1 Tuesday, 2 March 2021
2 (10.00 am)
3 (Proceedings delayed)
4 (2.00 pm)
5 SIR BRIAN LANGSTAFF: First of all, an apology to you,
6 Ms Barlow. Can you hear me all right?
7 THE WITNESS: I can, yes.
8 SIR BRIAN LANGSTAFF: And an apology to all those who are
9 watching remotely for the delay there's been this
10 morning. A number of issues arose, in particular one
11 issue in respect to documentation which it's necessary
12 to display. I shan't go into it. I don't need to,
13 except to say it took a while to resolve. It's still
14 in the process of being resolved, but I don't think it
15 will delay us -- needn't delay us any further, so
16 we're ready to begin.
17 You're at home, I think, are you?
18 THE WITNESS: Yes, I am.
19 SIR BRIAN LANGSTAFF: And on your own or with anyone?
20 THE WITNESS: No-one else in the house at the moment.
21 SIR BRIAN LANGSTAFF: Thank you. Let me tell you who you
22 are talking to. You're talking to a room which is
23 very large so it seems empty because it only has
24 a total of eight people in it, including myself, one
25 of whom is Mary who will ask you to take the oath in a

1 moment or two. But beyond that, there will be
2 something like 200 people who are watching on the
3 remote feed. So you're talking to about 200 people or
4 so in the course of your evidence.
5 First of all, let Ms Barlow be sworn.
6 JAN BARLOW, affirmed
7 Questions by MS RICHARDS
8 Q. Sir, before I start with Ms Barlow's questions,
9 I should just make clear that the issue that caused
10 delay today was nothing whatsoever to do with
11 Ms Barlow. It didn't flow from any application or
12 anything of that kind made by Ms Barlow. It's
13 a separate issue relating to documentation.
14 Ms Barlow, I'm going to start by asking you
15 a number of general questions which will cover both
16 the Macfarlane Trust and the Caxton Foundation. I'll
17 then be asking you some specific questions concerned
18 with the Macfarlane Trust, and then some specific
19 questions concerned with the Caxton Foundation. Then,
20 finally, I'll be asking you some questions about the
21 circumstances in which those schemes came to be
22 replaced by the four national schemes and your
23 involvement in some of the decision-making at that
24 time. So I hope that assists in both you and others
25 in understanding the course in which the questioning

1 will take.
2 You were chief executive of the
3 Macfarlane Trust and of the Caxton Foundation from
4 January 2013 until October 2017; is that correct?
5 A. October, yeah, essentially to -- the organisations
6 transferred to the NHS BSA in November 2017, and then
7 there was a period during which for -- Caxton was --
8 well, Caxton and Macfarlane were operational --
9 weren't operational but there was still work to do to
10 actually close the organisations down, and I then left
11 in October 2018.
12 Q. You were also, I think, was it company secretary of
13 MFET?
14 A. That's correct.
15 Q. In your witness statement, you tell us that prior to
16 1997, you'd worked as a manager in the NHS.
17 A. Yes.
18 Q. Roughly over what period of time did you work in the
19 NHS?
20 A. About six or seven years.
21 Q. What was the nature of your role in the NHS?
22 A. I was a manager within a health authority.
23 Q. Did you, in the course of that, have any involvement
24 in any complaints or litigation arising from the use
25 of infected blood or blood products?

1 A. No. None whatsoever.
2 Q. Now, you then worked in a number of capacities in the
3 charitable sector from around 1997 until you took up
4 the posts with which your evidence will be concerned
5 in 2013.
6 Can you just give us a flavour of the kind of
7 work that you undertook for other charities.
8 A. Yes. My first role was as the head of corporate
9 affairs for the Save the Children fund. I then moved
10 on to work as chief executive. First role was with
11 Brook Advisory Centres which is young people's sexual
12 health charity. Subsequent roles included working for
13 a women's domestic violence charity. I was at
14 Battersea Dogs & Cats Home for three and a half, four
15 years. Yeah, essentially those things, but
16 predominantly I guess my career has covered sort of
17 health-related organisations.
18 Q. What led you to apply for the post at the
19 Macfarlane Trust and the Caxton Foundation?
20 A. I was looking for another role within the sector and
21 one that was involved with health, and this was one
22 that was advertised at the time that I was looking.
23 Q. At the time of your appointment in early 2013, what
24 did you know about the infection of people through
25 blood and blood products?

1 A. Probably no more than the average person would know at
2 that stage.
3 Q. Did you know anything about the circumstances in which
4 either the Macfarlane Trust or, more recently, the
5 Caxton Foundation had been established?
6 A. No. I mean, I didn't know anything specifically about
7 the organisations or about the subject area at all.
8 Q. When you joined both organisations, were you given
9 information or training or some form of induction to
10 enable you to understand the history?
11 A. I mean, as I recall, sort of the induction involved
12 a lot of talking to staff and to trustees, and there
13 was also, you know, reading. I was given things like
14 the annual accounts, stuff like that, to read which
15 gave some of the background.
16 Q. Can you recall whether you were given any particular
17 information or guidance about either the way in which
18 the trusts had been established or the views of the
19 beneficiary communities of those trusts about their
20 establishment?
21 A. No, not about their establishment as such. I don't
22 recall that specifically.
23 Q. Based on your involvement in the charitable sector
24 prior to taking up the posts in Macfarlane and Caxton,
25 would you say that the Macfarlane Trust or the

1 Caxton Foundation were run in a similar way, or
2 differently from the other charities in which you had
3 had involvement?
4 A. I would say that in many -- I mean, you know, the
5 charity sector, I mean, it has, what, 170,000 -- there
6 are 170,000 or so charities in England and Wales,
7 ranging from sort of local scout groups to enormous
8 organisations like Cancer Research UK. So, you know,
9 there are wide differences, but some of the
10 similarities in terms of board structures, governance
11 documents, things like that, those -- you know, my
12 experience -- there was nothing particularly unusual
13 about what I -- you know, what -- the way in which
14 I found the Macfarlane Trust and the Caxton Foundation
15 at that time.
16 Q. Can you tell us what your responsibilities were as
17 chief executive of each.
18 A. Yes. I mean, overall, the role of -- you know, the
19 board has the responsibility for developing strategy
20 and policy, and the chief executive has the
21 responsibility for implementing it, along with the
22 staff team. I guess, you know, my role involved
23 things like supporting the boards, particularly
24 working closely with the chairs and the chairs of the
25 board subcommittees; attending board committees and

1 subcommittees; providing reports on the organisation's
2 activities; ensuring things like the preparation of an
3 annual budget and ensuring that on a day-to-day basis
4 the organisation worked within that; communicating the
5 organisation's work to the beneficiary community;
6 particularly ensuring that there was transparency in
7 terms of what support was available and how to access
8 it; ensuring payments were made to beneficiaries in
9 line with the criteria set down in agreements reached
10 by trustees; ensuring the organisations worked within
11 the relevant charity and legal frameworks; recruiting,
12 leading, managing the staff team; attending sort of
13 regular and *ad hoc* meetings with the Department of
14 Health, the minister, and representing the
15 organisation at external events where that was
16 appropriate.
17 Q. We'll come back to a number of those in a little more
18 detail. Before we do so, what was the division of
19 your time as between Macfarlane and Caxton?
20 A. I think, technically, it was about 45 per cent for
21 each, and the sort of remainder 10 per cent was on
22 MFET and some of the kind of, if you like,
23 administrative oversight functions in relation to the
24 other two organisations because I had responsibility
25 for staff.

1 Q. Do you know how and by whom it had been determined
2 that the Macfarlane Trust and the Caxton Foundation
3 would share a chief executive?
4 A. No. I mean, I'm assuming that that was a decision
5 that was made when the Caxton Foundation was set up,
6 and so I'm assuming there would have been discussions
7 between the Department of Health and the organisations
8 about that.
9 Q. Dealing first with the Macfarlane Trust, how are those
10 who were either registered with the Macfarlane Trust
11 or might be eligible to receive assistance, how were
12 they generally referred to by you and your colleagues?
13 Were they referred to as beneficiaries or registrants
14 or --
15 A. No. Within the five Alliance House organisations, the
16 people that were registered with the charities were
17 referred to as beneficiaries.
18 Q. And was there a distinction of terminology used as
19 between primary beneficiaries and secondary
20 beneficiaries?
21 A. The term "primary beneficiary" was used for people who
22 had been directly infected. And then we had various
23 kind of categories that we used purely for kind of
24 administrative purposes, but everyone else was
25 referred to as a bereaved spouse or partner, family

1 member, et cetera.
2 Q. Was the same position in relation to the
3 Caxton Foundation?
4 A. Yes.
5 Q. When you took up your post, what information had been
6 provided to you, or what information did you glean
7 about the financial position of the Macfarlane Trust
8 and the Caxton Foundation? Did you know that there
9 were question marks over whether they were adequately
10 funded?
11 A. No, I wasn't aware of that. And in relation to the
12 position with the Macfarlane Trust where it was --
13 where basically the trustees were having to use
14 a portion of reserves to supplement the funding,
15 I wasn't aware of that until I took up post.
16 Q. I want to ask you next just a little about the
17 arrangements for the appointment of trustees.
18 Did you have any involvement in the appointment
19 of trustees to either the Macfarlane Trust or the
20 Caxton Foundation?
21 A. No, I didn't. The recruitment process for trustees
22 was always trustee-led, effectively. The one time
23 I remember becoming a little bit more involved was
24 when we were appointing the chair of the
25 Caxton Foundation in 2015, and I was asked to become

1 a little bit more involved in supporting the process,
2 but I wasn't part of the decision. So it was always
3 a trustee decision to appoint their own, effectively.
4 Q. Now, the Inquiry understands that in relation to the
5 Macfarlane Trust there was a process -- and we may
6 come on to some aspects of this, but, in general
7 terms, a process whereby trustees might be nominated
8 by the Department of Health or by The Haemophilia
9 Society.
10 In relation to the Caxton Foundation, I think
11 your statement tells us that the minister, a health
12 minister, had to approve the appointment of Caxton
13 foundation board members.
14 A. That's correct. Sorry.
15 Q. Do you know how or why that came about?
16 A. No. Again, I don't know. I just know that that was
17 the situation at the time. But I guess it might be
18 helpful to add that the Department of Health had no
19 involvement in the recruitment of those trustees, but
20 when the board was ready to make recommendations about
21 who they would like to appoint, that decision went to
22 the minister through the Department of Health.
23 Q. Again, in relation to the Caxton Foundation and
24 without mentioning any trustees by name, did you
25 become aware of a concern amongst some beneficiaries,

1 or campaigners at least, that the trust board included
2 those who'd had a background with the -- or still
3 worked for the National Health Service?
4 A. I was aware that there were some people who had that
5 view. I guess -- yeah, my view was the Department of
6 Health wasn't involved in appointing those people and,
7 within the charity sector, one typically tries to put
8 together a board that has a range of relevant
9 experience and so, in my own experience, it wasn't
10 untypical to find people that had been involved in the
11 NHS or the Department of Health on a board that was
12 a health charity.
13 Q. Was there any representation or any attempt to ensure
14 representation on the boards of either the
15 Macfarlane Trust or the Caxton Foundation from the
16 devolved nations, so to ensure some representation
17 from Scotland, Wales or Northern Ireland?
18 A. I'm not sure what the official position was but I know
19 that, for example, you know, there had been a history
20 of trustees from, you know, different parts of the UK
21 being on the board and during my time I know, for
22 example with the Caxton Foundation, there was a board
23 member who was from Northern Ireland. But, obviously,
24 you know, sometimes you're reliant on who wants to
25 come forward, put themselves forward as a trustee at

1 the time you're recruiting but, as far as I understand
2 it, it wasn't a requirement that that had to be, you
3 know, the board had to be made up of people from
4 around UK specifically but that I understood there had
5 been a history of, you know, attempting to do that
6 where it was possible.
7 Q. Are you aware of how or by whom the chair was selected
8 and appointed, again without the need to go into the
9 details of any particular individuals. What was the
10 process?
11 A. My understanding that the chair was appointed -- well,
12 it could be either from within the organisation, if
13 there were people within the board itself that wanted
14 to stand to become chair, or that it could include
15 people from outside as well and, certainly, you know,
16 when we appointed a new chair for the
17 Caxton Foundation in 2015, that was -- there was
18 no-one on the board who wanted to take on that role,
19 who was in a position to take on that role and so that
20 was advertised externally. So it kind of -- it
21 depended on the circumstances at the time.
22 Q. In terms of the recruitment of staff to Macfarlane and
23 Caxton, were you responsible for the recruitment of
24 staff?
25 A. I was.

1 **Q.** As the Inquiry understands it, by the time you took up
2 your job, is this right, all staff were employed
3 through the Caxton Foundation?
4 **A.** That's correct and they had been TUPEed over from the
5 Macfarlane Trust at the point at which Caxton was
6 established.
7 **Q.** Was there any particular training or information
8 provided to staff when they joined one or all of the
9 Alliance House organisations to ensure they understood
10 what the aims and objectives of the organisations were
11 and understood the range of needs of the beneficiary
12 communities?
13 **A.** Yes. I mean, predominantly when people joined the
14 organisation, the focus of their role would have been
15 just with one of the charities. So if it was
16 a frontline member of staff dealing with beneficiaries
17 on a day-to-day basis, the focus of their role would
18 have predominantly been on one or the other. But,
19 yes, everyone received an induction which involved
20 meetings with all the key people and, you know, being
21 given -- talked through procedures and policies by
22 line managers so they knew what the framework was that
23 they were operating within.
24 Having said that, we didn't have -- there
25 wasn't a huge staff turnover during the time that

1 I was there so it wasn't -- you know, it wasn't a big
2 issue and we did have a number of staff within the
3 Alliance House organisations overall who had been
4 there for actually quite a long time.
5 **Q.** Were beneficiaries -- again, beneficiaries of any of
6 the Alliance House organisations -- ever invited to
7 come and participate in that training or perhaps share
8 their experiences as part of a training programme for
9 staff?
10 **A.** Not as I recall but staff would have had conversations
11 with the user trustees.
12 **Q.** You'll be aware, I think from the materials that
13 you've seen, Ms Barlow, of a concern being expressed
14 about the appointment of some staff members, I think
15 in particular a director of operations, at a point in
16 time when reductions were being made or might have to
17 be made to the assistance provided financially to the
18 beneficiaries.
19 First of all, is this right, that the monies
20 that were received by the organisations were
21 effectively in the form of a block grant to cover both
22 the operational and staffing costs and the money that
23 would be available to disburse to beneficiaries?
24 **A.** Well, it was never -- it was never described as
25 a block grant. It was described as an annual

1 allocation and what used to happen was each -- well,
2 the funds for the Macfarlane Trust, the Eileen Trust,
3 Skipton Fund and MFET were effectively top-sliced to
4 cover their proportion of staffing and premises costs,
5 and those monies were given to the Caxton Foundation
6 for paying the total salary bill and the total
7 premises bill.
8 **Q.** Did the recruitment and appointment of a director of
9 operations reduce the amount of funding that was
10 available to beneficiaries?
11 **A.** It may have done very slightly but the director of
12 operations, whilst that was a new post, it replaced
13 an existing post and the -- if you like, the
14 additional costs weren't significant. I can't
15 remember the sort of exact figures. But, at that
16 time, the Caxton Foundation had been operating for
17 I think just over a year and there had been no review
18 of staffing to take account of the fact that a whole
19 new organisation was now part of the -- you know, the
20 staffing structure. I was aware when I came in that
21 there was a lot of dissatisfaction with particularly
22 the turnaround times for grants and the support that
23 people were being given through the grants process and
24 it was an issue that was very important to the board
25 and we felt that we needed a more senior capacity in

1 to actually deal with those problems.
2 So it was getting that balance between, you
3 know, how are we able to increase our effectiveness
4 and not doing so at enormous financial cost. But,
5 again, the cost for that role was spread between the
6 Caxton Foundation and the Macfarlane Trust, so the
7 Macfarlane Trust didn't take the full, if you like,
8 the full financial -- bear the full financial cost of
9 that.
10 **Q.** I want to ask you next about the relationship between
11 the two trusts that you were chief executive of and
12 the Department of Health. Firstly, what did you
13 understand to be the relationship between the
14 Department of Health and the Macfarlane Trust?
15 **A.** I mean, what I'm going to say probably applies to both
16 organisations, that the Department of Health and,
17 effectively, the Secretary of State had been the
18 founder of the organisations, that the organisations
19 had been set up as the vehicle through which the
20 Department of Health could channel the charitable
21 funds that it wished to have disbursed to the
22 beneficiaries.
23 **Q.** Did you regard either Caxton or Macfarlane as an arm
24 of Government or an agent of the Department of Health?
25 **A.** No, I wouldn't describe it that way. Both of the

1 charities were independent legal entities. They were
2 independent of Government and of the Department of
3 Health but you can't get away from the fact that the
4 Department of Health was the sole funder for those
5 organisations and, therefore, you know, the Department
6 of Health could exert a certain influence by virtue of
7 the amount of money that it allocated each year for,
8 you know, the purposes that it wanted to, you know,
9 get that money out to. But again, having said that,
10 there's nothing unusual about funders in the charity
11 sector, if you like, putting conditions on the way
12 that it's worked and, in my experience, the Department
13 of Health actually didn't really put conditions*, per*
14 *se*, on what was done, whereas, you know, I'd worked in
15 other charities where funders provide restricted
16 funds, where it's -- you know, what the charity can do
17 with that money is very, very tightly controlled.
18 So, you know, it was, as I say, as though on
19 the one hand there was the independence but the
20 organisations had been set up by the Department of
21 Health, Secretary of State initially with the sole
22 purpose of being that channel for those Government
23 funds.
24 **Q.** You and the chair -- the respective chair, so chair of
25 the Macfarlane Trust and chair of the Caxton

1 Foundation, as I understand it, attended what were
2 called annual review meetings with Department of
3 Health officials; is that right?
4 **A.** Yes, that's correct, yes.
5 **Q.** We'll look at a handful of those but, in broad terms,
6 what was the purpose of the annual review meeting for
7 Caxton and Macfarlane?
8 **A.** The purpose of those annual review meetings was
9 primarily to go through the annual accounts. So we
10 met with them once the charities' annual accounts had
11 been, sort of, finalised, and signed off, just to talk
12 about, you know, the figures for the year that had
13 gone by and, I guess, to talk about in general terms,
14 you know, what the organisations or what the charities
15 were doing, whether there were any developments, and
16 for the Department to tell us about any developments
17 at their end.
18 **Q.** Were there separate meetings for Caxton and for
19 Macfarlane in that regard?
20 **A.** There were, yes, yes.
21 **Q.** There were then, I think your statement tells us,
22 other *ad hoc* meetings with the Department of Health.
23 Now, the annual review meetings, generally there was
24 some form of written minute or record kept.
25 **A.** Yes.

1 **Q.** What about the *ad hoc* meetings? Were those usually
2 minuted?
3 **A.** No, I don't recall them being minuted but if we had
4 those we tended to report back to the boards, the
5 respective board at the next meeting and, actually,
6 sometimes the kind of more *ad hoc* meetings were where
7 you know more than one of the Alliance House
8 organisations would be involved. So if the Department
9 of Health wanted to brief us about something it was
10 intending to do, sometimes that would affect more than
11 one organisation, so myself and, you know, possibly
12 all of the chairs used to go to those.
13 **Q.** Are you able to assist with how frequent, in very
14 broad terms, those kind of *ad hoc* meetings might be?
15 **A.** In the early years of my time at Alliance House,
16 I don't remember them taking place very often at all,
17 if ever. They became more frequent once, sort of,
18 political changes started to happen. So, for example,
19 in relation to the 2016 consultation that the
20 Department of Health published because, if you like,
21 there was more going on, there was more talk about
22 potential changes so I guess they wanted to try and
23 talk to us more at that stage.
24 Prior to that, can I just elaborate, outside of
25 the annual review meetings, I mean, we used to get

1 requests to provide information for Parliamentary
2 questions, and things like that, but it was quite --
3 it was quite limited.
4 **Q.** Could one of these *ad hoc* or irregular meetings, were
5 they called by the Department of Health or by you and
6 the chair or did it vary?
7 **A.** I think predominantly they were called the Department
8 of Health.
9 **Q.** Do you think it would have been useful to have more
10 regular meetings with the Department of Health or not?
11 **A.** Oh, I don't really know. I mean, I think that, in
12 general, I think, you know, the Department of Health
13 had information about what we were doing. You know,
14 I think the frequency of meetings kind of reflected
15 really what was going on, so the fact that after the
16 2016 consultation that the meetings became more
17 frequent, it kind of reflected the fact that we did
18 need to talk to each other more.
19 **Q.** Leaving aside any meetings or discussions that arose
20 out of that consultation and the Government's response
21 to it, other than that or prior to that, what level of
22 interest did the Department of Health seem to you to
23 have in the Macfarlane Trust and the Caxton
24 Foundation?
25 **A.** Well, I mean, that's difficult to say, but, as I say,

1 the meetings were -- you know, we always had the
2 once-a-year annual review meetings, and the contact
3 was infrequent outside of that. So I don't know
4 whether that's a reflection of their interest or not.
5 **Q.** What role did the Department of Health have in the
6 formation of policies or the setting of priorities and
7 objectives for either Macfarlane or Caxton?
8 **A.** To my knowledge, none; nothing that affected the
9 day-to-day disbursement of monies to beneficiaries.
10 **Q.** Prior to any meetings that arose out of the proposals
11 for reform of the Alliance House organisations, do you
12 recall ever meeting a health minister or the Secretary
13 of State on any of these occasions?
14 **A.** I remember reasonably early on, we had a meeting with
15 the minister when Anna Soubry was the Undersecretary
16 of State for Health. I'm not sure that I recall any
17 other ministerial meetings.
18 **Q.** I'm going to ask you in a little more detail about
19 the annual allocation and the budgets and so on, and
20 we'll look at a handful of documents, but before we do
21 that, broadly speaking, was it your impression that
22 the Department of Health was making its annual
23 allocation on the basis of what it was willing to
24 spend, or on the basis of what the Department thought
25 was actually needed?

1 **A.** I'm not sure that I can answer that question. We --
2 I think I said in my written statements, it wasn't a
3 process of negotiation. It wasn't a two-way process
4 with Alliance House organisations. So I'm not --
5 I think that's almost a question for the Department
6 itself. I can't really answer. I didn't have an
7 impression either way. All I know is that we were
8 told how much we were getting. There wasn't a -- you
9 know, we weren't asked how much we thought we needed.
10 **Q.** Is this a fair characterisation of the process, and it
11 may be that the documents will help in due course
12 answer this, but you would submit your business case
13 setting out the amount you were asking for, which was
14 usually an increased amount on the previous year, and
15 the response was usually: X amount is what you're
16 going to get?
17 **A.** There wasn't an annual, if you like, business case
18 submission process, if you like. With the
19 Macfarlane Trust because the allocation had for -- you
20 know, year on year had been below what the
21 organisation needed to maintain that historical level
22 of payment, you know, there was always a discussion
23 and, you know, probably on file lots of letters in the
24 run up to the -- sort of the allocation process
25 reminding and, you know, talking to the Department of

1 Health about why we needed more money. But that
2 wasn't a formal process, and there wasn't a formal
3 process with the Caxton foundation either.
4 And, again, in my sort of written submissions,
5 I've referred to the fact that I think it was in
6 2014/15 the Caxton Foundation wanted to introduce
7 a regular payment system for beneficiaries who were,
8 you know, on lower incomes, and we submitted
9 a business case for additional funds for that which,
10 again, weren't forthcoming. But those were -- if you
11 like, those were done on our initiative, not on the
12 Department of Health's initiative.
13 **Q.** Did you ever invite or consider inviting beneficiaries
14 or campaigners to attend any of the meetings that you
15 had with the Department of Health?
16 **A.** Not that I recall, but, again, as you are aware, we
17 had user trustees on the boards who, you know, were
18 part of that process of writing the business cases.
19 **Q.** Can you recall whether any express consideration was
20 ever given to any advantages of taking not just
21 trustees but beneficiaries or campaigners along to
22 meetings with you so that they could reinforce the
23 case for increased funding?
24 **A.** I don't recall discussions of that kind, no.
25 **Q.** Did the Caxton Foundation or the Macfarlane Trust

1 during the years that you were chief executive -- what
2 was its stance in relation to involvement in
3 campaigning activities?
4 **A.** Certainly, my understanding was that because, as
5 I said sort of a little while ago, the organisations
6 had effectively been set up by the Department of
7 Health/Secretary of State to be a channel for, you
8 know, the funding that Government wanted to disburse
9 to the people that were infected, and because the
10 Department put a cap on staffing, that the
11 organisation didn't have a campaigning role *per se*.
12 **Q.** Did you understand that to be the organisation's
13 choice or something that was actually some form of
14 external constraint or restriction that they were
15 prohibited from campaigning?
16 **A.** I think in the sort of the trust deeds for the
17 organisations, as I recall, they both contained the
18 broad range of powers that charities are given. But
19 I think the fact that there was a -- you know, the
20 Department controlled the funding and it controlled
21 the number of staff, it effectively meant that, if you
22 like, the subtext was that the funding we received was
23 to be channelled to beneficiaries, not for some of the
24 activities that you might see in an organisation
25 which, if you like, had a different foundation.

1 I mean, typically, you know, charities are set
2 up by people who, you know, have a passion and, you
3 know, a burning desire to do something about
4 a particular area. They have a strong, passionate
5 founder, and the organisation, you know, has
6 a campaigning arm to pursue that agenda. And I guess
7 the Macfarlane Trust and the Caxton Foundation just
8 weren't set up in that way. You know, that wasn't
9 their background.
10 **Q.** So is this correct: there was no legal constraint
11 preventing either Macfarlane or Caxton from
12 campaigning, as far as you were aware?
13 **A.** No.
14 **Q.** There may have been a practical resource constraint
15 because you didn't have the finances to embark upon an
16 extensive campaigning programme; is that correct?
17 **A.** Yes, essentially, and I think -- you know, there may
18 also have been -- you know, whether the Department
19 would have been prepared to fund those activities.
20 And, as I said, because of the staff cap, that kind of
21 limited what we did to activities that were there to
22 disburse those monies to people.
23 **Q.** Was there also a reluctance to, as it were, rock the
24 boat or alienate the Department of Health? Was that
25 part of the concern, as far as you can recall?

1 **A.** Not that I'm aware of, no. And, I mean, that
2 certainly wasn't -- if you like, wasn't my thing.
3 And, actually, you know, just to give an
4 example, when it came to the 2016 consultation with
5 the Department of Health published in January, if
6 those proposals had gone ahead, a significant number
7 of beneficiaries would have been significantly worse
8 off. And when we realised what those proposals
9 contained, we actually, as a -- you know, the whole of
10 the five Alliance House organisations together did
11 a joint response to the Department of Health's
12 consultation actually saying what the consequences of
13 those proposals would be. So, actually, when it came
14 to, if you like, our area of operation, when we could
15 see that something was going to have a really negative
16 impact on beneficiaries as a whole, then we weren't --
17 you know, we were prepared to say that publicly.
18 **Q.** Could the same not also be said of the -- some of the
19 Department's allocation decisions, that its refusal to
20 increase funding at various times for either
21 Macfarlane or Caxton was something capable of having
22 a highly detrimental impact upon the beneficiary and
23 dependent community? Why not campaign or be more
24 vocal or involve or invite the media to try and
25 influence decisions in that regard?

1 **A.** I mean, I can't remember what discussions there were,
2 and, ultimately, that would have been a board
3 decision.
4 **Q.** I'm going to ask you to look next at some documents
5 specific to the Macfarlane Trust, first of all
6 relating to funding, and then we will come on to
7 Caxton tomorrow. So if we could have, Soumik,
8 MACF0000045_004, please.
9 So you will see, Ms Barlow, this is the annual
10 report for the year ending 31 March 2013, so this will
11 have covered a period of time prior to your
12 appointment and then the first three months or so of
13 your appointment.
14 If we go, please, to page 3, Soumik, and we
15 zoom in on the top half of the page to start with, we
16 can see reference there to -- in the second paragraph
17 to you taking up your post. Then reference there
18 to -- in the second sentence of that second paragraph
19 to relationships you were building with beneficiaries
20 and external bodies, notably the Department of Health.
21 Can you assist, first of all, with what steps
22 you took in the first few months of your appointment
23 to build up relationships with the Department of
24 Health, as far as you can recall?
25 **A.** I can't -- this is a long time ago now. I can't

1 remember the detail, but I'm sure it would have
2 involved meetings with key officials at the start.
3 **Q.** I'm going to come back to the question of beneficiary
4 relationships in due course, but, again, by way of
5 outline, what can you recall about the early steps
6 that were taken to build relationships with
7 beneficiaries?
8 **A.** One of the things I remember from that early period is
9 that in the very early days I received a letter from
10 the beneficiary who was -- had either just become or
11 was about to become the chair of the Macfarlane
12 Partnership Group. And, yes, I know in the early
13 days, I had at least one meeting with him. But, yes,
14 so this was March, and I started at the beginning of
15 January.
16 **Q.** I'll come back to that at a later stage, in any event.
17 If we look down at the fourth paragraph, we can
18 see then reference to the financial and funding
19 position. It says:
20 "The country's experiencing a prolonged period
21 of economic recession which we are acutely aware has
22 an impact on our beneficiaries as well as the funding
23 of the Macfarlane Trust. During the year, we engaged
24 in robust negotiations with the DH and ministers
25 regarding our financial allocation for 2013/14. The

result was that we received an allocation of 2.2 million which is effectively the same as for 2012/13. On the face of it, this may not seem a progressive outcome, but given the cuts in public spending, it was the best we could expect."

Then it refers to the funding being committed first of all to regular payments, and then a small grant -- then management costs, then a small grants budget. And then if we pick it up in the next paragraph:

"Looking ahead, the board is committed to submitting to the Government a strong case for a significant increase in our allocation for 2014/15 which would enable us to support our beneficiaries adequately in the future. This will not be easy in the current economic climate, but we will work to convince the DH and ministers of the ongoing and changing needs of our beneficiary community."

To what extent, as far as you can recall, in 2013 when you started or in the first few months was the board's attitude in relation to funding, as we see set out in that first paragraph -- the first long paragraph about economics: "It was the best we could expect. This is a period of economic recession."

Was there an air of resignation about the board

about any attempt to obtain further funding?

A. No, I don't think so. And I think that's reflected in that other paragraph that you've just read out in terms of, you know, not giving up and continuing to effectively lobby the Department for additional funding.

Q. We'll look at a handful of the business cases that were submitted in relation to requests for funding, but other than through the submission of the written business case, what work was undertaken to convince the Department of Health and ministers of the ongoing and changing needs of the beneficiary community?

A. That was done through the meetings with people as well.

Q. So it would be, first of all, through the written business case in those years in which there was one; secondly, through the annual review meeting?

A. Yes, and any other *ad hoc* meetings, the details of which I can't remember at this point so many years on.

Q. And if we look at the next paragraph, it refers to the financial pressures being experienced by beneficiaries, and then refers to the winter fuel payment and a cost of living increase. And then in the last sentence of that paragraph:

"We're doing all we can to highlight with the

appropriate authorities the particular needs of our beneficiary community."

Is the reference -- I know this isn't a document you authored, Ms Barlow, but is the reference to the "appropriate authorities" in that sentence a reference to the Department of Health again?

A. I would have thought so, yes.

Q. Where it says "we are doing all we can to highlight ... the particular needs of our beneficiary community", is that through the process you described, the business case and meetings, or were there any other ways --

A. Yes. Those are the main areas, as I remember.

Q. Then I'll come on to the question of reserves -- actually, perhaps we can just look at one further passage of this report, if we go to page 7, please, Soumik. Sorry, two pages further on, my fault. Top half of the page "Reserves Policy". We see in the first paragraph, third line:

"MFT has, nevertheless, had a policy of maintaining a minimum level of reserves. This was agreed with the DH at a time when continued funding was unpredictable and irregular."

Then it refers in the next paragraph to the Trustees over time having built:

"... a portfolio of financial reserves roughly equal to one year's expenditure on recurring financial disbursements plus a provision for management costs."

Then we can see that the reserves as at 31 March 2013, or the investment portfolio, was valued at £4.267 million and it set out there:

"... the need to continue to hold such a large reserve is no longer necessary. Over the next two years, the board is therefore committed to reducing its level of reserves to in the region of £750,000, representing between three to six months of expenditure [and that] will include an exercise ... to allocate grants to fund health and mobility-related repairs and improvements to property for beneficiaries."

Had that policy of reducing the level of reserves from what we see here, in excess of 4 million, to something in the region of £750,000, had that the policy been determined before you joined the Macfarlane Trust, as far as you can recall?

A. Yes, it had. As far as I recall, it had, yes.

Q. Again, as far as you can recall, did that remain the policy over the following years?

A. I can't recall but as I'm reading this now, I mean, that would have been written, I would assume, in the

1 context of assuming that more money would be
2 forthcoming because, essentially, the position that
3 sort of, if you like, developed over the subsequent
4 years was that with the Department's, kind of, ongoing
5 refusal to give additional funds, the board decided
6 that it actually needed to, if you like, maintain the
7 reserves that it had so that it could continue to fill
8 the gap between what it needed to spend on the
9 historical pattern of payments to beneficiaries and,
10 you know, the amount that the Department of Health was
11 actually prepared to give each year.
12 **Q.** Is this correct: there was a specific programme, as
13 referred to in the last sentence of that paragraph, in
14 relation to the issuing of grants for certain
15 purposes, which came directly, as it were, out of the
16 reserves?
17 **A.** Yes, and that --
18 **Q.** Sorry.
19 **A.** No, I was just going to say that programme went ahead.
20 As I recall, it was launched in the autumn of 2013, so
21 in the next financial year. So there was still
22 a commitment because a sort of a process had been set
23 in place to run that grant programme, that that went
24 ahead and I think, if I recall, it disbursed in the
25 region of £900,000 of the reserves at that point. But

1 there was just this sense that, actually, we knew how
2 much beneficiaries relied on the regular -- in
3 particular, the regular payments that Macfarlane made
4 to them and the board was committed to trying to
5 maintain those during this period where we were still
6 trying to persuade the Department of Health to give us
7 more money.
8 **Q.** Do I understand your evidence to be, and I think we
9 see it reflected in some of the documents, that over
10 the years that immediately followed a part of the
11 Trust's reserves were used to, as it were, make up the
12 shortfall because of the decision of the Department of
13 Health not to increase the annual allocation for the
14 Macfarlane Trust?
15 **A.** Exactly. So if we'd moved quickly to reduce the level
16 of reserves to just 750,000, there was a sense that we
17 didn't know how long we were going to be expected to
18 carry on making up the shortfall ourselves and we
19 didn't want to put beneficiaries into any financial
20 difficulty. So maintaining those reserves for
21 a longer period in order to make up that shortfall was
22 important.
23 **Q.** I'm going to ask you to look next at the notes of the
24 annual review. It's for the year 2012/13 but takes
25 place in 2014. So it's MACF0000061_069. So we can

1 see it's "Macfarlane Trust Annual Review of 2012/13",
2 the date is 16 January 2014. We can see those
3 attending, so there are five officials from the
4 Department of Health and then Mr Evans as chair of the
5 Macfarlane Trust, and you as chief executive.
6 If we look at actions from last meeting I just
7 want to understand with you a sense of what the focus
8 of the meeting was. So we can see reference there to
9 Parliamentary questions.
10 **A.** Yes.
11 **Q.** Then there appears to be a discussion, this is at 2(b)
12 and (c), about issues relating to widows' payments and
13 a backdating of widows' payments. Can you recall what
14 the issue was there?
15 **A.** I don't know what 2(c) refers to. But the
16 Macfarlane Trust made regular payments to bereaved
17 partners and spouses, as well as to primary
18 beneficiaries. I can't remember when those payments
19 were introduced but when I started there was
20 effectively what we called a census exercise that had
21 been done many months prior to my starting, which had
22 not been implemented, and so I'm sure that will be
23 referring to the fact that during 2013 I actually made
24 sure that that piece of work was done, and that there
25 was a policy of back dating the payments to a certain

1 date that I now can't remember, but a couple of years
2 previously. So that will be what that refers to.
3 **Q.** Do you know what was meant in 2(b) where Mr Evans is
4 recorded as confirming that decisions regarding
5 disbursements for the Trust are to be made within
6 their allocation?
7 **A.** No, I don't know what that refers to.
8 **Q.** I can ask Mr Evans. Then we see at 2(f) it says:
9 "DH had not yet received the rationale
10 underpinning the Trust's disbursement policy."
11 Do you know what it was that the Department
12 wanted to see and why?
13 **A.** No. I mean, this all seems to relate to the payments
14 for bereaved partners and spouses.
15 **Q.** In any event, those are discussions relating to
16 actions from the last meeting. We then look at
17 paragraph 3 --
18 **SIR BRIAN LANGSTAFF:** If we are just moving there,
19 I wonder if I may just ask something about 2(b) again.
20 **MS RICHARDS:** Just go up, thank you.
21 **SIR BRIAN LANGSTAFF:** You can't remember what that was
22 about. Might it, do you think, have been about
23 something like this, that at a previous meeting it had
24 been said that various payments to widows had been
25 backdated. That plainly would involve a greater

1 expense than a payment just made in an individual
2 year, and he confirmed then, presumably to the
3 Department of Health, that "decisions regarding
4 disbursements for the Trust are to be made within
5 their allocation", in other words they weren't going
6 to dip into reserves again in order to do the same.
7 Might it be something like that?
8 **A.** It might be. As I say, there was some outstanding
9 payments to bereaved partners and spouses at the time
10 when I joined, which we had to sort out, and I think
11 because of the delay there was some backdating that
12 had to be done and I remember that the backdating,
13 I think, did go back a couple of years and I think it
14 related to if widows, bereaved partners and spouses
15 hadn't been aware of the policy that, if they could
16 demonstrate, if you like, what their financial
17 position had been in those previous years, the payment
18 for the year could be made back to the start of that
19 policy, and I do recall that I think it was later
20 during 2013 where the board made the decision that,
21 you know, if you like, that backdating deadline or
22 that backdating date wouldn't be able to continue for
23 financial reasons and that there was a sense that the
24 organisation, if you like, had picked up as many
25 people who might be due those backdated payments as it

1 good and that for financial reasons it obviously
2 couldn't continue with that open-ended obligation or
3 liability.
4 **SIR BRIAN LANGSTAFF:** So if that's right, it looks as
5 though this may indicate that Mr Evans was explaining
6 a decision to the Department of Health because he felt
7 it needed to be explained to them. Would that be
8 right or not?
9 **A.** I mean, I don't feel I can really comment on that.
10 That may be something that Mr Evans can clarify
11 himself.
12 **SIR BRIAN LANGSTAFF:** Yes, I was just wondering if it shed
13 any light upon the extent to which, indeed, the
14 Department of Health did have any say or hold over
15 allocation decisions made, on your evidence so far, by
16 the Trust. That's why I was asking. Thank you very
17 much.
18 **A.** My sense was that the Department -- certainly, when we
19 were in the process of, if you like, implementing that
20 policy, there was no Department of Health involvement
21 in that. Whether there had been discussions with them
22 before I joined which, if you like, this was -- you
23 know, these discussions were closing down, I can't now
24 recall. But, you know, as I said to one of counsel's
25 earlier questions, you know, the Department didn't

1 have any active involvement in the day-to-day
2 decisions about how money was disbursed to
3 beneficiaries.
4 **MS RICHARDS:** If we just go picking up on that and on the
5 chair's question, Ms Barlow, to 2(f) again.
6 I understand from your earlier evidence you are not
7 sure what that refers to.
8 **A.** Yes.
9 **Q.** It would seem to suggest that the Department thought
10 it was entitled to have explained to it a rationale
11 for the Trust's disbursement policies. Was that your
12 recollection that it was somehow incumbent upon the
13 Trust to justify its decisions or actions to the
14 Department?
15 **A.** No, I mean, I don't recall a sense of having to
16 justify the decisions, whether there had been some
17 discussion previously where the Macfarlane Trust had
18 said that it would provide that information, I don't
19 know, but I don't recall any sense that we were
20 obliged to do it. But, as I say, I can't remember
21 exactly what it relates to and the fact that this was
22 about actions from a previous meeting that I wasn't
23 at, because it was the previous year's meeting.
24 **Q.** If we look then in paragraph 3, so this is
25 a discussion headed "Annual report and accounts

1 2012/13", it records Mr Evans saying a lot had
2 happened, "more changes afoot", there's reference to
3 recruitment of trustees. There's then reference to
4 the financial assistance survey and to expenditure of
5 reserves. I think that alludes to what we looked at
6 a few minutes ago, the programme in 2013/14.
7 **A.** Yes.
8 **Q.** Then if we go over the page, we can see at (d) the
9 minutes record MFT, so that's either you or Mr Evans,
10 describing the ageing profile of beneficiaries and how
11 they are going to need to take a strategic look at the
12 changing profile, and then there's an action that the
13 Trust will provide DH with:
14 "... the age profile of primary beneficiaries
15 and widows, with age bands and the number of
16 individuals in each pay band."
17 Two questions arising out of that. First of
18 all, as far as you can recall, did Trust take what is
19 described there as "a strategic look at the changing
20 profile" of beneficiaries?
21 **A.** I can't recall the detail of that at this point, I'm
22 afraid.
23 **Q.** Secondly, do you know why the Department of Health
24 wanted information about the age profile, age bands
25 and number of individuals in each pay band?

1 A. No, I don't recall, but it was -- that information,
2 obviously completely anonymised, as I recall was made
3 available to the Department of Health on a
4 semi-regular because it was quite often the basis of
5 PQs.
6 Q. Then if we look at paragraph 4, this looks then at the
7 current year, so 2013 to '14. Reference to winter
8 payments, reference to a need to do more work in
9 engaging with the beneficiary community, not holding
10 weekends away. Then there's reference to the funding
11 gap; Mr Evans talking about how it is currently being
12 funded from the reserves but that the Trust was trying
13 to not to use the reserves for ongoing expenditure,
14 and then we see his estimate that there will be
15 approximately £2 million left by the end of that
16 financial year.
17 A. Yes.
18 Q. We then see -- paragraph 5 deals with future years.
19 There's an aspiration not to want to make cuts in
20 regular payments. There's reference in (b) to the
21 business case and the fact that a lack of increase in
22 funding would mean the Trust would need to cut regular
23 payments. Then there's reference to the
24 Caxton Foundation. I will come back to that.
25 So there doesn't appear to have been any kind

1 of detailed lobbying or persuasion here in this
2 meeting on the issue of an increased allocation.
3 Would you accept that?
4 A. Not that was minuted.
5 Q. Had there been, that being, obviously, a fairly
6 fundamental issue, would you expect that to have been
7 minuted?
8 A. Yes, but I think throughout these minutes, there's
9 constant reference to the financial situation and to
10 what MFT is trying to do and some of the potential
11 implications of not having increases.
12 Q. Do you know who took the minutes? Was this
13 a Department of Health or Macfarlane Trust --
14 A. The Department of Health always took the minutes of
15 the meetings.
16 Q. Then I said I was going to come back to 5(c). It
17 records Mr Evans pointing out that there was read
18 across if only one of the business cases for increased
19 funding from the Caxton Foundation and the
20 Macfarlane Trust was approved.
21 Now, there were obviously separate business
22 cases put in for Caxton and Macfarlane, but do you
23 understand what that's referring to?
24 A. I actually don't understand what that does refer to.
25 Q. There are quite a lot of references and documentation

1 to ministerial aims in relation to read across between
2 the different Alliance House organisations. Can you
3 recall what that phrase was thought to cover?
4 A. I mean, as I recall, the read across was, if you like,
5 what Caxton and Macfarlane did, being -- you know, in
6 terms of the types of financial support they offered
7 being similar. But there was, again, and I think
8 I said in my written statements, although both the
9 charities were set up by the Secretary of
10 State/Department of Health, there was no -- as far as
11 I was ever aware, there was no, if you like,
12 obligation for the two charities to do the same thing.
13 Q. Then if we just go to the next page, just for the sake
14 of completeness, there's reference to increased --
15 recent increased political interest. It's said
16 ministers are listening to concerns being expressed,
17 and then there's a reference to the Department of
18 Health liking the next accounts by August 2014.
19 Was there a process effectively of the
20 Department of Health approving the accounts?
21 A. No. The sort of charity accounts have to be approved
22 by the charity's own board. And once they've been
23 approved, they have to be -- a copy has to be sent to
24 the Charity Commission. But, no, the Department of
25 Health didn't approve the accounts, but I think the

1 figures were reflected in the Department of Health's
2 overall accounts themselves.
3 Q. I then move on to what would be the 2013/14 financial
4 year and the March 2014 annual report. So that's
5 MACF0000026_058. It should be one of the replacement
6 documents, Soumik. If we go to page 3. Could we go
7 to the bottom half of the page. So we can see here
8 a report on the financial year. The penultimate
9 paragraph:
10 "In July 2013, the board decided to commit
11 funds from its reserves."
12 So that's the one-off grant programme; the
13 figure there given £811,000.
14 A. Yes.
15 Q. Then in the last paragraph, we hear about the --
16 what's said to be the negotiations with the Department
17 of Health:
18 "The Trust had partial success in 2013
19 regarding its negotiations with the Department of
20 Health over its financial allocation for 2014/15. The
21 Trust submitted a strong case for increasing its
22 allocation from 2.2 million in 2013/14 to 3.2 million
23 for 2014/15."
24 So the Trust was asking for, effectively, an
25 increase of a million pounds:

1 "This was always presenting a major challenge,
2 given the state of the economy and general reductions
3 in public spending. The DH agreed a figure which is
4 effectively the same as the previous year. Bearing in
5 mind the reductions being made elsewhere in public
6 spending budgets, this was the best outcome we could
7 have expected in the circumstances."
8 Now, pausing there, again, it might be said
9 that there again is an element of resignation; these
10 are times of financial austerity and we're not
11 realistically going to expect anything further. Was
12 that the chair's or the board's attitude, as far as
13 you can recall?
14 **A.** I can't recall that. All I can say is that, you know,
15 as it states here, you know, a business case was
16 submitted for increasing the funding, and, again, that
17 additional funding wasn't forthcoming.
18 **Q.** So if we continue, we can see that:
19 "The board has agreed to continue supplementing
20 the annual DH allocation from the reserve funds. This
21 means that in 2014/15 we will be operating at a
22 similar level to last year. However, the level of
23 reserves funds is now reducing year on year, and we
24 are already having reluctantly to be discerning when
25 deciding which grants to fund."

1 Is it right then to understand that as saying
2 that there will be -- financial considerations will be
3 taken into account in grant allocations, in making
4 grant awards. The Trust won't be able to afford to
5 make all the grants it might have wanted to?
6 **A.** Well, that is what that says, but as I've said in
7 written statements, I don't recall any grants ever
8 being refused for financial reasons.
9 **Q.** We'll perhaps come back to that, Ms Barlow, when we
10 look at the decision-making process in relation to
11 grants.
12 Then it said:
13 "Unless the DH and Government are able to
14 increase the annual allocation to us, before long we
15 will have no alternative but to review the feasibility
16 of our current funding policies. It cannot be assumed
17 that they will increase our budget. The Trust will
18 nevertheless continue to press strongly for an
19 increase in annual funding."
20 Then if we go over the page and we look at the
21 first paragraph on the next page, it refers to an
22 increase in the level of interest and awareness from
23 national politicians, and it's said that's in no small
24 way attributable to a number of beneficiaries lobbying
25 their MPs. Then it says this:

1 "There is sometimes a misunderstanding as to
2 the responsibilities of MFT. These are confined to
3 allocating regular funding to the beneficiary
4 community and negotiating the best possible financial
5 allocation from the DH to do so. Our responsibilities
6 do not extend to lobbying for the wider interests and
7 needs of the beneficiary community, even if sometimes
8 we would like to do so. This is for others to do, and
9 the efforts of the beneficiary community which I've
10 recognised above are invaluable in that respect."
11 Now, there's the chair, Mr Evans, saying that
12 the Trust's responsibilities don't extend to lobbying.
13 It's not saying here we would love to, we can, but we
14 can't afford to because we haven't got the staff
15 resources. It's not saying we think tactically it's
16 the wrong thing to do because we think it will
17 alienate the Department of Health. He seems to be
18 saying it's just not our function.
19 Do you have any observation from your
20 perspective as chief executive at the time on that?
21 **A.** I guess only to kind of reiterate what I said earlier
22 in our conversation that there was a sense that,
23 whilst the charity was independent, things like the
24 cap on staff effectively channelled the organisation
25 into using the resources it had to disburse funds, not

1 to undertake some of the broader activities that other
2 charities engage in.
3 **Q.** If we go on to page -- I think its electronic page 9,
4 Soumik. Yes, the heading at the bottom of the
5 previous page is "Reserves Policy", but I just want to
6 ask you about the third paragraph on this page. So we
7 can see there the value of the investment portfolio as
8 at 31 March 2014, so a year on from the previous
9 report we looked at, is 3.254 million. It's said:
10 "... the need to ... hold such a large reserve
11 is no longer necessary ... the annual allocation from
12 the DH is no longer adequate to meet the level of
13 financial support the Trust believes it should provide
14 to its beneficiaries. During 2014/15 it will use
15 funds from the reserves to bridge the gap between the
16 DH allocation and its desired provision to
17 beneficiaries. The Board also recognises that it may
18 need to do so the following year should additional DH
19 funding again not be made available. However, the
20 Trust will continue to lobby the DH for additional
21 funding. The Trust ultimately aims to retain £750,000
22 as a general reserve, representing 3-6 months of
23 expenditure."
24 So it would appear a year on from what we saw
25 recorded as a policy to reduce the reserves to

1 750,000, the reserves are still very significantly
2 more than that.
3 **A.** Yes, but, as I explained in relation to the last set
4 of accounts, that's -- you know, the statement about
5 the 750 was, I think, based on the organisation
6 getting the money it needed to operate each year and
7 so you'll actually see a shift in the wording from the
8 previous year where these accounts say the Trust
9 ultimately aims to retain 750,000 as a general
10 reserve, whereas -- that's kind of a shift which
11 reflects the fact that, actually, up until the point
12 when the Department is prepared to give the Trust the
13 funding it needs to operate, the organisation
14 acknowledges that it needs to use its reserves to
15 bridge that gap in order to protect the payments to
16 beneficiaries.
17 **Q.** Was there, do you think, something of a chicken and
18 egg situation with the Trust wanting to hold onto
19 reserves because of uncertainty about funding but the
20 Department thinking it didn't need to give you any
21 more because you had the reserves?
22 **A.** Yes, as I've said in my written statements, I don't
23 recall any discussion with the Department where they
24 ever said "If you reduce your reserves down to
25 a particular level, at that point we will give you

1 additional funding" and, you know, charity trustees
2 have a duty of care to their beneficiaries and a duty
3 to act in a financially prudent way and to just, if
4 you like, try and go from where we were at that point
5 down to 750,000 when we knew there was a financial
6 gap, you know, that might have been regarded as quite
7 irresponsible because the consequence would have been
8 that we would have had to reduce payments to
9 beneficiaries and, as I said, the bulk of payments
10 were via -- through the mechanism of regular payments,
11 which we knew people relied on for things like paying
12 their rent and their mortgage.
13 So to put people in a situation where they
14 might -- you know, they might not have had the
15 resources to pay those bills, you know, that would
16 probably have been regarded as financially imprudent.
17 But, as you say, you know, one could argue whether
18 that had a bearing on it but I think, as I say, you
19 know, I don't recall any direct discussions with the
20 Department about that and I guess only they could
21 answer questions as to whether that's what their
22 thinking was.
23 **Q.** You said you don't recall the Department saying
24 anything in terms along those lines. Was there ever
25 anything, as far as you can recall, hinted at or

1 suggested by the Department that the reserves were
2 a factor in their decision-making process?
3 **A.** No, I don't recall that.
4 **Q.** Do you recall whether you or Mr Evans ever raised
5 directly yourselves, of your own initiative, with the
6 Department the issue of the reserves and whether that
7 was influencing the Department's thinking?
8 **A.** I can't recall at this point, I'm afraid.
9 **MS RICHARDS:** Sir, I note the time. I think the plan is
10 to take a shorter break this afternoon due to the late
11 start, if that's convenient to you and Ms Barlow?
12 **SIR BRIAN LANGSTAFF:** Yes, I'm sure that those at home and
13 Ms Barlow would welcome time at least for a cup of
14 tea, say 20 minutes. Would that be long enough,
15 Ms Barlow?
16 **A.** That's fine for me.
17 **SIR BRIAN LANGSTAFF:** So 20 minutes. We'll be back then
18 at 20 to 4.
19 **MS RICHARDS:** And the usual warning for Ms Barlow.
20 **SIR BRIAN LANGSTAFF:** Yes. Now, I don't know if you have
21 heard me say this before, if you have been watching at
22 all any of our earlier proceedings, but at every break
23 I tell those people who are giving evidence that the
24 rule is that they cannot discuss the evidence they
25 have given or any of the evidence which they think

1 they may yet be asked to give with anyone, whoever
2 that anyone is. Anything else, fine, but not your
3 evidence. That will apply at every single break.
4 **A.** Okay.
5 **MS RICHARDS:** Thank you, sir.
6 **(3.22 pm)**
7 **(A short break)**
8 **(3.39 pm)**
9 **SIR BRIAN LANGSTAFF:** May I just ask one question before
10 we start. Just going back to the question of the
11 reserves and the annual expenditure, the annual
12 income. As I understand it, the policy of the
13 trustees was to reduce the reserves to three-quarters
14 of a million; is that right?
15 **A.** That was the policy that was set out, I think it was
16 the 2012/13 accounts that we were looking at, and that
17 was, as I understand it, done in the context of the
18 Department of Health funding the Macfarlane Trust to
19 the extent that it needed every year and, as I said
20 before the break, when you look at the '13/14 accounts
21 what you will see is that there's a subtle shift, that
22 aspirationally the trustees would still have liked to
23 reduce the reserves to 750,000, but it was aware that
24 all the time the Department wasn't forthcoming with
25 additional funding that the Trust was having to make

1 up that gap and it needed to do that in order to
2 protect the payments that the beneficiaries had been
3 receiving for a number of years which, if they hadn't
4 continued to receive, could have left people in
5 financial difficulties. So, ultimately --
6 **SIR BRIAN LANGSTAFF:** Sorry.
7 **A.** No, so ultimately, the aspiration was to get down to
8 750,000 but it didn't want to do it, if you like, by
9 just going from whatever that figure was, 2.8 million,
10 to 750 in one fell swoop because it recognised that it
11 needed to continue to bolster the allocation that the
12 Department of Health was giving it.
13 **SIR BRIAN LANGSTAFF:** I'm just looking, really, at the
14 logic of expressing it in the way in which it was
15 expressed. What you're describing is really setting
16 a different reserve which is higher because of the
17 uncertainties. After all, the whole point of
18 a reserve is to cope with uncertainties as and when
19 they may arise, is it not?
20 **A.** It is but I think --
21 **SIR BRIAN LANGSTAFF:** What you have told me is the
22 reserves looked -- the uncertainties looked a bit
23 greater and so the proper answer, I might have
24 thought, but I welcome your comments on this, is to
25 increase the reserve to a level at which the trustees

1 are satisfied it copes with the uncertainty, as far as
2 a reserve reasonably can, rather than simply leave it
3 as an aspiration which is, on this approach, not going
4 to be fulfilled.
5 **A.** I'm not sure that the organisation would have
6 considered increasing the reserve and the -- as you
7 may be aware, sir, the Caxton Foundation, when it was
8 established, was not allowed to build up reserves and
9 the reason the Macfarlane Trust had done so was
10 because, as I understand it, in the early years, the
11 Trust was given, if you like, large amounts of money
12 which were meant to last over an indefinite period of
13 time, a non-specified period of time, and when that
14 money was getting to the point where maybe it looked
15 like it was running out, then the Department would
16 come with another big injection. Over the years, that
17 moved to this position where there was an annual
18 allocation and, on that basis, the Macfarlane Trust,
19 as I understood it, had been able to build up some
20 kind of reserve. But those reserves had been built up
21 through funds that the Department of Health had given
22 it and so, given that the Department of Health was the
23 sole funder and the Trust was getting less from the
24 Department that it needed each year, it wasn't in
25 a position to increase the reserve.

1 **SIR BRIAN LANGSTAFF:** Well, of course it was in a position
2 to increase the reserve because the reserve is a level
3 beyond which you're not going to drop? It's
4 a floor -- if you like, it's a plimsoll line --
5 **A.** I understand what you mean. So you mean the actual --
6 the level of reserves it wanted to get to, as opposed
7 to the amount of money it actually had in the bank, if
8 you like?
9 **SIR BRIAN LANGSTAFF:** Obviously, a reserve may be dipped
10 into from time to time. That's what it's there for
11 but it's effectively the plimsoll line, if I can call
12 it that, below which you don't want to sink.
13 **A.** No, but my understanding, sir, is that the 2013/14
14 accounts do reflect the fact that the Trust
15 acknowledged that it needed to keep that level higher.
16 That's effectively what the reserve statement in the
17 2013/14 account says, because the last line says that,
18 ideally, it would like to get to a position of 750,000
19 but the text that goes before that recognises that
20 that is some way down the line.
21 **SIR BRIAN LANGSTAFF:** The difference in approach, looking
22 at it in the way I've just been looking at it, in
23 a way which seemed to me to perhaps be logical, the
24 difference would be to find a figure, another figure,
25 at which to set reserves, albeit higher, to account

1 for the additional uncertainties. But do I understand
2 your evidence that the aspiration remained at
3 three-quarters of a million and no other figure was
4 substituted for the reserve?
5 **A.** I would need to, sir, look at the wording again of
6 that, of what it said in those accounts.
7 **SIR BRIAN LANGSTAFF:** Well, I'll leave it there for the
8 moment and I may come back to it or counsel may come
9 back to it in due course.
10 **MS RICHARDS:** I'm going to look with Ms Barlow at the
11 annual reports for 2015 and 2016 before the end of the
12 day, so we can see there if the wording changed at
13 all.
14 Could we go next, please, Soumik, to
15 MACF0000022_013. This is a report from you to the
16 trustees referring to the annual review meeting with
17 the Department of Health. We'll look at the minutes
18 of the annual review meeting in a moment but we can
19 see that you there set out:
20 "In addition to discussing the annual accounts
21 for the year ended 31 March 2014, we also discussed
22 funding for the coming year 2015/16. DH stressed that
23 the fiscal climate was very tough and intimated that
24 our funding may be cut for next year. They advised
25 that they wouldn't be recommending a budget cut, but

1 couldn't guarantee that it wouldn't happen. We
2 therefore need to be prepared for the prospect of
3 a reduced allocation. They also advised that it was
4 likely to be the end of this financial year before
5 next year's allocation was confirmed."
6 Is it right to understand that the Department
7 was, as it were, as you understood it, holding the
8 threat or possibility of a cut over the Trust's head
9 at this point?
10 **A.** I wouldn't have said that it was a threat but my
11 understanding was that the allocation for the
12 Alliance House organisations was, sort of, all part of
13 the overall Department of Health, if you like,
14 settlement and they -- as I recall, they were
15 reflecting that that's what the situation was.
16 I don't recall it as being a threat, as such.
17 **Q.** I think you may have anticipated what my next question
18 was by what you just said. Was it your understanding
19 that the Macfarlane Trust and, indeed, the Caxton
20 Foundation was, as it were, competing against all the
21 Department's other calls on its resources, including
22 the general National Health Service budget?
23 **A.** Yes. I mean, to be honest, I don't know exactly what
24 line of funding this came across but, you know,
25 I think there were always discussions about it being

1 part of, you know, a bigger treasury settlement, if
2 you like.
3 **Q.** There's also reference in that last sentence of the
4 first paragraph to it being:
5 "... likely to be the end of [the] financial
6 year before next year's allocation was confirmed".
7 Did delays or lapse of time in being told what
8 the next year's allocation was going to be, did that
9 cause practical problems in terms of budgeting and
10 expenditure decisions for the Trust?
11 **A.** As I recall, the announcement about the subsequent
12 year's allocation kind of got later and later during,
13 sort of, my tenure, if you like, and so we tended, as
14 I recall, to produce a draft budget but we kind of
15 would continue paying people the same level as the
16 year before, if we went past 1 April without having
17 that information, and then we'd make adjustments
18 including, sort of, back paying any, sort of, uplift
19 once we knew what the situation was.
20 Clearly, it's most helpful to know these things
21 in advance of a new financial year starting but we
22 managed -- I think it was more of an internal problem
23 than one that beneficiaries experienced.
24 **Q.** Your statement does indeed refer to in some years the
25 notification of the annual allocation coming late and

1 payments having to be backdated. Was that true for
2 the Caxton Foundation as well as the Macfarlane Trust?
3 **A.** It was and it was also true for the MFET and
4 Skipton Fund, as well.
5 **Q.** As far as you can recall, did you, either for the
6 Macfarlane or the Caxton Foundation, ever request or
7 suggest to the board that they should make in-year
8 applications to the Department of Health, so for
9 funding outside of the annual funding bid?
10 **A.** Sorry, could you repeat the question?
11 **Q.** Sorry, it was a slightly convoluted question. We're
12 looking here at a pattern of an annual business case
13 roughly, and annual meetings, and an annual
14 allocation --
15 **A.** Yes.
16 **Q.** -- did you and the board of either the
17 Macfarlane Trust or the Caxton Foundation ever
18 consider making or actually make applications outside
19 of that annual process?
20 **A.** I mean, I think to the extent that, sort of, the
21 underfunding the Macfarlane Trust was always a topic
22 of conversation whenever it was in the year that we
23 met, I think you could argue that that was ongoing
24 anyway. I think, as I recall, with the
25 Caxton Foundation and the application for more funds

1 for the regular payment scheme, I can't remember
2 exactly the timing of this and I may be wrong but my
3 recollection is that that was done, sort of, outside
4 of that cycle.
5 **Q.** We can check that.
6 **A.** Yes, I may have misremembered that.
7 **Q.** We'll look at some --
8 **A.** But, ultimately, you know, the funding cycle was the
9 cycle of an annual allocation from 1 April to 31 March
10 each year.
11 **Q.** Just to say, for the benefit of those listening, we'll
12 look at some of the Caxton funding decisions tomorrow.
13 If we then look at the annual review meeting
14 that's referred to in this memo -- Soumik, it's at
15 MACF0000061_057 -- we can see these are the notes of
16 the "Macfarlane Trust Annual Review of 2013/14" held
17 on 12 December 2014. We can see, again, there's
18 a number of Department of Health officials and then
19 you and Mr Evans. There's some reference to actions
20 carried over from the last meeting, and then if we go
21 to paragraph 3 there's a discussion about trusteeship,
22 staff changes, website and newsletter.
23 So is it right to understand that these annual
24 review meetings, in part, involved you or Mr Evans
25 giving a general update to the Department on the

1 running of the Trust?
2 A. Yes.
3 Q. Then we can see at 3(e) there's reference to the
4 reserves programme, the one-off grant programme for
5 home improvements and so on. And then if we go to the
6 next page, if we go to the section 4 headed "Current
7 and future years" and pick it up at (b), we see:
8 "AW [that's Ailsa Wight, the chair of the
9 meeting from the Department of Health] set out how the
10 fiscal environment remains incredibly tight,
11 especially in Central Government departments. DH
12 budgets are not yet confirmed for 2015/16. MFT should
13 plan for different eventualities."
14 Then we see Mr Evans recording that if the
15 allocation's not increased by the following year,
16 2016/17, funds held in reserve will run out. In
17 2017/18, he refers to the probability of having to
18 reduce monthly payments unless the annual allocation
19 is increased. Then it says this:
20 "DH has encouraged the Trust in previous
21 meetings to spend its reserve, and the only way of
22 doing so for the Trust (within its objects) is through
23 payments to beneficiaries. The Trust is keen to work
24 with DH on this issue. If the allocation is to be
25 reduced, they expect to meet with the minister."

1 So just pausing there. It sounds from that as
2 though not necessarily -- well, it may or may not have
3 been meetings attended by you, but it sounds as though
4 there had been positive views being voiced by the
5 Department of Health that the Trust should be spending
6 its reserves.
7 Can you recall anything further about those
8 discussions?
9 A. No, I can't actually. No. That's kind of -- that's
10 sort of surprises me a bit. I don't remember that.
11 Q. Then at (d) we have:
12 "JB [so presumably you] pointed out that if the
13 Trust's allocation is cut, it would only increase
14 problems and complaints for the Trust."
15 What was the purpose in bringing that to the
16 Department's attention, do you think?
17 A. I think it was just part of trying to give them the
18 picture of what the consequences would be if the Trust
19 allocation was cut and we had to continue, if you
20 like, draining down the reserves.
21 But that's all part of that picture of -- you
22 know, at that time, the objective was to try and
23 maintain the level of payments that we were making to
24 beneficiaries so they didn't experience financial
25 hardship.

1 Q. Then we see at (e):
2 "AW reassured that DH was listening to the
3 Trust's representations. Ministers are currently
4 thinking very carefully about the whole policy area,
5 and it is both a political and financial issue."
6 Were you given, as far as you can recall, any
7 insight at this stage to what the political interest
8 or issues were from the Department or Government's
9 perspective?
10 A. Sorry, could you remind me the date of this meeting?
11 Q. This is December 2014.
12 A. Okay. No, not specifically. I mean, all I can say is
13 that it was -- I think it was in January 2015 that the
14 APPPG did their report.
15 Q. If we then look at what the business case had been for
16 2014/15. Soumik, that's MACF0000062_007, please. We
17 can see this entitled "Business case for increased
18 funding for the Macfarlane Trust for 2014/15". Would
19 this have been a document put together by you, as far
20 as you can recall?
21 A. Probably with input from the board.
22 Q. Again, as far as you can recall, was this the kind of
23 case that was submitted annually to the Department?
24 A. I think it took different forms in different years,
25 but it was always -- I think it was always done in

1 writing as well as raised through the meetings.
2 Q. This document's got a date at the bottom,
3 November 2013. Can you recall anything about what the
4 timing and sequence of events usually was, in terms of
5 the bid for an annual allocation?
6 The annual review meeting seemed to have taken
7 place around the end of a calendar year or the
8 beginning of a next calendar year. Can you recall how
9 it all fitted together?
10 A. Well, as I said before, the announcement about the
11 annual allocation -- I mean, the allocation ran from
12 1 April each year, so it would have been at some in
13 some way in the run-up to that process.
14 Q. So if we just look at this, and this is just a sample.
15 I'm not going to ask you to look at all the bids that
16 were submitted. But we can see if we look in the
17 second paragraph under the heading "1. Background",
18 the paragraph beginning -- sorry, if we go up, Soumik.
19 Thanks.
20 So the second paragraph on the screen,
21 Ms Barlow:
22 "An organisation which was originally only
23 intended to be short lived therefore continues to have
24 a responsibility to support people whose needs have
25 changed and arguably become more complex as years have

1 passed."
2 Then there's reference to dependants, including
3 those who are infected with HIV themselves, widows and
4 children. Reference to the MFET. And then:
5 "The current level of annual funding from the
6 Department of Health has now reached a level which is
7 inadequate for the needs of the MFT's beneficiary
8 community."
9 Then we can see -- the next section sets out
10 what's said to be a number of financial challenges.
11 Again, I'm not going to look through all of it, but if
12 we go to look at the penultimate paragraph on that
13 page which refers to the Caxton Foundation, we can see
14 it says:
15 "When the Caxton Foundation was introduced and
16 MFT's trust deed was amended to reflect its provision
17 of support to those co-infected with hepatitis C, no
18 additional funding was made available to MFT in
19 support of this. MFT's policy to date when
20 calculating household income for the purpose of
21 discretionary top-up payments has been to include
22 Skipton stage 2 regular payments as part of household
23 income. This is deeply unpopular with and resented by
24 those who are co-infected. They feel that not only
25 are they excluded from seeking support from the

1 Caxton Foundation, they're then penalised by MFT in
2 financial terms for their hepatitis C having
3 progressed to stage 2. MFT sympathises with this
4 view and would like to be able to afford to change its
5 policy."
6 Now, can you recall any response from the
7 Department of Health or any engagement by the
8 Department of Health with the particular issue that
9 you are there making in this business case?
10 **A.** I'm afraid I can't remember.
11 **Q.** We'll look at a handful of other points, but it's
12 a document that makes a number of specific points such
13 as the one there.
14 Did the Department of Health ever respond in
15 writing, as far as you can recall, to the actual
16 issues that the Trust was raising?
17 **A.** I'm really sorry. You dropped out at the beginning of
18 your question.
19 **Q.** I'm so sorry. In this document, you make a number of
20 detailed points --
21 **A.** Yes.
22 **Q.** -- such as the one we've just looked at. As far as
23 you can recall, was it the Department's practice to
24 engage with the specific points that were being
25 advanced, or simply to say: this is the amount of

1 money we're going to give you?
2 **A.** As I recall, it was the latter. It was just to -- you
3 know, we -- I mean, a document like this goes into
4 quite a lot of detail, and then we would just be told,
5 well, for whatever reason, the allocation's not being
6 increased.
7 **Q.** If we go over to the second page, please, we can see
8 the second paragraph on this page refers to the
9 individual grant-giving aspect of the Trust's
10 financial assistance, and it says this:
11 "The budget for this aspect of MFT support to
12 beneficiaries is inadequate for the level of demand,
13 and in 2012/13 and to date in 2013/14, the MFT grants
14 committee has only been able to meet a relatively
15 small proportion of requests. In 2012/13, in
16 financial terms, only 21 per cent of grant
17 applications were funded -- £127,262 funded against
18 requests totalling £614,158. In the current financial
19 year to the end of September 2013, the percentage is
20 even lower."
21 So just pausing there. It would seem as though
22 the Trust's level of financial resources was
23 inhibiting it in making grants available to
24 beneficiaries who applied. Is that how we should
25 understand this?

1 **A.** I mean, that's how it reads to me, but I don't recall
2 that.
3 **Q.** Then there's a reference to beneficiaries being given
4 the option of taking out a loan but many people simply
5 can't afford to do this. And then just the last
6 sentence:
7 "The absence of an adequate grants budget is
8 a significant cause of dissatisfaction amongst the
9 beneficiary community."
10 Again, can you recall that being a subject of
11 discussion or debate with the Department of Health?
12 Did they ask you about the impact of that on your
13 beneficiaries?
14 **A.** I'm afraid I can't recall the detail.
15 **Q.** If we go to the third page, we look at the second half
16 of the page, we can see it says:
17 "We believe now is the time to stabilise MFT's
18 financial situation in the context of annual funding
19 rounds."
20 Then we can see the increase there being
21 requested of a million to:
22 "... cover the ongoing deficit to enable MFT to
23 continue to support its beneficiaries at existing
24 levels and to enable the Skipton stage 2 payments to
25 be excluded from household income calculations."

1 And then it refers to a proposal to release
2 £400,000 from reserves each year for three years to
3 run a grants programme with a view to then being left
4 with only a small general reserve.
5 Was that something that the Trust ever did, or
6 was it unable to do so on the basis of its thinking
7 because it was having to make up the shortfall?
8 **A.** Yes. No, I mean, all of these things here are
9 conditional upon that increase in funding which wasn't
10 forthcoming.
11 **Q.** Can we then look at the annual report for the year
12 ending March 2015. Soumik, that's MACF0000045_002.
13 We can see it's the annual financial report, year
14 ending 31 March 2015. If we go to the third page and
15 we look at the bottom half of the page, we see --
16 picking it up in the second paragraph on the screen:
17 "The MFT board submitted to the Department of
18 Health in late 2013 a robust case in support of a
19 substantial increase in its allocation for 2014/15."
20 That, I think, is the document that we were
21 just looking at, Ms Barlow:
22 "This was done in the climate of economic
23 austerity, and, unfortunately, the Government could
24 not agree to increase the allocation. Nevertheless,
25 it was agreed that the allocation, which is £2.2

1 million, should be the same as for the previous year.
2 This coincides with a reduction in funding for many
3 other Government funded work, and this is of some
4 consolation. As explained below, the MFT board
5 decided in April 2014 to continue with the policy of
6 supporting the Government allocation from funds held
7 in reserve. This means we continued with the regular
8 payments at the same level as for 2013/14 but with a
9 cost of living increase of 2.7 per cent."
10 Just to understand that. The business case
11 that you had submitted was rejected. There wasn't a
12 cut.
13 **A.** No.
14 **Q.** Again, there's perhaps an attempt to put a positive
15 spin on this, on the basis that there was no cut, but
16 the Trust had decided to continue to use the reserves.
17 So it wasn't able to make any of the changes the
18 business case articulated, but it was dipping into the
19 reserves or reducing the reserves further to continue
20 to make the payments; is that right?
21 **A.** Yes.
22 **Q.** And then if we look at page 11, Soumik, this again is
23 in relation to the reserves policy. And we look at
24 the third paragraph on that page, we can see now, as
25 at 31 March 2015, the investment portfolio is just

1 under £2 million, so £1.964 million. And then I think
2 we see the same wording as from the previous year's
3 annual report: no longer need such a large reserve;
4 annual allocation is not adequate; it [the Trust] has
5 used funds from the reserves to bridge the gap; might
6 need to do so the following year; will continue to
7 lobby the Department of Health for additional funding;
8 the Trust ultimately aims to retain £750,000 as
9 a general reserve representing three to six months of
10 expenditure.
11 Do we understand that to be effectively
12 a continuation of the policy that you described when
13 we looked at the previous year's report?
14 **A.** Yes. I think if you compared the wording, they'd
15 probably be pretty similar, apart from the sort of
16 changes to numbers and years.
17 **Q.** Then if we go to MACF0000061_053, please. So there,
18 the next annual review. It has taken place a little
19 earlier in the calendar year, 16 October 2015, and
20 again we can see, again, the number of attendees from
21 the Department of Health, and you and Mr Evans
22 attending from the Macfarlane Trust. If we go to the
23 bottom half of the page, please, Soumik, we can see at
24 paragraph 3 the presentation of the accounts and then,
25 under the heading, "Reserves":

1 "Leaving £750k in the reserve, there is enough
2 to supplement the allocation at current disbursement
3 rates until March 2017."
4 If we go over the page, we can see this is
5 still on the subject of reserves, top of the page:
6 "The Charity Commission doesn't set a figure or
7 way of calculating an appropriate reserve, but they do
8 focus on charities making suitable provision for
9 something happening ... £750K is one quarter of spend
10 by the Trust. If there's no increase in the DH
11 allocation after March 2017 ... payments to
12 beneficiaries will need to be reduced. The Trust
13 wrote to Jane Ellison on 9 September to alert her to
14 the financial situation of the Trust."
15 Can you recall anything further from this
16 annual review meeting about the Department of Health's
17 response to the position on reserves?
18 **A.** No, I'm afraid I can't recall at this stage.
19 **Q.** We then see reference set out to what the payments to
20 beneficiaries are. There's a reference to types of
21 one-off grants and then, if we see "Current year" it's
22 just reference to running to budget and then some
23 updates.
24 There doesn't appear to be anything here which
25 might count as lobbying for increased funding or

1 presenting a robust case or spelling out appalling
2 consequences if there isn't increased funding. Would
3 you accept that?
4 **A.** Looking through these, I can't see anything that's
5 minuted.
6 **Q.** Do you recall the annual review meetings being
7 an opportunity to lobby for increased funding or were
8 they rather more mundane?
9 **A.** No, I think we talked about the need for increased
10 funding at every annual review meeting I attended, as
11 I recall, but I can't remember the detail of the
12 discussion, I'm afraid, at this stage in the future,
13 you know, this point in the future distance from those
14 meetings.
15 **Q.** If we look at the very last item "Forward look":
16 "The Trust would welcome a meeting with the
17 Minister.
18 "Given the current position with the Board, it
19 is an opportune time to consider governance
20 arrangements."
21 Do you know what that's a reference to?
22 **A.** No.
23 **SIR BRIAN LANGSTAFF:** Is it a reference, perhaps, if you
24 go back to the very beginning of the document, the
25 first page, Soumik, if we can, there's a note there in

1 handwriting. Does that help at all?
2 **A.** No, because that note has been made, sort of, quite
3 a long time subsequently because these minutes or
4 these notes are from October '15.
5 **SIR BRIAN LANGSTAFF:** Yes, I see.
6 **A.** That refers to the fact that Roger Evans, the Chairman
7 of Macfarlane, stepped down, sort of, eight months
8 later. So I'm afraid I don't know what that reference
9 to looking at governance arrangements refers to.
10 **SIR BRIAN LANGSTAFF:** It's the second bullet point "can't
11 appoint when no future". When did that become
12 apparent?
13 **A.** Again, that would have been -- those handwritten notes
14 were obviously taken many, many months after this
15 meeting was held but in terms of, if you like, the
16 future of the Alliance House organisations, I think
17 that became -- the fact that there were going to be
18 significant changes, I think they came in the
19 spring/summer of 2016, which was after the Department
20 of Health consultation and after the Department had
21 announced what it intended to do as a result of that
22 consultation.
23 **SIR BRIAN LANGSTAFF:** I think if you look at paragraph 2,
24 the first part of that might suggest that there was
25 some sense that, at any rate, there may be a doubt

1 over the future of the schemes.
2 **A.** Yes. I think also if we go back -- sorry, what was
3 the date of this meeting? October '15.
4 **SIR BRIAN LANGSTAFF:** This is the annual review of 2015.
5 **A.** Yes. The APPG report that was done in, I think,
6 January 2015, one of the issues that came out of that
7 was whether there was a need for five Alliance House
8 organisations and whether there could be some kind of
9 consolidation of those. So I think even from, if you
10 like, the beginning of 2015 there started to be some
11 uncertainty as to what structurally the Department of
12 Health wanted to do with the organisations.
13 **SIR BRIAN LANGSTAFF:** But you still -- or you think that
14 the reference to governance is nothing to do with that
15 uncertainty?
16 **A.** It may actually well be. Now I can see what all the
17 timing is it's possible that it's to do with the fact
18 that the Department had already started to make
19 announcements about whether, you know -- I think at
20 the actual time of this meeting, if that was in
21 October 2015, that was obviously before the Department
22 of Health consultation document the following year.
23 So there was nothing explicit about what then
24 ultimately happened but, as I say, I remember in the
25 APPG report there was some reference to whether there

1 should be as many Alliance House organisations.
2 **SIR BRIAN LANGSTAFF:** Yes, thank you.
3 **MS RICHARDS:** Then the final annual report I want to ask
4 you about is the 2016 one. That's MACF0000045_001.
5 If we go to page 3, and we look at the fourth
6 paragraph, we can see it says this:
7 "In the run up to the start of the new
8 financial year, the MFT board continued to press the
9 Department ... for an increase to its annual financial
10 allocation. However, additional funds for 2015/16
11 were not forthcoming and the allocation remained
12 frozen at £2.2 million ..."
13 Just pausing there, is this correct, that that
14 was the annual allocation for every year when you were
15 a chief executive, from when you arrived until the
16 point at which we have reached here, which is 2016?
17 **A.** Sorry, again, you kind of dropped out in the middle of
18 your question. I'm really sorry, there's an echoing
19 going on --
20 **Q.** That's all right, it's not your fault. Is it right to
21 understand that in all the years up until this point,
22 which is 2016, in which you'd been chief executive,
23 the allocation was always 2.2 million?
24 **A.** Yes, as I recall.
25 **Q.** So there was no increase at any stage?

1 A. Sorry, there was no increase, did you ask?
2 Q. I did.
3 A. Yeah. No, there was no increase but also, as the
4 reports have said, there was no decrease either at
5 a time when lots of budgets were being cut.
6 Q. Then the sentence we were looking at continues:
7 "... in spite of clear evidence that this was
8 insufficient to meet the needs of beneficiaries."
9 Now, in terms of the evidence that the Trust
10 supplied to the Department in support of its bid for
11 more funds, that would be the business case, would it?
12 A. I can't remember whether or what additional
13 documentation was produced for this, the sort of
14 allocation round that we're talking about now.
15 Essentially, the arguments were the same across
16 a number of years, that the funding -- you know, there
17 was a gap -- the funding that we received wasn't
18 enough even to meet, kind of, if you like, historical
19 need, let alone to actually increase funding in areas.
20 So, as I say, the kind of the core arguments were the
21 same but I don't know whether -- I'm sure there would
22 have been a subsequent document to that business case
23 that I think you said was dated November '13.
24 Q. Yes. My question was really: was the mechanism by
25 which you provided evidence to the Department of

1 Health generally in the form of a business case? I'm
2 sure you're right that there was a subsequent one,
3 but --
4 A. Yes, some kind of written document, yes.
5 Q. Then, if we go to page 12, just to complete the
6 picture in relation to reserves, if we look at the
7 third paragraph, we can see as at 31 March 2016 the
8 investment portfolio is just over 1.6 million. Then
9 I think we see largely the same observations as we saw
10 in the previous annual report, using funds from the
11 reserves, continuing to lobby for additional funding
12 but now doing so against the backdrop of proposed
13 changes to the system, ultimately aiming to retain
14 £750,000 as a general reserve.
15 A. Yes.
16 Q. So no change in the Trust's change to reserves?
17 A. No, that kind of reflects what had been said in
18 previous years.
19 Q. Then if we can look at a document now -- so that was
20 March -- I think the document itself is approved by
21 the trustees July 2016. If we just move to 2017 to
22 one further document, it's MACF0000027_088, please,
23 Soumik.
24 So we can see these are the confidential parts
25 of minutes of the Trust Board's meeting on

1 30 January 2017. If we go to the second page and we
2 look at the bottom of that page, we can see in the
3 last paragraph you report there your attendance at the
4 annual Macfarlane Trust review meeting with the
5 Department on 16 January 2017, and it would appear
6 that you are told there that the Alliance House
7 entities will continue to operate for at least part of
8 the year 2017/18, although contradictory messages as
9 to the length of time.
10 Then if we look at the next page, we can see
11 here a discussion about reserves:
12 "JB and AM ..."
13 That is presumably Mr Murray, who was now
14 chair of the Macfarlane Trust, yes?
15 A. Correct.
16 Q. "... had been advised that MFT would be given
17 allocations on a quarterly basis for 2017/18."
18 That presumably reflects the uncertainty over
19 how long the Alliance House organisations, including
20 the Macfarlane Trust, were going to continue to
21 operate in their current form --
22 A. Yes.
23 Q. -- or at all. Then it says:
24 "AM reported that Ailsa Wight made it very
25 clear that DH intended to reduce MFT's allocation as

1 a way of forcing it to use up reserves. This was
2 concerning as she clearly did not understand the
3 current level of reserves that MFT held, in spite of
4 JB attempting to clarify the figures with her. She
5 had also not remembered that MFT had been implementing
6 a planned reduction of reserves in recent years. The
7 board was concerned at the prospect of DH reducing the
8 allocation or withholding the funds entirely in
9 2017/18, particularly given the uncertainty as to how
10 long the organisation would continue to operate. The
11 timetable for introducing a new scheme administrator
12 had already changed significantly since the summer of
13 2016, and was likely to continue to do so given the
14 legal challenges DH was facing. The board discussed
15 the existing reserves policy and felt it continued to
16 be appropriate. The board was determined not to be
17 put in a position where there was a 'cliff edge' if
18 available funding were to be dramatically reduced."
19 So it would appear from this, Ms Barlow, that
20 here or by this time the Department of Health is
21 overtly saying "You must use up reserves and the
22 allocation will be reduced, effectively, if you
23 don't"; is that something that you recall?
24 A. I don't recall the detail but, essentially -- I mean,
25 it is, sort of, ringing some bells now but,

1 essentially, I think the Department felt that because,
2 if you like, the changes which subsequently became,
3 you know, the move or the transfer to NHS Business
4 Services Authority, because there were changes on the
5 way, they felt that -- DH felt that it didn't need to
6 give Macfarlane Trust any or as much money because,
7 effectively, the organisation was winding down.
8 But I think what this note reflects is the fact
9 that during that period -- I mean, essentially, ever
10 since the APPG report in January 2015, there had been
11 a sense that things were going to change. That became
12 even stronger after the consultation by the DH in
13 January 2016, but I kind of set out in my written
14 statement, the picture changed constantly, really,
15 from the, sort of, if you like, spring of 2016 until
16 the transfer eventually happened in November 2017. As
17 it says here, the board didn't want to be in
18 a position where it was being forced to run down its
19 reserves so that, you know, if you like, if the
20 timetable kept changing and being pushed further and
21 further into the future, there was a situation where
22 Macfarlane couldn't continue to support its
23 beneficiaries.
24 **Q.** One final document on the issue of Department of
25 Health meetings. If we could have, Soumik,

1 DHSC0046884_026, please.
2 If we go to -- I think it's the end of the
3 document, Soumik, perhaps the next page. Yes, if we
4 look at the other very bottom of the page, this is in
5 the context of a meeting to consider the process in
6 relation to alternative schemes, and at the very
7 bottom of the page, under the heading "Information
8 sharing", it records this:
9 "Jan [that's you] has expressed her concerns
10 about the DH sharing information with her and telling
11 her not to discuss with her staff or Board members.
12 She feels compromised and implicated. Would like DH
13 to formally write to her with details of procurement."
14 Can you recall what the issue was that's
15 reflected in that note? What were you being told that
16 you weren't allowed to share with others?
17 **A.** Well, from these notes it looks as though it was about
18 the procurement.
19 **Q.** Do you have any independent recollection of it?
20 **A.** Sorry?
21 **Q.** Do you have any independent recollection of your
22 concerns?
23 **A.** I mean, I remember feeling uncomfortable that, you
24 know, sometimes DH would, if you like, air their views
25 about what the latest -- their latest thinking was and

1 that was fine but, you know, I reported to --
2 respectively to my boards, and I didn't think it was
3 fair for me to know that and for them not to know.
4 I mean, that put me in a position I did not want to be
5 in.
6 **Q.** Is it right to understand from this that you were
7 being told that you couldn't share that information
8 with your boards?
9 **A.** I mean, that's kind of the implication of that, isn't
10 it? As I say, I don't remember because of the, sort
11 of, the passage of time. I don't remember exactly
12 what that was but it's clear from this that, yes,
13 I was being given information and told not to share it
14 but, actually, you know, as I say, I reported into my
15 boards and my view was they had a right to know what
16 was going on as much as I did because, you know,
17 I couldn't -- effectively, I had no real authority
18 outside of the authority which the boards gave me. So
19 telling me stuff that the board couldn't know was not
20 helpful.
21 **Q.** Can you assist with what the Department of Health
22 Reference Group was?
23 **A.** What the Department of Health Reference Group was?
24 **Q.** Yes.
25 **A.** That was, as I recall, a group that the Department set

1 up following its consultation to get advice from
2 a broad range of individuals about how the new system
3 should operate.
4 **Q.** And, again, without referring to anyone by name, did
5 it include trustees from the Macfarlane Trust and the
6 Caxton Foundation, as far as you can recall?
7 **A.** Yes. As I recall, there were board members from all
8 of the five Alliance House organisations on that group
9 as well as people from outside of Alliance House.
10 **Q.** Then if we could go, please -- to it's one of your
11 witness statements. WITN3108001.
12 So this is a statement dated 24 January 2020.
13 And if we could go to page 4, I just wanted to ask you
14 about one of the observations you set out here. So
15 under the heading "Policy and funding", the first
16 paragraph says this:
17 "Because of our day-to-day contact with
18 beneficiaries, it was important to give DHSC practical
19 insights into the impact and practicality of proposed
20 DHSC policy changes."
21 I don't know whether you can assist with this
22 or not, Ms Barlow, but are you referring there to
23 the -- trying to give the Department of Health insight
24 into the potential impact of its proposal in the
25 consultation paper to reform the financial support

1 schemes, or are you talking there of the importance of
2 giving practical insights into the implications of its
3 funding allocation?
4 **A.** I'd need to refer back to the question.
5 **Q.** I don't think I have the questions. I might be able
6 to help in that regard. I'm not sure I've got them to
7 display on screen.
8 Yes, the question was as follows. I'll read it
9 out. It may be -- if necessary, you can look at it
10 again overnight, Ms Barlow, and we can come back to it
11 in the morning. But the question was, by reference to
12 an earlier statement of yours where you said you'd
13 always tried to help the Department in their policy
14 development when you had your opportunity, the
15 specific question here was:
16 "Did you consider it was the role of the
17 Macfarlane Trust in line with its charitable purpose
18 to influence DHSC's policy?"
19 **A.** Okay. Well, then this is obviously a sort of a more
20 general point about trying to make sure that the
21 Department understood, you know, when it was making
22 policy changes, as to what the implications for
23 beneficiaries might be.
24 **Q.** Would you agree that it would be important for the
25 Department, when making its decision about funding

1 allocation, to understand the impact in practical
2 terms of its funding decisions and how that might
3 affect detrimentally the lives of beneficiaries?
4 **A.** Sorry, are you asking me whether that's what this
5 means?
6 **Q.** No, I'm asking the more general question whether you
7 would agree that it was important for the Department
8 to understand and have spelt out to it by the Trust
9 the practical implications for beneficiaries of its
10 funding decisions.
11 **A.** Yes, it was important because -- it was important
12 that, for example, as I sort of gave the example
13 earlier of the fact that if, for example, the
14 Macfarlane Trust had had to reduce its regular
15 payments to beneficiaries, that could have left people
16 in danger of not being able to pay, for example, their
17 mortgage or their rent. So the Department -- it was
18 to help the Department understand that those, if you
19 like, those decisions had an impact on real people's
20 lives.
21 **Q.** Do you think you and the board did enough to spell out
22 to the Department of Health the implications in hard,
23 concrete, real-life terms for beneficiaries of its
24 refusal to increase funding?
25 **A.** I think so. And when we came to the January 2016

1 consultation, I mean, we went into quite a significant
2 amount of financial detail about, you know, the extent
3 to which different groups of people would be impacted
4 by those changes.
5 **Q.** Looking at it now, if necessary with the benefit of
6 hindsight, do you think that the Macfarlane Trust, you
7 and the board, could or should have done more to
8 present a robust and -- a robust case for increased
9 funding to the Department?
10 **A.** I mean, I think we were very explicit about what was
11 needed and why, and year after year that was
12 effectively ignored.
13 **MS RICHARDS:** Sir, I note the time. Is this a convenient
14 point to stop for the day?
15 **SIR BRIAN LANGSTAFF:** We'll take a break there. We'll
16 take a break until tomorrow morning at 10.00. This
17 time I hope we will be able to start at 10. So
18 10 o'clock tomorrow morning. The same rules apply,
19 Ms Barlow.
20 **A.** Mm-hm.
21 **SIR BRIAN LANGSTAFF:** Look forward to seeing you then.
22 Ten o'clock.
23 **(4.33 pm)**
24 **(Adjourned until 10.00 am the following day)**
25

I N D E X

JAN BARLOW, affirmed 2
Questions by MS RICHARDS 2

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