virginia Bottomley, dated 28 November 1990. Then we will see it says:

"As MS(H) knows, the Macfarlane (Special Payments) Trust was set up with a grant of £24 million to pay £20,000 to each haemophilic infected with HIV. At the time there were an estimated 1,200 such cases

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refer to 20 or 19 million is a little more complicated. It, I think, turns on how the Macfarlane Trust was set up and envisaged, I think, initially £5 million being utilised from the Macfarlane Trust, but that, I think, proved to be not an option that could be gone down because of the need to set up the Macfarlane Special Payments Trust but we can investigate that in more detail, but the short answer, sir, is £24 million was paid.

SIR BRIAN LANGSTAFF: I recollect Peter Stevens' evidence about his outrage, as we called it, at the suggestion the £5,000 should be taken out of --

MS RICHARDS: 5 million.

SIR BRIAN LANGSTAFF: -- 5 million, sorry -- out of the Macfarlane coffers in order to pay for what the Government had just announced as a further bonus.

MS RICHARDS: Yes, and I'll just show the documents, three documents, and give you a fourth document reference, just so that everybody can see the basis for what I've just indicated.

THE WITNESS: Just to make it clear, before I start being misreported again, this all after I left the Department. This is all nothing to do with me.

MS RICHARDS: Some is after, some is before, but it doesn't require any questioning of you, Lord Clarke.

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but the Trust now knows of 1,219 potential beneficiaries.

"The Trust has paid 1,206 from capital and the interest earned on it and is able to pay two more. However it needs an additional £120,000 to cover six further payments which it will be ready to make very shortly. Further funds may be required for the remaining five but the Trust has not asked at this time as three applications are still validated and in two cases there is no contact with next of kin."

Then if we look at DHSC0003357_014, and the last document and the present document post-date Lord Clarke's time in office. You'll see there, there's the confirmation in relation to the additional payment being given by the Secretary of State, so by this time William Waldegrave.

Then there's one further documentary reference, sir, which I'll read out but which I don't have available, but I'm reading it into the transcript so that recognised legal representatives, as well as you, can look at it when it's disclosed.

It helps, I think, understand the position in relation to the 19 million figure and what was envisaged in relation to the 5 million shortfall. And that will be found, but doesn't -- isn't available for

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1 display now -- at SCGV0000230_060.
 2 I'm just going to check I've read my
 3 handwriting. I think that's correct. I have the
 4 handwriting of a doctor.
 5 So, sir, I hope that's a sufficient answer, for
 6 present purposes at least, to the question that you
 7 posed yesterday.
 8 **SIR BRIAN LANGSTAFF:** Yes, so the overall picture is that
 9 24 million plus --
 10 **MS RICHARDS:** Yes.
 11 **SIR BRIAN LANGSTAFF:** -- was paid, the sum in effect being
 12 calculated as at £20,000 for each of the
 13 beneficiaries. That class increased. It's a bit
 14 uncertain from the figures you've given what happened
 15 to any payment in addition to the six or five further
 16 payments, but it's small money in terms of the
 17 overall, but at least you've given us a picture of the
 18 sums that were paid. The figures otherwise are a bit
 19 confusing.
 20 **MS RICHARDS:** Yes.
 21 **SIR BRIAN LANGSTAFF:** So thank you for that. And thank
 22 you for your patience, Lord Clarke, while that was
 23 explained.
 24 **LORD KENNETH HARRY CLARKE** (continued)
 25 **Questions from MS RICHARDS** (continued)

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1 **Q.** If we look at your witness statement WITN0758012 --
 2 **A.** It's coming up.
 3 **Q.** It is. This is your witness statement, second witness
 4 statement. If we go to page 80, please, Soumik. Yes,
 5 paragraph 49.4. So we can see this is during your
 6 time in office:
 7 "... Court of Appeal gave judgment for the
 8 plaintiffs on the [defendant's] application for public
 9 interest immunity ..."
 10 Then there's reference to an interview that you
 11 gave. Then the second -- next paragraph says:
 12 "I did not play any part, so far as I can see or
 13 remember, in the formulation of the claim for public
 14 interest immunity and I was not asked to sign the PII
 15 certificate in this case."
 16 I draw attention to that, Lord Clarke, simply so
 17 that there is an understanding -- we can put the
 18 certificate up if necessary, I don't think it's
 19 necessary -- but the certificate shows Lord Clarke did
 20 not sign the PII certificate; it was signed by I think
 21 it's the Permanent Secretary but higher echelons --
 22 **A.** Well, I think it was the Permanent Secretary. To this
 23 day, I don't know what documents we're talking about.
 24 **Q.** So I make that point just to explain why I'm not going
 25 to be asking you further questions about public

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1 **MS RICHARDS:** Lord Clarke, I'm just going to pick up in
 2 relation to the HIV haemophilia investigation some
 3 aspects of your remaining involvement before you left
 4 office and transferred to a different Government post.
 5 I'm not proposing to go to the Court of Appeal
 6 judgment that was delivered in the autumn of 1990, but
 7 I think it's right that there was a hearing in front
 8 of a judge and then an appeal before the Court of
 9 Appeal about public interest immunity.
 10 **A.** I can't help. That was after I'd left the Department.
 11 **Q.** I don't think that was after you'd left the
 12 Department.
 13 **A.** You must make that clear because, you know, I'm
 14 beginning to get -- allow the misreporting of what
 15 I've said, and attributing things to me in the press
 16 that are obviously being put by journalists who are
 17 sympathetic to the victims. But, you know, I have
 18 been attacked for the supposed inadequacy of the
 19 settlement which actually had nothing to do with me.
 20 I had long left the Department, and I was Secretary of
 21 State for Education by then.
 22 **Q.** Lord Clarke, I'm not asking about the settlement. I'm
 23 asking very briefly about the issue of public interest
 24 immunity, which arose when you were in office.
 25 **A.** Public interest in immunity, yes.

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1 interest immunity.
 2 I am, however, going to ask whether you want to
 3 clarify something you said yesterday. So yesterday,
 4 Lord Clarke, you said this in the context of talking
 5 about Donald Acheson. You said that:
 6 "Donald wasn't the sort of bloke who was trying
 7 to cover up documents. There are no missing
 8 documents."
 9 I just wanted to ask whether you wanted to
 10 clarify that. We know and indeed --
 11 **A.** Well, that's my belief. Firstly, I make -- I had the
 12 highest regard for Donald Acheson, and one of the
 13 things about Donald was he was very well -- he was
 14 completely motivated in his job, he was a very
 15 conscientious man and he had a very strong commitment
 16 to public health, public safety, all that kind of
 17 thing and he introduced actually, you know, a much
 18 higher priority into the Department of actually
 19 concentrating on public health.
 20 **Q.** I just want to ask you to clarify this --
 21 **A.** As far as I'm aware, if secretly, for some curious
 22 reason, he wanted to hide documents, I remain again,
 23 to this day, utterly unaware of what documents we're
 24 talking about and amazed that anybody thinks anybody
 25 like him would have done it.

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1 Q. The question or the issue I wanted you to clarify,
 2 Lord Clarke, is this: you know, I think, that there
 3 are a number of missing documents, in the sense that
 4 there are documents that have not been found, your own
 5 statement refers to that. I understand --
 6 I understood the point you were seeking to make about
 7 Dr Acheson was that you were seeking to emphasise your
 8 belief that he was not part of any process of trying
 9 to conceal --

10 A. I suspect, like me, he had --

11 Q. -- is that right?

12 A. -- like every other senior person in the Department,
 13 he hadn't a clue what was being put in the archive.
 14 You're too busy dealing with events, moving on, doing
 15 your job. I've never encountered a senior civil
 16 servant or a minister who ever spent any time asking
 17 what is being archived. I suspect none of us -- and
 18 it is -- you know, it's an important thing that the
 19 departments do, the departments do it slightly
 20 differently. This Department did not keep the
 21 originals that I had when I had received them, where
 22 it's obvious, as soon as you look at them, that I'd
 23 read them.

24 So most of the documents I've never seen in my
 25 life before. I suspect Donald had no more idea than

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1 Q. Your point as I understood it yesterday was to attempt
 2 to emphasise that Donald Acheson would not have had,
 3 in your view, any connection with concealing --

4 A. I don't think any politician --

5 Q. -- is that right?

6 A. -- or senior civil servant has time to start -- they
 7 don't -- you couldn't conceivably spend part of every
 8 day going through hundreds of documents saying,
 9 "Archive that one, don't archive that one". It's --
 10 there's some -- some bloke probably it's his full-time
 11 job. They all come flowing into his office somewhere
 12 and he tries to decide what future historians, future
 13 generations -- as it turns out, future inquiries --
 14 might want to see. If you kept every document that
 15 circulated in a government department, as I've said
 16 yesterday, you'd need a tower block for every two or
 17 three years of supply. So somebody quite junior,
 18 I have to say -- I suspect, I don't know, I've never
 19 enquired into the archive system -- but I suspect
 20 somebody really quite junior does a year or so of the
 21 job of putting things in the archive.

22 Q. I'm going to ask you now to look at two documents:
 23 a press statement released in your name on the
 24 20 September 1990 after the Court of Appeal judgment,
 25 and a transcript of an interview you gave on that day.

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1 I did, no more idea than the Permanent Secretary did,
 2 what some junior official was putting in the archive,
 3 and they err on the side of quantity. We have
 4 thousands -- well, you may be missing some documents,
 5 but part of -- this Inquiry has thousands and
 6 thousands and thousands of documents which we're
 7 working through.

8 Q. Is this a correct way to understand your evidence,
 9 Lord Clarke, and I'm asking this because I've been
 10 asked to --

11 A. I have nothing to do with what documents were kept and
 12 weren't. I'm amazed if Donald ever had the time to
 13 get round to finding out what was being archived.

14 Q. Is this correct -- if you listen to the question and
 15 then see whether this is a correct summary of your
 16 evidence -- you accept that there are documents, you
 17 acknowledge there are documents that are missing, but
 18 you don't --

19 A. Well, I mean, I don't know -- I mean, the only thing
 20 I can think of is my ministerial diaries.

21 Q. Well, there are a number of briefings, other documents
 22 that your own statement refers to as not having been
 23 made available to you, and that's because no one can
 24 find them.

25 A. (Witness nodded)

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1 I'm going to draw your attention to certain parts of
 2 them and then I'm going to ask you a couple of
 3 questions about them.

4 So the press release is RFLT0000005.

5 We can see it's "Kenneth Clarke's statement on
 6 Court of Appeal judgment concerning haemophiliacs",
 7 20 --

8 A. Remind me what this judgment was about. It was on
 9 this PII application, was it?

10 Q. It was, yes.

11 A. And which way did it go? Who won?

12 Q. Well, if we look at the documents, that might become
 13 clear. Some of the documents fell to go back for
 14 considerations that they should be disclosed.

15 So I'll read the whole document so that I'm not
 16 accused of being selective:

17 "It is an appalling tragedy that so many
 18 haemophiliacs were infected by HIV as a result of
 19 their NHS treatment. For this reason, the Government
 20 has quite uniquely paid the victims at least £20,000
 21 each to help with their problems and we have paid more
 22 in cases of hardship. We have made it clear that we
 23 will review our expenditure of £34 million so far and
 24 top up the funds of the Macfarlane Trust if that
 25 becomes necessary.

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1 "In my opinion, on the factual information
2 before me at the moment, this tragedy was no one's
3 fault. The doctors and staff gave the patients the
4 best medical treatment available in the light of the
5 medical knowledge at the time. The patients could
6 have died then if they had not received that
7 treatment. When the blight of AIDS first struck,
8 haemophiliacs suffered the same appalling consequences
9 throughout the western world.

10 "Today's judgment will enable the Judge to see
11 a further batch of documents in addition to those
12 already disclosed. I am advised that they do not
13 contain anything which will reveal that anyone was at
14 fault.

15 "It may be argued that we should pay
16 compensation to the victims regardless of whether
17 anyone in the Health Service or the Department of
18 Health was negligent or to blame for the tragedy.
19 I believe it would have very grave consequences for
20 medicine in this country if compensation was paid
21 whenever a patient who had been treated properly by
22 his or her doctors later suffered awful side effects
23 or died. We rely on the clinical judgment of the
24 medical and other professions when patients are
25 treated. This principle of only paying full

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1 going to be sued if it doesn't. And the practice of
2 medicine in this country now, much more cautious than
3 it was in the 1980s, as litigation has grown.
4 Preventative medicine means that -- it does rather
5 delay the treatment of patients. Doctors now give
6 endless tests before they do things, there's far more
7 screening and all the rest of it because they know
8 they're going to be sued if later anything goes wrong,
9 and they'll be accused of not having had an MMR test
10 or something. It's -- so, a precautionary -- and
11 precautionary -- cautionary medicine, sorry, is
12 I think the description of extremely
13 litigation-conscious practice of medicine,
14 particularly in the States, particularly here.

15 In some specialities in the States I remember
16 being told that the actual practitioner divests
17 himself of all his assets, he's penniless, it's all in
18 his wife's name because he can't insure properly and
19 it's the only way he can stop being sued if he
20 continues to practice in his difficult speciality
21 where there are very considerable risks in the
22 treatment.

23 Q. If we go to the second document, which is an interview
24 that you gave on to World At One on the same day,
25 DHSC0046936_078. You'll see "Transcript of interview

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1 compensation when negligence is proved is not unique
2 to the case of the haemophiliacs. It could arise over
3 and over again whenever a patient suffers a harrowing
4 experience after receiving treatment.

5 "In the USA, the practice of medicine is now
6 dominated by these issues of compensation and their
7 resources for health care are cut back as a result.
8 That should never happen here.

9 "If at any stage I am advised that there is
10 evidence that this tragedy was probably caused by the
11 fault of someone in the NHS or in my Department or in
12 one of its agencies, the Government will pay
13 compensation for the victims of that error. If, as
14 I believe, the NHS and the Department are blameless,
15 we will maintain the payments to the Macfarlane Trust
16 that we have already put in hand to give exceptional
17 help to the victims and their families."

18 So that's the first document. I'm going to ask
19 you to look at another --

20 A. Yes, I agree with all that. That remains my view
21 today. In the United States, some of the treatments,
22 just -- doctors won't give it. If they're not
23 insured, they won't do it, or their insurers tell them
24 not to, because, you know, there's a chance it will
25 succeed, a chance it won't, and they know they're

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1 with Secretary of State, Thursday 20 September, "World
2 At One", and it's in the context of the Court of
3 Appeal having delivered their judgment.

4 I'm not going to read out the whole of this
5 document --

6 A. This is like a classic --

7 Q. But I'm going to -- I'm sorry, Lord Clarke?

8 A. I say it's an absolute classic, isn't it?

9 I must say, I mean, I've been retired for
10 a couple of years, and just getting used to this kind
11 of journalism but it's just -- just bizarre.

12 Q. I'm --

13 A. Just looking at the questions.

14 Q. I'm just going to read out some extracts of this one
15 and then ask my questions about the two documents.

16 So we can see your answer where you refer to it
17 being a procedural sort of hearing and a technical
18 argument, and then you say this:

19 "... in my opinion [this is the fourth line of
20 your answer], as far as I am aware, those documents
21 contain nothing which will help the haemophiliacs
22 establish, what I believe to be their mistaken claim,
23 this tragedy was the fault either of the health
24 service or any of the doctors or the licensing
25 agencies at the people against whom they brought the

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1 claim."
 2 Then if we go down to your next answer, you say:
 3 "Had they struck it out at this stage the result
 4 would have been all that protracted suffering and so
 5 that will be caused if a long legal action results
 6 would of course have been saved. They are entitled to
 7 bring their claim. But on all the evidence ..."
 8 I'm sorry, I've missed out an answer, Soumik,
 9 apologies.
 10 If you leave it on screen as it is, that will be
 11 great.
 12 So I'll go back to the first of your answers on
 13 screen.
 14 "We're certainly not stringing out the legal
 15 proceedings and our reaction to this tragedy to the
 16 haemophiliacs has been to pay each of them at least
 17 £20,000 with more in cases of hardship and we have
 18 spent a great deal of money in trying to alleviate all
 19 the suffering that has occurred. They are persisting
 20 on bringing a legal action trying to demonstrate that
 21 it was fault that gave rise to this tragedy, try to
 22 get much bigger sums of compensation and, we are not
 23 able to concede that ..."
 24 And then if we go to the next answer:
 25 "Had they struck it out at this stage the result

1 having regards to those two documents, so the press
 2 release given on 20 September and then the interview,
 3 was this part, as it were, of what we saw referred to
 4 as a possible strategy in the documents we looked at
 5 yesterday, of a public relations offensive, trying
 6 to --
 7 A. I was invited to give an interview. I'm obviously
 8 explaining -- as I say, I'd had nothing to do,
 9 personally, with the PII, and I didn't -- I don't
 10 think I knew then. I don't think I ever knew exactly
 11 what documents the Permanent Secretary had claimed it
 12 for. But the way in which things work, the civil
 13 servants don't go out, it's the ministers, some
 14 minister's got to go out and explain the Department's
 15 position if you have, you know, something like this,
 16 where there's some media reporter wants to report it.
 17 So I was explaining the Department's position and
 18 actually what you've read out, I mean, I've read it,
 19 and I -- if it was all contemporary I would say the
 20 same things again.
 21 It's just answering a criticism which the
 22 journalist is obviously determined to put. I mean,
 23 some of his questions are extraordinary. But as
 24 I say, I -- I forgive the journalist, he's obviously
 25 doing his best and he feels very great sympathy for

1 would have been all that protracted suffering and so
 2 that will be caused if a long legal action results
 3 would of course have been saved. They are entitled to
 4 bring their claim. But on all the evidence and all
 5 the legal advice before me there is no negligence, it
 6 was nobody's fault and we cannot pay up very large
 7 sums of money in such circumstances. It would have
 8 very grave effects to the National Health Service and
 9 for the practice of medicine in this country."
 10 Then if we go to the next long answer, pick it
 11 up about six lines down, you say:
 12 "In this case, in my opinion, the people
 13 concerned were given the best medical treatment
 14 available - the same treatment they would have got
 15 from any other part of the world. Their lives were
 16 prolonged by that treatment, but unfortunately, and
 17 tragically, a side effect ensued with the result that
 18 many of them are now HIV positive and suffering from
 19 AIDS If every time a patient is given the best
 20 medical treatment available and then that treatment
 21 goes wrong without anybody's fault after everybody has
 22 done their best then the National Health Service would
 23 become like the American system."
 24 And you continue to discuss that.
 25 Lord Clarke, the first question I want to ask

1 the victims, and he is obviously -- he's sort of --
 2 kind of insisting this is all sort of trying to deny
 3 them some redress or something. But I hope -- I think
 4 it's all perfectly clear. There seems to be a --
 5 there's one slip that I found a moment ago with the
 6 wrong word at one point but that may be a typing error
 7 in the transcript. But nothing serious. It doesn't
 8 matter.
 9 I've done my best in this, and that was part of
 10 my job, I'm acting as the spokesman for the Department
 11 and trying to explain what these preliminary processes
 12 which the lawyers representing the Department had
 13 advised we should take, and which, on these
 14 preliminary stages, the plaintiffs had won and our
 15 lawyers had lost the argument -- but they're perfectly
 16 entitled to argue it -- but what actually it was about
 17 and what approach we were taking. And in particular,
 18 I keep stressing all the way through this, if there
 19 was any evidence showing negligence, if there was any
 20 evidence showing fault, we would pay full
 21 compensation, as we always do. And as we always did.
 22 And I tried to explain the policy with that and
 23 the fact you can't just pay out compensation in all
 24 those cases where there's no fault on the part of the
 25 doctors, there's no part on the fault [sic] of the

1 Health Authority, and there's no fault on the part of
 2 the Department, and that -- that is the thing we're
 3 still maintaining, you know, that's still -- still the
 4 approach today, and I think any other approach would
 5 be quite impossible. You'd destroy the Health
 6 Service.
 7 **Q.** Lord Clarke, my question is this: was this part of an
 8 attempt to turn the tide of public opinion and public
 9 sympathy away from those victims of what had
 10 happened --
 11 **A.** No, it was an attempt to explain -- no, it's not --
 12 it's not a particularly campaigning interview. I've
 13 just said what it was. This isn't public relations;
 14 this is the ordinary day-to-day business of the
 15 Government answering questions and accounting, through
 16 the press, to the public for something that has been
 17 queried. This would -- I don't think this would have
 18 any dramatic effect on public relations.
 19 **Q.** It might --
 20 **A.** There's too much public relations in politics today.
 21 It wasn't like that in the eighties.
 22 **Q.** It might be thought, from some of your evidence
 23 yesterday, or it might be said from some of your
 24 evidence yesterday and some of the kind of thing
 25 that's said in this interview and elsewhere, that you

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1 were being critical of the plaintiffs for bringing --
 2 having the temerity to sue the Government --
 3 **A.** Now you're altering what I've said. Where is it
 4 critical of the plaintiffs? It's not critical of the
 5 plaintiffs. Nonsense.
 6 **Q.** Lord Clarke, I'm going to ask a question and it would
 7 be -- it'll be a more efficient use of your time and
 8 ours if you listen to the question --
 9 **A.** Well, they're so long, and it's inaccurate.
 10 I actually said at one point in this they're perfectly
 11 entitled to bring the action.
 12 **Q.** Were you, in your own thinking at the time, critical
 13 of the plaintiffs for having the temerity to sue the
 14 Government?
 15 **A.** That's absolutely ludicrous. No, of course I wasn't.
 16 **Q.** Then that's the answer. If we then pick up --
 17 **A.** I was engaged in legal practice for years.
 18 I don't -- if I'm defending a plaintiff, sort of
 19 thing, I don't have contempt for the other side, it's
 20 just -- they're sometimes quite difficult to judge,
 21 and the judge eventually gives you a judgment and
 22 sorts out. Not -- it would be farcical to suggest
 23 that.
 24 **Q.** If we then pick up the chronology of events in terms
 25 of your own direct involvement in the litigation, at

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1 HMTR0000001_039, we can see this is an internal report
 2 to the Chief Secretary to the Treasury, so
 3 Norman Lamont at that time, dated 28 September 1990,
 4 and it's in anticipation of a discussion that you and
 5 Mr Lamont are going to have. So we can see it says:
 6 "Mr Clarke has asked to discuss this subject
 7 with you on Monday at 6.30 pm. The immediate issue is
 8 whether or not DH [Department of Health] should signal
 9 to representatives of HIV-infected haemophiliacs
 10 a readiness to explore an out-of-court settlement."
 11 If we go to page 3, and we look at the heading
 12 "Mr Clarke's dilemma", it says:
 13 "DH say that the haemophiliacs' representatives,
 14 possibly sensing that their strength lies in the
 15 political rather than the legal case, have indicated
 16 in response to the Judge Ognall's statement that they
 17 would be willing to discuss an out-of-court
 18 settlement. We understand that Mr Clarke is
 19 instinctively disinclined to proceed down this road,
 20 while being aware that the Government is likely to
 21 encounter severe criticism whatever it does. He has
 22 not, however, made up his mind and would like to
 23 discuss the position with you, especially given the
 24 large potential financial implications."
 25 Is it correct that you were instinctively

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1 disinclined to proceed down the road of an
 2 out-of-court settlement, and if so, why?
 3 **A.** We got there yesterday, yes. It was plain yesterday.
 4 Yes, I mean, it obviously was. The problem being
 5 that, you know, it is the real world of politics, of a
 6 public (unclear), where the Government is involved in
 7 litigation, a settlement involves agreeing a sum in
 8 full and final settlement of the plaintiff's claims.
 9 What tends to happen in these kind of cases is when
 10 you settle, you agree, as it were, you figuratively
 11 shake hands with the plaintiff, it immediately gets
 12 denounced as inadequate, despite the fact the
 13 plaintiffs have agreed to it and have accepted it as
 14 a full and final settlement, and it gets reopened.
 15 Although I wasn't responsible for the -- I had
 16 gone by the time eventually the decision was taken to
 17 settle it, as we -- as we're sitting here, because
 18 that's exactly what happened. The people who claimed
 19 agreed that was it, that was the full and final
 20 settlement of their claim, I'm sure their plaintiffs'
 21 lawyers explained that to them. They then realised
 22 they couldn't take out another writ and try and get
 23 some more, so they tried other ways of campaigning.
 24 I mean, I don't blame them. They're very hurt
 25 and aggrieved and they've suffered a tragic

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1 experience, either themselves or their relatives.
 2 But, in the real world, if you're a minister, you have
 3 to -- particularly in this world, health -- you have
 4 to appreciate that you're not really, in wide terms,
 5 you're not going to win either way. You are going to
 6 be criticised whatever you do.
 7 **Q.** Can we go to page 6 of the document.
 8 **A.** That's put more clearly and in a little less
 9 exasperated tone, by the -- whatever you just read
 10 out.
 11 **Q.** You can see the line to take, just halfway down the
 12 page, that's the line to take to --
 13 **A.** This is the advice to -- I wouldn't see this.
 14 **Q.** You wouldn't have seen --
 15 **A.** This Norman Lamont's briefing --
 16 **Q.** It is.
 17 **A.** -- advising him how to handle the meeting with me.
 18 **Q.** That's right and I'm not asking you about the detail
 19 of this, I want to --
 20 **A.** I've not seen this.
 21 **Q.** -- ask you about something on the next page -- well,
 22 you've seen it for the purposes of preparing your
 23 witness statement, Lord Clarke.
 24 **A.** And they obviously were inclined to agree with what
 25 they thought I was going to say to them, which is what

25

1 are and some idiot starts leaking it all, and you
 2 can't proceed, you're completely undermined. It
 3 wasn't to hide guilty incriminating documents or
 4 anything of this kind. And if you are going to have
 5 a -- and it didn't stop this briefing being written,
 6 but it perhaps wasn't circulated as widely as it
 7 otherwise would have been. People need to know. We
 8 obviously have to have documents. You obviously have
 9 to record what you're doing. But that's all that
 10 means. So let's take particular steps to make sure
 11 that we -- people who don't need to see it, don't need
 12 to see it, because the whole thing will be reduced to
 13 a farce if our discussions around negotiating
 14 positions start leaking, and it will be just
 15 completely undermined.
 16 **Q.** The upshot of the meeting appears to be set out at
 17 HMTR0000001_042. Again, this is an internal Treasury
 18 document addressed to Mr Lamont:
 19 "The position reached during and after the
 20 discussion with Mr Clarke can, I think, be summarised
 21 as follows.
 22 "The Government has to choose between:
 23 "-- trying to negotiate an out-of-court
 24 settlement, and
 25 "-- letting the court case proceed."

27

1 I did, which was that there's no point in settling.
 2 **Q.** Thank you, Soumik. What I want to ask you about is
 3 what is said at paragraph 12. I was just showing the
 4 previous page to put it in context in the document:
 5 "Mr Clarke is understandably anxious to minimise
 6 the amount of paper written on this subject and to
 7 restrict circulation of any such paper. That is why I
 8 am not copying this minute widely."
 9 Why were you anxious to minimise the amount of
 10 paper written --
 11 **A.** Because another problem arises, it's worse today than
 12 it was then. If, in the end, we started negotiating
 13 with the other side about what is a suitable sum, what
 14 reflects the risks of the litigation, you know,
 15 strength of the case and all that, it's quite hopeless
 16 if -- when you discuss how much you might -- what
 17 you're going to offer, what you think the other side
 18 are doing -- it all starts leaking to the newspapers
 19 because you've got somebody on the inside who decides
 20 they want to help the other side.
 21 If, you know -- I suppose lawyers -- if --
 22 anybody who does any negotiating, once you enter into
 23 or you might enter into a negotiating process, the
 24 last thing you want, it's everybody in the office
 25 having a piece of paper telling them exactly where you

26

1 I'm not going to ask you about the detail of
 2 what's set out in terms of advantages and
 3 disadvantages if we go to page 3, paragraphs 8 and 9:
 4 "On the above analysis, the strategy of
 5 eschewing negotiation and letting the court case
 6 proceed looks to be clearly preferable, certainly from
 7 the Treasury point of view and probably from the point
 8 of view of the Government as a whole.
 9 "You may like to run through the analysis
 10 quickly with Mr Clarke" --
 11 **A.** Yeah, Norman and I seem to have wound up agreeing.
 12 **Q.** The strategy, is this right to understand, at this
 13 point in time, as agreed between you and the chief
 14 secretary, is simply to defend the court case?
 15 **A.** Yes, which would settle -- of course, if we got
 16 a judgment from the court when they would have had
 17 many more witnesses who -- people weren't dead, then,
 18 and it was much nearer the events. Had you had
 19 a court judgment, that would have given the most
 20 authoritative decision on was it the fault of the
 21 doctors or the Department or was it not? We wouldn't
 22 be -- obviously, we wouldn't be here today. There
 23 wouldn't be this -- this argument would have been
 24 resolved decades ago. Had it gone to court, had we
 25 had a judgment -- I mean, no doubt, somebody could

28

1 have -- some people could have gone to the Court of
 2 Appeal or (*unclear*) but where you've got a final
 3 judgment, that would have settled it. People do
 4 accept the authority of the courts. The courts would
 5 have decided: fault, no fault.

6 And, as it happens, with hindsight, I'm rather
 7 going back to my original view, it would have saved
 8 an awful lot of time, money and distress, and years
 9 and years of debate.

10 **Q.** Then, if we then move on towards the end of October to
 11 the position shortly before you leave office, or leave
 12 this office, HMTR0000002_002 --

13 **A.** Had we won the court case, I'm absolutely certain we
 14 would have given more money to the Macfarlane Trust.
 15 Again, that would have been, you know, to get across
 16 to the public that we were not, you know, triumphing
 17 in victory but the position had been resolved, we
 18 still felt sympathy, still give such financial help to
 19 alleviate the problems as we could.

20 **Q.** If we look at this document, it's dated
 21 23 October 1990, again it's an internal Treasury
 22 document and it records as follows:

23 "The Chief Secretary spoke to the Secretary of
 24 State for Health over the telephone yesterday
 25 afternoon [so that's you and Norman Lamont].

29

1 That is -- Norman and I, that is what we, at
 2 this meeting, would have preferred to do. I mean,
 3 I -- it's -- I'm relying on the document but the more
 4 we go on, the more I am just not surprised. As it
 5 happens, my judgment today is it's a perfectly
 6 sensible position for the two of us to take up.

7 **Q.** Then just reading on for the sake of completeness:

8 "Mr Clarke agreed with the Chief Secretary that
 9 the Government lawyers should be instructed not to
 10 make an offer themselves, under any circumstances."

11 Over the page:

12 "Mr Clarke then commented that some of the cases
 13 against health authorities were very strong, and were
 14 in fact straightforward medical negligence cases. The
 15 Chief Secretary agreed with Mr Clarke that it would be
 16 important to present these as negligence cases,
 17 distinguishable from any others.

18 "The Chief Secretary and Mr Clarke agreed that
 19 they would not seek to raise the issue at Cabinet.

20 "Mr Clarke did not raise the PES issue."

21 Do you know what that's a reference to?

22 **A.** I can't remember. What does that mean?

23 **Q.** Is it fair to understand from this document, then,
 24 that this represents the position that you and
 25 Mr Lamont had reached by late October 1990?

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1 "They agreed that there were no grounds for
 2 offering an out-of-court settlement. Department of
 3 Health lawyers had indicated that a settlement might
 4 be achievable at around £50 million, but once
 5 negotiations started it would be difficult to stick at
 6 this or any other figure.

7 "Mr Clarke suggested, however, that if the other
 8 side made an offer of £20 or £25 million, and DOH
 9 lawyers considered that it included a watertight
 10 guarantee that the writs would be dropped, this would
 11 represent a good settlement. The Chief Secretary
 12 expressed the view that a settlement at that level
 13 would be highly unlikely, and would certainly have to
 14 be entirely at the initiative of the other side. He
 15 felt that it would be far more satisfactory to win the
 16 case in court, and then make a moderately generous
 17 offer on an ex gratia basis."

18 **A.** It shows that, at the time, had we won, the
 19 Treasury -- and he was a Treasury cabinet minister at
 20 this stage, he's not Chancellor, he's chief secretary,
 21 I think, and he's the man in charge of Government
 22 spending, he controls the purse strings -- even the
 23 Treasury, if we won, were just expecting, as he put
 24 it, to make a moderately generous offer on
 25 an ex gratia basis.

30

1 **A.** Well, it obviously does, yes.

2 **Q.** Then, last document on the issue --

3 **A.** This is only about a month before I left the
 4 Department.

5 **Q.** I think it's actually just a week before you left the
 6 Department, probably.

7 **A.** It was the week before I left the Department?

8 **Q.** I think so. I might have got the date wrong.

9 Last document on the litigation, Lord Clarke.
 10 DHSC0046962_187. This is an internal Department of
 11 Health document "Present position on HIV/haemophilia
 12 litigation".

13 If we go over the page, bottom of the page, this
 14 is just to complete the picture, factually,
 15 Lord Clarke:

16 "Kenneth Clarke met counsel on 1 November to
 17 discuss this. The line was confirmed that there
 18 should be no offer from the Department. However, our
 19 Counsel would make known to the Plaintiffs that if
 20 they were to offer a settlement around £20 to
 21 £25 million plus costs this might be considered. Any
 22 settlement would have to be acceptable to all
 23 plaintiffs and end the litigation. No money has been
 24 agreed with Treasury for an out of court settlement,
 25 and this could be difficult to obtain as the prospects

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1 for successfully defending the action are reasonable."

2 So that would appear to be your last
3 involvement, Lord Clarke --

4 **A.** Yeah, I mean, at -- the background to all this was our
5 lawyers, which is the most important thing, and
6 I think I, as well -- I think my lawyers and I were
7 reasonably confident that if it was fought through, we
8 were going to win this. In my opinion, the approach
9 being taken by the plaintiffs' lawyers makes it
10 perfectly clear that the victims' lawyers also felt
11 pretty certain they were going to lose if they insist
12 on fighting this, which is why they were approaching
13 us making offers to settle. So we didn't want to take
14 too tough a line with them, although Norman and
15 I thought the best thing was to sort out liability and
16 stop the argument about whether there was fault or
17 not, and then start giving them money on an ex gratia
18 basis, because he, like me, I'm sure, felt the same
19 humanitarian instincts as everybody else, sympathy for
20 the victims of a dreadful tragedy.

21 **Q.** Now, according to the dates given in your statement,
22 this would have been, in fact, your last day in the
23 office at the Department of Health, 1 November and you
24 then moved to the Department of Education.

25 **A.** Yeah, just to make it clear, it's true of the other

33

1 William.

2 **Q.** If we go to, then, as the next document, JEVA --

3 **A.** I may have had discussions with William about the
4 Department because he was taking on, you know, as all
5 Secretary of States do, a huge raft of problems with
6 the Department, but I, you know, doubt whether I'd
7 have discussed this. He'd find out in due course, the
8 lawyers would guide him, rather than my -- no point in
9 my trying to bring him up to date on where we were in
10 one of our cases of litigation because the Department
11 of Health has a lot of litigation on at any given
12 time.

13 **Q.** If we go to JEVA0000065, please, Soumik.

14 This is an extract from the first edition,
15 I think, of your book, of your autobiography and
16 I just want to ask you about the third paragraph,
17 a change that was made to it. You say in the third
18 paragraph, in this version:

19 "The haemophiliacs who spent the rest of their
20 lives with this disease were eventually given
21 compensation by John Major's government."

22 Then you go on to talk about the continuing
23 campaign for more generous compensation for their
24 suffering and to help them with the cost of their
25 illness.

35

1 funny gaps, you know, the delays in response to
2 documents. You just can't remember what political
3 mayhem was taking place in the background. This --
4 this is about the time that Geoffrey Howe resigned
5 from Margaret Thatcher's Government, and so Norman and
6 I were still trying to get on with the business of the
7 day and having a meeting, when all hell was let loose
8 on the political world and Parliament, and so on,
9 which obviously Norman and I, as members of the
10 Government, also had to inhabit.

11 **Q.** Now, you were succeeded by William Waldegrave as
12 Secretary of State for Health.

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

14 **Q.** So you were then not the Government minister dealing
15 with the process of the actual settlement.

16 **A.** I had nothing further to do with it, as far as I can
17 recall. I mean William may have asked me what my
18 opinion was, and where we'd got to but, from then on,
19 it was nothing to do with me and I, you know, took no
20 further part.

21 **Q.** You have, in part, anticipated what my question was
22 going to be. As far as you can recall, did you have
23 any discussions with William Waldegrave about it?

24 **A.** I'm sorry, I anticipated and answered. I can't
25 remember having any discussions with William. Ask

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1 As I understand it, Lord Clarke, concern was
2 expressed to you about the use of the word
3 "compensation" because no compensation, no assessment
4 of need or --

5 **A.** Oh, I had lawyers, I had lawyers -- the publishers had
6 lawyers' letters, and so on. Quite what legal action
7 they were contemplating we never discovered. I'm
8 afraid the threat of legal action was a bit of a joke,
9 but it is true, we collected it in the next --
10 I dictated this. This autobiography is mine, and
11 I dictated this into a Dictaphone. You know, sessions
12 about twice a week, two or three hours at a time, with
13 a little note to make sure I kept some kind of order
14 and didn't leave things out, and it was a slip. In
15 the serious terms and precise terms in which this
16 Inquiry and everything else had been conducted,
17 I shouldn't have used "compensation", I should have
18 said ex gratia payments. And when it was drawn to our
19 attention we ignored the threat of legal action but
20 the publishers and I agreed that we'd change it in the
21 next edition, and the lawyers accepted that, and were
22 content with that.

23 **Q.** I want to turn now to a separate issue. It's one that
24 you address in your witness statement, paragraph 17.

25 **A.** I was writing that for the general leader. I was not

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1 giving evidence in the law court or before any
2 inquiries, so I'm afraid it was just a slip to call it
3 compensation.

4 **Q.** If we just go to your witness statement, Lord Clarke,
5 and we pick it up at page 13. You'll see a heading
6 towards the bottom of the page, Lord Clarke,
7 "Hepatitis C and screening tests".

8 Just to place this part of your statement in
9 context, an important issue for consideration
10 coinciding with your time as Secretary of State, was
11 the question of whether there should be some form of
12 testing, surrogate testing or screening testing, in
13 relation to hepatitis C.

14 **A.** Yes.

15 **Q.** The purpose of my questions is going to be to explore
16 with you the extent to which, and it appears to be
17 a very limited extent, those issues crossed your desk
18 as Secretary of State for Health. So if we go to
19 page 15, please, Soumik, and pick it up at
20 paragraph 17.2, you say:

21 "First, I've been advised that -- as the
22 question indicates -- there is a difference between
23 *surrogate* testing of donated blood for Hepatitis C ...
24 and *screening* tests. The papers that I've been shown
25 in relation to this issue, during the period in which

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1 for any of this. I only play such a prominent part in
2 evidence because I'm -- nowadays have the misfortune
3 to be slightly better known than any of the others and
4 I'm the nearest to a B-list celebrity you've got.
5 I don't think I ever got immersed in testing for, you
6 know, hepatitis C. But I was aware that we were --
7 the subject was being handled, but it was handled by
8 whoever was doing blood products.

9 **Q.** That may indeed be correct, Lord Clarke, the purpose
10 of this is just to try to put out into the open and
11 into the public domain the nature --

12 **A.** Well, we've had two and a half days of you asking me
13 detailed questions about things which I was never in
14 charge of.

15 **Q.** The purpose of these questions, Lord Clarke, is to
16 examine the precise extent of your involvement,
17 limited as it may have been --

18 **A.** Okay, I'm sorry, I'll stop --

19 **Q.** -- with an issue that you haven't been asked about.

20 **A.** I'll stop complaining about your questions.

21 **Q.** Thank you. WITN0758019.

22 **A.** As I say, I have no independent memory of the subject
23 at all. I'm entirely reliant on the documents, as you
24 are.

25 **Q.** That is understood.

39

1 I was Secretary of State for Health, focus on
2 screening tests."

3 You say you're not in a position to explain --

4 **A.** Yeah, I must admit, I must confess I don't, I still
5 don't, at this moment, wholly understand what
6 a surrogate test is. That's a medical question which
7 you'll no doubt put to the medics.

8 **Q.** Yes. Is it right to understand, then, as far as
9 you're aware, the question of surrogate testing was
10 something that was never raised with you at all?

11 **A.** I don't remember it being raised with me and, as I
12 said, as it happens, sitting here as I do now, I don't
13 understand -- I mean, someone would have to explain to
14 me what surrogate testing is.

15 **Q.** Now, in relation to the issue of screening tests, we
16 can pick up -- you say at the bottom of the page you
17 have had no independent memory of the issue. I'm just
18 going to pick up with you the handful of documents
19 that refer to it, that appear to have potentially come
20 across ministerial desk, really just to try to
21 understand the limited extent to which there was
22 involvement by ministers in this issue.

23 **A.** Well, I won't repeat it again. It runs through all
24 this evidence. I was not directly -- it wasn't one of
25 my responsibilities. I was not directly responsible

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1 So we can see, this is a minute dated
2 19 February 1990. We can see what's written on it in
3 handwriting next to the CC, so it's CC "PS to PS(H)",
4 "All Private Offices". So would it be right to
5 understand that this would have gone to your private
6 office, not necessarily as you have already
7 explained --

8 **A.** Yes, it was all the other ministers, was Strachan --
9 no, I'm not sure Strachan Heppell was mine. Yes, that
10 would have gone to all private offices.

11 **Q.** Yes.

12 **A.** As I said, right at the beginning of my evidence, that
13 doesn't mean every minister would have seen it.

14 **Q.** Indeed.

15 **A.** Someone in the private office would have taken the
16 decision whether his or her boss ought to see this.

17 **Q.** We can see it's primarily addressed to Dr Metters and
18 then to the private secretary to the Parliamentary
19 Under-Secretary of State in the House of Lords.
20 Headed "Non-A, non-B Hepatitis in Blood" --

21 **A.** Who was that by this time?

22 **Q.** I think it might have been Baroness Hooper but I'll
23 have to double-check.

24 **A.** I'm (*unclear*).

25 **Q.** "This note seeks to bring Ministers up to date on the

40

1 current situation regarding testing for non-A, non-B
2 hepatitis (often referred to as Hepatitis C) in
3 donated blood. Ministers will be aware of the recent
4 press interest in this topic, and a number of
5 Parliamentary Questions that have been raised
6 consequently."

7 We have the background:

8 "Since the middle of 1989 Ortho have been
9 marketing a test as a method of identifying carriers
10 of non-A, non-B hepatitis."

11 Then there's reference, a couple of lines
12 further down, to the "Department's Advisory Committee
13 on Virological Safety of Blood", which I asked you
14 about yesterday, Lord Clarke:

15 "... discussed the possible routine use of the
16 test in the [National Blood Transfusion Service] at
17 its meetings in 1989, but decided that not enough was
18 known about the meaning of the positive results that
19 it produced, nor of its reliability. A pilot study,
20 using the Ortho test, was initiated."

21 We then see the "Current Position" set out in
22 paragraph 3:

23 "At the January meeting of the [Advisory
24 Committee on the Virological Safety of Blood] members
25 once again addressed the question of routine

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1 I used to do a lot of it, but I think the Secretary of
2 State sort of liked to shove me out there, which
3 I didn't mind, and so I'd be interviewed frequently,
4 radio, television, newspapers, and you needed to be
5 kept up to date with this because, whatever you had
6 been told you were going to be interviewed about when
7 you accepted the invitation, once you were there, the
8 interviewer -- you know, the Today Programme I used to
9 do a lot, about twice a week, I'll bet, at this time,
10 once you were there they'd ask you a question or two
11 about what they'd asked you to come in about and then,
12 well, you just knew, if you've got the slightest
13 sense, they'd ask you about anything that was in the
14 Department's field.

15 That's one reason why you did have to be kept up
16 to date with what was going on because if they raised
17 something that you weren't actually doing, I wouldn't
18 sit on the Today Programme and say, "Sorry", as I do
19 to you, saying, "That's not my responsibility, you
20 must, you know, ask another minister" -- I would
21 answer for the Department. You had to keep up to
22 speed. You had to be aware, at least, of what was
23 going on on other fronts. Hence to me, and to the
24 Secretary of State, this was usual because, at any
25 stage, someone might shout a question at you or raise

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1 introduction of the test. The Committee's decision
2 was there was still insufficient scientific
3 information about the test to advise its routine
4 introduction."

5 Then there's a reference to an international
6 hepatitis meeting, and paragraph 5 then says:

7 "Ministers will be kept informed of any further
8 advice from the [Advisory]" --

9 **A.** This is obviously a note to make sure we were all up
10 to speed with where we were.

11 **Q.** Yes.

12 **A.** No minister would have interfered with the expert
13 Advisory Committee. That's entirely what they're
14 there for.

15 **Q.** So in terms of what you would have expected as
16 a ministerial response to this from whoever the
17 appropriate minister was, it would have been really,
18 simply, to note it and await an update?

19 **A.** Well, in case -- as I say, somebody like me and the
20 Secretary of State, we were the ones in those days --
21 there was more control, the Government is going for
22 message discipline nowadays -- but, in those days, we
23 were constantly in the public eye because we were
24 doing media interviews. I mean, it was part of our
25 job, defending the Government against the -- and

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1 it in Parliament, and you would be expected to give
2 some sort of response on behalf of the Department and
3 the Government.

4 **Q.** If we go to what appears to be then the next update,
5 it is at NHBT0000061_130. This is dated 1 May 1990,
6 again it's to Dr Metters and to the private office of
7 the Parliamentary Under-Secretary of State in the
8 House of Lords. It's copied -- sorry, if we just go
9 to who it's cc'd to -- it doesn't look from that, as
10 I read it, that it was copied to your private office;
11 is that correct?

12 **A.** No, because I wasn't dealing with it.

13 **Q.** No criticism implied in the question, Lord Clarke.
14 It's a question of fact. We can see, and I'm just
15 drawing attention to this in light of some of the
16 earlier questions I asked about interaction with the
17 devolved administrations. It does appear to be copied
18 to someone from the Scottish Home & Health Department,
19 the Welsh Office and the Northern Irish Office. Then
20 if we just look at the second paragraph, then I'm
21 going to ask you a question.

22 Sorry, in fact, Soumik, can we just look at the
23 first paragraph, my apologies:

24 "Minister may recall that the question whether
25 to screen all blood donations for hepatitis C virus

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1 has been under discussion in the Advisory Committee on
2 the Virological Safety of Blood. This note is to
3 advise Minister of developments.

4 "In France, Belgium, Luxembourg and Finland
5 screening has recently been introduced for all
6 donations and in Italy the screening is voluntary.
7 However at its meeting on 24 April, our Committee
8 reaffirmed its view that the introduction of routine
9 screening would not yet be justified. The new tests
10 developed in the USA have not been approve by the
11 [FDA] and there are still unresolved difficulties
12 concerning the tests. The Committee has advised that
13 a pilot study should be carried out to learn more
14 about the significance of a positive reaction to the
15 test and the extent to which it predicts infectivity
16 which could be transmitted in blood."

17 Then there's reference to a working party,
18 another meeting of the ACVSB and the Department will
19 be asked to provide funds for the study.

20 Now, Lord Clarke, I'm conscious this didn't come
21 to your private office. But my question is about what
22 your expectation would be of the Minister to whom this
23 did go. Would you have expected the Minister to,
24 again simply note that and await further updates or to
25 start challenging and asking questions?

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1 Committee, and all that kind of thing. There's
2 a whole process. It's not political. It's not Civil
3 Service government. It's scientific and it's medical.
4 And in Covid, there are vaccines approved here which
5 have gone through that process. We don't use some of
6 the vaccines that other countries, China, Russia, use,
7 which obviously our expert committees would, you
8 know -- don't think they've gone through the full
9 process that we expect before we start using anything
10 of that kind.

11 And that's -- I would expect that the Minister
12 to note this, but not remotely to -- unless something
13 funny appeared to be happening in terms of process --
14 the Minister has got to wait, if he or she is being
15 responsible, for the final advice of the Advisory
16 Committee which had been set up for the purpose of
17 telling everybody where we are.

18 **Q.** Lord Clarke, vaccinations might not be said to be
19 a particularly apt analogy because this is not about
20 giving treatment or a drug or a vaccination to
21 patients --

22 **A.** It's testing.

23 **Q.** -- it's about screening blood.

24 **A.** Well, in that case, I should have stuck to the Test
25 and Trace system. We have various types of test we're

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1 **A.** I think anybody with common sense would have noted and
2 wait for the next stage in this extremely expert
3 committee's advice. It happens today. I mean,
4 I won't start making comparisons with the Covid again.
5 You don't start using vaccination until immunologists
6 and other scientists on your Advisory Committee
7 confirm that it's safe and it works, and that's true
8 today. It's true in any well-run healthcare system.
9 It was true then. And the tests that we use for Covid
10 today are the ones that have gone through the
11 appropriate system. I'm sure there's another expert
12 committee of virologists, with an equally long
13 acronym, which goes through the process, which
14 unfortunately can take a few months, of getting the
15 data and actually being confident and sure that,
16 firstly, it works and makes a difference and gives you
17 accurate results, and that it's safe.

18 Now, no minister in their right mind interferes
19 with that. You don't start second-guessing that. You
20 don't say, "The Daily Mail said yesterday we were left
21 behind". You wait until the virologists and the
22 experts, who are amongst the best in the world tell
23 you "This is now right".

24 I mean, I don't know whether this would go to
25 the licensing committee, the Safety of Medicines

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1 using for Covid and they've all gone through the same
2 process.

3 **Q.** It might also be said --

4 **A.** So you're quite right I was inaccurate to talk about
5 the vaccine. Tests for Covid, exactly the same system
6 prevails today, and does in every well-run,
7 well-governed, sensible, developed country in the
8 world.

9 **Q.** It might be said that there are echoes here of what we
10 explored yesterday in relation to the introduction of
11 screening for HIV, in other words other countries
12 ahead of the UK in terms of the introduction of
13 screening --

14 **A.** It might be said. I know you have to put these
15 questions. It might be said. But frankly, I mean,
16 you know -- let's go to Covid, test and tracing. The
17 Chinese may be doing it differently, so do you say,
18 "Oh, the Department of Health is obviously negligent,
19 let's do what the Chinese do"? No, we don't do that.
20 There's no point in -- some -- our medics are some of
21 the best in the world. We were world -- amongst --
22 I mean, I don't want to stupidly, you know, overdo it,
23 but we were amongst -- we have amongst the best -- we
24 have the -- clinical standards in the world.
25 Scientific expertise in some of these subjects -- as

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1 it happens, virology is one where we're very, very
2 strong, but nobody has got a -- hardly anybody has got
3 a better system than us. So a journalist might say,
4 "Oh, we've been left behind", but that's not
5 a responsible way to take the decision. And if it
6 went wrong, and you were before a public inquiry, if
7 you told the counsel to the Inquiry, "Oh, we did it
8 because the Chinese were doing it", I'm afraid I don't
9 think you'd get very far. I don't think you'd be
10 treated with very great patience.

11 **Q.** I take it, but perhaps you can confirm --

12 **A.** You are, you know --

13 **Q.** I take it from your answer, Lord Clarke, that you
14 are -- this implies no criticism -- that you are
15 unaware of the subsequent judgment of
16 Mr Justice Burton in the case of *A v The National*
17 *Blood Authority* which held --

18 **A.** I am completely unaware.

19 **Q.** -- that screening should have been introduced?

20 **A.** I've never heard of the case. Is it -- are you about
21 to tell me there is a case which is --

22 **Q.** There is indeed --

23 **A.** What happened there? Well, tell me -- now you tell me
24 about it.

25 **Q.** I'm not going to --

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1 **A.** I mean, we inform ourselves of --

2 **SIR BRIAN LANGSTAFF:** Could we just have the section back?
3 Thank you.

4 If we can just have a look at what was being
5 said. I appreciate this document didn't come to you,
6 but five lines down, in the second paragraph:
7 "The new tests developed in the USA have not
8 been approved by the Food and Drugs
9 Administration ..."

10 That seems to be relying upon what the Americans
11 were doing. You wouldn't have expected that, would
12 you?

13 **A.** Well, it's relevant if it's not been approved by
14 the FDA. It probably explains why it's not been
15 approved by ours either.

16 **SIR BRIAN LANGSTAFF:** So this was in part, at any rate,
17 relying on --

18 **A.** In the end --

19 **SIR BRIAN LANGSTAFF:** -- the --

20 **A.** In the end -- and I think, 99 -- more than that -- out
21 of 100 -- in the end, we rely on -- we set up our --
22 we have our own licensing, our own safety of medicines
23 system, our own advisory committees, and we rely on
24 them.

25 **SIR BRIAN LANGSTAFF:** And your point is that's --

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1 **A.** Tell me what was said.

2 **Q.** It's a very lengthy judgment. I'm very happy to
3 provide you with my copy, Lord Clarke, and you can
4 take it away.

5 **A.** I'm sure you're anxious to save time, as you have been
6 throughout. You're not going to tell me what it said?

7 **Q.** I'm --

8 **A.** You're just hinting to me in a sinister way something
9 is said that you think contradicts what I've just said
10 to you.

11 **Q.** Lord Clarke, my question was whether you were aware of
12 the judgment, and the answer is that clearly you were
13 not --

14 **A.** No, I'm not, and I --

15 **Q.** Can we go back, then, to the question of what you --

16 **A.** -- you may gather, if you wish to make anything of it,
17 you'd better tell me what the judgment is.

18 **SIR BRIAN LANGSTAFF:** May I just intervene gently in this
19 discussion, this chat between the two of you.

20 You were saying that it isn't the practice
21 here -- you make a big point -- to rely on what other
22 countries are doing, because we have perfectly good,
23 in fact eminent doctors ourselves.

24 Can we just have the document back, please,
25 Soumik.

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1 **A.** Although of course you keep yourself informed of where
2 we are in other -- like these countries that are cited
3 here -- comparable countries that also have excellent
4 healthcare systems.

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

6 **MS RICHARDS:** If we just move to the next update, I'm just
7 going to draw it to your attention before I ask you
8 a question about the document after, if I may, but so
9 that no one suggests that I'm not showing you the
10 material, Lord Clarke, NHBT0000061_137. This is dated
11 11 May 1990. This does go to your office, we can see
12 that from the top left-hand corner. "Hepatitis and
13 blood products". It refers to the press carrying two
14 stories about hepatitis and blood products.

15 **A.** But this is actually -- yes, I was Secretary of State
16 so it's gone to me, this.

17 **Q.** Yes, it has. It is predominantly dealing with
18 a suspect hepatitis B contamination at the Bio
19 Products Laboratory, as BPL is now called. I'm not
20 asking you about that.

21 If we go over the page --

22 **A.** Oh, is this the one where I was annoyed because the
23 Blood Products Laboratory hadn't told us?

24 **Q.** Yes.

25 **A.** We found out about this slip through the newspapers.

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1 Q. That is indeed the one. If we look at paragraphs 5
 2 and 6, we can see reference then to a Lancet article
 3 on hepatitis C.
 4 "This shows, as expected, high rates of
 5 positivity with a recently developed test for
 6 hepatitis C in recipients of blood products. Before
 7 heat-treatment of blood products was instituted in
 8 1985, transmission of non-A non-B hepatitis to
 9 haemophiliacs was commonplace and these findings
 10 reflect past infections."
 11 Then it talks about heat treatment through NHS8Y
 12 Factor VIII.
 13 Then paragraph 6 continues:
 14 "But there remains the question of whether the
 15 [National Blood Transfusion Service] should as an
 16 additional measure screen donations for hepatitis C to
 17 protect transfusion recipients. This now being done
 18 in Japan, Belgium, Luxembourg, Finland and very
 19 recently in the USA. The Department's advisory
 20 committee on Virological Safety of Blood, under
 21 Dr Metters, have been considering the available
 22 evidence, in particular on the significance of
 23 a positive with this new test. The committee
 24 recommend further work on UK donors before a decision
 25 can be made."

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1 that doesn't mean you spend -- every time you get
 2 a clinical opinion from the world's experts, you say,
 3 "I wish to challenge this", you know, "Tell me why
 4 other people are doing something different from us?"
 5 Occasionally -- I mean, you know, sometimes
 6 medical opinions merge with the -- also the
 7 administrative decisions and so on, which you can feel
 8 some confidence on, but, you know, I don't -- nine
 9 times out of ten, there's no point in a non-clinician,
 10 with no expertise on the subject at all, spending his
 11 entire time challenging, cross-examining, the experts
 12 who are giving him advice.
 13 Q. Then if we go to the final document to show you on
 14 this subject, NHBT0 --
 15 A. Well, how did it turn out? Were they wrong?
 16 Q. Well, that's for the Chair to determine, Lord Clarke.
 17 A. Well, one thing it confirms is, so far as
 18 haemophiliacs are concerned -- I accept you're
 19 considering infected blood as a whole -- the problem
 20 had largely been solved five years before, as I've
 21 said several times throughout this. It was heat
 22 treatment that solved it in the end. Obviously it's
 23 relevant to explore all the things we're exploring,
 24 but what turned out to save such haemophiliacs not
 25 infected from further infections, what turned out to

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1 Then we have "The line to take", the first is in
 2 relation to the BPL hepatitis B issue and then the
 3 second is on hepatitis C, so this is your suggested
 4 line to take -- sorry, the line to take suggested to
 5 you.
 6 "The Department considers that there is at
 7 present insufficient scientific information about this
 8 test. The matter of testing blood donations for
 9 hepatitis C is being kept under review."
 10 Lord Clarke, given as you've told us on a number
 11 of occasions you regarded it as part of the
 12 responsibility of a minister to challenge, to test the
 13 advice that you're being given, whether by experts or
 14 otherwise, do you think at this point in time, knowing
 15 that now the States was using testing as well as the
 16 other first world countries there identified, that you
 17 would have wanted to understand, if this had actually
 18 come across your desk and not just reached your
 19 private office, why the UK was not yet introducing the
 20 tests?
 21 A. Well, it explains why. Because we have an Advisory
 22 Committee which doesn't think we should.
 23 Q. So you'd have just accepted that, do you think, and
 24 not probed further?
 25 A. I assume I did. I mean, when I say you "challenge",

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1 make even American Factor VIII safe was heat
 2 treatment. And that -- we were doing that from 1985
 3 onwards, and this is several years later.
 4 Q. Have you ever been aware, Lord Clarke, that thousands
 5 of people -- precise numbers hopefully to be
 6 established or some greater degree of precision to be
 7 established in due course -- were infected with
 8 hepatitis C through blood transfusions?
 9 A. I -- it's a -- it's a risk still with blood
 10 transfusions. Though, they do -- of course we test
 11 nowadays. Yes. Hepatitis C continues to this day to
 12 be, I think -- I mean, again, I speak as a layman.
 13 You must -- these questions are all best put to some
 14 medic, but my understanding is hepatitis C remains
 15 something you have to be very aware of in hospitals
 16 today.
 17 Q. Then if we look at the final document,
 18 NHBT0000189_201, please, Soumik.
 19 This is dated 7 August 1990. It appears from
 20 the left-hand -- top of the page it's going to the
 21 private office of the Parliamentary Under-Secretary of
 22 State in the House of Lords and not, I think, if we
 23 look at who it is copied to, to your office. Does
 24 that look right?
 25 A. Yeah, because she was dealing with it.

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1 **Q.** Then we will see it says:
 2 "1. PS(L) [Parliamentary Under-Secretary of
 3 State in the House of Lords] will wish to know that at
 4 its July meeting the ACVSB advised in principle that
 5 all blood donations should be screened for hepatitis C
 6 virus. A full submission setting out the case for
 7 screening, the financial implications and results of
 8 a cost benefit study will be provided shortly.
 9 "2. As a first step the ACVSB has recommended
 10 a pilot study to evaluate the two available screening
 11 tests and supplementary tests which would be used to
 12 discriminate between infectious and non-infectious
 13 positive reactions to the initial screening test.
 14 This would give the NBTS experience of using the tests
 15 together and will indicate if there are particular
 16 advantages in using one or other of the initial
 17 screening tests. Preparations for the evaluation are
 18 underway and the results are expected to be available
 19 in October for consideration by the ACVSB.
 20 "3. The screening of blood donations would cost
 21 [an] estimated £5 to £6 million a year. The question
 22 of how this would be funded will have to be considered
 23 in the full submission."
 24 Again, Lord Clarke, I am conscious in asking
 25 this question that there is no evidence to suggest

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1 I'm sorry. It's the second time I've seen it in my
 2 life.
 3 **Q.** Then you say in your witness statement, and I don't
 4 have a question, Lord Clarke, I just want to correct
 5 something as a matter of record, you say in your
 6 witness statement:
 7 "I have been informed that a Ministerial
 8 submission was eventually sent in December 1990 after
 9 I had left the Department of Health."
 10 Sir, my current understanding -- but we'll check
 11 this up and pick this up with other witnesses or
 12 through presentations as appropriate -- is that it was
 13 January 1991 that the submission referred to was sent.
 14 We'll double check that.
 15 And it's right that decisions were then taken
 16 after Lord Clarke left office so I'm not going to ask
 17 any further questions about that issue.
 18 **A.** I'm sorry I'm so exasperated, but, you know, this
 19 whole story started with newspapers reporting me and
 20 attacking me for decisions taken a long time after I'd
 21 left office, so nothing to do with me at all.
 22 **MS RICHARDS:** Sir, I note the time. I've got a very, very
 23 small number of my own questions left and then
 24 a larger number of questions suggested by Core
 25 Participants to field and advance, so if we could take

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1 that this came to your attention.
 2 **A.** I had nothing to do with this.
 3 **Q.** So my question is a more general one. Would you have
 4 expected the Parliamentary Under-Secretary of State,
 5 so the minister who was dealing with this and sent
 6 this, again simply to note this and await a further
 7 update, or to start asking questions, now that we have
 8 both evidence from abroad and the ACVSB, as to whether
 9 things could be done more quickly?
 10 **A.** Well, it's -- I mean -- I'll sit here and off-the-cuff
 11 advise how I think the Parliamentary Under-Secretary
 12 of State in the Lords should have reacted to
 13 a document which I've never seen in my life before --
 14 I don't -- I'm not going to give some instant, you
 15 know, firm authoritative view. I can't see anything
 16 wrong with -- the submission seems to speak for
 17 itself. It's all frightfully clear. If it had come
 18 to me, I suspect I would have put on "Content" or
 19 "Noted", signed it "Ken", and moved on to the next
 20 document in the box.
 21 **Q.** Just to say, Lord Clarke, you say a document you've
 22 never seen before; it is actually referred to in your
 23 witness statement.
 24 **A.** Oh, well, so somebody helping me putting the witness
 25 together pointed it out to me and I've forgotten it.

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1 a break now --
 2 **SIR BRIAN LANGSTAFF:** Yes. Well, we'll take a break until
 3 ten to 12, shall we?
 4 **MS RICHARDS:** Thank you.
 5 **SIR BRIAN LANGSTAFF:** Ten to 12.
 6 (11.23 am)
 7 (A short break)
 8 (11.54 am)
 9 **MS RICHARDS:** Lord Clarke, you've said on a number of
 10 occasions that your involvement in, as Minister of
 11 State for Health in the period '82 to '85 and the
 12 issues in which the Inquiry is investigating was
 13 minimal. I just wanted to see if I --
 14 **A.** I haven't said minimal but what I've said -- everybody
 15 alters what I say, I guess, in the reporting of it.
 16 What I said was I was never the minister directly
 17 responsible for the subject.
 18 **Q.** If I can just go through with you various issues and
 19 ascertain that you had -- whether or not you had
 20 involvement in them, really by way of summary. So in
 21 relation to the production of the donor leaflet in
 22 1983, you were involved in that?
 23 **A.** I didn't want that(?). I intervened then and involved
 24 myself, as I explained, because I was worried that we
 25 might destroy trust in the Blood Transfusion Service

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1 if we did it -- you know, if we got the tone wrong and
2 overdid it. Not so much us, if we spun things into
3 the newspapers, who were being sensational, I didn't
4 want to have an adverse effect on the supply of donors
5 or, even worse, to have patients lose confidence in
6 the safety of blood transfusions they were getting.

7 **Q.** You were involved in the saga of the revised donor
8 leaflet 1984 to 1985, again we've explored --

9 **A.** Yes, I obviously intervened. I wasn't in charge of it
10 but I intervened because I wanted to check that we
11 weren't doing anything that would accidentally cause
12 problems to the Blood Transfusion Service.

13 **Q.** In relation to the Council of Europe recommendations,
14 those certainly came across your desk and you made
15 some contribution --

16 **A.** Yes, but they were a footnote matter. If they came
17 across my desk, I don't remember it. I'm sure I got
18 copied in.

19 **Q.** In terms of the redevelopment of BPL, your involvement
20 was, I think, as follows: you gave various public
21 statements in which you updated or (*unclear*:
22 *overspeaking*) in Parliament.

23 **A.** I did answer because of the -- on behalf of other
24 ministers in the House of Commons sometimes.

25 **Q.** You became involved in the financial side in relation

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1 **Q.** On the issue of public articulation of the
2 Government's line to take of "no conclusive proof" you
3 were involved in that on the two occasions --

4 **A.** Line to take notice of?

5 **Q.** "No conclusive proof", "no conclusive evidence". You
6 were involved in relation to that?

7 **A.** Yes, I'd -- the reason I'm exasperated is because The
8 Times this morning has a headline saying I said
9 something about that which I did not say. I didn't
10 say "no conclusive proof" meant safe. "No conclusive
11 proof" says there was a possibility, it might even be
12 a probability, but we could not be certain and sure.
13 "No conclusive proof" was not the same as saying it's
14 safe. The whole reason for putting a leaflet out, if
15 we had doubts about the safety of taking blood from
16 homosexuals. What's got me in a bad mood this morning
17 is The Times has a headline saying I said something
18 which I didn't. I mean, it bears no relation to what
19 I said yesterday and I'm sure you'll agree we took
20 long enough over it yesterday. They could have
21 listened and got it, you know, vaguely right.

22 **Q.** Then on the question of banning or restricting the
23 importation of concentrates, the evidence would
24 suggest that neither you nor any other minister,
25 including the responsible minister, were asked to take

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1 to the costs --

2 **A.** I got concerned about the cost control. That was my
3 only role with the Blood Products Laboratory and it
4 was a very brief intervention because the Permanent
5 Secretary, once he'd found out that the costs were
6 going up rather rapidly, took over and no doubt sorted
7 it out.

8 **Q.** You were involved in some parts of the consideration
9 given to the introduction of HIV screening into the
10 blood supply, and we looked at that yesterday.

11 **A.** I was aware of it but I don't recall I did anything.
12 Did I take --

13 **Q.** I don't want to go over the same ground that --

14 **A.** I don't think I did any action on it. I don't think
15 anything I did made any difference to testing.

16 **Q.** You will recall there was the decision about central
17 funding or Regional Health Authority funding?

18 **A.** Oh, where we got the money from, several things.
19 I was involved in that, yeah.

20 **Q.** You raised questions about whether, in your
21 challenging role, as it were, whether there was a need
22 for it.

23 **A.** I asked one question in what is it, 30,000 documents?
24 There's a sentence saying one of the questions I asked
25 was "Do we need both?" and presumably I was told yes.

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1 any decisions in relation to that?

2 **A.** The banning of?

3 **Q.** The banning or restriction of American Factor VIII.
4 That never came across, it would appear, your desk
5 or --

6 **A.** No, I mean, that's presumably -- most of your
7 questions, I assume, are being at the doctors who
8 treat patients. That's what I hope you're spending
9 most of your time on because I am sure they can
10 explain the decision they took on the balance of risk
11 not to stop prescribing Factor VIII. I mean, they're
12 far more important to all of this than ministers.

13 **Q.** Rest assured, Lord Clarke, we've spent a considerable
14 period of time questioning doctors.

15 If we go, then, to your witness statement -- let
16 me just check which one. Yes, if we go to your second
17 witness statement -- Soumik, that's WITN -- thank you,
18 you don't need to be asked. If we go to page 93. You
19 were asked to, as it were, reflect on the Government's
20 response to the risks posed by infected blood and
21 blood products, and in paragraph 70.2, you say:

22 "... as a Department, I believe we acted as
23 swiftly and as efficiently as we were able, given the
24 clinical and legal advice made available to us."

25 Does that remain your view, Lord Clarke?

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1 **A.** Yes.
 2 **Q.** If we go over the page to paragraph 71.5, you say:
 3 "Finally, I have been asked whether there are
 4 any lessons to be drawn from the infected blood crisis
 5 which are applicable today."
 6 Then you answer it, as I understand it, in the
 7 followed paragraphs, by saying:
 8 "Whilst I would hope that a comparable crisis
 9 never occurs again and lessons have been learned in
 10 relation to blood products, looking back at my time in
 11 office I believe the Government and Department of
 12 Health at the time acted as best they could given the
 13 circumstances. Once we were made aware of the risks
 14 associated with imported blood products, officials
 15 acted expeditiously to neutralise the risk through
 16 heat treatment and sourcing other products, and to
 17 provide [evidence] on transmission.
 18 "No doubt comparisons will be drawn between the
 19 infected blood crisis and the Covid-19 pandemic, and
 20 more specifically, the way in which the governments of
 21 the time dealt with the respective risks they faced."
 22 Then you say you can't speak with any authority
 23 in relation to the present Government's decision
 24 making.
 25 Is it right to understand, then, that in terms

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1 **Q.** If we look at the top of the -- oh it's there,
 2 actually, on the screen. Where you say, in that
 3 sentence at the top of the screen, that officials
 4 acted expeditiously, and then if we skip over the next
 5 bit, "to provide education on transmission" --
 6 **A.** Sorry --
 7 **Q.** -- what are you --
 8 **A.** -- where is this?
 9 **Q.** It's the top, hopefully the top of the screen:
 10 "Once we were made aware of the risks associated
 11 with imported blood products, officials acted
 12 expeditiously to neutralise the risk through heat
 13 treatment and sourcing other products ..."
 14 I'm not asking you about that, Lord Clarke:
 15 "... and to provide education on transmission."
 16 To what are you there referring? What education
 17 on transmission are you talking about?
 18 **A.** I'm not sure, actually, quite honestly. That is an
 19 odd way of putting it, isn't it? I mean, it's on AIDS
 20 we gave education on transmission, which again is
 21 an odd phrase I've chosen there. Obviously, there was
 22 a big AIDS campaign, which Norman Fowler will tell you
 23 about, which was making it clear that both
 24 heterosexuals and homosexuals should seek to protect
 25 themselves and that it was largely transmitted by

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1 of your own perspective looking back, you have not
 2 identified any lessons to be learnt from the infected
 3 blood crisis?
 4 **A.** No, I haven't. I mean, I've obviously improved my
 5 knowledge better now than it was two and a half days
 6 ago, as I've been taken through all these documents.
 7 Again, so I'm all the time discovering more about what
 8 the Department actually did, or being reminded.
 9 I mean we've now read for the second or third time
 10 some of these documents, which I hadn't ever seen in
 11 my life before, most of them.
 12 I don't see -- but if this was a normal legal
 13 proceeding, we would have pleadings and that would
 14 have involved setting out what it was claimed the
 15 Department should have done that it didn't do, what
 16 the basis of any criticism or claim was. As far as
 17 I'm aware, two and a half days, no one has raised any
 18 allegation that anybody failed to do anything or
 19 anything like that but, fair do -- I, or the person
 20 who took the decision, or the doctor concerned, no
 21 doubt will answer it. I can't answer for everything
 22 that happened because I wasn't involved in most of it,
 23 during the time I was there and the key years when
 24 I was Minister of State for Health. I'm not the right
 25 person to ask most of these questions.

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1 sexual transmission, and in the -- you know -- I've
 2 left out what we also did, which we did spend some
 3 time on, which the leaflet is relevant to, we did
 4 stop. We tried to minimise the risk of the blood we
 5 were collecting and we stopped, tried to stop having
 6 blood donated by homosexuals, rather sweepingly, all
 7 homosexuals. We don't do that any more. Nowadays, we
 8 do take blood from homosexuals.
 9 **Q.** If we go back to page 93, paragraph 70.2, second
 10 sentence, where you say:
 11 "... as a Department, I believe we acted as
 12 swiftly and efficiently as we were able, given the
 13 clinical and legal advice made available to us."
 14 Lord Clarke, how is it that you are able to
 15 reach that conclusion, given the following three
 16 factors: (1) your repeated assertion that you were not
 17 the minister responsible; (2) your lack of independent
 18 memory now of the events and decisions in question;
 19 and (3) the fact that you're unfamiliar with most or
 20 much of the documentation?
 21 **A.** Well, insofar as -- I mean, the things that I've been
 22 made aware of, the documents about the evidence,
 23 I agree. I mean, that's a perfectly fair question.
 24 But you asked me what my opinion is and, insofar as
 25 I've been involved, and involved in the follow-up and

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1 the inquiries, and sometimes involved by the
2 campaigning, I've not so far had anything revealed to
3 me which says that the Department did not act
4 efficiently, and everything -- the whole -- everything
5 depends -- it's true of all these inquiries which we
6 now set up so regularly -- with hindsight, of course
7 you can see things that we would do and would have
8 done had we known the eventual outcome. What I'm
9 addressing in this -- this was a response to
10 questions, all this. I was being asked to answer the
11 very things which your question now suggests
12 I shouldn't answer.

13 The questions, given the medical knowledge at
14 the time, did anyone behave carelessly or negligently?
15 And all I can say personally, in areas that I've now
16 seen or been involved in, no, I don't think anybody --
17 I can't see anything where I think anybody in the
18 Department should have acted differently.

19 And anyway, as I keep saying, the Department is
20 not the principal player here and I think it's useful.
21 The people who took the key decisions were the
22 haemophilia specialists giving the treatments. It was
23 a clinical issue. It was a balance of risk. And you
24 must ask the haemophilia consultants why they stopped
25 giving Factor VIII when they did, but not earlier.

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1 what all these expert advisory committees are for.

2 Again, following Covid, I imagine there are
3 countless doctors, from academics and (*unclear*), are
4 called in to give advice, and it's all pooled, and
5 they don't all agree with each other, but they're --
6 the ministers today say what they do, what we all did
7 in the 1980s: act in the light of the best scientific
8 and medical advice we can obtain.

9 And I've not been shown anything which tells me
10 that the world-class medics giving us that advice got
11 it wrong in the light of what they knew at the time.
12 They just did not predict -- I think probably what no
13 one predicted was just how infected and contaminated
14 the American supplies of Factor VIII were. That's
15 what caused this horrific sort of death and, you know,
16 illness rate that the haemophiliacs in particular
17 suffered. And we -- you know, I don't know, I know
18 less about the hepatitis and the infections from the
19 blood transfusion -- we haven't covered that very
20 much -- but, I mean, there's the incidence of that.
21 Again, we acted once we had a test that worked, in
22 taking samples of the donor's blood. But you have to
23 have a test that's safe and which works first. And
24 that's not a political question. It's nothing to do
25 with politicians like me. That's a question for

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1 Now, what little I know about that, and every
2 time I touch on a clinical opinion, I say my own
3 clinical opinion is worthless, but I think it was
4 balance of risk, and I understand why they did that,
5 because they obviously did not realise that -- I think
6 the score now is almost 3,000 people were eventually,
7 sadly, going to die. If they'd known that, they'd
8 have stopped Factor VIII straight away.

9 I mean -- and, as I said, they and the ministers
10 would have faced a storm of abuse and campaigning and
11 complaint that they'd stopped giving this wonder
12 treatment which so improved the quality of life of
13 haemophiliacs, but with hindsight, that would have
14 been justified because they would have saved thousands
15 of lives.

16 **Q.** You've referred to medical knowledge at the time,
17 Lord Clarke. Would this be a fair or unfair comment:
18 that your grasp at the time of the contemporaneous
19 medical knowledge was limited?

20 **A.** Yeah, as I say, my own clinical opinions are
21 worthless. What I'm talking about is the Advisory
22 Committees, the experts, the -- what any health
23 ministry in any developed country can do, and what the
24 Department of Health does, is it draws on the best
25 advice available from the medical profession. That's

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1 scientists and medics. And you must call the
2 scientists and the medics and ask them to explain, the
3 ones that are still alive, why they came to the
4 judgment they did. I'm sure they'll be quite
5 satisfactorily able to do so. You haven't shaken my
6 confidence in the medical and scientific advice we
7 were receiving in the slightest.

8 **Q.** Lord Clarke, I don't want to -- in my next question,
9 I don't want to ask you to go into any of the
10 discussions that may have taken place between you and
11 your legal team which are what's called, as you will
12 know as a lawyer, privileged.

13 **A.** Yes, as we both know.

14 **Q.** But can I ask you this: when you signed your
15 statements, had you personally read all of the many
16 documents sent to you and referred to in your
17 statement, or were you relying on summaries of the
18 documents as set out in your witness statement?

19 **A.** Ooh, I read a lot. I mean, some cases -- to be fair,
20 what happened was -- and I can't give you, as you say,
21 any particular detail but we didn't do -- I mean,
22 I assure you, the people advising me are reputable,
23 are very good lawyers. We didn't break any conduct,
24 rules or anything of that kind.

25 **Q.** No doubt --

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1 **A.** They weren't schooling me. I explained to them what
2 I explained to you about my involvement, and my first
3 inclination was to answer the vast majority of the
4 questions, "I can't remember", "I don't think I was
5 involved". But they persuaded me, and I think they
6 were right, to be as helpful as I could be. So
7 they -- they -- certainly went through the documents,
8 and they extracted documents which they thought were
9 relevant to the questions, partly to see if it
10 prompted my memory and partly to remind me that I had
11 been involved in things like the drafting of these
12 leaflets, which has loomed so large in our
13 discussions. And then, to be helpful, we set out
14 references to the documents. We quote them
15 occasionally.

16 But as with every document, going back to my
17 time as minister, every time I answered a PQ, every
18 time I replied to a letter, by the time I put my name
19 to it, I agree with that. That's my answer. It may
20 have been drafted for me by somebody else but I would
21 alter it if I didn't like it. We spent hours going
22 over it so I think they generally got the gist of what
23 it was I wanted to say. But what we now have is my --
24 it's my answer. But the initial draft of the replies
25 and the research going through the documents, that was

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1 settlement -- had nothing to do with me. I wasn't
2 involved. And if I knew what had happened, it was
3 because I read in the newspapers the outcome.

4 **Q.** And that is why --

5 **A.** We've spent most of this morning --

6 **Q.** And that is why indeed, Lord Clarke --

7 **A.** -- with you questioning me about that.

8 **Q.** And that is why, indeed, Lord Clarke, I haven't asked
9 you a single question about the settlement of the
10 legal action. I'm going to turn now --

11 **A.** Precisely, but you -- the background, who said what to
12 whom about whether we might settle, all this, we've
13 spent yet another hour on that. It doesn't matter.

14 The preliminaries going on between me and
15 Norman Lamont before the real negotiations started
16 are -- it's for the Inquiry to decide, not me, I must
17 admit -- but I cannot see what the -- what it's got to
18 do with anything when you look -- put it in against
19 the big issue of this Inquiry, which is what lessons
20 are to be learned and what could perhaps be done in
21 future minimising the risk of the human tragedy, the
22 illness and death, this disease causes. We're at
23 12 o'clock now, and I've spent all morning not being
24 asked about anything I was responsible for.

25 **Q.** That that is your view, Lord Clarke, is clear.

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1 done by the Government legal team which had been
2 allocated to me to advise me on all this.

3 But in the end, I read everything I felt I had
4 to read so that I felt confident that I could approve
5 it, and say this is my personal statement.

6 **Q.** You've queried on I think more than one occasion the
7 relevance of questions you were being asked and why
8 you were being asked questions. In both of the
9 detailed letters sent to you by the Inquiry setting
10 out lists of questions, you were sent or provided with
11 a link to or sent a copy of the Inquiry's terms of
12 reference. Did you ever read the Inquiry's terms of
13 reference?

14 **A.** I'm not sure I ever did. I mean, I did answer quite
15 a lot of it. There were quite a lot of questions.
16 There were hundreds of questions. There were
17 questions I just wouldn't reply to. I mean, there
18 were a lot of questions I just said, "I can't help on
19 this, it's nothing to do with me."

20 So far this morning, I mean, the questioning
21 we've had for the first hour was entirely on the
22 subject matter which I had nothing to do with the
23 eventual decision on. Absolutely nothing to do
24 with it. Settlement of the legal action. By the time
25 it was settled, I mean the negotiations, the

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1 I'm going to now ask you a number of questions
2 that I've been asked to ask of you by Core
3 Participants to the Inquiry.

4 **A.** Sorry?

5 **Q.** I am now going to be asking you a number of questions
6 that I've been asked to ask you by the Core
7 Participants of --

8 **A.** Yes, I understand that, I understand that process,
9 yes.

10 **Q.** So you may not be --

11 **A.** I'll stop complaining to you about the questions.

12 **Q.** That would be of enormous assistance.

13 **A.** [Laughs]. Right.

14 **Q.** It may be you can't answer some of them but I am going
15 to ask them.

16 The first relates to Northern Ireland. What was
17 the structure in place for the conveyance of
18 Department of Health decisions in relation to blood
19 products or indeed other medical matters to Northern
20 Ireland?

21 **A.** I don't know.

22 **Q.** I think it will probably follow that you can't answer
23 the second question but, for the sake of clarity, I'm
24 going to ask it. Do you know who were the individuals
25 who would have been involved in relation to providing

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1 information to or receiving information at Northern
2 Ireland?

3 **A.** No. Amongst my 8,000 officials or 6,000 officials,
4 I just don't know who did that.

5 **Q.** During the -- so, because these questions come from
6 number of sources, Lord Clarke, they're getting --

7 **A.** I do understand that.

8 **Q.** So they're going to dot around from topic to topic
9 rather than follow a single topic --

10 **A.** No, no, I understand that.

11 **Q.** -- at any one time.

12 **A.** I quite accept that.

13 **Q.** During the HIV litigation process, did you ever have
14 any discussions about the potential for claims arising
15 in respect of infection with non-A, non-B hepatitis,
16 or hepatitis C as it became known?

17 **A.** I don't think so. But as I say, I was never involved
18 in the actual negotiations. They started after I'd
19 left.

20 **Q.** You've referred in the context of your evidence about
21 the donor, AIDS donor leaflets. You've referred on
22 a number of occasions to "scaremongering press
23 coverage" as a factor for both your involvement and
24 having to take time and care to get the wording of the
25 leaflet and associated publicity right. Do you know

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1 whether anyone within the Department thought about
2 talking to responsible newspapers, the BBC, for
3 example, to seek their help in promoting the
4 Government's positive public health message?

5 **A.** Well, the press office would do that sort of thing,
6 and I'm sure the press office were doing their best.
7 I mean -- and I can't remember the BBC -- I don't know
8 what the BBC did. It was -- I'm afraid the tabloid
9 press -- I can't name individual newspapers -- but,
10 I mean, there are -- I mean, obviously I can't
11 remember now what they said, but we've sighted in the
12 documents which cropped up -- "Gay blood kills
13 patients" was the way -- now, you and I'm sure
14 everybody would agree, that is a rather stark summary
15 of what the leaflet said or anybody else has ever
16 said. It was -- in those days, a lot of the public
17 were very prejudiced against homosexuals. It
18 was deeply disapproved of, and it was -- most
19 homosexuals didn't come out. It was a deep sense of
20 guilt and shame they were made to feel for being
21 homosexual, so it was partly tabloid newspaper attacks
22 on homosexuals, and scaremongering. And we couldn't
23 control it. It's a free press. I am -- die in the
24 last ditch to defend a free press, but they can
25 irritate you all the time. And we had to try to

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1 present it so that we minimised that kind of
2 tone because, as I keep saying, I did not want donors
3 starting to be worried about coming forward, did not
4 want members of the public frightened to have that
5 operation they needed because they'd got -- gays were
6 giving blood that was going to kill them or give them
7 an illness if they had the operation.

8 **Q.** Do you accept more broadly in terms of the provision
9 of information to the public that sometimes the
10 Government has a responsibility to communicate to the
11 public uncertainty about a public health threat?

12 **A.** That's what we did.

13 **Q.** Do you accept that where there is scientific
14 uncertainty, the public, and in particular any cohort
15 of patients who may be particularly affected, needs to
16 be told what is known for sure, what is considered
17 likely, and what is thought to be possible?

18 **A.** Well, we've seen the words that were actually used.
19 I mean, everybody gets excited by taking three words
20 out of what we said: "No conclusive proof". I'm sorry
21 to keep repeating myself as the questions are so --
22 not from you -- but that -- a great deal is made about
23 "no conclusive proof". What does that mean? Quite
24 clear, particularly in context of the leaflets we were
25 issuing and the things we were saying. That means

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1 there's a very strong possibility that people are
2 getting it, as it -- time goes by, it may even be
3 a probability. We're not certain. We're not sure. I
4 suppose that is the form of words I'm using now. I
5 can't remember whether that form of words was used at
6 the time but that is the kind of message we were
7 trying to get out.

8 Because it was a new disease, because it was
9 a new problem, that's how these tragedies occur.
10 There was genuine uncertainty. Nobody was -- nobody
11 was -- none of the -- the best medics you could find
12 weren't certain what the position was. That only
13 eventually became clear as you got more data, as the
14 numbers began to pile up.

15 **Q.** Is the answer to my question "yes"?

16 **A.** [Laughs]. I've spoken for so long I've forgotten
17 exactly what the question --

18 **Q.** The question was this -- and I'm not asking you again
19 about the specific line to take or what was said in
20 the leaflets -- it's the general principle: do you
21 accept that where there is scientific uncertainty, the
22 public, and in particular cohorts of patients who may
23 be most directly affected, need to be told what is
24 known for sure, what is thought to be likely, and what
25 is recognised as a possibility?

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1 A. If you could do that, yes, that's one way of doing it.
 2 Yes, that's a suggested way of drafting it. I don't
 3 think anything was known for sure.
 4 Q. During the months or the period of time when the
 5 leaflets were under consideration, the aim of which
 6 was, in part, to prevent the NHS blood from not being
 7 contaminated with AIDS, did you ever challenge the
 8 Department's medical advisers to tell you what the
 9 plan would be for treating people with haemophilia if
 10 the NHS Factor VIII turned out to be contaminated with
 11 AIDS?
 12 A. My recollection is the advice we were given was that
 13 there was no way we could be so -- we could replace
 14 the American. We would not be self-sufficient. The
 15 reason we -- I mean, as soon as we -- concerns were
 16 started to be expressed about the American blood
 17 donors, I'm sure we would have switched to another
 18 supplier. Well, I know we would have switched to
 19 another supply of Factor VIII, if such a thing was
 20 available.
 21 Now, I'm quite sure the background to everything
 22 we've been talking about was the advice to us, and
 23 I've no reason to doubt that it was correct, was that
 24 we needed Factor VIII in order to meet the demand from
 25 the doctors who wanted to prescribe it to their

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1 your question there?
 2 MS RICHARDS: I think sufficiently.
 3 SIR BRIAN LANGSTAFF: It would help, I think, if neither
 4 of you talks over the other.
 5 A. (Laughter) Okay.
 6 MS RICHARDS: In relation to the AIDS leaflet, and I'm not
 7 talking again about the process by which it was
 8 drafted or its precise content --
 9 A. The content of it?
 10 Q. -- or its content. But one of the matters mentioned
 11 in the leaflet is about blood donors who tested
 12 positive being given counselling. Was consideration
 13 ever given by the Department during your time there to
 14 the provision of counselling to people with
 15 haemophilia who were infected?
 16 A. I don't know. I don't know.
 17 Q. In your evidence yesterday, you said this, you said
 18 that:
 19 "A Government department facing litigation
 20 should, other things being equal, take the advice of
 21 counsel or its lawyers, and pursue it, unless there's
 22 something particularly unpleasant about the course of
 23 action you're being urged to take."
 24 You gave that answer in the context of being
 25 asked about decisions on which arguments to run in the

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1 patients.
 2 Q. Sorry, my question was slightly different from that.
 3 Did you ever say to the medical advisers, and if you
 4 didn't, do you think you should have done, what will
 5 happen in terms of the --
 6 A. I was told --
 7 Q. Sorry, Lord Clarke, can I ask the question? What
 8 would happen in terms of the treatment of people with
 9 haemophilia? What are the possible range of
 10 alternatives if the domestic supply --
 11 A. Well, I was concerned --
 12 (Unclear: overspeaking)
 13 A. -- I was left with the impression there was no
 14 effective alternative. As I've repeatedly said --
 15 you've asked me this question many times -- I was left
 16 with the firm impression -- this must have been the
 17 medical advice I was given -- that you would shorten
 18 the life expectancy of the haemophiliacs and the
 19 quality of their life would deteriorate and that they
 20 would be bitterly resistant to doing that. Indeed, as
 21 we've seen, The Haemophilia Society for some reason
 22 got involved and was opposed to stopping Factor VIII,
 23 even in the light of what was emerging about the
 24 American supply.
 25 SIR BRIAN LANGSTAFF: Did you manage to ask the whole of

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1 defence of the haemophilia litigation.
 2 Given the circumstances of the HIV/haemophilia
 3 claim, and the circumstances of those bringing it, was
 4 it not unpleasant to rely on technical legal points on
 5 the duty of care and limitation.
 6 A. No, because the future liability of the Government,
 7 the Health Service and the doctors, would be affected
 8 if we established a precedent for not using a legal
 9 defence which was open to you. I mean, the law is the
 10 law, and I don't think it was -- I know -- I just
 11 think if counsel thought there was a reasonable
 12 prospect of success by arguing, a valid legal point
 13 should be argued. I don't think anything unpleasant
 14 was done, as far as I'm aware, in the litigation, so
 15 far as HIV was concerned.
 16 Q. Was consideration -- this goes back to the AIDS
 17 leaflet -- was consideration ever given to making the
 18 leaflet, which contained information of relevance not
 19 just to donors but potentially to people who would
 20 receive blood or blood products, to making the leaflet
 21 available to patients with haemophilia?
 22 A. I don't think so. I don't know. I'm not aware of
 23 any -- it didn't seem to arise, but --
 24 Q. Did you ever question or challenge the assertion --
 25 A. The leaflet was aimed at donors.

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- 1 Q. I understand that was who it was aimed at. It was
2 just a question about whether consideration was given
3 to its use more broadly. I think you've answered
4 that.
- 5 Did you ever question or challenge the assertion
6 or belief that people would die without Factor VIII
7 concentrate?
- 8 A. No, it wasn't as simple as that. No, I didn't.
9 Again, I'm in no position to start challenging the
10 legal advice from people who were regarded as experts
11 in the field.
- 12 Q. I think you mean clinical advice, rather than the
13 legal advice.
- 14 A. Yes, well, clinical expert advice, which is true of
15 other expert advice you get. You don't substitute
16 yourself for your expert. No, I did not challenge it.
- 17 Q. Did you ever ask --
- 18 A. Well, I think it -- well, I've got it in my head --
19 I mean, it's trying to remember what I was advised and
20 what I thought almost 40 years ago. It has made
21 a huge difference to the life expectancy, which means
22 some haemophiliacs presumably, therefore, would indeed
23 die earlier than they would otherwise die if you
24 stopped giving them Factor VIII as a prophylactic.
- 25 Q. Did you ever ask what treatment was provided to

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- 1 haemophiliacs prior to the advent of Factor VIII
2 concentrates and whether that treatment was still
3 available?
- 4 A. No, I know nothing about that at all.
- 5 Q. Did -- and this is in the context of considerations of
6 financial redress, compensation, ex gratia payments,
7 however you want to term them -- did the Government
8 ever seek or consider seeking redress from the
9 pharmaceutical companies that had supplied the
10 contaminated blood products?
- 11 A. I don't know. I think somewhere in the documents
12 there's some dispute with some company where we
13 rejected this, or did have contaminated supplies and
14 rejected it, didn't we? But I don't think I knew
15 anything about that at the time. It's just something
16 I glanced in the document.
- 17 Q. Yes, that's a slightly separate issue.
- 18 A. Yes, that's just something -- it's nothing to do with
19 me. I don't know, is the answer.
- 20 Q. In terms of public inquiries, you have said, I think,
21 as well as you're making, I think, your views known
22 more generally about the merits of public inquiries,
23 you've said that you didn't have public inquiries when
24 you were Secretary of State for Health. It's been
25 pointed out to me, and I've been asked to point out to

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- 1 you, that there were a number of public inquiries
2 during the 1980s --
- 3 A. There would occasionally be one -- I mean, where
4 a bridge collapses, and I'm sure there are --
- 5 Q. Yes, but --
- 6 A. But what I say was this sort of public inquiry, which
7 is a response to newspaper and other campaigning, and
8 is, you know, being dealt with by a Government as
9 referred to, and these inquiries that take years and
10 years, and come back later, that has all developed
11 since my day, we didn't do that.
- 12 I once acted as counsel to a health inquiry when
13 I was in practice. It was an inquiry into the failure
14 and collapse of the Solihull Health Authority and it
15 demonstrated to me then, as I was doing what you're
16 doing -- I was counsel to the tribunal -- and the
17 whole management system had collapsed, and that's
18 before I became a minister, revealed to me how useless
19 this consensus management system was and what the
20 dangers -- that took two weeks, and had two or three
21 conclusions, and that was all over.
- 22 Q. By way of example only, the Piper Alpha Inquiry was
23 established a week after the disaster by the Secretary
24 of State for Energy. You said in the course of your
25 evidence, and I think speaking not with hindsight

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- 1 completely, but this was a tragedy that hit thousands
2 of people. Why did you not order a public inquiry?
- 3 A. Well, because nobody that raised anything that seemed
4 to add to the sum of knowledge we already had. I
5 don't know, there just wasn't pressure for inquiries
6 in those days. I don't think anybody ever asked for
7 a public inquiry, and they're being called more and
8 more frequently now. This is unique, this particular
9 one, because this is the first time we've had one,
10 I think -- and you'll immediately find an example and
11 prove me wrong, but this is just a personal opinion --
12 I've never known one set up to enquire into events
13 between 30 and 40 years ago when a high proportion of
14 the key players are actually dead, that is the people
15 who took the decisions.
- 16 Q. I'm going to resist the temptation to comment, Lord
17 Clarke.
- 18 A. It's my privilege when I give answers, yes.
- 19 Q. In terms of ordering or contemplating a public
20 inquiry, at least when you were Secretary of State for
21 Health or indeed when you were a member of the
22 Government over the period of time that followed, was
23 there a reluctance or reticence to order an inquiry
24 which would examine the Government's own actions or
25 inactions?

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1 A. No, I don't think anybody asked us to call an inquiry
 2 or if they did, I don't think anybody then thought it
 3 was suitable, what are we going to enquire into and
 4 what are we going to find out that we don't know
 5 already? As I've said, the words there have been two
 6 inquiries, there was a Scottish one, I'm not sure if
 7 it was set up by the Scottish Government, I can't
 8 remember who held them now. There were two --
 9 Q. Lord Penrose and Lord Archer.
 10 A. They both approached me and I would have given
 11 evidence if they had asked but neither of them, in the
 12 end, thought it was necessary for me to give evidence
 13 and I never gave evidence. But they were -- I really
 14 don't remember, so you'll immediately correct me if
 15 I answer -- exactly what their status was and exactly
 16 who set them up but there were two independent
 17 inquiries which came to the conclusion that they
 18 couldn't find any fault anywhere.
 19 Q. I am not going to debate with you, Lord Clarke --
 20 A. I am --
 21 Q. *(Unclear: overspeaking)*
 22 A. -- quite likely to be wrong, I'm making -- and you're
 23 quite right to correct me. I'm sitting here, off the
 24 cuff, giving my recollection of events which I was
 25 aware of 20 years ago, so I may well have garbled

1 hepatitis could be rapidly fatal or cause long-term
 2 liver damage?
 3 A. Probably. I knew hepatitis B and C were serious
 4 diseases, yes. I mean, as a layman, I think I knew
 5 that.
 6 Q. In terms of the circumstances in which matters did or
 7 did not get drawn to ministerial attention by civil
 8 servants, would it be fair, looking at the events with
 9 which your evidence has been concerned, to say that
 10 ministers mainly became involved in matters, either
 11 when they involved the possibility of adverse public
 12 reaction or press comment, or when they involved
 13 issues of significant public expenditure?
 14 A. Well, when the Government is taking a decision the
 15 minister is asked to clear it but if it's -- it
 16 entirely depends on the advice of, say a clinical
 17 committee. Obviously, the minister just checks this,
 18 and doesn't see anything wrong with this, and clears
 19 it. The ministers get involved when some ministerial
 20 knowledge or decision seems to be required, and that's
 21 a judgment made by the officials who put up the
 22 submissions. It is true that in the health service
 23 cost, how we're going to pay for it, is something that
 24 the ministers usually get involved in. And it was my
 25 fate when I was, you know, my -- my unlucky role in

1 that, I apologise.
 2 Q. You talked in the course of your evidence about AIDS
 3 taking you by surprise. Given the risks of viral
 4 transmission, in particular hepatitis B and non-A,
 5 non-B hepatitis, and the -- it was a well-known
 6 consequence of the use of blood that there might be
 7 viral transmission, why did a new virus take you by
 8 surprise as an issue with blood products?
 9 A. Well, I'm sure it took me by surprise --
 10 Q. The Department.
 11 A. It -- well, what, until it turns up, you don't know
 12 what the new one is. And HIV/AIDS was unfortunately
 13 quite spectacular, a new condition which turned up.
 14 As you say, it's a constant problem. I don't know how
 15 far heat treatment has totally eliminated it. The
 16 great medical breakthrough at the time was the
 17 beginning -- was heat treatment, which, had that
 18 happened five years earlier, would have saved very
 19 many lives. I think hepatitis is not the problem it
 20 was, is it? I know it's not vanished, hepatitis, but
 21 I think heat treatment has done a great deal to reduce
 22 that.
 23 Q. Were you -- doing the best you can, Lord Clarke, in
 24 the period '82 to '85 when you were Minister of State
 25 for Health, do you think you were aware that viral

1 life, when I happened to be Minister of State that,
 2 actually, dealing with -- trying to, you know, look
 3 out of -- keep within budget and deliver as many of
 4 our priorities as possible, I often did get involved
 5 when it came to the bit of how exactly we were going
 6 to pay for this.
 7 Again, I'd be advised, there'd be expert
 8 officials who would put proposals to me, but that's
 9 the kind of thing where I'd get drawn in, and it's in
 10 this case I obviously got drawn in once or twice on
 11 that basis. It's mainly how do we pay for it, because
 12 there's no choice in spending money on this. We had
 13 to spend the money.
 14 Q. You --
 15 A. Where do we find it from? I used to get involved in.
 16 Q. You said in your evidence on Tuesday, I think,
 17 an answer to the effect that the Blood Transfusion
 18 Service, you described it as a relatively calm area,
 19 an oasis of calm, or words to that effect -- and a low
 20 priority and hence given to the Parliamentary
 21 Under-Secretary of State in the Lords. Given the
 22 importance of the Blood Transfusion Service to
 23 national health and the knowledge that it could
 24 transmit deadly viruses, why was the blood transfusion
 25 system treated as a low priority in terms of

1 ministerial responsibility?
 2 **A.** Because the safety -- I mean, obviously as you say,
 3 the safety, as with most healthcare, safety was
 4 paramount. It wasn't, again as I keep saying -- it
 5 wasn't for ministers. That required clinical
 6 management on the ground to deliver it as safe as
 7 possible. It was, compared with most of the Health
 8 Service, it was a smooth running, uncontroversial,
 9 unchanging, most of the time, part of the service.
 10 So -- well, they had to be given the highest priority
 11 for whoever was managing it. As far as the medics
 12 responsible for it were concerned, it very rarely
 13 provoked any need for ministerial intervention. It
 14 could be just left to run on its own by the people who
 15 knew what they were doing, and this obviously rapidly
 16 changed from being that, and we had a real, real
 17 crisis in the blood products, but no one saw it
 18 coming.
 19 **Q.** You'll recall, Lord Clarke, in relation to -- at the
 20 time that the AIDS leaflet was being considered, one
 21 of the other questions or issues that arose was the
 22 possibility of questioning people about -- donors
 23 about their personal life, their sex life, or sexual
 24 practices.
 25 How would asking people about their sexual

1 the 1980s that would have been rather daunting. It
 2 was just a question of handling a very, very difficult
 3 issue as sensitively as possible.
 4 **Q.** What assessment, if any, was done of the likely impact
 5 on the level of blood donation of greater questioning
 6 about sexual practices?
 7 **A.** I don't know. I don't think we -- we probably didn't
 8 even know quite how many would turn out to be gay and
 9 how many donors we'd lose.
 10 **Q.** Was consideration given, as far as you can recall, to
 11 the possibility of taking other measures, like public
 12 education or encouraging additional low-risk donors
 13 who might not otherwise have donated?
 14 **A.** I don't know. I think the very fact of producing the
 15 leaflet was -- I mean, that gave the message, it was
 16 quite a drastic step to take, to suddenly start
 17 rejecting perfectly law abiding, you know, normal,
 18 responsible citizens because of their sexual
 19 predilections.
 20 That, in itself, flagged up, I think, that we
 21 were taking a serious problem seriously. What other
 22 methods of -- and, again, the problem with
 23 disseminating information was to avoid it being taken
 24 up, causing silly panic.
 25 **Q.** Who was it, do you think, if you're able to recall,

1 practices, in order to prevent those deemed to be at
 2 high risk of AIDS from donating blood, be -- and then
 3 this is a quote from your evidence -- "being
 4 homophobic for the sake of it", as you suggested it
 5 might have been?
 6 **A.** Well, it would give the impression we were getting
 7 homophobic. We had to be clear what we were doing.
 8 As I said, again, it's nearly 40 years ago, and our
 9 culture is totally changed on this subject. I'm sure
 10 we had, you know, the same proportion of the
 11 population were homophobic [sic], and straight then,
 12 as is now. For a high proportion of homosexuals in
 13 the 1980s it was a dark secret, unknown to anybody but
 14 their own family and the people they were emotionally
 15 involved with. It was not a subject that they would
 16 cheerily go along to be a blood donor and then want to
 17 sit down and have some official start quizzing them
 18 about their sexual predilections.
 19 And it would arouse fears. I mean -- no one
 20 doubted that we needed to put this leaflet out. No
 21 one challenged -- no one was challenging that we
 22 needed to stop taking gay blood. It was how you went
 23 about it where you had to be sensitive, and if every
 24 blood donor was going to be sat down and be challenged
 25 "Are you secretly gay?", you know, in the climate of

1 who told you or provided you with information about
 2 the life expectancy of haemophiliacs?
 3 **A.** Oh, I can't remember who said what after all these
 4 years. No, I can't remember it.
 5 **Q.** Who is it --
 6 **A.** I mean, my guess is the Chief Medical Officer but it
 7 might be somebody who was working for him.
 8 **Q.** In terms of your understanding that Factor VIII --
 9 **A.** I mean, is that wrong? I mean, to this day, I mean,
 10 I keep repeating it because I still believe that no
 11 one has ever told me that's not correct.
 12 **Q.** Not for me to answer the questions, Lord Clarke, on
 13 an issue upon which the Chair has --
 14 **A.** Well, you -- you cheerily allowed me to keep answering
 15 what was -- I was advised at the time, and, as far as
 16 I'm aware, but I've obviously not done any research on
 17 it, continues to be the case. I don't know.
 18 **Q.** The Chair has the benefit of a range of evidence on
 19 the topic and will no doubt make findings in due
 20 course.
 21 **A.** You're not going to tell me what the up-to-date
 22 medical advice is?
 23 **Q.** I'm not, no.
 24 **A.** All right then.
 25 **Q.** But there's plenty of material available publicly,

1 Lord Clarke --

2 **A.** In that case I shall continue to believe that it

3 reduces their life expectancy.

4 **Q.** -- and I'm sure you can ask --

5 **SIR BRIAN LANGSTAFF:** Can we move on to the next question,

6 please?

7 **MS RICHARDS:** Yes. Who told you, and maybe it's the same

8 answer, Lord Clarke, or where did you get your

9 understanding that Factor VIII was a wonder treatment?

10 **A.** I -- again, I can't remember who told me that, and I'm

11 probably using my own words, but it had rapidly --

12 I think -- and I don't know what happened in the 1970s

13 so, again, I begin this by saying you'll probably

14 correct me, after all this time, if I haven't

15 remembered totally accurately. But I think my vague

16 understanding was that it had been introduced in the

17 1970s, that it had started being used as

18 a prophylactic in the late 1970s, and had -- as

19 I think I've said several times -- had hugely improved

20 the quality of life of most haemophiliacs, and, you

21 know, had been extremely beneficial in alleviating

22 some of the consequences of this, you know, very, very

23 serious and appalling health condition.

24 That's what I believed had happened, and any

25 suggestion that we might stop importing blood products

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1 by subsequent governments and have never yet been

2 dropped. I mean, the Blair Government developed my

3 health reforms, took them much -- you know, it was

4 exactly the same basis they did -- they just -- they

5 just completed the job of implementing the reforms.

6 Where the patient involvement is absolutely

7 crucial -- it's taken more seriously today even than

8 it was then, but it was key to medics then -- was

9 patient consent to the treatment. And in my opinion,

10 with a good doctor, that means informed consent. So

11 you explain to the patient what the pros and cons are,

12 and the risks. It's the doctor who informs the

13 patient as to -- before getting the patient's informed

14 consent that enables the treatment to go ahead.

15 Now, I say, for a variety of reasons, I think

16 that is now taken further by doctors than it always

17 was in the 1980s. Some of -- some of the old veteran

18 grand consultants -- I won't go on -- I mean, I think

19 probably didn't take this quite as far as their

20 successors would nowadays.

21 **Q.** Just going back to your description of the blood

22 products area of responsibility as an "oasis of calm",

23 did the Department take its eye off the ball when it

24 came to the safety of blood products because of this

25 perception?

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1 or stop giving them would be quite tricky for the

2 doctors to take, but I am sure they didn't mind that.

3 The fact was that the advice was that we should not --

4 the doctors should -- were going to carry on using it,

5 because of the consequences of not outweighed the

6 worrying possibility that some people might be

7 infected with AIDS.

8 **Q.** Lord Clarke, you've told us both in your written

9 statement and your oral evidence, that, both in your

10 capacity as Minister of State for Health and when you

11 were Secretary of State for Health, your primary focus

12 or one of your primary focuses, was on making changes

13 to the National Health Service which delivered better

14 outcomes for patients. Did the extent to which

15 patients could or should be engaged and involved in

16 decisions about them and their treatment form part of

17 that work?

18 **A.** No, I guess, as I say -- but I was talking about --

19 there were mainly changes to the structure of the

20 Health Service. So you'd have to know something -- so

21 it wouldn't involve the average patient in changes to

22 the management of the healthcare system, which is

23 a hugely complex and complicated issue, and always

24 controversial, and remains so to this day.

25 Although the reforms I introduced were followed

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1 **A.** Because of?

2 **Q.** Because of the perception that it was an "oasis of

3 calm", a low priority area?

4 **A.** No. Once we started getting worried about the source

5 of our blood products, it was no longer an area of

6 calm. That's why people like me started getting

7 involved in it, I mean -- you know, on the fringes

8 of it and parts of it, and -- no, no, plainly

9 obviously -- no, it ceased. As Simon Glenarthur I'm

10 sure will have told you, it was not an oasis of calm

11 in his time. It was certainly a very, very, you know,

12 problematic area.

13 **Q.** At the point --

14 **A.** But we never -- I don't think we'd had anything like

15 that in blood transfusion in history before but

16 I don't know. I mean, you'll find something in the

17 fifties which I don't know about.

18 **Q.** At the point in time at which it became apparent that

19 there was a -- it was no longer an oasis of calm, did

20 you consider transferring responsibility for this area

21 of ministerial activity to somebody more senior?

22 **A.** No, I don't think I did. Because, as I say, we did

23 have that -- a touch base meeting at least once with

24 Simon. I had the utmost confidence in Simon. And he

25 tried out on me, and I gather John Patten as well, the

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1 one that he definitely recalls, and that -- it all
 2 falls into place exactly as I recall it.
 3 I mean, I had every confidence in Simon. Had
 4 I had a Parly Sec who was very green, inexperienced or
 5 I thought slightly out of their depth on all this or
 6 was getting -- you know, couldn't handle it, was
 7 getting a bit stressed by it, all the rest of it,
 8 I couldn't take -- move responsibilities. But I might
 9 have suggested to my -- our mutual boss,
 10 Norman Fowler, "Do you think we should get Simon out
 11 of this?" But I hasten to add, at no stage did I lose
 12 my trust and confidence in Simon. And I sit here
 13 today, having had to go through, you know, the process
 14 of -- all this process of improving my knowledge of
 15 the thing vastly beyond any I've ever had before -- as
 16 far as the documents can give you that knowledge --
 17 I continue to think -- I don't see what Simon is
 18 supposed to have done wrong. He was perfectly capable
 19 of handling it, and he -- the one thing you can't
 20 accuse him of being -- he's not as combative as I am,
 21 he's a very calm -- you know, he's a very, very
 22 responsible man. He has very high standards. He
 23 takes his responsibilities seriously. He is an
 24 intelligent man. I think his judgment was very sound.
 25 And I -- as I sit here today, nothing I've read or

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1 **MS RICHARDS:** Yes, if I could just read them.
 2 **THE WITNESS:** You may be relieved by that.
 3 (Pause)
 4 **MS RICHARDS:** It's going to take me five minutes or so,
 5 sir.
 6 **SIR BRIAN LANGSTAFF:** Take you five minutes or so.
 7 **THE WITNESS:** No rush. I mean, would you prefer to take
 8 a break?
 9 **MS RICHARDS:** I don't mind at all.
 10 **THE WITNESS:** If you prefer us to go away and take
 11 a break, I'm not objecting to it.
 12 **SIR BRIAN LANGSTAFF:** Can I suggest this: what we'll do is
 13 we'll take a short break. You're very welcome to use
 14 the room here, Lord Clarke, in the meantime, because
 15 I think it will be, what, a quarter of an hour?
 16 **MS RICHARDS:** Not as long as that.
 17 **SIR BRIAN LANGSTAFF:** Ten minutes?
 18 **MS RICHARDS:** Ten minutes is ample.
 19 **SIR BRIAN LANGSTAFF:** Okay. Well, let's take a break and
 20 come back at 1 o'clock in the expectation that
 21 questions are going to be fairly short. If they're
 22 not, then we'll pass the message through to everyone
 23 that they can have a lunch. So let's do that. Ten
 24 minutes.
 25 (12.51 pm)

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1 heard has shaken my confidence that Simon was handling
 2 it as well as anyone could handle it, given all the
 3 clinical and other uncertainties that surrounded the
 4 problem.
 5 **MS RICHARDS:** Sir, I think since the break there may have
 6 been some further questions suggested to me
 7 that I haven't had an opportunity to look at. It may
 8 not take very long, but I don't yet know. So I'm in
 9 your hands as to whether we take lunch and come back
 10 afterwards or we just take a very short break now?
 11 **SIR BRIAN LANGSTAFF:** Well, I think --
 12 **MS RICHARDS:** You may have questions, sir, and I haven't
 13 yet checked with Ms Grey whether she has.
 14 **SIR BRIAN LANGSTAFF:** I shall ask Lord Clarke whether he
 15 would rather, as it were, soldier on in the
 16 expectation --
 17 **THE WITNESS:** I've been quite happy to soldier on since we
 18 started. So I think another long half hour break --
 19 I'll just sit here, if you like. I quite understand
 20 that counsel has to take a few moments to do this. It
 21 depends how long she thinks it's going to take.
 22 **SIR BRIAN LANGSTAFF:** Shall we see how long she thinks it
 23 may take for her to consider the --
 24 **THE WITNESS:** I'll shut up for ten minutes, if you like,
 25 and just sit here.

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(A short break)

1 (1.03 pm)
 2 **MS RICHARDS:** Sir, I've one further question I'm proposing
 3 to ask from those suggested to me.
 4 Lord Clarke, it's this: you made observations in
 5 your evidence, I think yesterday, which were
 6 suggestive that you saw the Inquiry as a vehicle for
 7 campaigners to advance compensation claims. Do you
 8 accept that you have no knowledge whatsoever of the
 9 motivations either of campaigners or of the multiple
 10 infected and affected people, many of whom would no
 11 doubt say, if you were to ask them, that they are
 12 fighting for truth and accountability?
 13 **A.** I think that's a -- I hope that's a slight parody of
 14 what I said yesterday, but obviously I'm not
 15 attacking -- not attacking the motivation of the
 16 people involved. I mean, the victims and their
 17 relatives have my sympathy and support, but, you know,
 18 one of the things that's been referred here is --
 19 well, it's been your terms of reference, like you told
 20 me yesterday, as to whether more compensation should
 21 be given, because more compensation, as I understand
 22 it, was being sought, perhaps by lawyers acting on
 23 behalf of the victims, from the Government, and the --
 24 and someone in Theresa May's Government decided to
 25

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1 transfer the decision on whether or not to give any
2 more money to this Inquiry.

3 But, I mean, I am not traducing -- you know,
4 trying to traduce or undermine the motives of any of
5 the people coming -- I do understand. I am sorry
6 that, you know, 30, 40 years later they're having such
7 difficulties in living with the consequences for them
8 and their families of the tragedy. And campaigning,
9 I suspect, is something of an outlet for their
10 feelings about this disaster that struck them or
11 someone they've lost.

12 **MS RICHARDS:** Sir, that's the last question I have.
13 I think there may be an application to be made by
14 a representative of some of the Core Participants
15 under Rule 10 to be permitted to ask a question of
16 Lord Clarke directly.

17 **SIR BRIAN LANGSTAFF:** Yes, I think in that case, I think
18 what we should do is invite Lord Clarke to have lunch,
19 I will determine the application, hear it, determine
20 it, whatever it is, and we'll come back with
21 Lord Clarke -- I'm sorry for the delay -- at ten past
22 two.

23 **THE WITNESS:** Can I make a submission on it? One or two
24 items have been submitted to me for comment. They
25 haven't been raised in the hearing, for me to comment

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1 I say, is -- and Lord Clarke, if you would wish -- if
2 you would please withdraw, it's not necessary for you
3 to hear whatever the application may be. So if you
4 would withdraw, and --

5 **THE WITNESS:** I'll withdraw, yes, whilst the application
6 is made, yes.

7 **SIR BRIAN LANGSTAFF:** Absolutely. Ten past two, I think,
8 because it may take -- I don't know how long it'll be,
9 so we'll take an early lunch, I'm afraid.

Application

11 **MS RICHARDS:** So I'm really sorry about this.
12 I'm afraid Mr Stein's application didn't get
13 recorded or transcribed. What I'm going to suggest,
14 in the interests of maximum transparency, is he
15 repeats it.

16 **SIR BRIAN LANGSTAFF:** That is not necessary, because I
17 will say, in whatever judgment I give, what the
18 essence of the application is.

19 **MS RICHARDS:** Yes, I think the problem that has arisen is
20 the one occasion where this happened before was where
21 we had a witness who was remote and who would have
22 been able to follow the application remotely and hence
23 we switched off the live stream when the issue was
24 potentially going to be considered. It doesn't arise
25 with this witness, who is in the building and with no

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1 on things been said. At least one of them,
2 I personally thought, was mere abuse, rather than an
3 Inquiry after the truth. I don't mind, I mean,
4 anybody asking a civilised and relevant question.
5 It's entirely for you -- nothing to do with me anyway.
6 It's entirely a matter for the Chair to decide. But
7 I don't -- don't allow someone to go for a publicity
8 stunt or start hurling mere abuse at me. I'm sure I'm
9 quite unnecessarily making this point.

10 **MS RICHARDS:** Lord --

11 **THE WITNESS:** One of the letters sent to me which I was
12 asked to respond to, I mean I personally put it in the
13 category of abuse.

14 **SIR BRIAN LANGSTAFF:** I have no idea what is in any
15 letters sent to you. I don't ask.

16 **THE WITNESS:** No, it was certainly put to me by the
17 Inquiry, I would have put it in the wastepaper basket.

18 **SIR BRIAN LANGSTAFF:** There is a process under the Inquiry
19 rules by which somebody may ask --

20 **THE WITNESS:** Oh, yeah, otherwise --

21 **SIR BRIAN LANGSTAFF:** -- a question.

22 **THE WITNESS:** I'm saying too much again. It's entirely
23 a matter for you, Chair, and I shall respect your
24 decision.

25 **SIR BRIAN LANGSTAFF:** The way we'll deal with it, as

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1 access to following it, so -- but I think that's how
2 it has come about.

3 Sir, in that case, if we have the recording
4 I hope back on, if we have it back on --

5 **SIR BRIAN LANGSTAFF:** Well, it's not up on my computer
6 yet.

7 **MS RICHARDS:** Can we check whether the transcribers are
8 transcribing?

9 (Pause)

10 Sir, I can understand why Mr Stein's preference
11 would be just to repeat what was a very short
12 application, because otherwise those hearing will not
13 have heard -- who include, of course, a number of his
14 clients on whose instructions he is making this
15 application --

16 **MR STEIN:** The bald point, if I may put it this way is
17 that Ms Grey will make her submissions without the
18 ability for my own clients who are not here.

19 **SIR BRIAN LANGSTAFF:** I understand. Very well.
20 Mr Stein, we're back on.

21 **MR STEIN:** I'm just (*unclear*) my laptop.

22 Sir, I'm very grateful for the opportunity to
23 make an application on behalf of the client group
24 that I represent to ask a question, or have counsel to
25 the Inquiry ask a question in relation to -- of

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1 Lord Clarke. The topic area that we will be seeking
2 to have the question put forward is as follows, that
3 many of the infected and affected people who
4 I represent have strong views as to what Lord Clarke
5 has said, and the way that he has presented himself
6 before this Inquiry.

7 Therefore we are instructed and asked to raise
8 with you, sir, so that you can consider this
9 application to ask Lord Clarke for his comment on the
10 following: that Lord Clarke has presented himself in
11 a way that has shown arrogance and --

12 **SIR BRIAN LANGSTAFF:** I think the way you put it before,
13 so that those who are watching know that this is the
14 second run through the same submission, it's been
15 allowed to be repeated because those online were
16 unable to see it, in an abundance of caution, the live
17 stream was switched off, those may now know that the
18 submission was made, and the question which you
19 invited me to consider should be put to Lord Clarke
20 was in these terms --

21 **MR STEIN:** Yes, sir.

22 **SIR BRIAN LANGSTAFF:** That many people found him to be
23 arrogant, pompous, and contemptuous of people who have
24 suffered so much in this scandal and, therefore, seek
25 his comment on whether he agrees with that

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1 representative, this being heard in his absence, to
2 respond to the application.

3 Ms Grey?

4 **MS GREY:** Sir, thank you very much for that opportunity,
5 as you, and indeed everyone in this room will
6 appreciate, I'm in a slightly difficult position
7 because I do not have and have not sought
8 Lord Clarke's own instructions on this matter. In the
9 light of that, I'm going to confine my comments to
10 really making two propositions or putting before you
11 two propositions for your consideration. The first,
12 very shortly, is simply that Lord Clarke is being
13 asked to comment on how others perceive him. The
14 second is that it would normally be a matter for you,
15 as Chair, to assess directly, having of course heard
16 from Mr Clarke at length, his presentation and how
17 that may affect his evidence.

18 Of course, arising out of that, I would simply
19 invite you to reflect on the extent to which
20 Mr Stein's suggested question, whether asked by him or
21 by Ms Richards, will assist you in coming to
22 conclusions on the matters relevant to your terms of
23 reference.

24 I'd invite you to reflect on those matters, sir,
25 but I don't make any further submissions one way or

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1 description.

2 **MR STEIN:** Yes, sir, we do ask that. The reasons why we
3 suggest that it is important for this Inquiry to hear
4 the question as to the way that he has presented
5 himself, is, sir, so that you can understand and can
6 consider his comment on that question. That will
7 assist you in looking at his credibility, as to the
8 way he has put himself before this Inquiry, the
9 answers that he has given before this Inquiry, whether
10 this is an individual who is capable of insight, in
11 the way that he has handled matters that connect to
12 this Inquiry, and finally, on a point that's been
13 raised to me, whether this individual, Lord Clarke,
14 has contributed because of his thoughts and
15 presentation, to the delays in considering this matter
16 before a public inquiry.

17 In other words, does Lord Clarke understand that
18 his attitudes potentially have contributed to the
19 lengthening of accountability before this Inquiry?

20 Sir, as you said, this a repeat essentially of
21 our earlier application that, for technical reasons,
22 wasn't broadcast.

23 **SIR BRIAN LANGSTAFF:** Thank you. Just before we realised
24 that the live stream wasn't working, I'd invited
25 Ms Grey, on behalf of Lord Clarke, as his legal

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1 the other. I will leave it to the Inquiry to
2 determine this application, of course having heard, if
3 you think it fit, from counsel to the Inquiry first.

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

5 **MS RICHARDS:** Sir, it is very much a matter for you
6 whether you would be assisted by having the question
7 asked and answered. On the one hand it could be said
8 that it's a submission and a submission that might be
9 made to you in due course.

10 On the other, it could be said that by putting
11 the matter to Lord Clarke at this stage it allows him
12 to respond to it now rather than potentially further
13 down of the line through the Rule 13 criticism
14 process.

15 It's very much, however, a matter for you as to
16 whether you would be assisted by having his answer to
17 it.

18 If you are, then I have no objection whatsoever
19 to asking the question myself. It was because it was
20 an unusual question and one which is based upon
21 a particular set of instructions from a group of Core
22 Participants that it seemed proper that it was
23 an application made by Mr Stein. But if you want to
24 hear the question and answer, and I do understand
25 entirely why Mr Stein's clients have articulated their

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1 position to him in the way they have, then it's
2 a question that can be put by me or by Mr Stein or
3 indeed by you, it's really very much whether you want
4 to hear the answer, sir.

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

6 Anything more, Mr Stein?

7 **MR STEIN:** Sir, only this: that inquiries have a much
8 wider remit than simply the terms of reference. They
9 are there to also consider publicly whether those
10 groups that have been wronged have been able to have
11 their grievances properly aired. There is a wider
12 purpose than simply getting to the truth.

13 I agree with my learned friend Ms Richards that
14 here we have a situation whereby we would be seeking
15 at a later stage to make these submissions about the
16 presentation of Lord Clarke before this Inquiry. And
17 so in that sense it seems fair to both those who
18 I represent and also arguably to Lord Clarke that this
19 be put before him now for his comment and for his
20 answer.

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

22 **MR STEIN:** On that, I have nothing further unless, of
23 course, I can assist.

24 **SIR BRIAN LANGSTAFF:** No. Thank you.
25

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1 individual who is concerned with passages of evidence,
2 passages of time with which this Inquiry was
3 concerned. So I've come to the conclusion that I
4 would not be assisted by asking this question. It
5 does not stop those who wish to submit in due course
6 that I should make a specific finding to that effect
7 or should take that into account, their view. In
8 doing so, I will listen to that submission if and when
9 it is made.

10 But I do not think that it is helpful to ask
11 someone if they are arrogant, pompous, and
12 contemptuous of others.

13 **MS RICHARDS:** Sir, we have reached the stage, then, where
14 there are no further questions from me. But of course
15 you may have some questions, and we will afford
16 Lord Clarke the customary courtesy we afford all
17 witnesses of seeing if they have anything that they
18 wish to add.

19 **SIR BRIAN LANGSTAFF:** Yes.

20 **MS RICHARDS:** So we will need to pick that up, then, at
21 2.10, if that gives enough time for everyone to have
22 lunch.

23 **SIR BRIAN LANGSTAFF:** Shall we aim for 2.10, if any person
24 is late in coming back, we shall simply delay in
25 starting. But I'm not inviting you to take too long

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RULING

1 **SIR BRIAN LANGSTAFF:** I have been faced with an
2 application, the basis for which I shall simply say
3 I well understand, that the following question should
4 be put to Lord Clarke: that many people found him to
5 be arrogant, pompous and contemptuous of people who
6 have suffered so much in this scandal and therefore
7 seek his comments upon whether he agrees with this
8 description. The question, in its essentials, is
9 whether he agrees that he is arrogant, pompous and
10 contemptuous of people who have suffered so much.

11 I do not think that his views upon whether his
12 personality is of that nature or not, which is really
13 a matter of perception for those who are looking at
14 him, his own views will assist me one way or the
15 other. It is said they might give some insight, that
16 may be. But I do not think that will help me to
17 resolve the issues. Those who have seen him online in
18 this Inquiry will form their own views as to what
19 I should make of him. I hope you will trust me to be
20 able to make my own assessment.

21 Part of the job of this Inquiry, in working out
22 what happened and why, is to look at all the evidence
23 from whichever source it comes, and part of that
24 evidence is the identity and character of the
25

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1 over it. **(Laughter)** But if you can, please, ten past
2 two.

3 **(1.29 pm)**

4 **(The Luncheon Adjournment)**

5 **(2.10 pm)**

6 **MS RICHARDS:** Sir, I've no further questions. I think
7 it's now -- and I don't believe Ms Grey has any
8 questions, so, it's, sir, whether you have any
9 questions for Lord Clarke.

Questions from SIR BRIAN LANGSTAFF

11 **SIR BRIAN LANGSTAFF:** I do, yes. Just one. Really,
12 I want to borrow from the expertise which you've had
13 over years in Parliament, in a number of ministerial
14 posts. It's often said that an emerging potential
15 threat to public health needs to be dealt with
16 speedily.

17 You're nodding.

18 What structures do you think are best capable of
19 dealing with such a threat quickly?

20 **A.** What, who?

21 **SIR BRIAN LANGSTAFF:** What structures?

22 **A.** Structures?

23 **SIR BRIAN LANGSTAFF:** What organisation?

24 **A.** Well, you need a small decision-making team and
25 somebody needs to take clear responsibility for taking

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1 decisions, and do what they can to do things and, you
2 know, sometimes step in and really just insist that
3 we've got to take a decision. That's the ideal
4 set-up. It can be very difficult when the subject is
5 a highly specialised one.

6 I mean, I -- ha. You put it -- described it --
7 I kept trying to think, you see, in terms of this --
8 very difficult to think of an exact equivalent to
9 this. If I could think of an example of a speedy
10 response, the one that keeps leaping to mind,
11 inevitably because it's driven us all up the wall with
12 its dominance for us all at the moment is Covid. And,
13 with hindsight, I suspect some Inquiry is going to
14 take years arguing that a lot of things should have
15 been done quicker straight away when they happened,
16 and I think there were people at certain stages
17 pressing impatiently to get on.

18 And they did approve some things provisionally,
19 and I think some things have been licensed now without
20 going through the full process but, provisionally,
21 subject to being withdrawn if anything that goes
22 wrong, but it's difficult to know what structure.

23 The one delay that I do think, you know, is
24 plain, looking at it, is fortunately it wasn't the
25 first one. We'd already put out -- the request was

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1 Other people are too impetuous, and come to -- to
2 everything that comes up, there's an instant decision
3 making, and then their apparatchiks and the people who
4 work for them have to come rushing in and to try to
5 persuade them to "Sit down, let's have a talk about
6 this, you know, shouldn't we just consult X, Y and Z
7 before we charge in?"

8 So it's very difficult. I'm not -- it's
9 obviously not my scene to lay down some ideal
10 management structure and ideal temperament for doing
11 it quickly.

12 **SIR BRIAN LANGSTAFF:** Well, you --

13 **A.** In this particular case, the delays largely were
14 waiting for expert bodies to give advice, and it's --
15 speeding them up is quite tricky, but probably because
16 scientific problems, you've got to have the research,
17 you've got to have the data, you've got to have the
18 samples. Sometimes you're just waiting for adequate
19 information to pile up and come in. You're waiting to
20 discover the full -- the true nature of what you're
21 dealing with, and waiting to try out various ways that
22 might cure it or respond to it, or minimise the risk,
23 and so on.

24 **SIR BRIAN LANGSTAFF:** I suppose the danger is that that
25 process of waiting for a better degree of certainty

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1 out there for all gays not to give blood but the
2 second one, the stronger worded one, it obviously took
3 too long and it does seem to me, so far as I can
4 judge, and it's very difficult at this distance of
5 time, is because too many bits of the Department were
6 allowed to get in. It kept being really cleared and
7 then somebody else wanted to have a look at it, and
8 they all had a good argument for taking a look at it.

9 It was difficult to know what structure. One
10 person, clearly in charge, perhaps should have drawn
11 a line after a bit but, again, isn't that easy to say
12 in 2021 rather than at some time when some groups had
13 rather serious doubts about parts of the content.

14 I'm rather rambling around, not really answering
15 your question, I'm afraid.

16 **SIR BRIAN LANGSTAFF:** Well, what I think you've said, so
17 far, is that the optimum, perhaps, is a small group
18 with a decision-maker who has executive power.

19 **A.** Yes, somebody in power. Somebody -- because a lot
20 depends on whether people are capable of taking
21 decisions. The temperament of individual people, you
22 can have people with very considerable talents, but
23 are very bad at decision making and always want to put
24 it off and think about it a bit more or always want
25 more information, and just delay a little longer.

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1 defeats a lot of the object --

2 **A.** Unfortunately, yes, people are suffering all the time
3 whilst you're hoping that, you know, you're going to
4 get something demonstrably emerging that tells you
5 what's happening, and tells you what the best answer
6 is.

7 **SIR BRIAN LANGSTAFF:** Well, if you take --

8 **A.** As it happens, again, subject to -- and certainly me
9 and my -- this is just one witness's reaction to the
10 documents -- salvation, in the end, came with heat
11 treatment. Now whether anybody saw that coming, that
12 that was going to be the big -- I didn't, I didn't
13 entirely -- but that was it; that transformed
14 everything. We got very little information about --
15 I quite -- I have no idea where that was devised, who
16 was working on it -- in my documents, maybe I've just
17 not got to the right bit of the documents, who it was
18 came -- you know, which team came back and said, "We
19 find if you subject this plasma to heat treatment" --
20 pasteurisation I think they sometimes called it at the
21 time -- "it seems to kill off the unattractive -- you
22 know, the dangerous elements of" -- I think hepatitis
23 -- ignore me if I'm wrong -- "hepatitis as well as
24 AIDS", suddenly the world was transformed, from --
25 once they started heat treating the blood products,

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1 and once they could heat treat the lot, that was
2 practically the end of any problem.
3 And funnily enough, it features less in the
4 documents than practically anything else. By the time
5 we had got self-sufficiency and no longer importing
6 American blood products -- it was a very good thing to
7 do: it put everything on a really sound and secure
8 basis for the future, but actually it didn't make that
9 much difference. We'd fortunately already got there,
10 because even the American products now were vastly
11 safer, probably pretty safe, compared with the
12 frightful problem and terrible consequences we've been
13 experiencing through 1985.

14 **SIR BRIAN LANGSTAFF:** So in terms of the future, and if
15 there are lessons to be learned from this tragedy, as
16 you've called it, you would envisage a small group
17 with executive -- someone with executive
18 decision-making ability and personality but with
19 expertise on tap. So it might be a system of--

20 **A.** Yes, I mean probably --

21 **SIR BRIAN LANGSTAFF:** -- with experts on call?

22 **A.** -- it's better to have one person with two people
23 sitting alongside giving strong advice. I mean,
24 somebody -- yes, one person -- but, you know, it's
25 a terrible responsibility for -- and a human being has

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1 And that's not all medical. That's rather
2 easier. That is: were decisions taken quickly enough?
3 Were the right decisions taken? Were lobbies ignored?
4 Did we really take notice of the science and
5 medicine? But then combine that with, you know, your
6 beliefs in the -- what the Government could and
7 couldn't do and what human behaviour was going to be
8 like and what was going to be deliverable, what
9 wasn't, and all the rest of it. That -- so it is --
10 although at the heart of it you have a new, unknown
11 disease, it's different to this.

12 There's a -- in the early days, in '83, '84,
13 this was a kind of helplessness on all sides when HIV
14 first comes because, you know, we hadn't had anything
15 like this for years, and the -- and the first people
16 it was a problem for was particularly homosexuals, and
17 the -- fatal every time, at first, no cure. We were
18 waiting for a vaccine. No vaccine. And then suddenly
19 something seems to be happening to the haemophiliacs.
20 You know, why? How are they getting this? If they're
21 not either rather promiscuous heterosexuals -- if
22 they're not, you know, sexually a little wayward, like
23 some homosexuals, some heterosexuals, why are
24 haemophiliacs getting it when they don't seem to have
25 had any unusual, anyway, sexual life?

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1 not been born who does not make mistakes. So -- but,
2 you know, (unclear) B team, a couple of people,
3 perhaps of slightly different disciplines, who are
4 close, and there's a team, but so long as it's clear
5 who's in charge.

6 The difficulty here -- am I now, with the wisdom
7 of hindsight, saying what could have been done? Well,
8 (unclear) future. This was a multifaceted problem.
9 And as I say, the thing that saved lives, cured, end
10 of the tragedy, largely, was something we hardly refer
11 to and, as I say, I still haven't a clue where it came
12 from. I mean, it's not a very complicated,
13 highfalutin, nuclear science type solution.
14 Pasteurisation, heat treatment worked.

15 Now whether any kind of structure would have
16 speeded that up or identified it quicker, I haven't
17 a clue where that came from. And I think -- I suspect
18 most of the people most the time had no idea that work
19 was going on on this and this was suddenly going to
20 bring the worst of the nightmare to an end. I mean,
21 this was a nightmare ever since because of the
22 consequences. But it did -- it's difficult.

23 And the same process, some successor to you will
24 be going through the same process, again probably for
25 years, when we have this inquiry in Covid.

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1 All the way through, this is a sudden -- almost
2 instant disastrous mystery, and so it's -- we didn't
3 know what structure would have dealt with it. And
4 I work with strong personalities. Some of the key
5 figures are dead. The Chief Medical Officer was very
6 much in charge. I mean, I keep praising this Chief
7 Medical Officer but he (unclear: *overspeaking*) sort
8 things out.

9 **SIR BRIAN LANGSTAFF:** Well, you've praised the Chief
10 Medical Officer from mid --

11 **A.** I didn't know what --

12 **SIR BRIAN LANGSTAFF:** -- from 1983.

13 **A.** -- I'm sure he was, at first, as completely perplexed
14 by this new disease as everybody else was.

15 **SIR BRIAN LANGSTAFF:** I think you've given us a rather
16 different view of Sir Henry Yellowlees.

17 **A.** Well, I don't want to be -- I'll probably upset his
18 family or something. One of the officials, in all my
19 many, many departments, one of the very senior and
20 responsible officials who, shall I say, failed to
21 impress me. And I think you've probably got the --
22 you probably get the hint, I don't know. I don't --
23 I haven't discussed it with any of the others, but
24 I think you might find that's quite widespread, and
25 I got the impression at the time I overlapped with him

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1 that it was -- actually, it was quite widespread
2 amongst his deputies and the people who were working
3 for him. He was not frightfully interested in getting
4 involved in clinical, medical decisions.

5 I won't go on because as I say, I shall merely
6 find I've upset somebody who is related to him or
7 something, but my -- my thought -- my own judgment
8 doesn't matter much, but Henry was one who made less
9 impression on me than practically any other senior
10 civil servant that I've ever known. He wasn't -- he
11 took a strange approach to the job.

12 **SIR BRIAN LANGSTAFF:** So in terms of the -- this
13 decision-maker who is capable of making decisions
14 having executive power, he wouldn't be the man?

15 **A.** *(Unclear: overspeaking)* not very interested in making
16 decisions in this kind of thing. I'm sure -- I don't
17 know. I can't remember it -- I think it came up as
18 Henry -- if anybody asked Henry for advice, he
19 probably would refer them to Diana Walford or somebody
20 else and say, you know, "She does that kind of thing."

21 **SIR BRIAN LANGSTAFF:** Yes. She, I think, rather regretted
22 that she didn't have very much contact with Sir Henry.

23 **A.** He took a very, very close interest in the honours
24 list for medics.

25 **SIR BRIAN LANGSTAFF:** Yes.

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1 was a terrible tragedy. I am very, very devoted to
2 our Health Service. I think our Health Service is one
3 of our great institutions. Of course, it's clinically
4 advanced, and the amount we now spend on it, it's a
5 hugely better service than it was 30 years ago but, by
6 the standards of the time, it was a good service, and
7 this is probably the worst tragedy that's ever
8 occurred, and I feel -- and everybody, I dare think
9 all the people I work with is acutely aware of the
10 human suffering that was being caused whilst this HIV
11 and then these infections being spreading to
12 haemophiliacs carried on and we were desperately
13 trying to find what was happening, how to stop them.
14 And I genuinely feel very great sympathies, to say the
15 least.

16 I mean, I wholly share everybody's concern for
17 the fate of those not only who died but their families
18 and the people who continued to have problems. It's
19 so -- the importance of the subject matter you're
20 studying, and its significance to any families, should
21 not be underestimated.

22 **MS RICHARDS:** Thank you, Lord Clarke.

23 Sir Brian?

24 **SIR BRIAN LANGSTAFF:** Well, thank you, Lord Clarke, for
25 allowing us to trespass on your time by having you

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1 **A.** That was exclusively his concern, to which, he used to
2 joke in the Department, he devoted a great deal of his
3 time and had a very considerable filing system, and
4 who got what honour was very much a decision for
5 Sir Henry.

6 **SIR BRIAN LANGSTAFF:** Thank you. Well, thank you. That's
7 all that I --

8 **A.** I shouldn't have said that. I mean, that's quite
9 irrelevant to your -- well, as I say, it's my honest
10 opinion.

11 **SIR BRIAN LANGSTAFF:** You've said it. There we are.

12 **A.** I couldn't have been more relieved when I got
13 a totally different personality -- because I didn't
14 appoint him, but suddenly emerged as my Chief Medical
15 Officer, a man who was passionately concerned with
16 public health.

17 **SIR BRIAN LANGSTAFF:** Thank you very much. That's all
18 I have to ask.

19 **THE WITNESS:** Thank you very much.

20 **MS RICHARDS:** Lord Clarke, there are no further questions,
21 then. Is there anything further you would wish to
22 add?

23 **THE WITNESS:** Only to say that, you know, it is one of
24 those terrible incidents of my lifetime. I just
25 repeat my -- despite, you know, my strong feelings, it

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1 come here.

2 I can't think that anyone who has listened to
3 your evidence will forget it in a hurry, given, as it
4 was, in a style you yourself --

5 **A.** That's a very ambiguous remark.

6 **SIR BRIAN LANGSTAFF:** -- well, given, as it was, in
7 a style which you yourself have described as combative
8 and challenging. Developing an understanding of what
9 has happened, which is a very large part of the
10 Inquiry's remit, is like piecing together a huge
11 jigsaw. It depends upon documents, available
12 recollections, context and personality, in which each
13 witness's evidence and how they give it represents one
14 piece.

15 So if questions, trying to understand the shape
16 and size of your particular piece of the jigsaw and
17 how it fits in, have been frustrating to you at times,
18 I just want you to know that the answers have been
19 helpful to us.

20 **A.** Thank you very much. I've no doubt you were warned in
21 advance that, I think, probably compared -- reassured
22 compared with any of my colleagues -- I mean, I've
23 been a public figure so you've probably had the view
24 of me before I arrived -- I realise I am naturally
25 rather combative. I'm not always impatient --

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1 patient. I mean, going back to decision-making, I'm
2 sometimes rather impetuous so anybody working with me
3 has to get me to, you know, sit down and really read
4 the papers and think about it and, you know, "I think
5 we'd better get the Permanent Secretary in to listen
6 to it", and so on. And I give long answers. And the
7 older I get, bearing in mind I am now in my 80s,
8 I think I get even more garrulous.

9 But any journalist who has ever interviewed me
10 on radio or television will tell you, they often say
11 before we start, "Now, short answers if we can", and
12 if it's an old friend, somebody I know, I tend to say,
13 "Look, you know, John, you've had me here before, so
14 I'll do my best, but I" -- and after about two minutes
15 I'm incapable of giving short answers, so I apologise
16 to the counsel and the tribunal as well, if I was at
17 times getting -- showing signs of impatience or giving
18 her long answers the whole time.

19 I don't think I interrupted as much as I usually
20 do. I think you'll --

21 **SIR BRIAN LANGSTAFF:** How much do you usually interrupt?

22 **A.** If I'm not careful -- I'll have to cure myself of
23 that. I mean, with journalists they interrupt you the
24 whole damn time anyway, so I can blame journalists
25 where everyone listening to us -- if you weren't

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1 no doubt that there are many more still for whom
2 watching may perhaps have been too difficult, who have
3 kept in touch with the Inquiry in their own way.

4 I'd like to thank you, each of you, whatever
5 your perspective is, for being part of a collective
6 endeavour to understand how and why such a tragedy
7 occurred.

8 You too have made a contribution and I'd like to
9 thank those of you who have been here in person.
10 Whatever your perspective, however welcome the
11 evidence has been, however enlightening, however
12 difficult it may have been from time to time to listen
13 to it, or however much you may have fundamentally
14 disagreed with it, I'd like to thank each of you for
15 showing the courtesy to the witness, which has allowed
16 each witness to say what they wanted to say, as they
17 would wish to say it, whatever their role may have
18 been.

19 Secondly, the Inquiry will return from Tuesday,
20 21 September, when we will be at our new premises in
21 Aldwych. We're starting with evidence from the former
22 Secretary of State for Health and Social Security,
23 Lord Norman Fowler, followed by evidence of the roles
24 played by pharmaceutical companies and blood services.
25 As we do so, I expect an increasing proportion of the

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1 careful -- of course, it sounds terrible, so it's a
2 wonder I haven't stopped doing it but, you know,
3 sometimes -- some journalists, they wouldn't let me
4 finish a sentence and I wouldn't let them. But
5 I think that -- I hadn't cured myself of, but I have
6 modified myself. But I still, as I am now, going to
7 give long answers.

8 **SIR BRIAN LANGSTAFF:** Well, if you will bear with me for
9 a moment while I mention a number of things to others.

10 **THE WITNESS:** Of course.

11 Closing comments by SIR BRIAN LANGSTAFF

12 **SIR BRIAN LANGSTAFF:** This is for everyone here and those
13 who are watching online or on YouTube. As you all
14 know, this is our last hearing day before we break for
15 the summer.

16 Break, that is, from hearings. The work of
17 course, goes on. But I'd like to say four things at
18 this stage.

19 First, many of you have made a contribution to
20 the work of the Inquiry and it's a reminder to all of
21 us of the importance to many of the issues before us
22 that so many have been following it, in person or
23 online. And very nearly 500 have followed us on
24 YouTube and Zoom each day this week, together with
25 a full house here at Fleet Bank, as you know, and I've

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1 evidence to relate more directly to those who have
2 suffered from hepatitis or HIV who are not also people
3 with haemophilia.

4 The whole of our terms of reference are being
5 and will be considered.

6 We will sit for quite a number of weeks in the
7 autumn, the full timetable is yet to be finalised, and
8 though these remain uncertain times, we will endeavour
9 to make progress no matter what challenges we might
10 then be facing.

11 Third, before Easter, I issued a statement of
12 approach on final submissions. Now, during the summer
13 break, I encourage all who are participants to
14 continue thinking about the points they would wish to
15 make in their final submissions. These will of course
16 cover both the conclusions you think I should reach,
17 and the recommendations you hope I will feel able to
18 make.

19 Making recommendations is of central importance.
20 They aim to help future generations learn the lessons
21 of what happened and perhaps to lessen the danger of
22 history repeating itself.

23 Submissions come at the end of the Inquiry
24 hearings. Potential recommendations require careful
25 consideration which may benefit from timetabling

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1 witnesses before the end with relevant expertise that
 2 help to inform those recommendations. So please treat
 3 this as advance notice that I'd like to have at least
 4 three months before submissions, and at least in
 5 outline, what, if any, recommendations you would wish
 6 me to consider making.
 7 Fourth -- I said there were four points -- and
 8 finally, I wish you all a restorative break.
 9 [Applause]
 10 Thank you.

11 (2.33 pm)
 12 (The hearing adjourned until 21 September 2021)

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<p>Y</p> <p>years... [21] 16/10 22/17 29/8 29/9 55/20 56/3 66/23 85/20 87/9 87/10 88/13 89/25 90/18 94/8 96/4 105/6 116/13 117/14 122/25 123/15 127/5</p> <p>Yellowlees [1] 124/16</p> <p>yes [57] 2/17 5/8 5/10 5/20 6/25 7/4 12/10 14/20 24/3 24/4 28/15 32/1 37/14 38/8 40/8 40/9 40/11 42/11 52/15 52/17 52/24 56/11 60/2 61/9 61/16 62/25 63/7 64/16 65/1 72/13 76/8 76/9 80/15 81/1 81/2 85/14 86/17 86/18 87/5 88/18 91/4 97/7 103/1 105/17 107/5 107/6 107/19 109/21 110/2 115/19 116/11 118/19 120/2 121/20 121/24 125/21 125/25</p> <p>yesterday [22] 1/6 5/7 8/3 8/3 11/1 11/16 19/5 21/23 21/24 24/3 24/3 29/24 41/14 46/20 48/10 62/10 63/19 63/20 83/17 104/6 104/15 104/21</p> <p>yet [8] 45/9 54/19 75/13 99/1 102/8 102/13 108/6 132/7</p> <p>you [509]</p> <p>you'd [8] 6/11 11/16 21/5 49/9 49/9 50/17 54/23 98/20</p> <p>you'll [11] 4/13 15/25 37/5 38/7 63/19 88/10 89/14 93/19 97/13 100/16 129/20</p> <p>you're [32] 9/14 22/3 25/2 25/4 25/5 26/17 27/2 27/9 38/3 38/9 48/4 50/5 50/6 50/8 54/13 55/18 64/8 68/19 83/23 86/21 87/15 89/22 95/25 96/21 103/13 116/17 119/18 119/19 119/20 120/3 120/3 127/19</p> <p>you've [31] 5/14 5/17 19/18 25/22 26/19 29/2 39/4 43/12 54/10 58/21 60/9 70/16 74/6 77/20 77/21 82/15 85/3 86/23 98/8 116/12 118/16 119/16</p>	<p>119/17 119/17 121/16 124/9 124/15 124/21 126/11 128/23 129/13</p> <p>your [108] 5/22 6/3 7/1 7/3 7/5 9/4 9/7 9/15 10/8 10/15 10/22 11/1 11/3 11/23 12/1 16/16 16/20 17/2 17/12 21/22 21/23 22/7 22/12 22/25 25/22 33/2 33/21 33/22 35/15 35/15 36/24 37/4 37/8 37/10 37/17 39/16 39/20 40/5 44/10 45/21 45/22 46/6 49/13 51/25 52/7 52/11 54/3 54/18 54/18 56/23 58/1 58/22 59/3 59/5 60/10 61/14 61/19 62/20 64/4 64/6 64/9 64/15 64/16 64/25 66/1 68/16 68/17 69/11 70/18 72/11 72/14 72/16 72/18 75/25 77/20 77/23 83/1 83/13 83/17 85/16 86/21 87/24 90/2 91/9 92/16 94/3 96/8 97/8 98/8 98/9 98/9 98/11 98/12 99/21 102/9 104/6 104/20 106/23 111/11 111/22 118/15 123/5 126/9 127/25 128/3 128/16 131/5 131/10</p> <p>yourself [4] 52/1 85/16 128/4 128/7</p> <p>YouTube [2] 130/13 130/24</p> <hr/> <p>Z</p> <p>Zoom [1] 130/24</p>				
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